
HOUSE BILL 1744

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Heavey, G. Cole, Brough and Orr

Read first time 02/08/93. Referred to Committee on Appropriations.

1 AN ACT Relating to the law enforcement officers' and fire fighters'
2 retirement system; amending RCW 41.26.030 and 41.54.010; adding a new
3 section to chapter 41.40 RCW; providing an effective date; and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 41.26.030 and 1991 sp.s. c 12 s 1 are each amended to
7 read as follows:

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

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

12 (2)(a) "Employer" for plan I members, means the legislative
13 authority of any city, town, county, or district or the elected
14 officials of any municipal corporation that employs any law enforcement
15 officer and/or fire fighter, any authorized association of such
16 municipalities, and, except for the purposes of RCW 41.26.150, any
17 labor guild, association, or organization, which represents the fire
18 fighters or law enforcement officers of at least seven cities of over
19 20,000 population and the membership of each local lodge or division of

1 which is composed of at least sixty percent law enforcement officers or
2 fire fighters as defined in this chapter.

3 (b) "Employer" for plan II members, means the ~~((legislative~~
4 ~~authority of any city, town, county, or district or the elected~~
5 ~~officials of any municipal corporation))~~ following entities to the
6 extent that the entity employs any law enforcement officer and/or fire
7 fighter:

8 (i) The legislative authority of any city, town, county, or
9 district;

10 (ii) The elected officials of any municipal corporation; or

11 (iii) The governing body of any other general authority law
12 enforcement agency as defined in RCW 10.93.020 except the Washington
13 state patrol.

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

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

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

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

34 (d) The term "law enforcement officer" also includes:

35 (i) On and after July 1, 1993, any person employed by an employer
36 as a general authority Washington peace officer as defined in RCW
37 10.93.020; and

38 (ii) The executive secretary of a labor guild, association or
39 organization (which is an employer under RCW 41.26.030(2) ((as now or

1 hereafter amended))) if that individual has five years previous
2 membership in the retirement system established in chapter 41.20 RCW.
3 The provisions of this subsection (3)(d)(ii) shall not apply to plan II
4 members.

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, and who is actively employed as such;

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

12 (c) Supervisory fire fighter personnel;

13 (d) Any full time executive secretary of an association of fire
14 protection districts authorized under RCW 52.12.031. The provisions of
15 this subsection (4)(d) shall not apply to plan II members;

16 (e) The executive secretary of a labor guild, association or
17 organization (which is an employer under RCW 41.26.030(2) (~~as now or~~
18 hereafter amended))), if such individual has five years previous
19 membership in a retirement system established in chapter 41.16 or 41.18
20 RCW. The provisions of this subsection (4)(e) shall not apply to plan
21 II members;

22 (f) Any person who is serving on a full time, fully compensated
23 basis for an employer, as a fire dispatcher, in a department in which,
24 on March 1, 1970, a dispatcher was required to have passed a civil
25 service examination for fire fighter; (~~and~~)

26 (g) Any person who on March 1, 1970, was employed on a full time,
27 fully compensated basis by an employer, and who on May 21, 1971, was
28 making retirement contributions under the provisions of chapter 41.16
29 or 41.18 RCW;

30 (h) On and after July 1, 1993, any person employed by an employer
31 who was first employed as a fire fighter after October 1, 1977, by a
32 port district as provided in chapter 53.18 RCW and who was required to
33 successfully complete the federal aviation administration crash rescue
34 certification or its equivalent; and

35 (i) On and after July 1, 1993, any person employed by an employer
36 as an emergency service medical technician or paramedic, as defined in
37 RCW 18.71.200.

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

1 (6) "Surviving spouse" means the surviving widow or widower of a
2 member. "Surviving spouse" shall not include the divorced spouse of a
3 member except as provided in RCW 41.26.162.

4 (7)(a) "Child" or "children" means an unmarried person who is under
5 the age of eighteen or mentally or physically handicapped as determined
6 by the department, except a handicapped person in the full time care of
7 a state institution, who is:

8 (i) A natural born child;

9 (ii) A stepchild where that relationship was in existence prior to
10 the date benefits are payable under this chapter;

11 (iii) A posthumous child;

12 (iv) A child legally adopted or made a legal ward of a member prior
13 to the date benefits are payable under this chapter; or

14 (v) An illegitimate child legitimized prior to the date any
15 benefits are payable under this chapter.

16 (b) A person shall also be deemed to be a child up to and including
17 the age of twenty years and eleven months while attending any high
18 school, college, or vocational or other educational institution
19 accredited, licensed, or approved by the state, in which it is located,
20 including the summer vacation months and all other normal and regular
21 vacation periods at the particular educational institution after which
22 the child returns to school.

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

29 (9) "Retirement fund" means the "Washington law enforcement
30 officers' and fire fighters' retirement system fund" as provided for
31 herein.

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

34 (11)(a) "Beneficiary" for plan I members, means any person in
35 receipt of a retirement allowance, disability allowance, death benefit,
36 or any other benefit described herein.

37 (b) "Beneficiary" for plan II members, means any person in receipt
38 of a retirement allowance or other benefit provided by this chapter
39 resulting from service rendered to an employer by another person.

1 (12)(a) "Final average salary" for plan I members, means (i) for a
2 member holding the same position or rank for a minimum of twelve months
3 preceding the date of retirement, the basic salary attached to such
4 same position or rank at time of retirement; (ii) for any other member,
5 including a civil service member who has not served a minimum of twelve
6 months in the same position or rank preceding the date of retirement,
7 the average of the greatest basic salaries payable to such member
8 during any consecutive twenty-four month period within such member's
9 last ten years of service for which service credit is allowed, computed
10 by dividing the total basic salaries payable to such member during the
11 selected twenty-four month period by twenty-four; (iii) in the case of
12 disability of any member, the basic salary payable to such member at
13 the time of disability retirement; (iv) in the case of a member who
14 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
15 such member at the time of vesting.

16 (b) "Final average salary" for plan II members, means the monthly
17 average of the member's basic salary for the highest consecutive sixty
18 service credit months of service prior to such member's retirement,
19 termination, or death. Periods constituting authorized unpaid leaves
20 of absence may not be used in the calculation of final average salary.

21 (13)(a) "Basic salary" for plan I members, means the basic monthly
22 rate of salary or wages, including longevity pay but not including
23 overtime earnings or special salary or wages, upon which pension or
24 retirement benefits will be computed and upon which employer
25 contributions and salary deductions will be based.

26 (b) "Basic salary" for plan II members, means salaries or wages
27 earned by a member during a payroll period for personal services,
28 including overtime payments, and shall include wages and salaries
29 deferred under provisions established pursuant to sections 403(b),
30 414(h), and 457 of the United States Internal Revenue Code, but shall
31 exclude lump sum payments for deferred annual sick leave, unused
32 accumulated vacation, unused accumulated annual leave, or any form of
33 severance pay: PROVIDED, That in any year in which a member serves in
34 the legislature the member shall have the option of having such
35 member's basic salary be the greater of:

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

38 (ii) Such member's actual basic salary received for nonlegislative
39 public employment and legislative service combined. Any additional

1 contributions to the retirement system required because basic salary
2 under (b)(i) of this subsection is greater than basic salary under
3 (b)(ii) of this subsection shall be paid by the member for both member
4 and employer contributions.

5 (14)(a) "Service" for plan I members, means all periods of
6 employment for an employer as a fire fighter or law enforcement
7 officer, for which compensation is paid, together with periods of
8 suspension not exceeding thirty days in duration. For the purposes of
9 this chapter service shall also include service in the armed forces of
10 the United States as provided in RCW 41.26.190. Credit shall be
11 allowed for all service credit months of service rendered by a member
12 from and after the member's initial commencement of employment as a
13 fire fighter or law enforcement officer, during which the member worked
14 for seventy or more hours, or was on disability leave or disability
15 retirement. Only service credit months of service shall be counted in
16 the computation of any retirement allowance or other benefit provided
17 for in this chapter.

18 (i) For members retiring after May 21, 1971 who were employed under
19 the coverage of a prior pension act before March 1, 1970, "service"
20 shall also include (A) such military service not exceeding five years
21 as was creditable to the member as of March 1, 1970, under the member's
22 particular prior pension act, and (B) such other periods of service as
23 were then creditable to a particular member under the provisions of RCW
24 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
25 be allowed for any service rendered prior to March 1, 1970, where the
26 member at the time of rendition of such service was employed in a
27 position covered by a prior pension act, unless such service, at the
28 time credit is claimed therefor, is also creditable under the
29 provisions of such prior act.

30 (ii) A member who is employed by two employers at the same time
31 shall only be credited with service to one such employer for any month
32 during which the member rendered such dual service.

33 (b) "Service" for plan II members, means periods of employment by
34 a member for one or more employers for which basic salary is earned for
35 ninety or more hours per calendar month which shall constitute a
36 service credit month. Periods of employment by a member for one or
37 more employers for which basic salary is earned for at least seventy
38 hours but less than ninety hours per calendar month shall constitute
39 one-half service credit month. Periods of employment by a member for

1 one or more employers for which basic salary is earned for less than
2 seventy hours shall constitute a one-quarter service credit month.

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

6 Service credit years of service shall be determined by dividing the
7 total number of service credit months of service by twelve. Any
8 fraction of a service credit year of service as so determined shall be
9 taken into account in the computation of such retirement allowance or
10 benefits.

11 If a member receives basic salary from two or more employers during
12 any calendar month, the individual shall receive one service credit
13 month's service credit during any calendar month in which multiple
14 service for ninety or more hours is rendered; or one-half service
15 credit month's service credit during any calendar month in which
16 multiple service for at least seventy hours but less than ninety hours
17 is rendered; or one-quarter service credit month during any calendar
18 month in which multiple service for less than seventy hours is
19 rendered.

20 Service for law enforcement officers who establish plan II
21 membership pursuant to section 2(1)(a) of this act shall be limited to
22 periods of employment as a general authority Washington peace officer
23 as defined in RCW 10.93.020.

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

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

31 (17) "Actuarial valuation" means a mathematical determination of
32 the financial condition of a retirement plan. It includes the
33 computation of the present monetary value of benefits payable to
34 present members, and the present monetary value of future employer and
35 employee contributions, giving effect to mortality among active and
36 retired members and also to the rates of disability, retirement,
37 withdrawal from service, salary and interest earned on investments.

1 (18) "Disability board" for plan I members means either the county
2 disability board or the city disability board established in RCW
3 41.26.110.

4 (19) "Disability leave" means the period of six months or any
5 portion thereof during which a member is on leave at an allowance equal
6 to the member's full salary prior to the commencement of disability
7 retirement. The definition contained in this subsection shall apply
8 only to plan I members.

9 (20) "Disability retirement" for plan I members, means the period
10 following termination of a member's disability leave, during which the
11 member is in receipt of a disability retirement allowance.

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

14 (22) "Medical services" for plan I members, 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,
18 in 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;

30 (B) An osteopath licensed under the provisions of chapter 18.57
31 RCW;

32 (C) A chiropractor licensed under the provisions of chapter 18.25
33 RCW.

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

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

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

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

1 (C) X-ray, radium, and radioactive isotopes therapy;
2 (D) Anesthesia and oxygen;
3 (E) Rental of iron lung and other durable medical and surgical
4 equipment;
5 (F) Artificial limbs and eyes, and casts, splints, and trusses;
6 (G) Professional ambulance service when used to transport the
7 member to or from a hospital when injured by an accident or stricken by
8 a disease;
9 (H) Dental charges incurred by a member who sustains an accidental
10 injury to his or her teeth and who commences treatment by a legally
11 licensed dentist within ninety days after the accident;
12 (I) Nursing home confinement or hospital extended care facility;
13 (J) Physical therapy by a registered physical therapist;
14 (K) Blood transfusions, including the cost of blood and blood
15 plasma not replaced by voluntary donors;
16 (L) An optometrist licensed under the provisions of chapter 18.53
17 RCW.
18 (23) "Regular interest" means such rate as the director may
19 determine.
20 (24) "Retiree" for persons who establish membership in the
21 retirement system on or after October 1, 1977, means any member in
22 receipt of a retirement allowance or other benefit provided by this
23 chapter resulting from service rendered to an employer by such member.
24 (25) "Director" means the director of the department.
25 (26) "State actuary" or "actuary" means the person appointed
26 pursuant to RCW 44.44.010(2).
27 (27) "State elective position" means any position held by any
28 person elected or appointed to state-wide office or elected or
29 appointed as a member of the legislature.
30 (28) "Plan I" means the law enforcement officers' and fire
31 fighters' retirement system, plan I providing the benefits and funding
32 provisions covering persons who first became members of the system
33 prior to October 1, 1977.
34 (29) "Plan II" means the law enforcement officers' and fire
35 fighters' retirement system, plan II providing the benefits and funding
36 provisions covering persons who first became members of the system on
37 and after October 1, 1977.
38 (30) "Service credit year" means an accumulation of months of
39 service credit which is equal to one when divided by twelve.

1 (31) "Service credit month" means a full service credit month or an
2 accumulation of partial service credit months that are equal to one.

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

5 (1) A person who was a member on or before July 1, 1993, and is a
6 law enforcement officer under RCW 41.26.030(3)(d)(i), or a fire fighter
7 under RCW 41.26.030(4), may transfer to the law enforcement officers'
8 and fire fighters' retirement system plan II as defined in RCW
9 41.26.030(29) by choosing one of the options set forth in (a) and (b)
10 of this subsection. The option may be exercised by making an
11 irrevocable choice filed in writing with the department on or before
12 July 1, 1994.

13 (a) Any law enforcement officer or fire fighter transferring
14 membership from the Washington public employees' retirement system
15 under this subsection (1)(a) shall have transferred from that system to
16 the Washington law enforcement officers' and fire fighters' retirement
17 system: (i) All the employee's accumulated contributions and employer
18 contributions attributed to such member; and (ii) all months of
19 service, as defined in RCW 41.26.030(14)(b), credited to the employee
20 under this chapter, as though such service was rendered as a member of
21 the Washington law enforcement officers' and fire fighters' retirement
22 system.

23 For the applicable period of service from October 1, 1977, to the
24 individual's election made pursuant to this subsection, the employee
25 and/or employer shall pay the difference between the contributions such
26 individual paid to the Washington public employees' retirement system
27 as established by the director pursuant to RCW 41.40.650 and the
28 contributions which would have been payable by the employee to the
29 Washington law enforcement officers' and fire fighters' retirement
30 system pursuant to RCW 41.26.450.

31 The employer shall pay the difference between the employer
32 contributions paid to the Washington public employees' retirement
33 system and the employer and state contributions which would have been
34 payable to the Washington law enforcement officers' and fire fighters'
35 retirement system plus interest as determined by the director for the
36 period of service from October 1, 1977, to the employee's election made
37 pursuant to this subsection. The amount of interest determined by the
38 director shall be sufficient to ensure that the contribution level of

1 current members of the Washington law enforcement officers' and fire
2 fighters' retirement system will not increase due to this transfer.
3 For the purpose of this subsection (1)(a), the state contribution shall
4 not include the contribution related to the amortization of the costs
5 of the law enforcement and fire fighters retirement system plan I as
6 required by chapter 41.45 RCW.

7 Member contributions and employer contributions required by this
8 subsection (1)(a) shall be made within ninety days of the individual's
9 election made pursuant to this subsection in a lump sum. The amount of
10 payment and the interest thereon shall be determined by a method and in
11 an amount established by the director. Payments made later than within
12 ninety days of billing shall have interest added at a rate set by the
13 director.

14 An individual who transfers under this subsection (1)(a) shall be
15 permanently excluded from this system for all service as a law
16 enforcement officer and/or fire fighter.

17 (b) A person transferring membership under this subsection (1)(b)
18 shall be a dual member as provided in RCW 41.54.010(4)(b). This
19 section does not authorize a person transferring membership under this
20 section to transfer service credit earned under this chapter to the law
21 enforcement officers' and fire fighters' retirement system plan II.

22 (2) A person who enters into employment as a law enforcement
23 officer under RCW 41.26.030(3)(d)(i), or a fire fighter under RCW
24 41.26.030(4), after July 1, 1993, shall not be a member of this system.

25 **Sec. 3.** RCW 41.54.010 and 1990 c 192 s 1 are each amended to read
26 as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Base salary" means salaries or wages earned by a member of a
30 system during a payroll period for personal services and includes wages
31 and salaries deferred under provisions of the United States internal
32 revenue code, but shall exclude overtime payments, nonmoney maintenance
33 compensation, and lump sum payments for deferred annual sick leave,
34 unused accumulated vacation, unused accumulated annual leave, any form
35 of severance pay, any bonus for voluntary retirement, any other form of
36 leave, or any similar lump sum payment.

37 (2) "Department" means the department of retirement systems.

1 (3) "Director" means the director of the department of retirement
2 systems.

3 (4)(a) "Dual member" means a person who (~~(a)~~) (i) is or becomes
4 a member of a system on or after July 1, 1988, (~~(b)~~) (ii) has been a
5 member of one or more other systems, and (~~(c)~~) (iii) has never been
6 retired for service from a retirement system and is not receiving a
7 disability retirement or disability leave benefit from any retirement
8 system listed in RCW 41.50.030 or subsection (6) of this section.

9 (b) "Dual member" also includes individuals who have made the
10 election set forth in section 2(1)(b) of this act; except that an
11 individual who, subsequent to making the election, becomes a member of
12 a system described in subsection (6)(a) of this section shall cease to
13 be a dual member for the purposes of this chapter.

14 (5) "Service" means the same as it may be defined in each
15 respective system. For the purposes of RCW 41.54.030, military service
16 granted under RCW 41.40.170(3) or 43.43.260 may only be based on
17 service accrued under chapter 41.40 or 43.43 RCW, respectively.

18 (6)(a) "System" means the retirement systems established under
19 chapters 41.32, 41.40, 41.44, and 43.43 RCW and the city employee
20 retirement systems for Seattle, Tacoma, and Spokane. The inclusion of
21 an individual first class city system is subject to the procedure set
22 forth in RCW 41.54.061.

23 (b) For purposes of subsection (4)(b) of this section, "system"
24 also means the Washington law enforcement officers' and fire fighters'
25 system plan II as defined in RCW 41.26.030(29).

26 NEW SECTION. Sec. 4. This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and shall take
29 effect July 1, 1993.

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