

HOUSE BILL 1359

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Anderson, Fuhrman, Kremen, Ferguson, Heavey, Chandler, Zellinsky, Nelson, H. Myers, Sprenkle, McLean, Hargrove, Beck, Van Luven, Wilson, Schmidt, Horn, Brough, Forner, Peery, R. Meyers, Dorn, D. Sommers, Winsley, Wynne, Mitchell, Edmondson, Cooper, P. Johnson, Vance, Wood, Moyer, Miller, Brumsickle, Bowman, Paris, Ballard, Broback, May, G. Fisher, Basich, Ludwig, Inslee, Pruitt, Belcher, Orr, Ogden, Phillips, Roland, Rasmussen, Fraser, Scott, Tate, Dellwo, Sheldon, Jacobsen, Rayburn and R. King.

Read first time January 28, 1991.                      Referred to Committee on Appropriations.

1            AN ACT Relating to employee benefits while on active duty during  
2 operation Desert Shield; amending RCW 28B.10.407, 41.26.190, 41.26.520,  
3 41.32.260, 41.32.810, 41.40.170, and 41.40.710; adding a new section to  
4 chapter 28A.400 RCW; adding a new section to chapter 41.04 RCW; adding  
5 a new section to chapter 41.32 RCW; adding a new section to chapter  
6 43.43 RCW; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 28A.400  
9 RCW to read as follows:

10            (1) If an employee of a school district or an educational service  
11 district is activated from either federal military reserve service or  
12 state militia service and placed on active duty with the armed forces  
13 of the United States due to operation Desert Shield during the period  
14 from August 2, 1990, through a date specified by an agency of the  
15 federal government terminating operation Desert Shield, such employee's

1 dependents shall be entitled to the same health care and other  
2 insurance in which such employee was enrolled immediately prior to  
3 being placed on active duty. This continuation of coverage shall  
4 continue until either:

5 (a) The employee is either released or discharged from active duty;  
6 or

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

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

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.04 RCW  
15 to read as follows:

16 (1) If an employee of the state, county, municipality, or other  
17 political subdivision is activated from either federal military reserve  
18 service or state militia service and placed on active duty with the  
19 armed forces of the United States due to operation Desert Shield during  
20 the period from August 2, 1990, through a date specified by an agency  
21 of the federal government terminating operation Desert Shield, such  
22 employee's dependents shall be entitled to the same health care and  
23 other insurance in which such employee was enrolled immediately prior  
24 to being placed on active duty. This continuation of coverage shall  
25 continue until either:

26 (a) The employee is either released or discharged from active duty;  
27 or

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

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

8 **Sec. 3.** RCW 28B.10.407 and 1987 c 448 s 1 are each amended to read  
9 as follows:

10 (1) A faculty member or other employee designated by the boards of  
11 regents of the state universities, the boards of trustees of the  
12 regional universities and The Evergreen State College, or the state  
13 board for community college education who is granted an authorized  
14 leave of absence without pay may apply the period of time while on the  
15 leave in the computation of benefits in any annuity and retirement plan  
16 authorized under RCW 28B.10.400 through 28B.10.430 only to the extent  
17 provided in subsection (2) of this section.

18 (2) An employee who is eligible under subsection (1) of this  
19 section may receive a maximum of two years' credit during the  
20 employee's entire working career for periods of authorized leave  
21 without pay. Such credit may be obtained only if the employee pays  
22 both the employer and employee contributions required under RCW  
23 28B.10.405 and 28B.10.410 while on the authorized leave of absence and  
24 if the employee returns to employment with the university or college  
25 immediately following the leave of absence for a period of not less  
26 than two years. The employee and employer contributions shall be based  
27 on the average of the employee's compensation at the time the leave of  
28 absence was authorized and the time the employee resumes employment.  
29 Any benefit under RCW 28B.10.400(3) shall be based only on the

1 employee's compensation earned from employment with the university or  
2 college.

3 (a) An employee, other than someone meeting the conditions of (b)  
4 of this subsection, who is inducted into the armed forces of the United  
5 States shall be deemed to be on an unpaid, authorized leave of absence.

6 (b) During the period from August 2, 1990, to a date specified by  
7 an agency of the federal government as the end of the situation known  
8 as operation "Desert Shield," if an employee is activated from federal  
9 military reserve or state militia service to active duty in the armed  
10 forces of the United States due to operation Desert Shield, such  
11 employee shall continue membership in any annuity or retirement income  
12 plan established under the provisions of RCW 28B.10.400 as though  
13 employed for the period of active duty. Such membership, however,  
14 shall terminate in the event of death. The necessary retirement  
15 contributions for this period required by RCW 28B.10.405 and 28B.10.410  
16 shall be paid by the board of regents of the state universities, boards  
17 of trustees of the regional universities and of The Evergreen State  
18 College, or the state board for community college education based on  
19 the salary being paid at the time of entering active duty incremented  
20 by any subsequent general salary increase upon the request of the  
21 employee when returning to employment after release from active duty.  
22 Upon receipt of the contributions the appropriate service shall be  
23 granted.

24 **Sec. 4.** RCW 41.26.190 and 1970 ex.s. c 6 s 13 are each amended to  
25 read as follows:

26 Each person affected by this chapter who either (1) at the time of  
27 entering the armed services or (2) at the time of being activated from  
28 federal military reserve or state militia service to active duty due to  
29 the situation known as operation "Desert Shield," during the period

1 from August 2, 1990, to a date specified by an agency of the federal  
2 government as the end of operation Desert Shield, was a member of this  
3 system, and has honorably served in the armed services of the United  
4 States, shall have added to his or her period of service as computed  
5 under this chapter, his or her period of service in the armed forces:  
6 PROVIDED, That such credited service shall not exceed five years.

7 **Sec. 5.** RCW 41.26.520 and 1989 c 88 s 2 are each amended to read  
8 as follows:

9 (1) A member who is on a paid leave of absence authorized by a  
10 member's employer shall continue to receive service credit as provided  
11 for under the provisions of RCW 41.26.410 through 41.26.550.

12 (2) A member shall be eligible to receive a maximum of two years  
13 service credit during a member's entire working career for those  
14 periods when a member is on an unpaid leave of absence authorized by an  
15 employer except for such leave of absence where service credit is  
16 granted under subsection (3) of this section. Such credit may be  
17 obtained only if the member makes the employer, member, and state  
18 contributions plus interest as determined by the department for the  
19 period of the authorized leave of absence within five years of  
20 resumption of service or prior to retirement whichever comes sooner:  
21 PROVIDED, That for the purpose of this subsection the contribution  
22 shall not include the contribution for the unfunded supplemental  
23 present value as required by RCW 41.26.450. The contributions required  
24 shall be based on the average of the member's basic salary at both the  
25 time the authorized leave of absence was granted and the time the  
26 member resumed employment.

27 (3) A member who is inducted into the armed forces of the United  
28 States shall be deemed to be on an unpaid, authorized leave of absence.  
29 If, however, the member is activated from federal military reserve or

1 state militia service to active duty into the armed forces of the  
2 United States due to the situation known as operation "Desert Shield,"  
3 during the period from August 2, 1990, to a date specified by an agency  
4 of the federal government as the end of operation Desert Shield, the  
5 member shall retain his or her membership as though the member were  
6 still in the employ of an employer, but this membership shall terminate  
7 in the event of death. The contributions required by RCW 41.26.450  
8 shall be based on the basic salary being received at the time of  
9 entering active duty, incremented by any general salary increase or  
10 negotiated increase which is implemented during such period upon the  
11 request of the member when returning to employment after release from  
12 active duty. These contributions shall be paid as follows:

13	<u>Employee</u>	<u>50%</u>
14	<u>Employer</u>	<u>30%</u>
15	<u>State</u>	<u>20%</u>

16 Upon receipt of the contributions the appropriate service shall be  
17 granted. When the member requests crediting of service after returning  
18 to employment from active military service, the employer shall pay the  
19 employee's assigned share of fifty percent.

20 (4) A member receiving benefits under Title 51 RCW who is not  
21 receiving benefits under this chapter shall be deemed to be on unpaid,  
22 authorized leave of absence.

23 **Sec. 6.** RCW 41.32.260 and 1974 ex.s. c 199 s 2 are each amended to  
24 read as follows:

25 (1) Any member whose public school service is interrupted by active  
26 service to the United States as a member of its military, naval or air  
27 service, other than as provided in subsection (2) of this section, or  
28 to the state of Washington, as a member of the legislature, may upon  
29 becoming reemployed in the public schools, receive credit for such

1 service upon presenting satisfactory proof, and contributing to the  
2 annuity fund, either in a lump sum or installments, such amounts as  
3 shall be determined by the board of trustees(~~(: PROVIDED (1), That no~~  
4 ~~such military service credit in excess of five years shall be~~  
5 ~~established or reestablished after July 1, 1961, unless the service was~~  
6 ~~actually rendered during time of war: PROVIDED FURTHER (2), That a~~  
7 ~~member of the retirement system who is a member of the state~~  
8 ~~legislature or a state official eligible for the combined pension and~~  
9 ~~annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter~~  
10 ~~amended shall have deductions taken from his or her salary in the~~  
11 ~~amount of seven and one half percent of earnable compensation and that~~  
12 ~~service credit shall be established with the retirement system while~~  
13 ~~such deductions are reported to the retirement system, unless he or she~~  
14 ~~has by reason of his or her employment become a contributing member of~~  
15 ~~another public retirement system in the state of Washington: AND~~  
16 ~~PROVIDED FURTHER (3), That such elected official who has retired or~~  
17 ~~otherwise terminated his or her public school service may then elect to~~  
18 ~~terminate his or her membership in the retirement system and receive~~  
19 ~~retirement benefits while continuing to serve as an elected official:~~  
20 ~~AND, PROVIDED FURTHER (4), That a member of the retirement system who~~  
21 ~~had previous service as an elected or appointed official, for which he~~  
22 ~~or she did not contribute to the retirement system, may receive credit~~  
23 ~~for such legislative service unless he or she has received credit for~~  
24 ~~that service in another state retirement system, upon making~~  
25 ~~contributions in such amounts as shall be determined by the board of~~  
26 ~~trustees)).~~

27 (2) Any member whose public school service is interrupted by being  
28 activated from federal military reserve or state militia service to  
29 active service into the armed forces of the United States due to the  
30 situation known as operation "Desert Shield," during the period from

1 August 2, 1990, to a date specified by an agency of the federal  
2 government as the end of operation Desert Shield, shall be considered  
3 as continuing his or her membership as though still in the employ of an  
4 employer. This membership shall terminate in the event of death. The  
5 necessary employee contributions as well as the employer contributions  
6 required under this chapter shall be paid by the employer based on the  
7 salary being paid at the time of entering active service incremented by  
8 either any subsequent general salary increase or negotiated salary  
9 increase upon the request of the member when returning to employment  
10 after release from active duty. Upon receipt of the contributions the  
11 appropriate service shall be granted.

12 NEW SECTION. Sec. 7. A new section is added to chapter 41.32 RCW  
13 to read as follows:

14 A member of the retirement system who is a member of the state  
15 legislature or a state official eligible for the combined pension and  
16 annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter  
17 amended shall have deductions taken from his or her salary in the  
18 amount of seven and one-half percent of earnable compensation and that  
19 service credit shall be established with the retirement system while  
20 such deductions are reported to the retirement system, unless he or she  
21 has by reason of employment become a contributing member of another  
22 public retirement system in the state of Washington. Such elected  
23 official who has retired or otherwise terminated public school service  
24 may then elect to terminate membership in the retirement system and  
25 receive retirement benefits while continuing to serve as an elected  
26 official. A member of the retirement system who had previous service  
27 as an elected or appointed official, for which he or she did not  
28 contribute to the retirement system, may receive credit for such  
29 legislative service unless he or she has received credit for that



1 service in another state retirement system, upon making contributions  
2 in such amounts as shall be determined by the board of trustees.

3 **Sec. 8.** RCW 41.32.810 and 1977 ex.s. c 293 s 13 are each amended  
4 to read as follows:

5 A member who is on a paid leave of absence authorized by a member's  
6 employer shall continue to receive service credit as provided for under  
7 the provisions of RCW 41.32.755 through 41.32.825.

8 A member shall be eligible to receive a maximum of two years  
9 service credit during a member's entire working career for those  
10 periods when a member is on an unpaid leave of absence authorized by an  
11 employer except for such leave of absence where service credit is  
12 granted under this section because of activation from federal military  
13 reserve or state militia service to active duty in the armed forces of  
14 the United States. Such credit may be obtained only if the member  
15 makes both the employer and member contributions plus interest as  
16 determined by the department for the period of the authorized leave of  
17 absence within five years of resumption of service or prior to  
18 retirement whichever comes sooner: PROVIDED, That for the purpose of  
19 this ((~~subsection~~—[~~section~~])) section the contribution shall not  
20 include the contribution for the unfunded supplemental present value as  
21 required by RCW 41.32.775. The contributions required shall be based  
22 on the average of the member's compensation earnable at both the time  
23 the authorized leave of absence was granted and the time the member  
24 resumed employment.

25 A member who is inducted into the armed forces of the United States  
26 shall be deemed to be on an unpaid, authorized leave of absence.

27 If, however, any member's public school service is interrupted by  
28 being activated from federal military reserve or state militia service  
29 to active service into the armed forces of the United States due to the

1 situation known as operation "Desert Shield," during the period from  
2 August 2, 1990, to a date specified by an agency of the federal  
3 government as the end of operation Desert Shield, the member shall be  
4 considered as continuing his or her membership as though still in the  
5 employ of an employer. This membership shall terminate in the event of  
6 death. The necessary employee contributions as well as the employer  
7 contributions required under this chapter shall be paid by the employer  
8 based on the salary being paid at the time of entering active service  
9 incremented by either any subsequent general salary increase or  
10 negotiated salary increase upon the request of the member when  
11 returning to employment after release from active duty. Upon receipt  
12 of the contributions the appropriate service shall be granted.

13       **Sec. 9.** RCW 41.40.170 and 1981 c 294 s 12 are each amended to read  
14 as follows:

15       (1) A member, except members whose service is interrupted by being  
16 activated from federal military reserve or state militia service to  
17 active service into the armed forces of the United States due to the  
18 situation known as operation "Desert Shield," during the period from  
19 August 2, 1990, to a date specified by an agency of the federal  
20 government as the end of operation Desert Shield, who has served or  
21 shall serve on active federal service in the military or naval forces  
22 of the United States and who left or shall leave an employer to enter  
23 such service shall be deemed to be on military leave of absence if he  
24 or she has resumed or shall resume employment as an employee within one  
25 year from termination thereof.

26       (2) If he or she has applied or shall apply for reinstatement of  
27 employment, within one year from termination of the military service,  
28 and is refused employment for reasons beyond his or her control, he or

1 she shall, upon resumption of service within ten years have such  
2 service credited to him or her.

3 (3) In any event, after completing twenty-five years of creditable  
4 service, any member may have his or her service in the armed forces  
5 credited to him or her as a member whether or not he or she left the  
6 employ of an employer to enter such armed service: PROVIDED, That in no  
7 instance, described in subsections (1), (2), and (3) of this section,  
8 shall military service in excess of five years be credited: AND  
9 PROVIDED FURTHER, That in each instance the member must restore all  
10 withdrawn accumulated contributions, which restoration must be  
11 completed within five years of membership service following his or her  
12 first resumption of employment or complete twenty-five years of  
13 creditable service: AND PROVIDED FURTHER, That this section will not  
14 apply to any individual, not a veteran within the meaning of RCW  
15 41.04.005, as now or hereafter amended: AND PROVIDED FURTHER, That in  
16 no instance, described in subsections (1), (2), and (3) of this  
17 section, shall military service be credited to any member who is  
18 receiving full military retirement benefits pursuant to Title 10 United  
19 States Code.

20 (4) Members whose service is interrupted by being activated from  
21 federal military reserve or state militia service to active service  
22 into the armed forces of the United States due to the situation known  
23 as operation Desert Shield, during the period from August 2, 1990, to  
24 a date specified by an agency of the federal government as the end of  
25 operation Desert Shield, shall be considered as continuing his or her  
26 membership as though still in the employ of an employer. This  
27 membership shall terminate in the event of death. The necessary  
28 employee contributions as well as the employer contributions required  
29 under this chapter shall be paid by the employer based on the salary  
30 being paid at the time of entering active service incremented by either

1 any subsequent general salary increase or, if appropriate, negotiated  
2 salary increase upon the request of the member when returning to  
3 employment after release from active duty. Upon receipt of the  
4 contributions the appropriate service shall be granted.

5 **Sec. 10.** RCW 41.40.710 and 1977 ex.s. c 295 s 12 are each amended  
6 to read as follows:

7 A member who is on a paid leave of absence authorized by a member's  
8 employer shall continue to receive service credit as provided for under  
9 the provisions of RCW 41.40.610 through 41.40.740.

10 A member shall be eligible to receive a maximum of two years  
11 service credit during a member's entire working career for those  
12 periods when a member is on an unpaid leave of absence authorized by an  
13 employer except for such leave of absence where service credit is  
14 granted under this section because of activation from federal military  
15 reserve or state militia service to active duty in the armed forces of  
16 the United States. Such credit may be obtained only if the member  
17 makes both the employer and member contributions plus interest as  
18 determined by the department for the period of the authorized leave of  
19 absence within five years of resumption of service or prior to  
20 retirement whichever comes sooner: PROVIDED, That for the purpose of  
21 this ((~~subsection~~—[~~section~~])) section the contribution shall not  
22 include the contribution for the unfunded supplemental present value as  
23 required by RCW 41.40.650. The contributions required shall be based  
24 on the average of the member's compensation earnable at both the time  
25 the authorized leave of absence was granted and the time the member  
26 resumed employment.

27 A member who is inducted into the armed forces of the United States  
28 shall be deemed to be on an unpaid, authorized leave of absence.

1       Any member whose service is interrupted by being activated from  
2 federal military reserve or state militia service to active service  
3 into the armed forces of the United States due to the situation known  
4 as operation "Desert Shield," during the period from August 2, 1990, to  
5 a date specified by an agency of the federal government as the end of  
6 operation Desert Shield, shall be considered as continuing his or her  
7 membership as though still in the employ of an employer. This  
8 membership shall terminate in the event of death. The necessary  
9 employee contributions as well as the employer contributions required  
10 under this chapter shall be paid by the employer based on the salary  
11 being paid at the time of entering active service incremented by either  
12 any subsequent general salary increase or negotiated salary increase  
13 upon the request of the member when returning to employment after  
14 release from active duty. Upon receipt of the contributions the  
15 appropriate service shall be granted.

16       NEW SECTION. Sec. 11. A new section is added to chapter 43.43 RCW  
17 to read as follows:

18       Members whose service is interrupted by being activated from  
19 federal military reserve or state militia service to active service  
20 into the armed forces of the United States due to the situation known  
21 as operation "Desert Shield," during the period from August 2, 1990, to  
22 a date specified by an agency of the federal government as the end of  
23 operation Desert Shield, shall be considered as continuing his or her  
24 membership as though still in the employ of an employer. This  
25 membership shall terminate in the event of death. The necessary  
26 employee contributions as well as the employer contributions required  
27 under this chapter shall be paid by the employer based on the salary  
28 being paid at the time of entering active service incremented by any  
29 subsequent general salary increase upon the request of the member when

1 returning to employment after release from active duty. Upon receipt  
2 of the contributions the appropriate service shall be granted.

3 NEW SECTION. **Sec. 12.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and shall take  
6 effect immediately.