

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1670

53rd Legislature
1993 Regular Session

Passed by the House March 13, 1993
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 8, 1993
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1670** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1670

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Sommers, Heavey, Locke, King, Jacobsen, Vance, Wineberry, Mielke, Linville, Lisk, J. Kohl, Wolfe, Basich, Orr, Valle, Veloria, Anderson, G. Cole, Dorn, Jones, R. Fisher, Holm, Ogden and Kremen)

Read first time 03/08/93.

1 AN ACT Relating to providing service credit for periods of paid
2 leave; amending RCW 41.40.710, 41.26.520, and 41.32.810; reenacting and
3 amending RCW 41.32.010 and 41.40.010; adding a new section to chapter
4 41.40 RCW; adding a new section to chapter 41.26 RCW; adding a new
5 section to chapter 41.32 RCW; creating a new section; repealing RCW
6 41.32.034 and 41.32.355; repealing 1992 c 3 s 4 (uncodified); and
7 declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW
10 under the subchapter heading "Plan I" to read as follows:

11 (1) A member who is on a paid leave of absence authorized by a
12 member's employer shall continue to receive service credit as provided
13 under the provisions of RCW 41.40.145 through 41.40.363.

14 (2) A member who receives compensation from an employer while on an
15 authorized leave of absence to serve as an elected official of a labor
16 organization, and whose employer is reimbursed by the labor
17 organization for the compensation paid to the member during the period
18 of absence, may also be considered to be on a paid leave of absence.
19 This subsection shall only apply if the member's leave of absence is

1 authorized by a collective bargaining agreement that provides that the
2 member retains seniority rights with the employer during the period of
3 leave. The compensation earnable reported for a member who establishes
4 service credit under this subsection may not be greater than the salary
5 paid to the highest paid job class covered by the collective bargaining
6 agreement.

7 **Sec. 2.** RCW 41.40.710 and 1992 c 119 s 3 are each amended to read
8 as follows:

9 (1) A member who is on a paid leave of absence authorized by a
10 member's employer shall continue to receive service credit as provided
11 for under the provisions of RCW 41.40.610 through 41.40.740.

12 (2) A member who receives compensation from an employer while on an
13 authorized leave of absence to serve as an elected official of a labor
14 organization, and whose employer is reimbursed by the labor
15 organization for the compensation paid to the member during the period
16 of absence, may also be considered to be on a paid leave of absence.
17 This subsection shall only apply if the member's leave of absence is
18 authorized by a collective bargaining agreement that provides that the
19 member retains seniority rights with the employer during the period of
20 leave. The compensation earnable reported for a member who establishes
21 service credit under this subsection may not be greater than the salary
22 paid to the highest paid job class covered by the collective bargaining
23 agreement.

24 (3) Except as specified in subsection ((+3)) (4) of this section,
25 a member shall be eligible to receive a maximum of two years service
26 credit during a member's entire working career for those periods when
27 a member is on an unpaid leave of absence authorized by an employer.
28 Such credit may be obtained only if the member makes both the plan II
29 employer and member contributions plus interest as determined by the
30 department for the period of the authorized leave of absence within
31 five years of resumption of service or prior to retirement whichever
32 comes sooner. The contributions required shall be based on the average
33 of the member's compensation earnable at both the time the authorized
34 leave of absence was granted and the time the member resumed
35 employment.

36 ((+3)) (4) A member who leaves the employ of an employer to enter
37 the armed forces of the United States shall be entitled to retirement
38 system service credit for up to four years of military service.

1 (a) The member qualifies for service credit under this subsection
2 if:

3 (i) Within ninety days of the member's honorable discharge from the
4 United States armed forces, the member applies for reemployment with
5 the employer who employed the member immediately prior to the member
6 entering the United States armed forces; and

7 (ii) The member makes the employee contributions required under RCW
8 41.40.650 plus interest as determined by the department within five
9 years of resumption of service or prior to retirement, whichever comes
10 sooner.

11 (b) Upon receipt of member contributions under (a)(ii) of this
12 subsection, the department shall bill the employer for its contribution
13 required under RCW 41.40.650 for the period of military service, plus
14 interest as determined by the department.

15 (c) The contributions required shall be based on the average of the
16 member's compensation earnable at both the time the member left the
17 employ of the employer to enter the armed forces and the time the
18 member resumed employment.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.26 RCW
20 under the subchapter heading "Plan I" to read as follows:

21 (1) A member who is on a paid leave of absence authorized by a
22 member's employer shall continue to receive service credit as provided
23 under the provisions of RCW 41.26.080 through 41.26.3903.

24 (2) A member who receives compensation from an employer while on an
25 authorized leave of absence to serve as an elected official of a labor
26 organization, and whose employer is reimbursed by the labor
27 organization for the compensation paid to the member during the period
28 of absence, may also be considered to be on a paid leave of absence.
29 This subsection shall only apply if the member's leave of absence is
30 authorized by a collective bargaining agreement that provides that the
31 member retains seniority rights with the employer during the period of
32 leave. The basic salary reported for a member who establishes service
33 credit under this subsection may not be greater than the salary paid to
34 the highest paid job class covered by the collective bargaining
35 agreement.

36 **Sec. 4.** RCW 41.26.520 and 1992 c 119 s 1 are each amended to read
37 as follows:

1 (1) A member who is on a paid leave of absence authorized by a
2 member's employer shall continue to receive service credit as provided
3 for under the provisions of RCW 41.26.410 through 41.26.550.

4 (2) A member who receives compensation from an employer while on an
5 authorized leave of absence to serve as an elected official of a labor
6 organization, and whose employer is reimbursed by the labor
7 organization for the compensation paid to the member during the period
8 of absence, may also be considered to be on a paid leave of absence.
9 This subsection shall only apply if the member's leave of absence is
10 authorized by a collective bargaining agreement that provides that the
11 member retains seniority rights with the employer during the period of
12 leave. The basic salary reported for a member who establishes service
13 credit under this subsection may not be greater than the salary paid to
14 the highest paid job class covered by the collective bargaining
15 agreement.

16 (3) Except as specified in subsection (~~((3))~~) (4) of this section,
17 a member shall be eligible to receive a maximum of two years service
18 credit during a member's entire working career for those periods when
19 a member is on an unpaid leave of absence authorized by an employer.
20 Such credit may be obtained only if the member makes the employer,
21 member, and state contributions plus interest as determined by the
22 department for the period of the authorized leave of absence within
23 five years of resumption of service or prior to retirement whichever
24 comes sooner: PROVIDED, That for the purpose of this subsection the
25 contribution shall not include the contribution for the unfunded
26 supplemental present value as required by RCW 41.26.450. The
27 contributions required shall be based on the average of the member's
28 basic salary at both the time the authorized leave of absence was
29 granted and the time the member resumed employment.

30 (~~((3))~~) (4) A member who leaves the employ of an employer to enter
31 the armed forces of the United States shall be entitled to retirement
32 system service credit for up to four years of military service.

33 (a) The member qualifies for service credit under this subsection
34 if:

35 (i) Within ninety days of the member's honorable discharge from the
36 United States armed forces, the member applies for reemployment with
37 the employer who employed the member immediately prior to the member
38 entering the United States armed forces; and

1 (ii) The member makes the employee contributions required under RCW
2 41.26.450 plus interest as determined by the department within five
3 years of resumption of service or prior to retirement, whichever comes
4 sooner.

5 (b) Upon receipt of member contributions under (a)(ii) of this
6 subsection, the department shall bill the employer and the state for
7 their respective contributions required under RCW 41.26.450 for the
8 period of military service, plus interest as determined by the
9 department.

10 (c) The contributions required shall be based on the average of the
11 member's basic salary at both the time the member left the employ of
12 the employer to enter the armed forces and the time the member resumed
13 employment.

14 (~~((4))~~) (5) A member receiving benefits under Title 51 RCW who is
15 not receiving benefits under this chapter shall be deemed to be on
16 unpaid, authorized leave of absence.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.32 RCW
18 under the subchapter heading "Plan I" to read as follows:

19 (1) A member who is on a paid leave of absence authorized by a
20 member's employer shall continue to receive service credit as provided
21 under the provisions of RCW 41.32.240 through 41.32.575.

22 (2) A member who receives compensation from an employer while on an
23 authorized leave of absence to serve as an elected official of a labor
24 organization, and whose employer is reimbursed by the labor
25 organization for the compensation paid to the member during the period
26 of absence, may also be considered to be on a paid leave of absence.
27 This subsection shall only apply if the member's leave of absence is
28 authorized by a collective bargaining agreement that provides that the
29 member retains seniority rights with the employer during the period of
30 leave. The earnable compensation reported for a member who establishes
31 service credit under this subsection may not be greater than the salary
32 paid to the highest paid job class covered by the collective bargaining
33 agreement.

34 **Sec. 6.** RCW 41.32.810 and 1992 c 119 s 2 are each amended to read
35 as follows:

1 (1) A member who is on a paid leave of absence authorized by a
2 member's employer shall continue to receive service credit as provided
3 for under the provisions of RCW 41.32.755 through 41.32.825.

4 (2) A member who receives compensation from an employer while on an
5 authorized leave of absence to serve as an elected official of a labor
6 organization, and whose employer is reimbursed by the labor
7 organization for the compensation paid to the member during the period
8 of absence, may also be considered to be on a paid leave of absence.
9 This subsection shall only apply if the member's leave of absence is
10 authorized by a collective bargaining agreement that provides that the
11 member retains seniority rights with the employer during the period of
12 leave. The earnable compensation reported for a member who establishes
13 service credit under this subsection may not be greater than the salary
14 paid to the highest paid job class covered by the collective bargaining
15 agreement.

16 (3) Except as specified in subsection (~~((3))~~) (4) of this section,
17 a member shall be eligible to receive a maximum of two years service
18 credit during a member's entire working career for those periods when
19 a member is on an unpaid leave of absence authorized by an employer.
20 Such credit may be obtained only if the member makes both the employer
21 and member contributions plus interest as determined by the department
22 for the period of the authorized leave of absence within five years of
23 resumption of service or prior to retirement whichever comes sooner:
24 PROVIDED, That for the purpose of this subsection the contribution
25 shall not include the contribution for the unfunded supplemental
26 present value as required by RCW 41.32.775. The contributions required
27 shall be based on the average of the member's earnable compensation at
28 both the time the authorized leave of absence was granted and the time
29 the member resumed employment.

30 (~~((3))~~) (4) A member who leaves the employ of an employer to enter
31 the armed forces of the United States shall be entitled to retirement
32 system service credit for up to four years of military service.

33 (a) The member qualifies for service credit under this subsection
34 if:

35 (i) Within ninety days of the member's honorable discharge from the
36 United States armed forces, the member applies for reemployment with
37 the employer who employed the member immediately prior to the member
38 entering the United States armed forces; and

1 (ii) The member makes the employee contributions required under RCW
2 41.32.775 plus interest as determined by the department within five
3 years of resumption of service or prior to retirement, whichever comes
4 sooner.

5 (b) Upon receipt of member contributions under (a)(ii) of this
6 subsection, the department shall bill the employer for its contribution
7 required under RCW 41.32.775 for the period of military service, plus
8 interest as determined by the department.

9 (c) The contributions required shall be based on the average of the
10 member's earnable compensation at both the time the member left the
11 employ of the employer to enter the armed forces and the time the
12 member resumed employment.

13 **Sec. 7.** RCW 41.32.010 and 1992 c 212 s 1 and 1992 c 3 s 3 are each
14 reenacted and amended to read as follows:

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

17 (1)(a) "Accumulated contributions" for plan I members, means the
18 sum of all regular annuity contributions with regular interest thereon.

19 (b) "Accumulated contributions" for plan II members, means the sum
20 of all contributions standing to the credit of a member in the member's
21 individual account together with the regular interest thereon.

22 (2) "Actuarial equivalent" means a benefit of equal value when
23 computed upon the basis of such mortality tables and regulations as
24 shall be adopted by the director and regular interest.

25 (3) "Annuity" means the moneys payable per year during life by
26 reason of accumulated contributions of a member.

27 (4) "Member reserve" means the fund in which all of the accumulated
28 contributions of members are held.

29 (5)(a) "Beneficiary" for plan I members, means any person in
30 receipt of a retirement allowance or other benefit provided by this
31 chapter.

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

35 (6) "Contract" means any agreement for service and compensation
36 between a member and an employer.

1 (7) "Creditable service" means membership service plus prior
2 service for which credit is allowable. This subsection shall apply
3 only to plan I members.

4 (8) "Dependent" means receiving one-half or more of support from a
5 member.

6 (9) "Disability allowance" means monthly payments during
7 disability. This subsection shall apply only to plan I members.

8 (10)(a) "Earnable compensation" for plan I members, means:

9 (i) All salaries and wages paid by an employer to an employee
10 member of the retirement system for personal services rendered during
11 a fiscal year. In all cases where compensation includes maintenance
12 the employer shall fix the value of that part of the compensation not
13 paid in money.

14 (A) Retroactive payments to an individual by an employer on
15 reinstatement of the employee in a position, or payments by an employer
16 to an individual in lieu of reinstatement in a position which are
17 awarded or granted as the equivalent of the salary or wages which the
18 individual would have earned during a payroll period shall be
19 considered earnable compensation and the individual shall receive the
20 equivalent service credit.

21 (B) If a leave of absence, without pay, is taken by a member for
22 the purpose of serving as a member of the state legislature, and such
23 member has served in the legislature five or more years, the salary
24 which would have been received for the position from which the leave of
25 absence was taken shall be considered as compensation earnable if the
26 employee's contribution thereon is paid by the employee. In addition,
27 where a member has been a member of the state legislature for five or
28 more years, earnable compensation for the member's two highest
29 compensated consecutive years of service shall include a sum not to
30 exceed thirty-six hundred dollars for each of such two consecutive
31 years, regardless of whether or not legislative service was rendered
32 during those two years.

33 (ii) For members employed less than full time under written
34 contract with a school district, or community college district, in an
35 instructional position, for which the member receives service credit of
36 less than one year in all of the years used to determine the earnable
37 compensation used for computing benefits due under RCW 41.32.497,
38 41.32.498, and 41.32.520, the member may elect to have earnable
39 compensation defined as provided in RCW 41.32.345. For the purposes of

1 this subsection, the term "instructional position" means a position in
2 which more than seventy-five percent of the member's time is spent as
3 a classroom instructor (including office hours), a librarian, or a
4 counselor. Earnable compensation shall be so defined only for the
5 purpose of the calculation of retirement benefits and only as necessary
6 to insure that members who receive fractional service credit under RCW
7 41.32.270 receive benefits proportional to those received by members
8 who have received full-time service credit.

9 ~~((iii) For members who receive service credit pursuant to RCW
10 41.32.034 or 41.32.355 for a period of authorized leave from a school
11 district, the earnable compensation allowable for calculation of the
12 member's average final compensation shall be the salary the member
13 would have been paid by the district for the position the member
14 occupied immediately prior to taking leave, as established in the
15 district's collective bargaining agreement for nonsupervisory
16 certificated employees.~~

17 ~~(iv) For members who receive service credit pursuant to RCW
18 41.32.034 or 41.32.355 for a period of authorized leave from a
19 community or technical college district, the earnable compensation
20 allowable for calculation of average final compensation for periods of
21 service authorized under this chapter shall be the average of the
22 member's compensation earnable at both the time the authorized leave of
23 absence was granted and the time the member resumed employment.))~~

24 (b) "Earnable compensation" for plan II members, means salaries or
25 wages earned by a member during a payroll period for personal services,
26 including overtime payments, and shall include wages and salaries
27 deferred under provisions established pursuant to sections 403(b),
28 414(h), and 457 of the United States Internal Revenue Code, but shall
29 exclude lump sum payments for deferred annual sick leave, unused
30 accumulated vacation, unused accumulated annual leave, or any form of
31 severance pay.

32 (i) Retroactive payments to an individual by an employer on
33 reinstatement of the employee in a position or payments by an employer
34 to an individual in lieu of reinstatement in a position which are
35 awarded or granted as the equivalent of the salary or wages which the
36 individual would have earned during a payroll period shall be
37 considered earnable compensation, to the extent provided above, and the
38 individual shall receive the equivalent service credit.

1 (ii) In any year in which a member serves in the legislature the
2 member shall have the option of having such member's earnable
3 compensation be the greater of:

4 (A) The earnable compensation the member would have received had
5 such member not served in the legislature; or

6 (B) Such member's actual earnable compensation received for
7 teaching and legislative service combined. Any additional
8 contributions to the retirement system required because compensation
9 earnable under (b)(ii)(A) of this subsection is greater than
10 compensation earnable under (b)(ii)(B) of this subsection shall be paid
11 by the member for both member and employer contributions.

12 (11) "Employer" means the state of Washington, the school district,
13 or any agency of the state of Washington by which the member is paid.

14 (12) "Fiscal year" means a year which begins July 1st and ends June
15 30th of the following year.

16 (13) "Former state fund" means the state retirement fund in
17 operation for teachers under chapter 187, Laws of 1923, as amended.

18 (14) "Local fund" means any of the local retirement funds for
19 teachers operated in any school district in accordance with the
20 provisions of chapter 163, Laws of 1917 as amended.

21 (15) "Member" means any teacher included in the membership of the
22 retirement system. Also, any other employee of the public schools who,
23 on July 1, 1947, had not elected to be exempt from membership and who,
24 prior to that date, had by an authorized payroll deduction, contributed
25 to the member reserve.

26 (16) "Membership service" means service rendered subsequent to the
27 first day of eligibility of a person to membership in the retirement
28 system: PROVIDED, That where a member is employed by two or more
29 employers the individual shall receive no more than one service credit
30 month during any calendar month in which multiple service is rendered.
31 The provisions of this subsection shall apply only to plan I members.

32 (17) "Pension" means the moneys payable per year during life from
33 the pension reserve.

34 (18) "Pension reserve" is a fund in which shall be accumulated an
35 actuarial reserve adequate to meet present and future pension
36 liabilities of the system and from which all pension obligations are to
37 be paid.

38 (19) "Prior service" means service rendered prior to the first date
39 of eligibility to membership in the retirement system for which credit

1 is allowable. The provisions of this subsection shall apply only to
2 plan I members.

3 (20) "Prior service contributions" means contributions made by a
4 member to secure credit for prior service. The provisions of this
5 subsection shall apply only to plan I members.

6 (21) "Public school" means any institution or activity operated by
7 the state of Washington or any instrumentality or political subdivision
8 thereof employing teachers, except the University of Washington and
9 Washington State University.

10 (22) "Regular contributions" means the amounts required to be
11 deducted from the compensation of a member and credited to the member's
12 individual account in the member reserve. This subsection shall apply
13 only to plan I members.

14 (23) "Regular interest" means such rate as the director may
15 determine.

16 (24)(a) "Retirement allowance" for plan I members, means monthly
17 payments based on the sum of annuity and pension, or any optional
18 benefits payable in lieu thereof.

19 (b) "Retirement allowance" for plan II members, means monthly
20 payments to a retiree or beneficiary as provided in this chapter.

21 (25) "Retirement system" means the Washington state teachers'
22 retirement system.

23 (26)(a) "Service" means the time during which a member has been
24 employed by an employer for compensation: PROVIDED, That where a
25 member is employed by two or more employers the individual shall
26 receive no more than one service credit month during any calendar month
27 in which multiple service is rendered.

28 (b) "Service" for plan II members, means periods of employment by
29 a member for one or more employers for which earnable compensation is
30 earned subject to the following conditions:

31 (i) A member employed in an eligible position or as a substitute
32 shall receive one service credit month for each month of September
33 through August of the following year if he or she earns earnable
34 compensation for eight hundred ten or more hours during that period and
35 is employed during nine of those months, except that a member may not
36 receive credit for any period prior to the member's employment in an
37 eligible position except as provided in RCW 41.32.812 and 41.50.132;

38 (ii) If a member is employed either in an eligible position or as
39 a substitute teacher for nine months of the twelve month period between

1 September through August of the following year but earns earnable
2 compensation for less than eight hundred ten hours but for at least six
3 hundred thirty hours, he or she will receive one-half of a service
4 credit month for each month of the twelve month period;

5 (iii) All other members in an eligible position or as a substitute
6 teacher shall receive service credit as follows:

7 (A) A service credit month is earned in those calendar months where
8 earnable compensation is earned for ninety or more hours;

9 (B) A half-service credit month is earned in those calendar months
10 where earnable compensation is earned for at least seventy hours but
11 less than ninety hours; and

12 (C) A quarter-service credit month is earned in those calendar
13 months where earnable compensation is earned for less than seventy
14 hours.

15 Any person who is a member of the teachers' retirement system and
16 who is elected or appointed to a state elective position may continue
17 to be a member of the retirement system and continue to receive a
18 service credit month for each of the months in a state elective
19 position by making the required member contributions.

20 When an individual is employed by two or more employers the
21 individual shall only receive one month's service credit during any
22 calendar month in which multiple service for ninety or more hours is
23 rendered.

24 The department shall adopt rules implementing this subsection.

25 (27) "Service credit year" means an accumulation of months of
26 service credit which is equal to one when divided by twelve.

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

29 (29) "Teacher" means any person qualified to teach who is engaged
30 by a public school in an instructional, administrative, or supervisory
31 capacity. The term includes state, educational service district, and
32 school district superintendents and their assistants and all employees
33 certificated by the superintendent of public instruction; and in
34 addition thereto any full time school doctor who is employed by a
35 public school and renders service of an instructional or educational
36 nature.

37 (30) "Average final compensation" for plan II members, means the
38 member's average earnable compensation of the highest consecutive sixty
39 service credit months prior to such member's retirement, termination,

1 or death. Periods constituting authorized leaves of absence may not be
2 used in the calculation of average final compensation except under RCW
3 41.32.810(2).

4 (31) "Retiree" means any member in receipt of a retirement
5 allowance or other benefit provided by this chapter resulting from
6 service rendered to an employer by such member.

7 (32) "Department" means the department of retirement systems
8 created in chapter 41.50 RCW.

9 (33) "Director" means the director of the department.

10 (34) "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 (35) "State actuary" or "actuary" means the person appointed
14 pursuant to RCW 44.44.010(2).

15 (36) "Substitute teacher" means:

16 (a) A teacher who is hired by an employer to work as a temporary
17 teacher, except for teachers who are annual contract employees of an
18 employer and are guaranteed a minimum number of hours; or

19 (b) Teachers who either (i) work in ineligible positions for more
20 than one employer or (ii) work in an ineligible position or positions
21 together with an eligible position.

22 (37)(a) "Eligible position" for plan II members from June 7, 1990,
23 through September 1, 1991, means a position which normally requires two
24 or more uninterrupted months of creditable service during September
25 through August of the following year.

26 (b) "Eligible position" for plan II on and after September 1, 1991,
27 means a position that, as defined by the employer, normally requires
28 five or more months of at least seventy hours of earnable compensation
29 during September through August of the following year.

30 (c) For purposes of this chapter an employer shall not define
31 "position" in such a manner that an employee's monthly work for that
32 employer is divided into more than one position.

33 (d) The elected position of the superintendent of public
34 instruction is an eligible position.

35 (38) "Plan I" means the teachers' retirement system, plan I
36 providing the benefits and funding provisions covering persons who
37 first became members of the system prior to October 1, 1977.

1 (39) "Plan II" means the teachers' retirement system, plan II
2 providing the benefits and funding provisions covering persons who
3 first became members of the system on and after October 1, 1977.

4 ~~((40) "Education association" means an association organized to
5 carry out collective bargaining activities, the majority of whose
6 members are employees covered by chapter 41.59 RCW or academic
7 employees covered by chapter 28B.52 RCW.))~~

8 **Sec. 8.** RCW 41.40.010 and 1991 c 343 s 6 and 1991 c 35 s 70 are
9 each reenacted and amended to read as follows:

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

12 (1) "Retirement system" means the public employees' retirement
13 system provided for in this chapter.

14 (2) "Department" means the department of retirement systems created
15 in chapter 41.50 RCW.

16 (3) "State treasurer" means the treasurer of the state of
17 Washington.

18 (4)(a) "Employer" for plan I members, means every branch,
19 department, agency, commission, board, and office of the state, any
20 political subdivision or association of political subdivisions of the
21 state admitted into the retirement system, and legal entities
22 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW as now
23 or hereafter amended; and the term shall also include any labor guild,
24 association, or organization the membership of a local lodge or
25 division of which is comprised of at least forty percent employees of
26 an employer (other than such labor guild, association, or organization)
27 within this chapter. The term may also include any city of the first
28 class that has its own retirement system.

29 (b) "Employer" for plan II members, means every branch, department,
30 agency, commission, board, and office of the state, and any political
31 subdivision and municipal corporation of the state admitted into the
32 retirement system, including public agencies created pursuant to RCW
33 35.63.070, 36.70.060, and 39.34.030.

34 (5) "Member" means any employee included in the membership of the
35 retirement system, as provided for in RCW 41.40.023.

36 (6) "Original member" of this retirement system means:

37 (a) Any person who became a member of the system prior to April 1,
38 1949;

1 (b) Any person who becomes a member through the admission of an
2 employer into the retirement system on and after April 1, 1949, and
3 prior to April 1, 1951;

4 (c) Any person who first becomes a member by securing employment
5 with an employer prior to April 1, 1951, provided the member has
6 rendered at least one or more years of service to any employer prior to
7 October 1, 1947;

8 (d) Any person who first becomes a member through the admission of
9 an employer into the retirement system on or after April 1, 1951,
10 provided, such person has been in the regular employ of the employer
11 for at least six months of the twelve-month period preceding the said
12 admission date;

13 (e) Any member who has restored all contributions that may have
14 been withdrawn as provided by RCW 41.40.150 and who on the effective
15 date of the individual's retirement becomes entitled to be credited
16 with ten years or more of membership service except that the provisions
17 relating to the minimum amount of retirement allowance for the member
18 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
19 apply to the member;

20 (f) Any member who has been a contributor under the system for two
21 or more years and who has restored all contributions that may have been
22 withdrawn as provided by RCW 41.40.150 and who on the effective date of
23 the individual's retirement has rendered five or more years of service
24 for the state or any political subdivision prior to the time of the
25 admission of the employer into the system; except that the provisions
26 relating to the minimum amount of retirement allowance for the member
27 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
28 apply to the member.

29 (7) "New member" means a person who becomes a member on or after
30 April 1, 1949, except as otherwise provided in this section.

31 (8)(a) "Compensation earnable" for plan I members, means salaries
32 or wages earned during a payroll period for personal services and where
33 the compensation is not all paid in money, maintenance compensation
34 shall be included upon the basis of the schedules established by the
35 member's employer: PROVIDED, That retroactive payments to an
36 individual by an employer on reinstatement of the employee in a
37 position, or payments by an employer to an individual in lieu of
38 reinstatement in a position which are awarded or granted as the
39 equivalent of the salary or wage which the individual would have earned

1 during a payroll period shall be considered compensation earnable and
2 the individual shall receive the equivalent service credit: PROVIDED
3 FURTHER, That if a leave of absence is taken by an individual for the
4 purpose of serving in the state legislature, the salary which would
5 have been received for the position from which the leave of absence was
6 taken, shall be considered as compensation earnable if the employee's
7 contribution is paid by the employee and the employer's contribution is
8 paid by the employer or employee.

9 (b) "Compensation earnable" for plan II members, means salaries or
10 wages earned by a member during a payroll period for personal services,
11 including overtime payments, and shall include wages and salaries
12 deferred under provisions established pursuant to sections 403(b),
13 414(h), and 457 of the United States Internal Revenue Code, but shall
14 exclude nonmoney maintenance compensation and lump sum payments for
15 deferred annual sick leave, unused accumulated vacation, unused
16 accumulated annual leave, or any form of severance pay: PROVIDED, That
17 retroactive payments to an individual by an employer on reinstatement
18 of the employee in a position, or payments by an employer to an
19 individual in lieu of reinstatement in a position which are awarded or
20 granted as the equivalent of the salary or wage which the individual
21 would have earned during a payroll period shall be considered
22 compensation earnable to the extent provided above, and the individual
23 shall receive the equivalent service credit: PROVIDED FURTHER, That in
24 any year in which a member serves in the legislature, the member shall
25 have the option of having such member's compensation earnable be the
26 greater of:

27 (i) The compensation earnable the member would have received had
28 such member not served in the legislature; or

29 (ii) Such member's actual compensation earnable received for
30 nonlegislative public employment and legislative service combined. Any
31 additional contributions to the retirement system required because
32 compensation earnable under subparagraph (i) of this subsection is
33 greater than compensation earnable under subparagraph (ii) of this
34 subsection shall be paid by the member for both member and employer
35 contributions.

36 (9)(a) "Service" for plan I members, except as provided in RCW
37 41.40.088, means periods of employment in an eligible position or
38 positions for one or more employers rendered to any employer for which
39 compensation is paid, and includes time spent in office as an elected

1 or appointed official of an employer. Compensation earnable earned in
2 full time work for seventy hours or more in any given calendar month
3 shall constitute one service credit month except as provided in RCW
4 41.40.088. Compensation earnable earned for less than seventy hours in
5 any calendar month shall constitute one-quarter service credit month of
6 service except as provided in RCW 41.40.088. Only service credit
7 months and one-quarter service credit months shall be counted in the
8 computation of any retirement allowance or other benefit provided for
9 in this chapter. Any fraction of a year of service shall be taken into
10 account in the computation of such retirement allowance or benefits.

11 Service by a state employee officially assigned by the state on a
12 temporary basis to assist another public agency, shall be considered as
13 service as a state employee: PROVIDED, That service to any other
14 public agency shall not be considered service as a state employee if
15 such service has been used to establish benefits in any other public
16 retirement system: PROVIDED FURTHER, That an individual shall receive
17 no more than a total of twelve service credit months of service during
18 any calendar year: PROVIDED FURTHER, That where an individual is
19 employed in an eligible position by one or more employers the
20 individual shall receive no more than one service credit month during
21 any calendar month in which multiple service for seventy or more hours
22 is rendered.

23 (b) "Service" for plan II members, means periods of employment by
24 a member in an eligible position or positions for one or more employers
25 for which compensation earnable is paid. Compensation earnable earned
26 for ninety or more hours in any calendar month shall constitute one
27 service credit month except as provided in RCW 41.40.088. Compensation
28 earnable earned for at least seventy hours but less than ninety hours
29 in any calendar month shall constitute one-half service credit month of
30 service. Compensation earnable earned for less than seventy hours in
31 any calendar month shall constitute one-quarter service credit month of
32 service.

33 Any fraction of a year of service shall be taken into account in
34 the computation of such retirement allowance or benefits.

35 Service in any state elective position shall be deemed to be full
36 time service, except that persons serving in state elective positions
37 who are members of the teachers' retirement system or law enforcement
38 officers' and fire fighters' retirement system at the time of election
39 or appointment to such position may elect to continue membership in the

1 teachers' retirement system or law enforcement officers' and fire
2 fighters' retirement system.

3 A member shall receive a total of not more than twelve service
4 credit months of service for such calendar year: PROVIDED, That when
5 an individual is employed in an eligible position by one or more
6 employers the individual shall receive no more than one service credit
7 month during any calendar month in which multiple service for ninety or
8 more hours is rendered.

9 (10) "Service credit year" means an accumulation of months of
10 service credit which is equal to one when divided by twelve.

11 (11) "Service credit month" means a month or an accumulation of
12 months of service credit which is equal to one.

13 (12) "Prior service" means all service of an original member
14 rendered to any employer prior to October 1, 1947.

15 (13) "Membership service" means:

16 (a) All service rendered, as a member, after October 1, 1947;

17 (b) All service after October 1, 1947, to any employer prior to the
18 time of its admission into the retirement system: PROVIDED, That an
19 amount equal to the employer and employee contributions which would
20 have been paid to the retirement system on account of such service
21 shall have been paid to the retirement system with interest (as
22 computed by the department) on the employee's portion prior to
23 retirement of such person, by the employee or his employer, except as
24 qualified by RCW 41.40.023: PROVIDED FURTHER, That employer
25 contributions plus employee contributions with interest submitted by
26 the employee under this subsection shall be placed in the employee's
27 individual account in the employees' savings fund and be treated as any
28 other contribution made by the employee, with the exception that the
29 contributions submitted by the employee in payment of the employer's
30 obligation, together with the interest the director may apply to the
31 employer's contribution, shall be excluded from the calculation of the
32 member's annuity in the event the member selects a benefit with an
33 annuity option;

34 (c) Service not to exceed six consecutive months of probationary
35 service rendered after April 1, 1949, and prior to becoming a member,
36 in the case of any member, upon payment in full by such member of the
37 total amount of the employer's contribution to the retirement fund
38 which would have been required under the law in effect when such
39 probationary service was rendered if the member had been a member

1 during such period, except that the amount of the employer's
2 contribution shall be calculated by the director based on the first
3 month's compensation earnable as a member;

4 (d) Service not to exceed six consecutive months of probationary
5 service, rendered after October 1, 1947, and before April 1, 1949, and
6 prior to becoming a member, in the case of any member, upon payment in
7 full by such member of five percent of such member's salary during said
8 period of probationary service, except that the amount of the
9 employer's contribution shall be calculated by the director based on
10 the first month's compensation earnable as a member.

11 (14)(a) "Beneficiary" for plan I members, means any person in
12 receipt of a retirement allowance, pension or other benefit provided by
13 this chapter.

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

17 (15) "Regular interest" means such rate as the director may
18 determine.

19 (16) "Accumulated contributions" means the sum of all contributions
20 standing to the credit of a member in the member's individual account
21 together with the regular interest thereon.

22 (17)(a) "Average final compensation" for plan I members, means the
23 annual average of the greatest compensation earnable by a member during
24 any consecutive two year period of service credit months for which
25 service credit is allowed; or if the member has less than two years of
26 service credit months then the annual average compensation earnable
27 during the total years of service for which service credit is allowed.

28 (b) "Average final compensation" for plan II members, means the
29 member's average compensation earnable of the highest consecutive sixty
30 months of service credit months prior to such member's retirement,
31 termination, or death. Periods constituting authorized leaves of
32 absence may not be used in the calculation of average final
33 compensation except under RCW 41.40.710(2).

34 (18) "Final compensation" means the annual rate of compensation
35 earnable by a member at the time of termination of employment.

36 (19) "Annuity" means payments for life derived from accumulated
37 contributions of a member. All annuities shall be paid in monthly
38 installments.

1 (20) "Pension" means payments for life derived from contributions
2 made by the employer. All pensions shall be paid in monthly
3 installments.

4 (21) "Retirement allowance" means the sum of the annuity and the
5 pension.

6 (22) "Employee" means any person who may become eligible for
7 membership under this chapter, as set forth in RCW 41.40.023.

8 (23) "Actuarial equivalent" means a benefit of equal value when
9 computed upon the basis of such mortality and other tables as may be
10 adopted by the director.

11 (24) "Retirement" means withdrawal from active service with a
12 retirement allowance as provided by this chapter.

13 (25) "Eligible position" means:

14 (a) Any position that, as defined by the employer, normally
15 requires five or more months of service a year for which regular
16 compensation for at least seventy hours is earned by the occupant
17 thereof. For purposes of this chapter an employer shall not define
18 "position" in such a manner that an employee's monthly work for that
19 employer is divided into more than one position;

20 (b) Any position occupied by an elected official or person
21 appointed directly by the governor for which compensation is paid.

22 (26) "Ineligible position" means any position which does not
23 conform with the requirements set forth in subsection (25) of this
24 section.

25 (27) "Leave of absence" means the period of time a member is
26 authorized by the employer to be absent from service without being
27 separated from membership.

28 (28) "Totally incapacitated for duty" means total inability to
29 perform the duties of a member's employment or office or any other work
30 for which the member is qualified by training or experience.

31 (29) "Retiree" means any member in receipt of a retirement
32 allowance or other benefit provided by this chapter resulting from
33 service rendered to an employer by such member.

34 (30) "Director" means the director of the department.

35 (31) "State elective position" means any position held by any
36 person elected or appointed to state-wide office or elected or
37 appointed as a member of the legislature.

38 (32) "State actuary" or "actuary" means the person appointed
39 pursuant to RCW 44.44.010(2).

1 (33) "Plan I" means the public employees' retirement system, plan
2 I providing the benefits and funding provisions covering persons who
3 first became members of the system prior to October 1, 1977.

4 (34) "Plan II" means the public employees' retirement system, plan
5 II providing the benefits and funding provisions covering persons who
6 first became members of the system on and after October 1, 1977.

7 NEW SECTION. **Sec. 9.** This act applies on a retroactive basis to
8 members for whom compensation and hours were reported under the
9 circumstances described in sections 1 through 6 of this act. This act
10 may also be applied on a retroactive basis to January 1, 1992, to
11 members for whom compensation and hours would have been reported except
12 for chapter 3, Laws of 1992, or explicit instructions from the
13 department of retirement systems.

14 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
15 each repealed:

- 16 (1) RCW 41.32.034 and 1992 c 3 s 1;
17 (2) RCW 41.32.355 and 1992 c 3 s 2; and
18 (3) 1992 c 3 s 4 (uncodified).

19 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and shall take
22 effect immediately.

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