

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2643

Chapter 298, Laws of 1994
CHAPTER NO. CORRECTED

53rd Legislature
1994 Regular Session

PENSION STATUTES--REFERENCES REVISED

EFFECTIVE DATE: 6/9/94

Passed by the House March 10, 1994
Yeas 94 Nays 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Passed by the Senate March 10, 1994
Yeas 47 Nays 0

JOEL PRITCHARD

President of the Senate

Approved April 2, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2643** as passed by the House of Representatives and the Senate on the dates hereon set forth.

MARILYN SHOWALTER

Chief Clerk

FILED

April 2, 1994 - 2:07 p.m.

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2643

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Sommers and Silver; by request of Department of Retirement Systems

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

1 AN ACT Relating to cross-referencing pension statutes; amending RCW
2 41.40.010, 41.32.010, 41.32.470, and 41.40.023; adding a new section to
3 chapter 41.26 RCW; adding a new section to chapter 41.04 RCW; creating
4 new sections; and recodifying RCW 41.26.180.

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

6 NEW SECTION. **Sec. 1.** (1) This act provides cross-references to
7 existing statutes that affect calculation of pensions under the
8 retirement systems authorized by chapters 41.40 and 41.32 RCW to the
9 relevant definition sections of those chapters. Except as provided in
10 subsection (2) of this section, this act is technical in nature and
11 neither enhances nor diminishes existing pension rights. Except for
12 the amendment to RCW 41.40.010(5), it is not the intent of the
13 legislature to change the substance or effect of any statute previously
14 enacted. Rather, this act provides cross-references to applicable
15 statutes in order to aid with the administration of benefits authorized
16 in chapters 41.40 and 41.32 RCW.

17 (2) The amendments to RCW 41.40.010 (5) and (29) contained in
18 section 2 of this act and to RCW 41.32.010(31) contained in section 3
19 of this act clarify the status of certain persons as either members or

1 retirees. Sections 6 and 7 of this act create the pension funding
2 account in the state treasury and direct the transfer of moneys
3 deposited in the budget stabilization account by the 1993-95 operating
4 appropriations act, section 919, chapter 24, Laws of 1993 sp. sess.,
5 for the continuing costs of state retirement system benefits in effect
6 on July 1, 1993, consistent with section 919, chapter 24, Laws of 1993
7 sp. sess. to the pension funding account.

8 **Sec. 2.** RCW 41.40.010 and 1993 c 95 s 8 are each amended to read
9 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
24 guild, 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. RCW 41.26.045
36 does not prohibit a person otherwise eligible for membership in the
37 retirement system from establishing such membership effective when he
38 or she first entered an eligible position.

1 (6) "Original member" of this retirement system means:
2 (a) Any person who became a member of the system prior to April 1,
3 1949;
4 (b) Any person who becomes a member through the admission of an
5 employer into the retirement system on and after April 1, 1949, and
6 prior to April 1, 1951;
7 (c) Any person who first becomes a member by securing employment
8 with an employer prior to April 1, 1951, provided the member has
9 rendered at least one or more years of service to any employer prior to
10 October 1, 1947;
11 (d) Any person who first becomes a member through the admission of
12 an employer into the retirement system on or after April 1, 1951,
13 provided, such person has been in the regular employ of the employer
14 for at least six months of the twelve-month period preceding the said
15 admission date;
16 (e) Any member who has restored all contributions that may have
17 been withdrawn as provided by RCW 41.40.150 and who on the effective
18 date of the individual's retirement becomes entitled to be credited
19 with ten years or more of membership service except that the provisions
20 relating to the minimum amount of retirement allowance for the member
21 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
22 apply to the member;
23 (f) Any member who has been a contributor under the system for two
24 or more years and who has restored all contributions that may have been
25 withdrawn as provided by RCW 41.40.150 and who on the effective date of
26 the individual's retirement has rendered five or more years of service
27 for the state or any political subdivision prior to the time of the
28 admission of the employer into the system; except that the provisions
29 relating to the minimum amount of retirement allowance for the member
30 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
31 apply to the member.
32 (7) "New member" means a person who becomes a member on or after
33 April 1, 1949, except as otherwise provided in this section.
34 (8)(a) "Compensation earnable" for plan I members, means salaries
35 or wages earned during a payroll period for personal services and where
36 the compensation is not all paid in money, maintenance compensation
37 shall be included upon the basis of the schedules established by the
38 member's employer(~~(: PROVIDED, That)~~).

1 (i) "Compensation earnable" for plan I members also includes the
2 following actual or imputed payments, which are not paid for personal
3 services:

4 (A) Retroactive payments to an individual by an employer on
5 reinstatement of the employee in a position, or payments by an employer
6 to an individual in lieu of reinstatement in a position which are
7 awarded or granted as the equivalent of the salary or wage which the
8 individual would have earned during a payroll period shall be
9 considered compensation earnable and the individual shall receive the
10 equivalent service credit(~~(:—PROVIDED FURTHER, That))~~);

11 (B) If a leave of absence is taken by an individual for the purpose
12 of serving in the state legislature, the salary which would have been
13 received for the position from which the leave of absence was taken,
14 shall be considered as compensation earnable if the employee's
15 contribution is paid by the employee and the employer's contribution is
16 paid by the employer or employee;

17 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
18 72.09.240;

19 (D) Compensation that a member would have received but for a
20 disability occurring in the line of duty only as authorized by RCW
21 41.40.038; and

22 (E) Compensation that a member receives due to participation in the
23 leave sharing program only as authorized by RCW 41.04.650 through
24 41.04.670.

25 (ii) "Compensation earnable" does not include:

26 (A) Remuneration for unused sick leave authorized under RCW
27 41.04.340, 28A.400.210, or 28A.310.490;

28 (B) Remuneration for unused annual leave in excess of thirty days
29 as authorized by RCW 43.01.044 and 43.01.041.

30 (b) "Compensation earnable" for plan II members, means salaries or
31 wages earned by a member during a payroll period for personal services,
32 including overtime payments, and shall include wages and salaries
33 deferred under provisions established pursuant to sections 403(b),
34 414(h), and 457 of the United States Internal Revenue Code, but shall
35 exclude nonmoney maintenance compensation and lump sum or other
36 payments for deferred annual sick leave, unused accumulated vacation,
37 unused accumulated annual leave, or any form of severance pay(~~(:—~~
38 ~~PROVIDED, That))~~).

1 "Compensation earnable" for plan II members also includes the
2 following actual or imputed payments, which are not paid for personal
3 services:

4 (i) Retroactive payments to an individual by an employer on
5 reinstatement of the employee in a position, or payments by an employer
6 to an individual in lieu of reinstatement in a position which are
7 awarded or granted as the equivalent of the salary or wage which the
8 individual would have earned during a payroll period shall be
9 considered compensation earnable to the extent provided above, and the
10 individual shall receive the equivalent service credit~~((:—PROVIDED~~
11 ~~FURTHER, That))~~;

12 (ii) In any year in which a member serves in the legislature, the
13 member shall have the option of having such member's compensation
14 earnable be the greater of:

15 ~~((i))~~ (A) The compensation earnable the member would have
16 received had such member not served in the legislature; or

17 ~~((ii))~~ (B) Such member's actual compensation earnable received
18 for nonlegislative public employment and legislative service combined.
19 Any additional contributions to the retirement system required because
20 compensation earnable under ~~((subparagraph (i)))~~ (b)(ii)(A) of this
21 subsection is greater than compensation earnable under ~~((subparagraph))~~
22 (b)(ii)(B) of this subsection shall be paid by the member for both
23 member and employer contributions;

24 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
25 and 72.09.240;

26 (iv) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.40.038; and

29 (v) Compensation that a member receives due to participation in the
30 leave sharing program only as authorized by RCW 41.04.650 through
31 41.04.670.

32 (9)(a) "Service" for plan I members, except as provided in RCW
33 41.40.088, means periods of employment in an eligible position or
34 positions for one or more employers rendered to any employer for which
35 compensation is paid, and includes time spent in office as an elected
36 or appointed official of an employer. Compensation earnable earned in
37 full time work for seventy hours or more in any given calendar month
38 shall constitute one service credit month except as provided in RCW
39 41.40.088. Compensation earnable earned for less than seventy hours in

1 any calendar month shall constitute one-quarter service credit month of
2 service except as provided in RCW 41.40.088. Only service credit
3 months and one-quarter service credit months shall be counted in the
4 computation of any retirement allowance or other benefit provided for
5 in this chapter. Any fraction of a year of service shall be taken into
6 account in the computation of such retirement allowance or benefits.

7 (i) Service by a state employee officially assigned by the state on
8 a temporary basis to assist another public agency, shall be considered
9 as service as a state employee: PROVIDED, That service to any other
10 public agency shall not be considered service as a state employee if
11 such service has been used to establish benefits in any other public
12 retirement system(~~(: PROVIDED FURTHER, That)~~).

13 (ii) An individual shall receive no more than a total of twelve
14 service credit months of service during any calendar year(~~(: PROVIDED~~
15 ~~FURTHER, That where)~~). If an individual is employed in an eligible
16 position by one or more employers the individual shall receive no more
17 than one service credit month during any calendar month in which
18 multiple service for seventy or more hours is rendered.

19 (iii) A school district employee may count up to forty-five days of
20 sick leave as creditable service solely for the purpose of determining
21 eligibility to retire under RCW 41.40.180 as authorized by RCW
22 28A.400.300. For purposes of plan I "forty-five days" as used in RCW
23 28A.400.300 is equal to two service credit months. Use of less than
24 forty-five days of sick leave is creditable as allowed under this
25 subsection as follows:

26 (A) Less than twenty-two days equals one-quarter service credit
27 month;

28 (B) Twenty-two days equals one service credit month;

29 (C) More than twenty-two days but less than forty-five days equals
30 one and one-quarter service credit month.

31 (b) "Service" for plan II members, means periods of employment by
32 a member in an eligible position or positions for one or more employers
33 for which compensation earnable is paid. Compensation earnable earned
34 for ninety or more hours in any calendar month shall constitute one
35 service credit month except as provided in RCW 41.40.088. Compensation
36 earnable earned for at least seventy hours but less than ninety hours
37 in any calendar month shall constitute one-half service credit month of
38 service. Compensation earnable earned for less than seventy hours in

1 any calendar month shall constitute one-quarter service credit month of
2 service.

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

5 (i) Service in any state elective position shall be deemed to be
6 full time service, except that persons serving in state elective
7 positions who are members of the teachers' retirement system or law
8 enforcement officers' and fire fighters' retirement system at the time
9 of election or appointment to such position may elect to continue
10 membership in the teachers' retirement system or law enforcement
11 officers' and fire fighters' retirement system.

12 (ii) A member shall receive a total of not more than twelve service
13 credit months of service for such calendar year((:—PROVIDED, That
14 when)). If an individual is employed in an eligible position by one or
15 more employers the individual shall receive no more than one service
16 credit month during any calendar month in which multiple service for
17 ninety or more hours is rendered.

18 (iii) Up to forty-five days of sick leave may be creditable as
19 service solely for the purpose of determining eligibility to retire
20 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
21 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
22 service credit months. Use of less than forty-five days of sick leave
23 is creditable as allowed under this subsection as follows:

24 (A) Less than eleven days equals one-quarter service credit month;

25 (B) Eleven or more days but less than twenty-two days equals one-
26 half service credit month;

27 (C) Twenty-two days equals one service credit month;

28 (D) More than twenty-two days but less than thirty-three days
29 equals one and one-quarter service credit month;

30 (E) Thirty-three or more days but less than forty-five days equals
31 one and one-half service credit month.

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

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

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

38 (13) "Membership service" means:

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

1 (b) All service after October 1, 1947, to any employer prior to the
2 time of its admission into the retirement system: PROVIDED, That an
3 amount equal to the employer and employee contributions which would
4 have been paid to the retirement system on account of such service
5 shall have been paid to the retirement system with interest (as
6 computed by the department) on the employee's portion prior to
7 retirement of such person, by the employee or his or her employer,
8 except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer
9 contributions plus employee contributions with interest submitted by
10 the employee under this subsection shall be placed in the employee's
11 individual account in the employees' savings fund and be treated as any
12 other contribution made by the employee, with the exception that the
13 contributions submitted by the employee in payment of the employer's
14 obligation, together with the interest the director may apply to the
15 employer's contribution, shall be excluded from the calculation of the
16 member's annuity in the event the member selects a benefit with an
17 annuity option;

18 (c) Service not to exceed six consecutive months of probationary
19 service rendered after April 1, 1949, and prior to becoming a member,
20 in the case of any member, upon payment in full by such member of the
21 total amount of the employer's contribution to the retirement fund
22 which would have been required under the law in effect when such
23 probationary service was rendered if the member had been a member
24 during such period, except that the amount of the employer's
25 contribution shall be calculated by the director based on the first
26 month's compensation earnable as a member;

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

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

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

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

6 (17)(a) "Average final compensation" for plan I members, means the
7 annual average of the greatest compensation earnable by a member during
8 any consecutive two year period of service credit months for which
9 service credit is allowed; or if the member has less than two years of
10 service credit months then the annual average compensation earnable
11 during the total years of service for which service credit is allowed.

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

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

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

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

26 (21) "Retirement allowance" means the sum of the annuity and the
27 pension.

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

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

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

35 (25) "Eligible position" means:

36 (a) Any position that, as defined by the employer, normally
37 requires five or more months of service a year for which regular
38 compensation for at least seventy hours is earned by the occupant
39 thereof. For purposes of this chapter an employer shall not define

1 "position" in such a manner that an employee's monthly work for that
2 employer is divided into more than one position;

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

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

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

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

14 (29) "Retiree" means any (~~member~~) person in receipt of a
15 retirement allowance or other benefit provided by this chapter
16 resulting from service rendered to an employer (~~by such~~) while a
17 member. A person is in receipt of a retirement allowance as defined in
18 subsection (21) of this section or other benefit as provided by this
19 chapter when the department mails, causes to be mailed, or otherwise
20 transmits the retirement allowance warrant.

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

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

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

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

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

33 **Sec. 3.** RCW 41.32.010 and 1993 c 95 s 7 are each amended to read
34 as follows:

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

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

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

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

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

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

11 (5)(a) "Beneficiary" for plan I members, means any person in
12 receipt of a retirement allowance or other benefit provided by this
13 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 (6) "Contract" means any agreement for service and compensation
18 between a member and an employer.

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

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

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

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

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

32 (ii) "Earnable compensation" for plan I members also includes the
33 following actual or imputed payments, which are not paid for personal
34 services:

35 (A) Retroactive payments to an individual by an employer on
36 reinstatement of the employee in a position, or payments by an employer
37 to an individual in lieu of reinstatement in a position which are
38 awarded or granted as the equivalent of the salary or wages which the
39 individual would have earned during a payroll period shall be

1 considered earnable compensation and the individual shall receive the
2 equivalent service credit.

3 (B) If a leave of absence, without pay, is taken by a member for
4 the purpose of serving as a member of the state legislature, and such
5 member has served in the legislature five or more years, the salary
6 which would have been received for the position from which the leave of
7 absence was taken shall be considered as compensation earnable if the
8 employee's contribution thereon is paid by the employee. In addition,
9 where a member has been a member of the state legislature for five or
10 more years, earnable compensation for the member's two highest
11 compensated consecutive years of service shall include a sum not to
12 exceed thirty-six hundred dollars for each of such two consecutive
13 years, regardless of whether or not legislative service was rendered
14 during those two years.

15 (~~(ii)~~) (iii) For members employed less than full time under
16 written contract with a school district, or community college district,
17 in an instructional position, for which the member receives service
18 credit of less than one year in all of the years used to determine the
19 earnable compensation used for computing benefits due under RCW
20 41.32.497, 41.32.498, and 41.32.520, the member may elect to have
21 earnable compensation defined as provided in RCW 41.32.345. For the
22 purposes of this subsection, the term "instructional position" means a
23 position in which more than seventy-five percent of the member's time
24 is spent as a classroom instructor (including office hours), a
25 librarian, or a counselor. Earnable compensation shall be so defined
26 only for the purpose of the calculation of retirement benefits and only
27 as necessary to insure that members who receive fractional service
28 credit under RCW 41.32.270 receive benefits proportional to those
29 received by members who have received full-time service credit.

30 (iv) "Earnable compensation" does not include:

31 (A) Remuneration for unused sick leave authorized under RCW
32 41.04.340, 28A.400.210, or 28A.310.490;

33 (B) Remuneration for unused annual leave in excess of thirty days
34 as authorized by RCW 43.01.044 and 43.01.041.

35 (b) "Earnable compensation" for plan II members, means salaries or
36 wages earned by a member during a payroll period for personal services,
37 including overtime payments, and shall include wages and salaries
38 deferred under provisions established pursuant to sections 403(b),
39 414(h), and 457 of the United States Internal Revenue Code, but shall

1 exclude lump sum payments for deferred annual sick leave, unused
2 accumulated vacation, unused accumulated annual leave, or any form of
3 severance pay.

4 "Earnable compensation" for plan II members also includes the
5 following actual or imputed payments which, except in the case of
6 (b)(ii)(B) of this subsection, are not paid for personal services:

7 (i) Retroactive payments to an individual by an employer on
8 reinstatement of the employee in a position or payments by an employer
9 to an individual in lieu of reinstatement in a position which are
10 awarded or granted as the equivalent of the salary or wages which the
11 individual would have earned during a payroll period shall be
12 considered earnable compensation, to the extent provided above, and the
13 individual shall receive the equivalent service credit.

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

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

19 (B) Such member's actual earnable compensation received for
20 teaching and legislative service combined. Any additional
21 contributions to the retirement system required because compensation
22 earnable under (b)(ii)(A) of this subsection is greater than
23 compensation earnable under (b)(ii)(B) of this subsection shall be paid
24 by the member for both member and employer contributions.

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

27 (12) "Fiscal year" means a year which begins July 1st and ends June
28 30th of the following year.

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

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

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

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

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

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

13 (19) "Prior service" means service rendered prior to the first date
14 of eligibility to membership in the retirement system for which credit
15 is allowable. The provisions of this subsection shall apply only to
16 plan I members.

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

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

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

28 (23) "Regular interest" means such rate as the director may
29 determine.

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

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

35 (25) "Retirement system" means the Washington state teachers'
36 retirement system.

37 (26)(a) "Service" for plan I members means the time during which a
38 member has been employed by an employer for compensation(~~(:—PROVIDED,~~
39 ~~That where)~~).

1 (i) If a member is employed by two or more employers the individual
2 shall receive no more than one service credit month during any calendar
3 month in which multiple service is rendered.

4 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
5 sick leave may be creditable as service solely for the purpose of
6 determining eligibility to retire under RCW 41.32.470.

7 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
8 state retirement system that covers teachers in public schools may be
9 applied solely for the purpose of determining eligibility to retire
10 under RCW 41.32.470.

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

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

21 (ii) If a member is employed either in an eligible position or as
22 a substitute teacher for nine months of the twelve month period between
23 September through August of the following year but earns earnable
24 compensation for less than eight hundred ten hours but for at least six
25 hundred thirty hours, he or she will receive one-half of a service
26 credit month for each month of the twelve month period;

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

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

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

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

37 (iv) Any person who is a member of the teachers' retirement system
38 and who is elected or appointed to a state elective position may
39 continue to be a member of the retirement system and continue to

1 receive a service credit month for each of the months in a state
2 elective position by making the required member contributions.

3 (v) When an individual is employed by two or more employers the
4 individual shall only receive one month's service credit during any
5 calendar month in which multiple service for ninety or more hours is
6 rendered.

7 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
8 sick leave may be creditable as service solely for the purpose of
9 determining eligibility to retire under RCW 41.32.470. For purposes of
10 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
11 service credit months. Use of less than forty-five days of sick leave
12 is creditable as allowed under this subsection as follows:

13 (A) Less than eleven days equals one-quarter service credit month;

14 (B) Eleven or more days but less than twenty-two days equals one-
15 half service credit month;

16 (C) Twenty-two days equals one service credit month;

17 (D) More than twenty-two days but less than thirty-three days
18 equals one and one-quarter service credit month;

19 (E) Thirty-three or more days but less than forty-five days equals
20 one and one-half service credit month.

21 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
22 state retirement system that covers teachers in public schools may be
23 applied solely for the purpose of determining eligibility to retire
24 under RCW 41.32.470.

25 (viii) The department shall adopt rules implementing this
26 subsection.

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

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

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

1 (30) "Average final compensation" for plan II members, means the
2 member's average earnable compensation of the highest consecutive sixty
3 service credit months prior to such member's retirement, termination,
4 or death. Periods constituting authorized leaves of absence may not be
5 used in the calculation of average final compensation except under RCW
6 41.32.810(2).

7 (31) "Retiree" means any (~~member~~) person in receipt of a
8 retirement allowance or other benefit provided by this chapter
9 resulting from service rendered to an employer (~~by such~~) while a
10 member. A person is in receipt of a retirement allowance as defined in
11 subsection (24) of this section or other benefit as provided by this
12 chapter when the department mails, causes to be mailed, or otherwise
13 transmits the retirement allowance warrant.

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

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

17 (34) "State elective position" means any position held by any
18 person elected or appointed to state-wide office or elected or
19 appointed as a member of the legislature.

20 (35) "State actuary" or "actuary" means the person appointed
21 pursuant to RCW 44.44.010(2).

22 (36) "Substitute teacher" means:

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

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

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

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

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

1 (d) The elected position of the superintendent of public
2 instruction is an eligible position.

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

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

9 **Sec. 4.** RCW 41.32.470 and 1965 ex.s. c 81 s 4 are each amended to
10 read as follows:

11 A member who is not a dual member under RCW 41.54.010 must have
12 established or reestablished with the retirement system at least five
13 years of credit for public school service in this state to be entitled
14 to a retirement allowance.

15 NEW SECTION. **Sec. 5.** The code reviser shall recodify RCW
16 41.26.180 within chapter 41.26 RCW under the subchapter heading
17 "Provisions applicable to plan I and plan II."

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.04 RCW
19 to read as follows:

20 The pension funding account is created in the state treasury.
21 Moneys in the account may be spent only after appropriation.
22 Expenditures from the account may be used only for the continuing costs
23 of any state retirement system benefits in effect on July 1, 1993,
24 consistent with section 919, chapter 24, Laws of 1993 sp. sess.

25 NEW SECTION. **Sec. 7.** On July 1, 1995, the state treasurer shall
26 transfer twenty-five million dollars from the budget stabilization
27 account to the pension funding account created under section 6 of this
28 act.

29 **Sec. 8.** RCW 41.40.023 and 1993 c 319 s 1 are each amended to read
30 as follows:

31 Membership in the retirement system shall consist of all regularly
32 compensated employees and appointive and elective officials of
33 employers, as defined in this chapter, with the following exceptions:

34 (1) Persons in ineligible positions;

1 (2) Employees of the legislature except the officers thereof
2 elected by the members of the senate and the house and legislative
3 committees, unless membership of such employees be authorized by the
4 said committee;

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

27 (b) A member holding elective office who has elected to apply for
28 membership pursuant to (a) of this subsection and who later wishes to
29 be eligible for a retirement allowance shall have the option of ending
30 his or her membership in the retirement system. A member wishing to
31 end his or her membership under this subsection must file, on a form
32 supplied by the department, a statement indicating that the member
33 agrees to irrevocably abandon any claim for service for future periods
34 served as an elected official. A member who receives more than fifteen
35 thousand dollars per year in compensation for his or her elective
36 service, adjusted annually for inflation by the director, is not
37 eligible for the option provided by this subsection (3)(b);

38 (4) Employees holding membership in, or receiving pension benefits
39 under, any retirement plan operated wholly or in part by an agency of

1 the state or political subdivision thereof, or who are by reason of
2 their current employment contributing to or otherwise establishing the
3 right to receive benefits from any such retirement plan: PROVIDED,
4 HOWEVER, In any case where the retirement system has in existence an
5 agreement with another retirement system in connection with exchange of
6 service credit or an agreement whereby members can retain service
7 credit in more than one system, such an employee shall be allowed
8 membership rights should the agreement so provide: AND PROVIDED
9 FURTHER, That an employee shall be allowed membership if otherwise
10 eligible while receiving survivor's benefits: AND PROVIDED FURTHER,
11 That an employee shall not either before or after June 7, 1984, be
12 excluded from membership or denied service credit pursuant to this
13 subsection solely on account of: (a) Membership in the plan created
14 under chapter 2.14 RCW; or (b) enrollment under the relief and
15 compensation provisions or the pension provisions of the volunteer fire
16 fighters' relief and pension fund under chapter 41.24 RCW;

17 (5) Patient and inmate help in state charitable, penal, and
18 correctional institutions;

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

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

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

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

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

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

36 (12) Plan I retirees employed in eligible positions on a temporary
37 basis for a period not to exceed five months in a calendar year:
38 PROVIDED, That if such employees are employed for more than five months

1 in a calendar year in an eligible position they shall become members of
2 the system prospectively;

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

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

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

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

1 (16) Employees who are citizens of the United States and who reside
2 and perform duties for an employer outside of the United States:
3 PROVIDED, That unless otherwise excluded under this chapter or chapter
4 41.04 RCW, the employee may apply for membership (a) within thirty days
5 after employment in an eligible position and membership service credit
6 shall be granted from the first day of membership service, and (b)
7 after this thirty-day period, but membership service credit shall be
8 granted only from the date of application;

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

19 (18) Persons enrolled in state-approved apprenticeship programs,
20 authorized under chapter 49.04 RCW, and who are employed by local
21 governments to earn hours to complete such apprenticeship programs, if
22 the employee is a member of a union-sponsored retirement plan and is
23 making contributions to such a retirement plan or if the employee is a
24 member of a Taft-Hartley retirement plan.

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