

2 **SHB 1269** - S COMM AMD
3 By Committee on Ways & Means

4 Adopted 4/10/91 - Voice Vote

5 On page 12, after line 9, insert the following:

6 "Sec. 11. RCW 41.50.130 and 1987 c 490 s 1 are each amended to
7 read as follows:

8 (1) The director may at any time correct errors appearing in the
9 records of the retirement systems listed in RCW 41.50.030. Should any
10 error in such records result in any member or beneficiary receiving
11 more or less than he or she would have been entitled to had the records
12 been correct, the director, subject to the conditions set forth in this
13 section, shall adjust the payment in such a manner that the benefit to
14 which such member or beneficiary was correctly entitled shall be paid
15 in accordance with the following:

16 (a) In the case of underpayments to a member or beneficiary, the
17 retirement system shall correct all future payments from the point of
18 error detection, and shall compute the additional payment due for the
19 allowable prior period which shall be paid in a lump sum by the
20 appropriate retirement system.

21 (b) In the case of overpayments to a member or beneficiary, the
22 retirement system shall adjust the payment in such a manner that the
23 benefit to which such member or beneficiary was correctly entitled
24 shall be reduced by an amount equal to the actuarial equivalent of the
25 amount of overpayment. Alternatively the member shall have the option
26 of repaying the overpayment in a lump sum within ninety days of
27 notification and receive the proper benefit in the future. In the case

1 of overpayments to a member or beneficiary resulting from actual fraud
2 on the part of the member or beneficiary, the benefits shall be
3 adjusted to reflect the full amount of such overpayment, plus interest
4 at the maximum rate allowed under RCW 19.52.020(1) as it was in effect
5 the first month the overpayment occurred.

6 (2) Except in the case of actual fraud, in the case of overpayments
7 to a member or beneficiary, the benefits shall be adjusted to reflect
8 only the amount of overpayments made within three years of discovery of
9 the error, notwithstanding any provision to the contrary in chapter
10 4.16 RCW.

11 (3) Except in the case of actual fraud, the director, pursuant to
12 rules adopted in accordance with the procedures provided in the
13 administrative procedure act, chapter 34.05 RCW, may exercise his or
14 her discretion to waive, in whole or in part, the amount of any
15 overpayment where the member or beneficiary through no fault of his or
16 her own receives an overpayment and the amount of the overpayment is
17 not such as to put a reasonable person on notice that an overpayment
18 had occurred.

19 (4)(a) The employer shall elicit on a written form from all new
20 employees as to their having been retired from a retirement system
21 listed in RCW 41.50.030.

22 (b) In the case of overpayments which result from the failure of an
23 employer to report properly to the department the employment of a
24 retiree from information received in subparagraph (a), the employer
25 shall, upon receipt of a billing from the department, pay into the
26 appropriate retirement system the amount of the overpayment plus
27 interest as determined by the director. However, except in the case of
28 actual employer fraud, the overpayments charged to the employer under
29 this subsection shall not exceed five thousand dollars for each year of
30 overpayments received by a retiree. The retiree's benefits upon

1 reretirement shall not be reduced because of such overpayment except as
2 necessary to recapture contributions required for periods of
3 employment.

4 (c) The provision of this subsection regarding the reduction of
5 retirees' benefits shall apply to recovery actions commenced on or
6 after January 1, 1986, even though the overpayments resulting from
7 retiree employment were discovered by the department prior to that
8 date. The provisions of this subsection regarding the billing of
9 employers for overpayments shall apply to overpayments made after
10 January 1, 1986.

11 ~~((4))~~ (5) Except in the case of actual fraud, no monthly benefit
12 shall be reduced by more than fifty percent of the member's or
13 beneficiary's corrected benefit.

14 ~~((5))~~ (6) Except as provided in subsection (2) of this section,
15 obligations of employers or members until paid to the department shall
16 constitute a debt from the employer or member to the department,
17 recovery of which shall not be barred by laches or statutes of
18 limitation."

19 Renumber the remaining sections consecutively and correct any
20 internal references accordingly.

21 **SHB 1269** - S COMM AMD
22 By Committee on Ways & Means

23 Adopted 4/10/91 -Voice Vote

24 On page 1, line 2 of the title, after "41.32.550," strike "and
25 41.18.015" and insert "41.18.015, and 41.50.130"

4 On page 12, after line 9, insert the following:

5 "Sec. 11. RCW 41.40.150 and 1990 c 249 s 17 are each amended to
6 read as follows:

7 Should any member die, or should the individual separate or be
8 separated from service without leave of absence before attaining age
9 sixty years, or should the individual become a beneficiary, except a
10 beneficiary of an optional retirement allowance as provided by RCW
11 41.40.188, the individual shall thereupon cease to be a member except;

12 (1) As provided in RCW 41.40.170.

13 (2) An employee not previously retired who reenters service shall
14 upon completion of six months of continuous service and upon the
15 restoration, in one lump sum or in annual installments, of all
16 withdrawn contributions with interest as computed by the director,
17 which restoration must be completed within a total period of five years
18 of membership service following the member's first resumption of
19 employment, be returned to the status, either as an original member or
20 new member which the member held at time of separation.

21 (3) Within the ninety days following the employee's resumption of
22 employment, the employer shall notify the department of the resumption
23 and the department shall then return to the employer a statement of the
24 potential service credit to be restored, the amount of funds required
25 for restoration, and the date when the restoration must be
26 accomplished. The employee shall be given a copy of the statement and

1 shall sign a copy of the statement which signed copy shall be placed in
2 the employee's personnel file.

3 (4) A member who separates or has separated after having completed
4 at least five years of service shall remain a member during the period
5 of absence from service for the exclusive purpose of receiving a
6 retirement allowance to begin at attainment of age sixty-five, however,
7 such a member may on written notice to the director elect to receive a
8 reduced retirement allowance on or after age sixty which allowance
9 shall be the actuarial equivalent of the sum necessary to pay regular
10 retirement benefits as of age sixty-five: PROVIDED, That if such
11 member should withdraw all or part of the member's accumulated
12 contributions except those additional contributions made pursuant to
13 RCW 41.40.330(2), the individual shall thereupon cease to be a member
14 and this section shall not apply.

15 (5)(a) The recipient of a retirement allowance who is employed in
16 an eligible position other than under RCW 41.40.120(12) shall be
17 considered to have terminated his or her retirement status and shall
18 immediately become a member of the retirement system with the status of
19 membership the member held as of the date of retirement. Retirement
20 benefits shall be suspended during the period of eligible employment
21 and the individual shall make contributions and receive membership
22 credit. Such a member shall have the right to again retire if eligible
23 in accordance with RCW 41.40.180: PROVIDED, That where any such right
24 to retire is exercised to become effective before the member has
25 rendered two uninterrupted years of service the type of retirement
26 allowance the member had at the time of the member's previous
27 retirement shall be reinstated;

28 (b) The recipient of a retirement allowance elected to office or
29 appointed to office directly by the governor, and who shall apply for
30 and be accepted in membership as provided in RCW 41.40.120(3) shall be

1 considered to have terminated his or her retirement status and shall
2 become a member of the retirement system with the status of membership
3 the member held as of the date of retirement. Retirement benefits
4 shall be suspended from the date of return to membership until the date
5 when the member again retires and the member shall make contributions
6 and receive membership credit. Such a member shall have the right to
7 again retire if eligible in accordance with RCW 41.40.180: PROVIDED,
8 That where any such right to retire is exercised to become effective
9 before the member has rendered six uninterrupted months of service the
10 type of retirement allowance the member had at the time of the member's
11 previous retirement shall be reinstated, but no additional service
12 credit shall be allowed: AND PROVIDED FURTHER, That if such a
13 recipient of a retirement allowance does not elect to apply for reentry
14 into membership as provided in RCW 41.40.120(3), the member shall be
15 considered to remain in a retirement status and the individual's
16 retirement benefits shall continue without interruption.

17 (6) Any member who leaves the employment of an employer and enters
18 the employ of a public agency or agencies of the state of Washington,
19 other than those within the jurisdiction of the Washington public
20 employees' retirement system, and who establishes membership in a
21 retirement system or a pension fund operated by such agency or agencies
22 and who shall continue membership therein until attaining age sixty,
23 shall remain a member for the exclusive purpose of receiving a
24 retirement allowance without the limitation found in RCW 41.40.180(1)
25 to begin on attainment of age sixty-five; however, such a member may on
26 written notice to the director elect to receive a reduced retirement
27 allowance on or after age sixty which allowance shall be the actuarial
28 equivalent of the sum necessary to pay regular retirement benefits
29 commencing at age sixty-five: PROVIDED, That if such member should
30 withdraw all or part of the member's accumulated contributions except

1 those additional contributions made pursuant to RCW 41.40.330(2), the
2 individual shall thereupon cease to be a member and this section shall
3 not apply."

4 Renumber the remaining sections consecutively and correct any
5 internal references accordingly.

6 **SHB 1269** - S AMD

7 By Senators Rasmussen, Niemi and McDonald

8 Adopted 4/10/91 - Voice Vote

9 On page 1, line 2 of the title, after "41.32.550," strike "and
10 41.18.015" and insert "41.18.015, and 41.40.150"

11 **SHB 1269** - S AMD

12 By Senators Roach, Sutherland, Owen, Oke and Metcalf

13 Adopted 4/10/91 - Voice Vote

14 On page 12, after line 9, insert the following:

15 "NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.400
16 RCW to read as follows:

17 (1) If an employee of a school district or an educational service
18 district is activated from either federal military reserve service or
19 state militia service to active military service due to the situation
20 known as "Desert Shield," "Desert Storm," or any operation following
21 from these, from August 2, 1990, to a date specified by an agency of
22 the federal government as the end of such operation, such employee's
23 dependents shall be entitled to the same health care and other
24 insurance in which such employee was enrolled immediately prior to
25 being placed on active duty. This continuation of coverage shall
26 continue until either:

1 (a) The employee is either released or discharged from active duty;
2 or

3 (b) Six months after the employee is killed in the line of duty
4 unless the surviving spouse or dependent has a prior right to continue
5 such coverage by law or contract.

6 (2) The premium cost, if any, of such health care and other
7 insurance programs to the spouse and/or dependents shall be the same as
8 the premium that would have been required of the employee had he or she
9 remained in the employ of the school or educational service district."

10 "NEW SECTION. Sec. 12. A new section is added to chapter 41.04
11 RCW to read as follows:

12 (1) If an employee of the state, county, municipality, or other
13 political subdivision is activated from either federal military reserve
14 service or state militia service to active military service due to the
15 situation known as "Desert Shield," "Desert Storm," or any operation
16 following from these, from August 2, 1990, to a date specified by an
17 agency of the federal government as the end of such operation, such
18 employee's dependents shall be entitled to the same health care and
19 other insurance in which such employee was enrolled immediately prior
20 to being placed on active duty. This continuation of coverage shall
21 continue until either:

22 (a) The employee is either released or discharged from active duty;
23 or

24 (b) Six months after the employee is killed in the line of duty
25 unless the surviving spouse or dependent has a prior right to continue
26 such coverage by law or contract.

27 (2) The premium cost, if any, of such health care and other
28 insurance programs to the spouse and/or dependents shall be the same as

1 the premium that would have been required of the employee had he or she
2 remained in the employ of the employer."

3 "NEW SECTION. Sec. 13. A new section is added to chapter 41.04
4 RCW to read as follows:

5 (1) A member of any of the retirement systems listed in RCW
6 41.50.030 or those authorized under RCW 28B.10.400 whose public service
7 is interrupted by activation from federal military reserve or state
8 militia service to active military service due to the situation known
9 as "Desert Shield," "Desert Storm," or any operation following from
10 these, from August 2, 1990, to a date specified by an agency of the
11 federal government as the end of such operation, shall be considered as
12 continuing his or her membership as though still in the employ of the
13 employer.

14 (2) A member who qualifies under subsection (1) of this section
15 shall receive service credit from the retirement system that he or she
16 was a member of prior to military activation for the period of such
17 activation if he or she:

18 (a) Enters employment by an employer, as defined by the respective
19 retirement system, within one year of discharge from active service as
20 described in subsection (1) of this section; and

21 (b) Applies to such employer for payment of retirement
22 contributions to the department of retirement systems or the
23 institution of higher education or community college under subsection
24 (4) of this section within one year of such entering employment or one
25 year of the effective date of this act.

26 (3) The employer required to pay the contributions specified in
27 subsection (4) of this section shall be the employer of the member
28 prior to activation.

1 (4) Upon receipt of an employee application under subsection (2) of
2 this section or notification by the current employer, the responsible
3 employer shall pay the necessary required retirement contributions to
4 the department of retirement systems or the institution of higher
5 education or community college. The necessary required contributions
6 include the employee contribution as well as the employer
7 contributions. The contributions shall be based on the salary being
8 paid to the member at the time of entering active service incremented
9 by either:

10 (a) Any subsequent general salary increase; or

11 (b) A negotiated salary increase.

12 (5) The department of retirement systems or the institution of
13 higher education or community college shall treat the salary that the
14 contributions are based on as compensation utilized in determining the
15 final average salary, however it may be defined, in the normal
16 retirement benefit or supplemental amount.

17 (6) Service shall be credited to the appropriate retirement system
18 upon payment of the contributions to the member's account by the
19 employer under this section."

20 Renumber the remaining sections consecutively.

21 **SHB 1269** - S AMD

22 By Senators Roach, Sutherland, Owen, Oke and Metcalf

23 Adopted 4/10/91 - Voice Vote

24 On page 1, line 4 of the title, after "43.43 RCW;" insert "adding
25 a new section to chapter 28A.400 RCW; adding new sections to chapter
26 41.04 RCW;"

1 **SHB 1269** - S AMD

2 By Senators Saling, Bauer, Gaspard, Stratton, McDonald, Williams
3 and Nelson

4 Adopted 4/10/91 - Voice Vote

5 On page 12, after line 9, insert the following:

6 "**Sec. 11.** RCW 41.32.575 and 1989 c 272 s 3 are each amended to
7 read as follows:

8 (1) Beginning July 1, (~~(1989)~~) 1991, and every year thereafter, the
9 department shall determine the following information for each retired
10 member or beneficiary who is over the age of sixty-five:

11 (a) The dollar amount of the retirement allowance received by the
12 retiree at the benefit age (~~((sixty-five))~~), to be known for the purposes
13 of this section as the "~~((age-sixty-five))~~ benefit age retirement
14 allowance";

15 (b) The index for the calendar year prior to the year that the
16 retiree reached the benefit age (~~((sixty-five))~~), to be known for
17 purposes of this section as "index A";

18 (c) The index for the calendar year prior to the date of
19 determination, to be known for purposes of this section as "index B";

20 (d) The ratio obtained when index B is divided by index A, to be
21 known for the purposes of this section as the "full purchasing power
22 ratio"; and

23 (e) The value obtained when the retiree's (~~((age-sixty-five))~~)
24 benefit age retirement allowance is multiplied by (~~((sixty-percent))~~) the
25 applicable percentage of the retiree's full purchasing power ratio, to
26 be known for the purposes of this section as the "target benefit."

27 (2) Beginning with the July payment, the retiree's (~~((age-sixty-~~
28 ~~five))~~) benefit age retirement allowance shall be adjusted to be equal
29 to the retiree's target benefit. In no event, however, shall the
30 adjusted allowance:

1 (a) Be smaller than the retirement allowance received without the
2 adjustment; (~~nor~~)

3 (b) Differ from the previous year's allowance by more than three
4 percent; or

5 (c) Be paid before the retiree is age sixty-six.

6 No adjustment shall be made if the benefit age retirement allowance
7 is greater than three hundred percent of the poverty income level for
8 a family of two as published annually by the United States department
9 of health and human services.

10 (3) For members who retire after the benefit age (~~sixty-five~~),
11 the (~~age sixty-five~~) benefit age retirement allowance shall be the
12 initial retirement allowance received by the member.

13 (4) For beneficiaries of members who die prior to the benefit age
14 (~~sixty-five~~): (a) The (~~age sixty-five~~) benefit age retirement
15 allowance shall be the allowance received by the beneficiary on the
16 date the member would have turned the benefit age (~~sixty-five~~); and
17 (b) index A shall be the index for the calendar year prior to the year
18 the member would have turned the benefit age (~~sixty-six~~).

19 (5) Where the pension payable to a beneficiary was adjusted at the
20 time the benefit commenced, the benefit provided by this section shall
21 be adjusted in a manner consistent with the adjustment made to the
22 beneficiary's pension.

23 (6) For the purposes of this section:

24 (a) "Index" means, for any calendar year, that year's average
25 consumer price index--Seattle, Washington area for urban wage earners
26 and clerical workers, all items, compiled by the bureau of labor
27 statistics, United States department of labor;

28 (b) "Retired member" or "retiree" means any member who has retired
29 for service or because of duty or nonduty disability, or the surviving
30 beneficiary of such a member.

1 (7) The benefit age and the applicable percentage shall be
2 determined by the state actuary using the funds appropriated for this
3 purpose in each biennial omnibus appropriations act until the target
4 levels established in this subsection are achieved. The benefit age
5 shall be initially set at sixty-five, and the applicable percent shall
6 be initially set at sixty percent. Each year, as available funds
7 permit, the state actuary shall reduce the benefit age from age sixty-
8 five to the age at retirement. After the benefit age has been adjusted
9 to the age at retirement, the state actuary shall, as available funds
10 permit, increase the applicable percentage on an incremental basis from
11 sixty percent to seventy percent."

12 **"Sec. 12.** RCW 41.40.325 and 1989 c 272 s 2 are each amended to
13 read as follows:

14 (1) Beginning July 1, (~~(1989)~~) 1991, and every year thereafter, the
15 department shall determine the following information for each retired
16 member or beneficiary who is over the age of sixty-five:

17 (a) The dollar amount of the retirement allowance received by the
18 retiree at the benefit age (~~((sixty-five))~~), to be known for the purposes
19 of this section as the "~~((age sixty-five))~~ benefit age retirement
20 allowance";

21 (b) The index for the calendar year prior to the year that the
22 retiree reached the benefit age (~~((sixty-five))~~), to be known for
23 purposes of this section as "index A";

24 (c) The index for the calendar year prior to the date of
25 determination, to be known for purposes of this section as "index B";

26 (d) The ratio obtained when index B is divided by index A, to be
27 known for the purposes of this section as the "full purchasing power
28 ratio"; and

1 (e) The value obtained when the retiree's (~~age sixty-five~~)
2 benefit age retirement allowance is multiplied by (~~sixty percent~~) the
3 applicable percentage of the retiree's full purchasing power ratio, to
4 be known for the purposes of this section as the "target benefit."

5 (2) Beginning with the July payment, the retiree's (~~age sixty-~~
6 ~~five~~) benefit age retirement allowance shall be adjusted to be equal
7 to the retiree's target benefit. In no event, however, shall the
8 adjusted allowance:

9 (a) Be smaller than the retirement allowance received without the
10 adjustment; (~~nor~~)

11 (b) Differ from the previous year's allowance by more than three
12 percent; or

13 (c) Be paid before the retiree is age sixty-six.

14 No adjustment shall be made if the benefit age retirement allowance
15 is greater than three hundred percent of the poverty income level for
16 a family of two as published annually by the United States department
17 of health and human services.

18 (3) For members who retire after the benefit age (~~sixty-five~~),
19 the (~~age sixty-five~~) initial retirement allowance shall be the
20 initial retirement allowance received by the member.

21 (4) For beneficiaries of members who die prior to the benefit age
22 (~~sixty-five~~): (a) The (~~age sixty-five~~) initial retirement
23 allowance shall be the allowance received by the beneficiary on the
24 date the member would have turned the benefit age (~~sixty-five~~); and
25 (b) index A shall be the index for the calendar year prior to the year
26 the member would have turned the benefit age (~~sixty-five~~).

27 (5) Where the pension payable to a beneficiary was adjusted at the
28 time the benefit commenced, the benefit provided by this section shall
29 be adjusted in a manner consistent with the adjustment made to the
30 beneficiary's pension.

1 (6) For the purposes of this section:

2 (a) "Index" means, for any calendar year, that year's average
3 consumer price index--Seattle, Washington area for urban wage earners
4 and clerical workers, all items, compiled by the bureau of labor
5 statistics, United States department of labor;

6 (b) "Retired member" or "retiree" means any member who has retired
7 for service or because of duty or nonduty disability, or the surviving
8 beneficiary of such a member.

9 (7) The benefit age and the applicable percentage shall be
10 determined by the state actuary using the funds appropriated for this
11 purpose in each biennial omnibus appropriations act until the target
12 levels established in this subsection are achieved. The benefit age
13 shall be initially set at sixty-five, and the applicable percent shall
14 be initially set at sixty percent. Each year, as available funds
15 permit, the state actuary shall reduce the benefit age from age sixty-
16 five to the age at retirement. After the benefit age has been adjusted
17 to the age at retirement, the state actuary shall, as available funds
18 permit, increase the applicable percentage on an incremental basis from
19 sixty percent to seventy percent."

20 "NEW SECTION. Sec. 13. If specific funding for the purposes of
21 sections 11 and 12 of this act, referencing sections 11 and 12 of this
22 act by bill and section number, is not provided by June 30, 1991, in
23 the omnibus appropriations act, sections 11 and 12 of this act shall be
24 null and void."

25 Renumber the remaining section consecutively.

26 On page 12, line 10, after "Sec. 11." strike "This act is" and
27 insert "Sections 1 through 10 of this act are"

1 **SHB 1269** - S AMD
2 By Senators Saling, Bauer, Gaspard, Stratton, McDonald, Williams
3 and Nelson

4 Adopted 4/10/91 - Voice Vote

5 On page 1, line 2 of the title, after "41.32.550," strike "and" and
6 after "41.18.015" insert ", 41.32.575, and 41.40.325"