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SENATE BILL 5293

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State of Washington

53rd Legislature

1993 Regular Session

By Senators Jesernig, Roach, Vognild, Hargrove, Loveland, Prentice, Williams, Skratek, Winsley and Quigley

Read first time 01/21/93. Referred to Committee on Ways & Means.

1 AN ACT Relating to the law enforcement officers' and fire fighters'  
2 retirement system; and amending RCW 41.26.115, 41.26.211, and  
3 41.26.221.

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

5 **Sec. 1.** RCW 41.26.115 and 1981 c 294 s 1 are each amended to read  
6 as follows:

7 (1) The director of retirement systems shall adopt rules, in  
8 accordance with chapter 34.05 RCW, under which each disability board  
9 shall execute its disability retirement duties under this chapter. The  
10 rules shall include, but not be limited to, the following:

11 (a) Standards governing the type and manner of presentation of  
12 medical, employability, and other evidence before disability boards;  
13 and

14 (b) Standards governing the necessity and frequency of medical and  
15 employability reexaminations of persons receiving disability benefits;

16 (c) Standards governing applications for disability retirement  
17 which recognize that disability leave pay continues until (i) a member  
18 has returned to duty in, or been offered and refused reemployment in,  
19 the same rank or position, if any, held when the member applied for

1 disability retirement or (ii) the disability board has entered a  
2 decision and order finding that the member is entitled to a disability  
3 retirement allowance; and

4 (d) Standards governing reexaminations of persons receiving  
5 disability benefits which recognize that a disability retirement  
6 allowance continues until (i) a member has returned to duty in the same  
7 rank, if any, held at the time of retirement or (ii) if the member is  
8 unable to perform the duties of the rank held at the time of  
9 retirement, the member has returned to duty at his or her request in a  
10 like or lesser rank which is open and available and the duties of which  
11 the member is able to perform.

12 (2) If the director determines that an order or determination of a  
13 disability board was not processed in accordance with the rules  
14 established under this section, the director may remand the order or  
15 determination for further proceedings consistent with the rules.

16 **Sec. 2.** RCW 41.26.211 and 1984 c 184 s 16 are each amended to read  
17 as follows:

18 Any person aggrieved by any final decision of the director must,  
19 before petitioning for judicial review, file with the director of the  
20 retirement system by mail or personally within sixty days from the day  
21 such decision was communicated to such person, a notice for a hearing.  
22 The notice of hearing shall set forth in full detail the grounds upon  
23 which such person considers such decision unjust or unlawful and shall  
24 include every issue to be considered, and it must contain a detailed  
25 statement of facts upon which such person relies in support thereof.  
26 Such persons shall be deemed to have waived all objections or  
27 irregularities concerning the matter on which such appeal is taken  
28 other than those specifically set forth in the notice of hearing or  
29 appearing in the certification from the disability board or the records  
30 of the retirement system.

31 **Sec. 3.** RCW 41.26.221 and 1984 c 184 s 17 are each amended to read  
32 as follows:

33 A hearing shall be held by the director, or the director's duly  
34 authorized representative, in the county of the residence of the  
35 claimant at a time and place designated by the director. Such hearing  
36 shall be de novo and shall conform to the provisions of chapter 34.05  
37 RCW, as now or hereafter amended. The disability board (~~and the~~

1 department)) shall be entitled to appear in all such proceedings and  
2 introduce testimony in support of or in opposition to the director's  
3 decision. The department may appear in the proceedings and introduce  
4 testimony in support of the director's decision. The director shall  
5 enter a final decision within the six-month period immediately  
6 following the date the notice of hearing was received. If a final  
7 decision is not entered in the time allowed by this section, the relief  
8 sought by the claimant is deemed granted. Judicial review of any final  
9 decision by the director shall be governed by the provisions of chapter  
10 34.05 RCW as now law or hereafter amended. If a claimant is found to  
11 be entitled to benefits, benefits payments shall be retroactive and  
12 bear interest at a rate of twelve percent a year from the date benefits  
13 are retroactively payable.

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