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HOUSE BILL 2711

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State of Washington

52nd Legislature

1992 Regular Session

By Representatives Jacobsen, Wood, Anderson, Wineberry, Nelson, Prince, Paris, May, Ogden and J. Kohl

Read first time 01/24/92. Referred to Committee on Appropriations.

1 AN ACT Relating to public employees' retirement exemptions;  
2 reenacting and amending RCW 41.40.023; and adding a new section to  
3 chapter 41.40 RCW.

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

5 **Sec. 1.** RCW 41.40.023 and 1990 c 274 s 10 and 1990 c 192 s 4 are  
6 each reenacted and amended to read as follows:

7 Membership in the retirement system shall consist of all regularly  
8 compensated employees and appointive and elective officials of  
9 employers, as defined in this chapter, with the following exceptions:

10 (1) Persons in ineligible positions;

11 (2) Employees of the legislature except the officers thereof  
12 elected by the members of the senate and the house and legislative  
13 committees, unless membership of such employees be authorized by the  
14 said committee;

1           (3)(a) Persons holding elective offices or persons appointed  
2 directly by the governor: PROVIDED, That such persons shall have the  
3 option of applying for membership during such periods of employment:  
4 AND PROVIDED FURTHER, That any persons holding or who have held  
5 elective offices or persons appointed by the governor who are members  
6 in the retirement system and who have, prior to becoming such members,  
7 previously held an elective office, and did not at the start of such  
8 initial or successive terms of office exercise their option to become  
9 members, may apply for membership to be effective during such term or  
10 terms of office, and shall be allowed to establish the service credit  
11 applicable to such term or terms of office upon payment of the employee  
12 contributions therefor by the employee with interest as determined by  
13 the director and employer contributions therefor by the employer or  
14 employee with interest as determined by the director: AND PROVIDED  
15 FURTHER, That all contributions with interest submitted by the employee  
16 under this subsection shall be placed in the employee's individual  
17 account in the employee's savings fund and be treated as any other  
18 contribution made by the employee, with the exception that any  
19 contributions submitted by the employee in payment of the employer's  
20 obligation, together with the interest the director may apply to the  
21 employer's contribution, shall not be considered part of the member's  
22 annuity for any purpose except withdrawal of contributions;

23           (b) A member holding elective office in a town or city who has  
24 elected to apply for membership pursuant to (a) of this subsection and  
25 who later wishes to be eligible for a retirement allowance shall have  
26 the option of ending his or her membership in the retirement system.  
27 A member wishing to end his or her membership under this subsection  
28 must file, on a form supplied by the department, a statement indicating  
29 that the member agrees to irrevocably abandon any claim for service for  
30 future periods served as an elected official of a town or city. A

1 member who receives more than ten thousand dollars per year in  
2 compensation for his or her elective service is not eligible for the  
3 option provided by this subsection (3)(b);

4 (4) Employees holding membership in, or receiving pension benefits  
5 under, any retirement plan operated wholly or in part by an agency of  
6 the state or political subdivision thereof, or who are by reason of  
7 their current employment contributing to or otherwise establishing the  
8 right to receive benefits from any such retirement plan: PROVIDED,  
9 HOWEVER, In any case where the retirement system has in existence an  
10 agreement with another retirement system in connection with exchange of  
11 service credit or an agreement whereby members can retain service  
12 credit in more than one system, such an employee shall be allowed  
13 membership rights should the agreement so provide: AND PROVIDED  
14 FURTHER, That an employee shall be allowed membership if otherwise  
15 eligible while receiving survivor's benefits: AND PROVIDED FURTHER,  
16 That an employee shall not either before or after June 7, 1984, be  
17 excluded from membership or denied service credit pursuant to this  
18 subsection solely on account of: (a) Membership in the plan created  
19 under chapter 2.14 RCW; or (b) enrollment under the relief and  
20 compensation provisions or the pension provisions of the volunteer fire  
21 fighters' relief and pension fund under chapter 41.24 RCW;

22 (5) Patient and inmate help in state charitable, penal, and  
23 correctional institutions;

24 (6) "Members" of a state veterans' home or state soldiers' home;

25 ~~(7) ((Persons employed by an institution of higher learning or  
26 community college, primarily as an incident to and in furtherance of  
27 their education or training, or the education or training of a spouse;~~

28 ~~(8))~~ Employees of an institution of higher learning or community  
29 college during the period of service necessary to establish eligibility  
30 for membership in the retirement plans operated by such institutions;

1       (~~(9)~~) (8) Persons rendering professional services to an employer  
2 on a fee, retainer, or contract basis or when the income from these  
3 services is less than fifty percent of the gross income received from  
4 the person's practice of a profession;

5       (~~(10)~~) (9) Persons appointed after April 1, 1963, by the liquor  
6 control board as agency vendors;

7       (~~(11)~~) (10) Employees of a labor guild, association, or  
8 organization: PROVIDED, That elective officials and employees of a  
9 labor guild, association, or organization which qualifies as an  
10 employer within this chapter shall have the option of applying for  
11 membership;

12       (~~(12)~~) (11) Plan I retirees employed in eligible positions on a  
13 temporary basis for a period not to exceed five months in a calendar  
14 year: PROVIDED, That if such employees are employed for more than five  
15 months in a calendar year in an eligible position they shall become  
16 members of the system prospectively;

17       (~~(13)~~) (12) Persons employed by or appointed or elected as an  
18 official of a first class city that has its own retirement system:  
19 PROVIDED, That any member elected or appointed to an elective office on  
20 or after April 1, 1971, shall have the option of continuing as a member  
21 of this system in lieu of becoming a member of the city system. A  
22 member who elects to continue as a member of this system shall pay the  
23 appropriate member contributions and the city shall pay the employer  
24 contributions at the rates prescribed by this chapter. The city shall  
25 also transfer to this system all of such member's accumulated  
26 contributions together with such further amounts as necessary to equal  
27 all employee and employer contributions which would have been paid into  
28 this system on account of such service with the city and thereupon the  
29 member shall be granted credit for all such service. Any city that  
30 becomes an employer as defined in RCW 41.40.010(4) as the result of an

1 individual's election under this subsection shall not be required to  
2 have all employees covered for retirement under the provisions of this  
3 chapter. Nothing in this subsection shall prohibit a city of the first  
4 class with its own retirement system from: (a) Transferring all of its  
5 current employees to the retirement system established under this  
6 chapter, or (b) allowing newly hired employees the option of continuing  
7 coverage under the retirement system established by this chapter.

8 Notwithstanding any other provision of this chapter, persons  
9 transferring from employment with a first class city of over four  
10 hundred thousand population that has its own retirement system to  
11 employment with the state department of agriculture may elect to remain  
12 within the retirement system of such city and the state shall pay the  
13 employer contributions for such persons at like rates as prescribed for  
14 employers of other members of such system;

15 ~~((14))~~ (13) Employees who (a) are not citizens of the United  
16 States, (b) do not reside in the United States, and (c) perform duties  
17 outside of the United States;

18 ~~((15))~~ (14) Employees who (a) are not citizens of the United  
19 States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded  
20 from membership under this chapter or chapter 41.04 RCW, (d) are  
21 residents of this state, and (e) make an irrevocable election to be  
22 excluded from membership, in writing, which is submitted to the  
23 director within thirty days after employment in an eligible position;

24 ~~((16))~~ (15) Employees who are citizens of the United States and  
25 who reside and perform duties for an employer outside of the United  
26 States: PROVIDED, That unless otherwise excluded under this chapter or  
27 chapter 41.04 RCW, the employee may apply for membership (a) within  
28 thirty days after employment in an eligible position and membership  
29 service credit shall be granted from the first day of membership

1 service, and (b) after this thirty-day period, but membership service  
2 credit shall be granted only from the date of application;

3 ((~~17~~)) (16) The city manager or chief administrative officer of  
4 a city or town who serves at the pleasure of an appointing authority:  
5 PROVIDED, That such persons shall have the option of applying for  
6 membership within thirty days from date of their appointment to such  
7 positions. Persons serving in such positions as of April 4, 1986,  
8 shall continue to be members in the retirement system unless they  
9 notify the director in writing prior to December 31, 1986, of their  
10 desire to withdraw from membership in the retirement system. A member  
11 who withdraws from membership in the system under this section shall  
12 receive a refund of the member's accumulated contributions.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.40 RCW  
14 to read as follows:

15 Persons employed by an institution of higher education or community  
16 college, primarily as an incident to or in furtherance of their  
17 education or training, or the education or training of a spouse, who  
18 were denied service credit under RCW 41.40.023 before the effective  
19 date of this section, may attain service credit by paying the  
20 cumulative employee contribution plus interest as determined by the  
21 department on past waived credit. Payments to purchase service credit  
22 shall be made between July 1, 1992, and June 30, 1994.