
HOUSE BILL 1747

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Brumsickle, Dorn, Brough, Carlson, Peery, Sheahan,
G. Fisher and Thomas

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1 AN ACT Relating to postretirement employment for members of the
2 public employees' retirement system; amending RCW 41.40.690; and
3 reenacting and amending RCW 41.40.023.

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;

15 (3)(a) Persons holding elective offices or persons appointed
16 directly by the governor: PROVIDED, That such persons shall have the
17 option of applying for membership during such periods of employment:
18 AND PROVIDED FURTHER, That any persons holding or who have held
19 elective offices or persons appointed by the governor who are members

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

18 (b) A member holding elective office in a town or city who has
19 elected to apply for membership pursuant to (a) of this subsection and
20 who later wishes to be eligible for a retirement allowance shall have
21 the option of ending his or her membership in the retirement system.
22 A member wishing to end his or her membership under this subsection
23 must file, on a form supplied by the department, a statement indicating
24 that the member agrees to irrevocably abandon any claim for service for
25 future periods served as an elected official of a town or city. A
26 member who receives more than ten thousand dollars per year in
27 compensation for his or her elective service is not eligible for the
28 option provided by this subsection (3)(b);

29 (4) Employees holding membership in, or receiving pension benefits
30 under, any retirement plan operated wholly or in part by an agency of
31 the state or political subdivision thereof, or who are by reason of
32 their current employment contributing to or otherwise establishing the
33 right to receive benefits from any such retirement plan: PROVIDED,
34 HOWEVER, In any case where the retirement system has in existence an
35 agreement with another retirement system in connection with exchange of
36 service credit or an agreement whereby members can retain service
37 credit in more than one system, such an employee shall be allowed
38 membership rights should the agreement so provide: AND PROVIDED
39 FURTHER, That an employee shall be allowed membership if otherwise

1 eligible while receiving survivor's benefits: AND PROVIDED FURTHER,
2 That an employee shall not either before or after June 7, 1984, be
3 excluded from membership or denied service credit pursuant to this
4 subsection solely on account of: (a) Membership in the plan created
5 under chapter 2.14 RCW; or (b) enrollment under the relief and
6 compensation provisions or the pension provisions of the volunteer fire
7 fighters' relief and pension fund under chapter 41.24 RCW;

8 (5) Patient and inmate help in state charitable, penal, and
9 correctional institutions;

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

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

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

17 (9) Persons rendering professional services to an employer on a
18 fee, retainer, or contract basis or when the income from these services
19 is less than fifty percent of the gross income received from the
20 person's practice of a profession;

21 (10) Persons appointed after April 1, 1963, by the liquor control
22 board as agency vendors;

23 (11) Employees of a labor guild, association, or organization:
24 PROVIDED, That elective officials and employees of a labor guild,
25 association, or organization which qualifies as an employer within this
26 chapter shall have the option of applying for membership;

27 (12) Plan I retirees employed in eligible positions on a temporary
28 basis for a period not to exceed (~~five months~~) eight hundred sixty-
29 seven hours in a calendar year, or eight hundred sixty-seven hours over
30 the period of September through August of the following year if the
31 employer is a school district or districts, an educational service
32 district, the state school for the deaf, the state school for the
33 blind, an institution of higher education, or a community or technical
34 college: PROVIDED, That if such employees are employed in an eligible
35 position for more than (~~five months~~) eight hundred sixty-seven hours
36 in a calendar year (~~in an eligible position~~) or eight hundred sixty-
37 seven hours over the period of September through August of the
38 following year, as applicable, they shall become members of the system
39 prospectively;

1 (13) Persons employed by or appointed or elected as an official of
2 a first class city that has its own retirement system: PROVIDED, That
3 any member elected or appointed to an elective office on or after April
4 1, 1971, shall have the option of continuing as a member of this system
5 in lieu of becoming a member of the city system. A member who elects
6 to continue as a member of this system shall pay the appropriate member
7 contributions and the city shall pay the employer contributions at the
8 rates prescribed by this chapter. The city shall also transfer to this
9 system all of such member's accumulated contributions together with
10 such further amounts as necessary to equal all employee and employer
11 contributions which would have been paid into this system on account of
12 such service with the city and thereupon the member shall be granted
13 credit for all such service. Any city that becomes an employer as
14 defined in RCW 41.40.010(4) as the result of an individual's election
15 under this subsection shall not be required to have all employees
16 covered for retirement under the provisions of this chapter. Nothing
17 in this subsection shall prohibit a city of the first class with its
18 own retirement system from: (a) Transferring all of its current
19 employees to the retirement system established under this chapter, or
20 (b) allowing newly hired employees the option of continuing coverage
21 under the retirement system established by this chapter.

22 Notwithstanding any other provision of this chapter, persons
23 transferring from employment with a first class city of over four
24 hundred thousand population that has its own retirement system to
25 employment with the state department of agriculture may elect to remain
26 within the retirement system of such city and the state shall pay the
27 employer contributions for such persons at like rates as prescribed for
28 employers of other members of such system;

29 (14) Employees who (a) are not citizens of the United States, (b)
30 do not reside in the United States, and (c) perform duties outside of
31 the United States;

32 (15) Employees who (a) are not citizens of the United States, (b)
33 are not covered by chapter 41.48 RCW, (c) are not excluded from
34 membership under this chapter or chapter 41.04 RCW, (d) are residents
35 of this state, and (e) make an irrevocable election to be excluded from
36 membership, in writing, which is submitted to the director within
37 thirty days after employment in an eligible position;

38 (16) Employees who are citizens of the United States and who reside
39 and perform duties for an employer outside of the United States:

1 PROVIDED, That unless otherwise excluded under this chapter or chapter
2 41.04 RCW, the employee may apply for membership (a) within thirty days
3 after employment in an eligible position and membership service credit
4 shall be granted from the first day of membership service, and (b)
5 after this thirty-day period, but membership service credit shall be
6 granted only from the date of application;

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

17 **Sec. 2.** RCW 41.40.690 and 1990 c 274 s 11 are each amended to read
18 as follows:

19 (1) No retiree under the provisions of plan II shall be eligible to
20 receive such retiree's monthly retirement allowance if he or she is
21 employed in an eligible position as defined in RCW 41.40.010 or
22 41.32.010, or as a law enforcement officer or fire fighter as defined
23 in RCW 41.26.030, except that:

24 (a) A retiree who ends his or her membership in the retirement
25 system pursuant to RCW 41.40.023(3)(b) is not subject to this section
26 if the retiree's only employment is as an elective official of a city
27 or town; and

28 (b) A plan II retiree may work in eligible positions on a temporary
29 basis for up to ~~((five months))~~ eight hundred sixty-seven hours in a
30 calendar year, or eight hundred sixty-seven hours over the period of
31 September through August of the following year if the employer is a
32 school district or districts, an educational service district, the
33 state school for the deaf, the state school for the blind, an
34 institution of higher education, or a community or technical college.

35 (2) If a retiree's benefits have been suspended under this section,
36 his or her benefits shall be reinstated when the retiree terminates the
37 employment that caused his or her benefits to be suspended. Upon

1 reinstatement, the retiree's benefits shall be actuarially recomputed
2 pursuant to the rules adopted by the department.
3 (3) The department shall adopt rules implementing this section.

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