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HOUSE BILL 2648

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State of Washington

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By Representatives J. Kohl, Sommers, Anderson, Ogden, Kremen, Wood, G. Fisher, Padden, Jacobsen, Cothorn, Horn, L. Johnson, Foreman, Roland, Van Luven, Linville, Flemming, Carlson, Brumsickle, Johanson, Dunshee, Sheldon, Quall, Jones, Brough, Sehlin, Sheahan, Romero, Moak, Dellwo, Dyer, Kessler, L. Thomas, Springer, Morris, Backlund and Talcott

Read first time 01/19/94. Referred to Committee on Appropriations.

1 AN ACT Relating to loss of public employment benefits upon  
2 conviction of certain crimes; amending RCW 41.28.200 and 43.43.310;  
3 reenacting and amending RCW 41.26.180, 41.32.052, and 41.40.052; adding  
4 a new section to chapter 41.26 RCW; adding a new section to chapter  
5 41.28 RCW; adding a new section to chapter 41.32 RCW; adding a new  
6 section to chapter 41.40 RCW; adding new sections to chapter 2.14 RCW;  
7 adding a new section to chapter 28A.400 RCW; adding a new section to  
8 chapter 28B.10 RCW; adding a new section to chapter 43.43 RCW; and  
9 creating a new section.

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

11 NEW SECTION. **Sec. 1.** The legislature recognizes the many  
12 contributions made by public employees and officials and their  
13 dedication to their employment and positions. Further, the legislature  
14 recognizes that on the very rare occasion when a public employee or  
15 official commits a felony related to his or her public employment, the  
16 reputations of all public employees and officials are damaged.

17 It is the purpose of this act to safeguard the reputations of  
18 public employees and officials from unfair criticisms that may arise in  
19 the rare instances when a public employee or official is convicted of

1 a felony related to his or her employment or position, by withdrawing  
2 pension benefits from any public employee or official who is convicted  
3 of a felony related to his or her employment or position.

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

6 (1) Any person who first becomes a member of the system after  
7 January 1, 1995, shall lose all benefits provided under this system if  
8 he or she is convicted of committing a:

9 (a) Felony if his or her position as a law enforcement officer or  
10 fire fighter was used to accomplish or further the commission of the  
11 felony; or

12 (b) Felony related to his or her employment as a law enforcement  
13 officer.

14 (2) As used in this section, "benefits" include, but are not  
15 limited to, retirement benefits, disability benefits, and medical  
16 services.

17 (3) The department shall petition the superior court of Thurston  
18 county to determine if the conviction of a felony meets the criteria of  
19 subsection (1) of this section.

20 Any member who loses benefits under this section shall have his or  
21 her accumulated contributions refunded.

22 **Sec. 3.** RCW 41.26.180 and 1991 c 365 s 20 and 1991 c 35 s 25 are  
23 each reenacted and amended to read as follows:

24 (1) Subject to subsections (2) (~~and~~), (3), and (4) of this  
25 section, the right of a person to a retirement allowance, disability  
26 allowance, or death benefit, to the return of accumulated  
27 contributions, the retirement, disability or death allowance itself,  
28 any optional benefit, any other right accrued or accruing to any person  
29 under the provisions of this chapter, and the moneys in the fund  
30 created under this chapter, are hereby exempt from any state, county,  
31 municipal, or other local tax and shall not be subject to execution,  
32 garnishment, attachment, the operation of bankruptcy or insolvency  
33 laws, or any other process of law whatsoever, and shall be  
34 unassignable.

35 (2) On the written request of any person eligible to receive  
36 benefits under this section, the department may deduct from such  
37 payments the premiums for life, health, or other insurance. The

1 request on behalf of any child or children shall be made by the legal  
2 guardian of such child or children. The department may provide for  
3 such persons one or more plans of group insurance, through contracts  
4 with regularly constituted insurance carriers or health care service  
5 contractors.

6 (3) Subsection (1) of this section shall not prohibit the  
7 department from complying with (a) a wage assignment order for child  
8 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold  
9 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of  
10 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory  
11 benefits assignment order issued by the department, (e) a court order  
12 directing the department of retirement systems to pay benefits directly  
13 to an obligee under a dissolution order as defined in RCW 41.50.500(3)  
14 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any  
15 administrative or court order expressly authorized by federal law.

16 (4) Subsection (1) of this section shall not prohibit the loss of  
17 benefits under section 2 of this act.

18 NEW SECTION. Sec. 4. A new section is added to chapter 41.28 RCW  
19 to read as follows:

20 (1) Any person who first becomes a member of the retirement system  
21 after January 1, 1995, shall lose all benefits provided under this  
22 system if he or she is convicted of committing a:

23 (a) Felony if his or her position as an employee was used to  
24 accomplish or further the commission of the felony; or

25 (b) Felony related to his or her employment as an employee.

26 (2) As used in this section, "benefits" include, but are not  
27 limited to, retirement allowances and pensions.

28 (3) The department shall petition the superior court of Thurston  
29 county to determine if the conviction of a felony meets the criteria of  
30 subsection (1) of this section.

31 Any member who loses benefits under this section shall have his or  
32 her accumulated contributions refunded.

33 **Sec. 5.** RCW 41.28.200 and 1939 c 207 s 21 are each amended to read  
34 as follows:

35 (1) The right of a person to a pension, an annuity or a retirement  
36 allowance, to the return of contributions, the pension, annuity or  
37 retirement allowance itself, any optional benefit, any other right

1 accrued or accruing to any person under the provisions of this chapter,  
2 and the moneys in the fund created under this chapter shall not be  
3 subject to execution, garnishment, attachment, or any other process  
4 whatsoever and shall be unassignable except as in this chapter  
5 specifically provided.

6 (2) Subsection (1) of this section shall not prohibit the loss of  
7 benefits under section 4 of this act.

8 NEW SECTION. Sec. 6. A new section is added to chapter 41.32 RCW  
9 to read as follows:

10 (1) Any person who first becomes a member of the retirement system  
11 after January 1, 1995, shall lose all benefits provided under this  
12 system if he or she is convicted of committing a:

13 (a) Felony if his or her position as an employee was used to  
14 accomplish or further the commission of the felony; or

15 (b) Felony related to his or her employment as an employee.

16 (2) As used in this section, "benefits" include, but are not  
17 limited to, retirement allowances and pensions.

18 (3) The department shall petition the superior court of Thurston  
19 county to determine if the conviction of a felony meets the criteria of  
20 subsection (1) of this section.

21 Any member who loses benefits under this section shall have his or  
22 her accumulated contributions refunded.

23 **Sec. 7.** RCW 41.32.052 and 1991 c 365 s 21 and 1991 c 35 s 63 are  
24 each reenacted and amended to read as follows:

25 (1) Subject to subsections (2) (~~(and)~~), (3), and (4) of this  
26 section, the right of a person to a pension, an annuity, a retirement  
27 allowance, or disability allowance, to the return of contributions, any  
28 optional benefit or death benefit, any other right accrued or accruing  
29 to any person under the provisions of this chapter and the moneys in  
30 the various funds created by this chapter shall be unassignable, and  
31 are hereby exempt from any state, county, municipal or other local tax,  
32 and shall not be subject to execution, garnishment, attachment, the  
33 operation of bankruptcy or insolvency laws, or other process of law  
34 whatsoever.

35 (2) This section shall not be deemed to prohibit a beneficiary of  
36 a retirement allowance who is eligible:

1 (a) Under RCW 41.05.080 from authorizing monthly deductions  
2 therefrom for payment of premiums due on any group insurance policy or  
3 plan issued for the benefit of a group comprised of public employees of  
4 the state of Washington or its political subdivisions;

5 (b) Under a group health care benefit plan approved pursuant to RCW  
6 28A.400.350 or 41.05.065 from authorizing monthly deductions therefrom,  
7 of the amount or amounts of subscription payments, premiums, or  
8 contributions to any person, firm, or corporation furnishing or  
9 providing medical, surgical, and hospital care or other health care  
10 insurance; or

11 (c) Under this system from authorizing monthly deductions therefrom  
12 for payment of dues and other membership fees to any retirement  
13 association composed of retired teachers and/or public employees  
14 pursuant to a written agreement between the director and the retirement  
15 association.

16 Deductions under (a) and (b) of this subsection shall be made in  
17 accordance with rules that may be adopted by the director.

18 (3) Subsection (1) of this section shall not prohibit the  
19 department from complying with (a) a wage assignment order for child  
20 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold  
21 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of  
22 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory  
23 benefits assignment order issued by the department, (e) a court order  
24 directing the department of retirement systems to pay benefits directly  
25 to an obligee under a dissolution order as defined in RCW 41.50.500(3)  
26 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any  
27 administrative or court order expressly authorized by federal law.

28 (4) Subsection (1) of this section shall not prohibit the loss of  
29 benefits under section 6 of this act.

30 NEW SECTION. Sec. 8. A new section is added to chapter 41.40 RCW  
31 to read as follows:

32 (1) Any person who first becomes a member of the system after  
33 January 1, 1995, shall lose all benefits provided under this system if  
34 he or she is convicted of committing a:

35 (a) Felony if his or her position as an employee defined under RCW  
36 41.40.023 was used to accomplish or further the commission of the  
37 felony; or

1 (b) Felony related to his or her employment as an employee defined  
2 under RCW 41.40.023.

3 (2) As used in this section, "benefits" include, but are not  
4 limited to, retirement allowances and pensions.

5 (3) The department shall petition the superior court of Thurston  
6 county to determine if the conviction of a felony meets the criteria of  
7 subsection (1) of this section.

8 Any member who loses benefits under this section shall have his or  
9 her accumulated contributions refunded.

10 **Sec. 9.** RCW 41.40.052 and 1991 c 365 s 22 and 1991 c 35 s 92 are  
11 each reenacted and amended to read as follows:

12 (1) Subject to subsections (2) (~~and~~), (3), and (4) of this  
13 section, the right of a person to a pension, an annuity, or retirement  
14 allowance, any optional benefit, any other right accrued or accruing to  
15 any person under the provisions of this chapter, the various funds  
16 created by this chapter, and all moneys and investments and income  
17 thereof, are hereby exempt from any state, county, municipal, or other  
18 local tax, and shall not be subject to execution, garnishment,  
19 attachment, the operation of bankruptcy or insolvency laws, or other  
20 process of law whatsoever, and shall be unassignable.

21 (2) This section shall not be deemed to prohibit a beneficiary of  
22 a retirement allowance from authorizing deductions therefrom for  
23 payment of premiums due on any group insurance policy or plan issued  
24 for the benefit of a group comprised of public employees of the state  
25 of Washington or its political subdivisions and which has been approved  
26 for deduction in accordance with rules that may be adopted by the state  
27 health care authority and/or the department, and this section shall not  
28 be deemed to prohibit a beneficiary of a retirement allowance from  
29 authorizing deductions therefrom for payment of dues and other  
30 membership fees to any retirement association or organization the  
31 membership of which is composed of retired public employees, if a total  
32 of three hundred or more of such retired employees have authorized such  
33 deduction for payment to the same retirement association or  
34 organization.

35 (3) Subsection (1) of this section shall not prohibit the  
36 department from complying with (a) a wage assignment order for child  
37 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold  
38 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of

1 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory  
2 benefits assignment order issued by the department, (e) a court order  
3 directing the department of retirement systems to pay benefits directly  
4 to an obligee under a dissolution order as defined in RCW 41.50.500(3)  
5 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any  
6 administrative or court order expressly authorized by federal law.

7 (4) Subsection (1) of this section shall not prohibit the loss of  
8 benefits under section 8 of this act.

9 NEW SECTION. Sec. 10. A new section is added to chapter 2.14 RCW  
10 to read as follows:

11 (1) Any person who first becomes a member of the plan after January  
12 1, 1995, shall lose all benefits provided under this system if he or  
13 she is convicted of committing a:

14 (a) Felony if his or her position as a judge was used to accomplish  
15 or further the commission of the felony; or

16 (b) Felony related to his or her employment as a judge.

17 (2) As used in this section, "benefits" include, but are not  
18 limited to, retirement allowances and pensions.

19 (3) The department shall petition the superior court of Thurston  
20 county to determine if the conviction of a felony meets the criteria of  
21 subsection (1) of this section.

22 Any member who loses benefits under this section shall have his or  
23 her accumulated contributions refunded.

24 NEW SECTION. Sec. 11. A new section is added to chapter 2.14 RCW  
25 to read as follows:

26 No restrictions on the execution, garnishment, attachment, the  
27 operation of bankruptcy or insolvency laws, or other process of law  
28 whatsoever against the benefits of a member shall prohibit the loss of  
29 benefits under section 10 of this act.

30 NEW SECTION. Sec. 12. A new section is added to chapter 28A.400  
31 RCW to read as follows:

32 (1) Any person who first obtains tax deferred annuities from a  
33 school district after January 1, 1995, shall lose all benefits provided  
34 under these annuities if he or she is convicted of committing a:

35 (a) Felony if his or her position as a school district employee was  
36 used to accomplish or further the commission of the felony; or

1 (b) Felony related to his or her employment as a school district  
2 employee.

3 (2) As used in this section, "benefits" include, but are not  
4 limited to, annuity benefits and retirement income.

5 (3) The school directors, superintendent of public instruction, or  
6 education service district superintendents shall petition the superior  
7 court of Thurston county to determine if the conviction of a felony  
8 meets the criteria of subsection (1) of this section.

9 Any school district employee who loses benefits under this section  
10 shall have his or her accumulated contributions refunded. The school  
11 district's contributions and interest earnings shall be refunded to the  
12 school district.

13 NEW SECTION. **Sec. 13.** A new section is added to chapter 2.14 RCW  
14 to read as follows:

15 No restrictions on the execution, garnishment, attachment, the  
16 operation of bankruptcy or insolvency laws, or other process of law  
17 whatsoever against the benefits of a member shall prohibit the loss of  
18 benefits under section 12 of this act.

19 NEW SECTION. **Sec. 14.** A new section is added to chapter 28B.10  
20 RCW to read as follows:

21 (1) Any person who first obtains tax deferred annuities from a  
22 state university, regional university, The Evergreen State College, or  
23 state board for community and technical colleges after January 1, 1995,  
24 shall lose all benefits provided under these annuities if he or she is  
25 convicted of committing a:

26 (a) Felony if his or her position as an employee was used to  
27 accomplish or further the commission of the felony; or

28 (b) Felony related to his or her employment as an employee.

29 (2) As used in this section, "benefits" include, but are not  
30 limited to, annuity benefits and retirement income.

31 (3) The board of regents of the state university, regional  
32 university, The Evergreen State College, or the state board for  
33 community and technical colleges shall petition the superior court of  
34 Thurston county to determine if the conviction of a felony meets the  
35 criteria of subsection (1) of this section.



1 Any employee who loses benefits under this section shall have his  
2 or her accumulated contributions refunded. The employer's  
3 contributions and interest earnings shall be refunded to the employer.

4 NEW SECTION. Sec. 15. A new section is added to chapter 2.14 RCW  
5 to read as follows:

6 No restrictions on the execution, garnishment, attachment, the  
7 operation of bankruptcy or insolvency laws, or other process of law  
8 whatsoever against the benefits of a member shall prohibit the loss of  
9 benefits under section 14 of this act.

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

12 (1) Any person who first becomes a member of the retirement system  
13 after January 1, 1995, shall lose all benefits provided under this  
14 system if he or she is convicted of committing a:

15 (a) Felony if his or her position as an employee was used to  
16 accomplish or further the commission of the felony; or

17 (b) Felony related to his or her employment as an employee.

18 (2) The state patrol shall petition the superior court of Thurston  
19 county to determine if the conviction of a felony meets the criteria of  
20 subsection (1) of this section.

21 Any member who loses benefits under this section shall have his or  
22 her accumulated contributions refunded.

23 Sec. 17. RCW 43.43.310 and 1991 c 365 s 23 are each amended to  
24 read as follows:

25 (1) Except as provided in subsections (2) (~~and~~), (3), and (4) of  
26 this section, the right of any person to a retirement allowance or  
27 optional retirement allowance under the provisions hereof and all  
28 moneys and investments and income thereof are exempt from any state,  
29 county, municipal, or other local tax and shall not be subject to  
30 execution, garnishment, attachment, the operation of bankruptcy or the  
31 insolvency laws, or other processes of law whatsoever and shall be  
32 unassignable except as herein specifically provided.

33 (2) Subsection (1) of this section shall not prohibit the  
34 department of retirement systems from complying with (a) a wage  
35 assignment order for child support issued pursuant to chapter 26.18  
36 RCW, (b) an order to withhold and deliver issued pursuant to chapter

1 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW  
2 26.23.060, (d) a mandatory benefits assignment order issued pursuant to  
3 chapter 41.50 RCW, (e) a court order directing the department of  
4 retirement systems to pay benefits directly to an obligee under a  
5 dissolution order as defined in RCW 41.50.500(3) which fully complies  
6 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court  
7 order expressly authorized by federal law.

8 (3) Subsection (1) of this section shall not be deemed to prohibit  
9 a beneficiary of a retirement allowance from authorizing deductions  
10 therefrom for payment of premiums due on any group insurance policy or  
11 plan issued for the benefit of a group comprised of members of the  
12 Washington state patrol or other public employees of the state of  
13 Washington, or for contributions to the Washington state patrol  
14 memorial foundation.

15 (4) Subsection (1) of this section shall not prohibit the loss of  
16 benefits under section 16 of this act.

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