
SENATE BILL 5703

State of Washington

52nd Legislature

1991 Regular Session

By Senators Rasmussen and Roach.

Read first time February 15, 1991. Referred to Committee on Ways & Means.

1 AN ACT Relating to membership in the Washington law enforcement
2 officers' and fire fighters' retirement system; amending RCW 41.26.030
3 and 28B.10.567; and adding a new section to chapter 41.26 RCW.

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

5 **Sec. 1.** RCW 41.26.030 and 1987 c 418 s 1 are each amended to read
6 as follows:

7 As used in this chapter, unless a different meaning is plainly
8 required by the context:

9 (1) "Retirement system" means the "Washington law enforcement
10 officers' and fire fighters' retirement system" provided herein.

11 (2) (a) "Employer" for persons who establish membership in the
12 retirement system on or before September 30, 1977, means the
13 legislative authority of any city, town, county or district or the
14 elected officials of any municipal corporation that employs any law
15 enforcement officer and/or fire fighter, any authorized association of

1 such municipalities, and, except for the purposes of RCW 41.26.150, any
2 labor guild, association, or organization, which represents the fire
3 fighters or law enforcement officers of at least seven cities of over
4 20,000 population and the membership of each local lodge or division of
5 which is composed of at least sixty percent law enforcement officers or
6 fire fighters as defined in this chapter.

7 (b) "Employer" for persons who establish membership in the
8 retirement system on or after October 1, 1977, means the (~~legislative~~
9 ~~authority of any city, town, county, or district or the elected~~
10 ~~officials of any municipal corporation~~) following entities to the
11 extent that the entity employs any law enforcement officer and/or fire
12 fighter:

13 (i) The legislative authority of any city, town, county, or
14 district;

15 (ii) The elected officials of any municipal corporation;

16 (iii) The port of Seattle;

17 (iv) The port of Pasco;

18 (v) The legislative authority of an institution of higher education
19 as defined in RCW 28B.10.016 other than a community college;

20 (vi) The department of fisheries; or

21 (vii) The department of wildlife.

22 (3) "Law enforcement officer" means any person who is serving on a
23 full time, fully compensated basis as a county sheriff or deputy
24 sheriff, including sheriffs or deputy sheriffs serving under a
25 different title pursuant to a county charter, city police officer, or
26 town marshal or deputy marshal, with the following qualifications:

27 (a) No person who is serving in a position that is basically
28 clerical or secretarial in nature, and who is not commissioned shall be
29 considered a law enforcement officer;

1 (b) Only those deputy sheriffs, including those serving under a
2 different title pursuant to county charter, who have successfully
3 completed a civil service examination for deputy sheriff or the
4 equivalent position, where a different title is used, and those persons
5 serving in unclassified positions authorized by RCW 41.14.070 except a
6 private secretary will be considered law enforcement officers;

7 (c) Only such full time commissioned law enforcement personnel as
8 have been appointed to offices, positions, or ranks in the police
9 department which have been specifically created or otherwise expressly
10 provided for and designated by city charter provision or by ordinance
11 enacted by the legislative body of the city shall be considered city
12 police officers;

13 (d) The term "law enforcement officer" also includes the executive
14 secretary of a labor guild, association or organization (which is an
15 employer under RCW 41.26.030(2) as now or hereafter amended) if such
16 individual has five years previous membership in the retirement system
17 established in chapter 41.20 RCW: PROVIDED, That for persons who
18 establish membership in the retirement system on or after October 1,
19 1977, the provisions of this subparagraph shall not apply; ((and))

20 (e) The term "law enforcement officer" also includes any person
21 employed on or after November 1, 1975, and prior to December 1, 1975,
22 as a director of public safety so long as the duties of the director
23 substantially involve only police and/or fire duties and no other
24 duties; and

25 (f) Effective July 1, 1991, the term "law enforcement officer" also
26 includes any person first employed in a position on or after October 1,
27 1977, by the port of Pasco or the port of Seattle as provided by RCW
28 53.08.280, or by an institution of higher education as defined in RCW
29 28B.10.016 other than a community college, requiring the successful
30 completion of the basic law enforcement academy course sponsored by the

1 criminal justice training commission, or a supplemental course in
2 criminal law enforcement as approved by the employer and the criminal
3 justice training commission and provided by the criminal justice
4 training commission.

5 (4) "Fire fighter" means:

6 (a) Any person who is serving on a full time, fully compensated
7 basis as a member of a fire department of an employer and who is
8 serving in a position which requires passing a civil service
9 examination for fire fighter, or fireman if this title is used by the
10 department, and who is actively employed as such;

11 (b) Anyone who is actively employed as a full time fire fighter
12 where the fire department does not have a civil service examination;

13 (c) Supervisory fire fighter personnel;

14 (d) Any full time executive secretary of an association of fire
15 protection districts authorized under RCW 52.12.031: PROVIDED, That for
16 persons who establish membership in the retirement system on or after
17 October 1, 1977, the provisions of this subparagraph shall not apply;

18 (e) The executive secretary of a labor guild, association or
19 organization (which is an employer under RCW 41.26.030(2) as now or
20 hereafter amended), if such individual has five years previous
21 membership in a retirement system established in chapter 41.16 or 41.18
22 RCW: PROVIDED, That for persons who establish membership in the
23 retirement system on or after October 1, 1977, the provisions of this
24 subparagraph shall not apply;

25 (f) Any person who is serving on a full time, fully compensated
26 basis for an employer, as a fire dispatcher, in a department in which,
27 on March 1, 1970, a dispatcher was required to have passed a civil
28 service examination for fireman or fire fighter;

29 (g) Any person who on March 1, 1970, was employed on a full time,
30 fully compensated basis by an employer, and who on May 21, 1971 was

1 making retirement contributions under the provisions of chapter 41.16
2 or 41.18 RCW; and

3 (h) The term "fire fighter" also includes any person employed on or
4 after November ((1,)) 1, 1975, and prior to December 1, 1975, as a
5 director of public safety so long as the duties of the director
6 substantially involve only police and/or fire duties and no other
7 duties.

8 (5) "Retirement board" means the Washington public employees'
9 retirement system board established in chapter 41.40 RCW, including two
10 members of the retirement system and two employer representatives as
11 provided for in RCW 41.26.050. The retirement board shall be called
12 the Washington law enforcement officers' and fire fighters' retirement
13 board and may enter in legal relationships in that name. Any legal
14 relationships entered into in that name prior to ((the adoption of this
15 1972 amendatory act)) February 25, 1972, are hereby ratified.

16 (6) "Surviving spouse" means the surviving widow or widower of a
17 member. The word shall not include the divorced spouse of a member.

18 (7) "Child" or "children" whenever used in this chapter means every
19 natural born child and stepchild where that relationship was in
20 existence prior to the date benefits are payable under this chapter,
21 posthumous child, child legally adopted or made a legal ward of a
22 member prior to the date benefits are payable under this chapter, and
23 illegitimate child legitimized prior to the date any benefits are
24 payable under this chapter, all while unmarried, and either under the
25 age of eighteen years or mentally or physically handicapped as
26 determined by the retirement board except a handicapped person in the
27 full time care of a state institution. A person shall also be deemed
28 to be a child up to and including the age of twenty years and eleven
29 months while attending any high school, college, or vocational or other
30 educational institution accredited, licensed, or approved by the state,

1 in which it is located, including the summer vacation months and all
2 other normal and regular vacation periods at the particular educational
3 institution after which the child returns to school.

4 (8) "Member" means any fire fighter, law enforcement officer, or
5 other person as would apply under subsections (3) or (4) of this
6 section whose membership is transferred to the Washington law
7 enforcement officers' and fire fighters' retirement system on or after
8 March 1, 1970, and every law enforcement officer and fire fighter who
9 is employed in that capacity on or after such date.

10 (9) "Retirement fund" means the "Washington law enforcement
11 officers' and fire fighters' retirement system fund" as provided for
12 herein.

13 (10) "Employee" means any law enforcement officer or fire fighter
14 as defined in subsections (3) and (4) (~~above~~) of this section.

15 (11) (a) "Beneficiary" for persons who establish membership in the
16 retirement system on or before September 30, 1977, means any person in
17 receipt of a retirement allowance, disability allowance, death benefit,
18 or any other benefit described herein.

19 (b) "Beneficiary" for persons who establish membership in the
20 retirement system on or after October 1, 1977, means any person in
21 receipt of a retirement allowance or other benefit provided by this
22 chapter resulting from service rendered to an employer by another
23 person.

24 (12) (a) "Final average salary" for persons who establish
25 membership in the retirement system on or before September 30, 1977,
26 means (i) for a member holding the same position or rank for a minimum
27 of twelve months preceding the date of retirement, the basic salary
28 attached to such same position or rank at time of retirement; (ii) for
29 any other member, including a civil service member who has not served
30 a minimum of twelve months in the same position or rank preceding the

1 date of retirement, the average of the greatest basic salaries payable
2 to such member during any consecutive twenty-four month period within
3 such member's last ten years of service for which service credit is
4 allowed, computed by dividing the total basic salaries payable to such
5 member during the selected twenty-four month period by twenty-four;
6 (iii) in the case of disability of any member, the basic salary payable
7 to such member at the time of disability retirement; (iv) in the case
8 of a member who hereafter vests pursuant to RCW 41.26.090, the basic
9 salary payable to such member at the time of vesting.

10 (b) "Final average salary" for persons who establish membership in
11 the retirement system on or after October 1, 1977, means the monthly
12 average of the member's basic salary for the highest consecutive sixty
13 months of service prior to such member's retirement, termination, or
14 death. Periods constituting authorized unpaid leaves of absence may
15 not be used in the calculation of final average salary.

16 (13) (a) "Basic salary" for persons who establish membership in the
17 retirement system on or before September 30, 1977, means the basic
18 monthly rate of salary or wages, including longevity pay but not
19 including overtime earnings or special salary or wages, upon which
20 pension or retirement benefits will be computed and upon which employer
21 contributions and salary deductions will be based.

22 (b) "Basic salary" for persons who establish membership in the
23 retirement system on or after October 1, 1977, means salaries or wages
24 earned by a member during a payroll period for personal services,
25 including overtime payments, and shall include wages and salaries
26 deferred under provisions established pursuant to sections 403(b),
27 414(h), and 457 of the United States Internal Revenue Code, but shall
28 exclude lump sum payments for deferred annual sick leave, unused
29 accumulated vacation, unused accumulated annual leave, or any form of
30 severance pay: PROVIDED, That in any year in which a member serves in

1 the legislature the member shall have the option of having such
2 member's basic salary be the greater of:

3 (i) The basic salary the member would have received had such member
4 not served in the legislature; or

5 (ii) Such member's actual basic salary received for nonlegislative
6 public employment and legislative service combined. Any additional
7 contributions to the retirement system required because basic salary
8 under subparagraph (i) of this subsection is greater than basic salary
9 under subparagraph (ii) of this subsection shall be paid by the member
10 for both member and employer contributions.

11 (14) (a) "Service" for persons who establish membership in the
12 retirement system on or before September 30, 1977, means all periods of
13 employment for an employer as a fire fighter or law enforcement
14 officer, for which compensation is paid, together with periods of
15 suspension not exceeding thirty days in duration. For the purposes of
16 this chapter service shall also include service in the armed forces of
17 the United States as provided in RCW 41.26.190. Credit shall be
18 allowed for all months of service rendered by a member from and after
19 the member's initial commencement of employment as a fire fighter or
20 law enforcement officer, during which the member worked for seventy or
21 more hours, or was on disability leave or disability retirement. Only
22 months of service shall be counted in the computation of any retirement
23 allowance or other benefit provided for in this chapter. In addition
24 to the foregoing, for members retiring after May 21, 1971 who were
25 employed under the coverage of a prior pension act before March 1,
26 1970, "service" shall include (i) such military service not exceeding
27 five years as was creditable to the member as of March 1, 1970, under
28 the member's particular prior pension act, and (ii) such other periods
29 of service as were then creditable to a particular member under the
30 provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no

1 event shall credit be allowed for any service rendered prior to March
2 1, 1970, where the member at the time of rendition of such service was
3 employed in a position covered by a prior pension act, unless such
4 service, at the time credit is claimed therefor, is also creditable
5 under the provisions of such prior act: PROVIDED, That if such
6 member's prior service is not creditable due to the withdrawal of his
7 or her contributions plus accrued interest thereon from a prior pension
8 system, such member shall be credited with such prior service, as a law
9 enforcement officer or fire fighter, by paying to the Washington law
10 enforcement officers' and fire fighters' retirement system, on or
11 before March 1, 1975, an amount which is equal to that which was
12 withdrawn from the prior system by such member, as a law enforcement
13 officer or fire fighter: PROVIDED FURTHER, That if such member's prior
14 service is not creditable because, although employed in a position
15 covered by a prior pension act, such member had not yet become a member
16 of the pension system governed by such act, such member shall be
17 credited with such prior service as a law enforcement officer or fire
18 fighter, by paying to the Washington law enforcement officers' and fire
19 fighters' retirement system, on or before March 1, 1975, an amount
20 which is equal to the employer's contributions which would have been
21 required under the prior act when such service was rendered if the
22 member had been a member of such system during such period: AND
23 PROVIDED FURTHER, That where a member is employed by two employers at
24 the same time, he or she shall only be credited with service to one
25 such employer for any month during which he or she rendered such dual
26 service.

27 (b) "Service" for persons who establish membership in the
28 retirement system on or after October 1, 1977, means periods of
29 employment by a member for one or more employers for which basic salary
30 is earned for ninety or more hours per calendar month.

1 Members of the retirement system who are elected or appointed to a
2 state elective position may elect to continue to be members of this
3 retirement system.

4 Years of service shall be determined by dividing the total number
5 of months of service by twelve. Any fraction of a year of service as
6 so determined shall be taken into account in the computation of such
7 retirement allowance or benefits.

8 If a member receives basic salary from two or more employers during
9 any calendar month, the individual shall receive one month's service
10 credit during any calendar month in which multiple service for ninety
11 or more hours is rendered.

12 (15) "Accumulated contributions" means the employee's contributions
13 made by a member plus accrued interest credited thereon.

14 (16) "Actuarial reserve" means a method of financing a pension or
15 retirement plan wherein reserves are accumulated as the liabilities for
16 benefit payments are incurred in order that sufficient funds will be
17 available on the date of retirement of each member to pay the member's
18 future benefits during the period of retirement.

19 (17) "Actuarial valuation" means a mathematical determination of
20 the financial condition of a retirement plan. It includes the
21 computation of the present monetary value of benefits payable to
22 present members, and the present monetary value of future employer and
23 employee contributions, giving effect to mortality among active and
24 retired members and also to the rates of disability, retirement,
25 withdrawal from service, salary and interest earned on investments.

26 (18) "Disability board" means either the county disability board or
27 the city disability board established in RCW 41.26.110 for persons who
28 establish membership in the retirement system on or before September
29 30, 1977.

1 (19) "Disability leave" means the period of six months or any
2 portion thereof during which a member is on leave at an allowance equal
3 to the member's full salary prior to the commencement of disability
4 retirement. The definition contained in this subsection shall apply
5 only to persons who establish membership in the retirement system on or
6 before September 30, 1977.

7 (20) "Disability retirement" for persons who establish membership
8 in the retirement system on or before September 30, 1977, means the
9 period following termination of a member's disability leave, during
10 which the member is in receipt of a disability retirement allowance.

11 (21) "Position" means the employment held at any particular time,
12 which may or may not be the same as civil service rank.

13 (22) "Medical services" for persons who establish membership in the
14 retirement system on or before September 30, 1977, shall include the
15 following as minimum services to be provided. Reasonable charges for
16 these services shall be paid in accordance with RCW 41.26.150.

17 (a) Hospital expenses: These are the charges made by a hospital, in
18 its own behalf, for

19 (i) Board and room not to exceed semiprivate room rate unless
20 private room is required by the attending physician due to the
21 condition of the patient.

22 (ii) Necessary hospital services, other than board and room,
23 furnished by the hospital.

24 (b) Other medical expenses: The following charges are considered
25 "other medical expenses", provided that they have not been considered
26 as "hospital expenses".

27 (i) The fees of the following:

28 (A) A physician or surgeon licensed under the provisions of chapter
29 18.71 RCW;

1 (B) An osteopath licensed under the provisions of chapter 18.57

2 RCW;

3 (C) A chiropractor licensed under the provisions of chapter 18.25

4 RCW.

5 (ii) The charges of a registered graduate nurse other than a nurse
6 who ordinarily resides in the member's home, or is a member of the
7 family of either the member or the member's spouse.

8 (iii) The charges for the following medical services and supplies:

9 (A) Drugs and medicines upon a physician's prescription;

10 (B) Diagnostic x-ray and laboratory examinations;

11 (C) X-ray, radium, and radioactive isotopes therapy;

12 (D) Anesthesia and oxygen;

13 (E) Rental of iron lung and other durable medical and surgical
14 equipment;

15 (F) Artificial limbs and eyes, and casts, splints, and trusses;

16 (G) Professional ambulance service when used to transport the
17 member to or from a hospital when he is injured by an accident or
18 stricken by a disease;

19 (H) Dental charges incurred by a member who sustains an accidental
20 injury to his teeth and who commences treatment by a legally licensed
21 dentist within ninety days after the accident;

22 (I) Nursing home confinement or hospital extended care facility;

23 (J) Physical therapy by a registered physical therapist;

24 (K) Blood transfusions, including the cost of blood and blood
25 plasma not replaced by voluntary donors;

26 (L) An optometrist licensed under the provisions of chapter 18.53
27 RCW.

28 (23) "Regular interest" means such rate as the director may
29 determine.

1 (24) "Retiree" for persons who establish membership in the
2 retirement system on or after October 1, 1977, means any member in
3 receipt of a retirement allowance or other benefit provided by this
4 chapter resulting from service rendered to an employer by such member.

5 (25) "Department" means the department of retirement systems
6 created in chapter 41.50 RCW.

7 (26) "Director" means the director of the department.

8 (27) "State actuary" or "actuary" means the person appointed
9 pursuant to RCW 44.44.010(2).

10 (28) "State elective position" means any position held by any
11 person elected or appointed to state-wide office or elected or
12 appointed as a member of the legislature.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.26 RCW
14 to read as follows:

15 (1) Notwithstanding any provision of law to the contrary, any
16 University of Washington law enforcement officer first employed as such
17 on or after October 1, 1977, who is a contributing member of the
18 Washington public employees' retirement system under RCW 41.40.620
19 through 41.40.740 may become a member of the Washington law enforcement
20 officers' and fire fighters' retirement system under RCW 41.26.420
21 through 41.26.550 by irrevocable election filed with the department of
22 retirement systems. For those persons employed as such on the
23 effective date of this act, the election shall be made on or before
24 December 31, 1991.

25 All individuals employed as law enforcement officers after the
26 effective date of this act, shall have no election but shall become
27 members of the Washington law enforcement officers' and fire fighters'
28 retirement system under RCW 41.26.420 through 41.26.550.

1 All individuals who are reemployed as law enforcement officers
2 after the effective date of this act, shall have no election but shall
3 become members of the Washington law enforcement officers' and fire
4 fighters' retirement system under RCW 41.26.420 through 41.26.550.

5 (2) If the election is made under subsection (1) of this section,
6 the member shall neither acquire nor retain any rights or benefits in
7 the Washington public employees' retirement system for any period of
8 employment as a law enforcement officer except those provided under RCW
9 28B.10.567.

10 (3) Any law enforcement officer transferring membership from the
11 Washington public employees' retirement system shall have transferred
12 from that system to the Washington law enforcement officers' and fire
13 fighters' retirement system: (a) All the employee's accumulated
14 contributions and employer contributions attributed to such member, and
15 (b) all months of service, as defined in RCW 41.26.030(14)(b), credited
16 to the employee under chapter 41.40 RCW, as though such service was
17 rendered as a member of the Washington law enforcement officers' and
18 fire fighters' retirement system.

19 In addition, for the applicable period of service from October 1,
20 1977, to the individual's election made pursuant to subsection (1) of
21 this section, the employee or the employee's employer shall pay the
22 difference between the contributions such individual paid to the
23 Washington public employees' retirement system as established by the
24 director pursuant to RCW 41.40.650 and the contributions which would
25 have been payable to the Washington law enforcement officers' and fire
26 fighters' retirement system as established by the director pursuant to
27 RCW 41.26.450.

28 Furthermore, the employer shall pay the difference between the
29 state contributions paid to the Washington public employees' retirement
30 system and the state contributions which would have been payable to the

1 Washington law enforcement officers' and fire fighters' retirement
2 system plus interest as determined by the director for the period of
3 service from October 1, 1977, to the employee's election made pursuant
4 to subsection (1) of this section. For the purpose of this subsection,
5 the employer contribution shall not include the contribution for the
6 unfunded supplemental present value as required by RCW 41.26.450.

7 Member contributions and employer contributions required by this
8 subsection shall be made within ninety days in a lump sum, or in annual
9 installments. The first annual installment of at least twenty percent
10 of the amount due must be paid before the above deadline date, at least
11 fifty percent of the amount due must be paid within the first two and
12 one-half years, and the final payment must be made by June 30th of the
13 fifth year following that in which the first installment was made. The
14 amount of payment and the interest thereon, whether lump sum or
15 installments, shall be made by a method and in an amount established by
16 the director. Payments made later than within ninety days of billing
17 shall have interest added at a rate set by the director.

18 **Sec. 3.** RCW 28B.10.567 and 1987 c 185 s 2 are each amended to read
19 as follows:

20 The boards of regents of the state universities and board of
21 trustees of the regional universities and the board of trustees of The
22 Evergreen State College are authorized and empowered, under such rules
23 and regulations as any such board may prescribe for the duly sworn
24 police officers employed by any such board as members of a police force
25 established pursuant to RCW 28B.10.550, to provide for the payment of
26 death or disability benefits or medical expense reimbursement for
27 death, disability, or injury of any such duly sworn police officer who,
28 in the line of duty, loses his or her life or becomes disabled or is
29 injured, and for the payment of such benefits to be made to any such

1 duly sworn police officer or his or her surviving spouse or the legal
2 guardian of his or her child or children, as defined in RCW
3 41.26.030(7), or his or her estate: PROVIDED, That the duty-related
4 benefits authorized by this section shall in no event be greater than
5 the benefits authorized on June 25, 1976 for duty-related death,
6 disability, or injury of a law enforcement officer under chapter 41.26
7 RCW and shall be reduced by any amounts received or eligible to be
8 received under chapter 41.26 RCW: PROVIDED FURTHER, That the
9 duty-related benefits authorized by this section shall be reduced to
10 the extent of any amounts received or eligible to be received on
11 account of the duty-related death, disability, or injury to any such
12 duly sworn police officer, his or her surviving spouse, the legal
13 guardian of his or her child or children, or his or her estate, under
14 workers' compensation, social security including the changes
15 incorporated under Public Law 89-97 as now or hereafter amended, or
16 disability income insurance and health care plans under chapter 41.05
17 RCW.