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**SUBSTITUTE SENATE BILL 6154**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Bauer, Long, Fraser, Winsley and Roach; by request of Joint Committee on Pension Policy)

Read first time 01/25/96.

1 AN ACT Relating to admitting fire fighters for institutions of  
2 higher education into the law enforcement officers' and fire fighters'  
3 retirement system; amending RCW 41.26.450; reenacting and amending RCW  
4 41.26.030; creating a new section; and decodifying RCW 41.40.093.

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

6 NEW SECTION. **Sec. 1.** (1) An employee who was a member of the  
7 public employees' retirement system on or before January 1, 1996, and,  
8 on the effective date of this act, is employed by an institution of  
9 higher education as a fire fighter as defined in RCW 41.26.030, has the  
10 following options:

11 (a) Remain a member of the public employees' retirement system; or

12 (b) Make an irrevocable choice, filed in writing with the  
13 department of retirement systems no later than January 1, 1997, to  
14 transfer to the law enforcement officers' and fire fighters' retirement  
15 system plan II as defined in RCW 41.26.030. An employee transferring  
16 membership under this subsection (1)(b) shall be a dual member as  
17 provided in RCW 41.54.010 unless the employee exercises the option to  
18 transfer service credit under subsection (2) of this section.

1 (2)(a) An employee who transferred membership under subsection  
2 (1)(b) of this section may choose to transfer service credit as a fire  
3 fighter previously earned under the public employees' retirement  
4 system, to the law enforcement officers' and fire fighters' retirement  
5 system plan II, by making an irrevocable choice filed in writing with  
6 the department of retirement systems within one year of the  
7 department's announcement of the ability to make such a transfer.

8 (b) Any fire fighter choosing to transfer under this subsection  
9 shall have transferred from the retirement system to the law  
10 enforcement officers' and fire fighters' retirement system plan II:

11 (i) All the employee's applicable accumulated contributions and  
12 employer contributions attributed to such employee; and (ii) all  
13 applicable months of service, as defined in RCW 41.26.030(14)(b),  
14 credited to the employee under chapter 41.40 RCW, as though such  
15 service was rendered as a member of the law enforcement officers' and  
16 fire fighters' retirement system.

17 (c) For the applicable period of service, the employee shall pay  
18 the difference between the contributions such employee paid to the  
19 retirement system, and the contributions which would have been paid by  
20 the employee had the employee been a member of the law enforcement  
21 officers' and fire fighters' retirement system, plus interest as  
22 determined by the director. This payment shall be made no later than  
23 December 31, 1998, or the date of retirement, whichever comes first.  
24 If the payment required by this subsection is not paid in full by the  
25 deadline, the transferred service credit shall not be used to determine  
26 eligibility for benefits nor to calculate benefits under the law  
27 enforcement officers' and fire fighters' retirement system. In such  
28 case, the additional employee contributions transferred under this  
29 subsection, and any payments made under this subsection, shall be  
30 refunded to the employee and the employer shall be entitled to a credit  
31 for the payments made under (d) of this subsection.

32 (d) For the applicable period of service, the employer shall pay:

33 (i) The difference between the employer contributions paid to the  
34 public employees' retirement system, and the combined employer and  
35 state contributions which would have been payable to the law  
36 enforcement officers' and fire fighters' retirement system; and

37 (ii) An amount sufficient to ensure that the contribution level of  
38 current members of the law enforcement officers' and fire fighters'  
39 retirement system will not increase due to this transfer.

1 For the purpose of this subsection (2)(d), the state contribution  
2 shall not include the contribution related to the amortization of the  
3 costs of the law enforcement officers' and fire fighters' retirement  
4 system plan I as required by chapter 41.45 RCW.

5 (e) An individual who transfers service credit and contributions  
6 under this subsection shall be permanently excluded from the public  
7 employees' retirement system for all service as a fire fighter.

8 **Sec. 2.** RCW 41.26.030 and 1994 c 264 s 14 and 1994 c 197 s 5 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 "Washington law enforcement  
13 officers' and fire fighters' retirement system" provided herein.

14 (2)(a) "Employer" for plan I members, means the legislative  
15 authority of any city, town, county, or district or the elected  
16 officials of any municipal corporation that employs any law enforcement  
17 officer and/or fire fighter, any authorized association of such  
18 municipalities, and, except for the purposes of RCW 41.26.150, any  
19 labor guild, association, or organization, which represents the fire  
20 fighters or law enforcement officers of at least seven cities of over  
21 20,000 population and the membership of each local lodge or division of  
22 which is composed of at least sixty percent law enforcement officers or  
23 fire fighters as defined in this chapter.

24 (b) "Employer" for plan II members, means the following entities to  
25 the extent that the entity employs any law enforcement officer and/or  
26 fire fighter:

27 (i) The legislative authority of any city, town, county, or  
28 district;

29 (ii) The elected officials of any municipal corporation; (~~(or)~~)

30 (iii) The governing body of any other general authority law  
31 enforcement agency; or

32 (iv) A four-year institution of higher education having a fully  
33 operational fire department as of January 1, 1996.

34 (3) "Law enforcement officer" beginning January 1, 1994, means any  
35 person who is commissioned and employed by an employer on a full time,  
36 fully compensated basis to enforce the criminal laws of the state of  
37 Washington generally, with the following qualifications:

1 (a) No person who is serving in a position that is basically  
2 clerical or secretarial in nature, and who is not commissioned shall be  
3 considered a law enforcement officer;

4 (b) Only those deputy sheriffs, including those serving under a  
5 different title pursuant to county charter, who have successfully  
6 completed a civil service examination for deputy sheriff or the  
7 equivalent position, where a different title is used, and those persons  
8 serving in unclassified positions authorized by RCW 41.14.070 except a  
9 private secretary will be considered law enforcement officers;

10 (c) Only such full time commissioned law enforcement personnel as  
11 have been appointed to offices, positions, or ranks in the police  
12 department which have been specifically created or otherwise expressly  
13 provided for and designated by city charter provision or by ordinance  
14 enacted by the legislative body of the city shall be considered city  
15 police officers;

16 (d) The term "law enforcement officer" also includes the executive  
17 secretary of a labor guild, association or organization (which is an  
18 employer under RCW 41.26.030(2) as now or hereafter amended) if that  
19 individual has five years previous membership in the retirement system  
20 established in chapter 41.20 RCW. The provisions of this subsection  
21 (3)(d) shall not apply to plan II members; and

22 (e) The term "law enforcement officer" also includes a person  
23 employed on or after January 1, 1993, as a public safety officer or  
24 director of public safety, so long as the job duties substantially  
25 involve only either police or fire duties, or both, and no other duties  
26 in a city or town with a population of less than ten thousand. The  
27 provisions of this subsection (3)(e) shall not apply to any public  
28 safety officer or director of public safety who is receiving a  
29 retirement allowance under this chapter as of May 12, 1993.

30 (4) "Fire fighter" means:

31 (a) Any person who is serving on a full time, fully compensated  
32 basis as a member of a fire department of an employer and who is  
33 serving in a position which requires passing a civil service  
34 examination for fire fighter, and who is actively employed as such;

35 (b) Anyone who is actively employed as a full time fire fighter  
36 where the fire department does not have a civil service examination;

37 (c) Supervisory fire fighter personnel;

1 (d) Any full time executive secretary of an association of fire  
2 protection districts authorized under RCW 52.12.031. The provisions of  
3 this subsection (4)(d) shall not apply to plan II members;

4 (e) The executive secretary of a labor guild, association or  
5 organization (which is an employer under RCW 41.26.030(2) as now or  
6 hereafter amended), if such individual has five years previous  
7 membership in a retirement system established in chapter 41.16 or 41.18  
8 RCW. The provisions of this subsection (4)(e) shall not apply to plan  
9 II members;

10 (f) Any person who is serving on a full time, fully compensated  
11 basis for an employer, as a fire dispatcher, in a department in which,  
12 on March 1, 1970, a dispatcher was required to have passed a civil  
13 service examination for fire fighter; and

14 (g) Any person who on March 1, 1970, was employed on a full time,  
15 fully compensated basis by an employer, and who on May 21, 1971, was  
16 making retirement contributions under the provisions of chapter 41.16  
17 or 41.18 RCW.

18 (5) "Department" means the department of retirement systems created  
19 in chapter 41.50 RCW.

20 (6) "Surviving spouse" means the surviving widow or widower of a  
21 member. "Surviving spouse" shall not include the divorced spouse of a  
22 member except as provided in RCW 41.26.162.

23 (7)(a) "Child" or "children" means an unmarried person who is under  
24 the age of eighteen or mentally or physically handicapped as determined  
25 by the department, except a handicapped person in the full time care of  
26 a state institution, who is:

27 (i) A natural born child;

28 (ii) A stepchild where that relationship was in existence prior to  
29 the date benefits are payable under this chapter;

30 (iii) A posthumous child;

31 (iv) A child legally adopted or made a legal ward of a member prior  
32 to the date benefits are payable under this chapter; or

33 (v) An illegitimate child legitimized prior to the date any  
34 benefits are payable under this chapter.

35 (b) A person shall also be deemed to be a child up to and including  
36 the age of twenty years and eleven months while attending any high  
37 school, college, or vocational or other educational institution  
38 accredited, licensed, or approved by the state, in which it is located,  
39 including the summer vacation months and all other normal and regular

1 vacation periods at the particular educational institution after which  
2 the child returns to school.

3 (8) "Member" means any fire fighter, law enforcement officer, or  
4 other person as would apply under subsections (3) or (4) of this  
5 section whose membership is transferred to the Washington law  
6 enforcement officers' and fire fighters' retirement system on or after  
7 March 1, 1970, and every law enforcement officer and fire fighter who  
8 is employed in that capacity on or after such date.

9 (9) "Retirement fund" means the "Washington law enforcement  
10 officers' and fire fighters' retirement system fund" as provided for  
11 herein.

12 (10) "Employee" means any law enforcement officer or fire fighter  
13 as defined in subsections (3) and (4) of this section.

14 (11)(a) "Beneficiary" for plan I members, means any person in  
15 receipt of a retirement allowance, disability allowance, death benefit,  
16 or any other benefit described herein.

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

20 (12)(a) "Final average salary" for plan I members, means (i) for a  
21 member holding the same position or rank for a minimum of twelve months  
22 preceding the date of retirement, the basic salary attached to such  
23 same position or rank at time of retirement; (ii) for any other member,  
24 including a civil service member who has not served a minimum of twelve  
25 months in the same position or rank preceding the date of retirement,  
26 the average of the greatest basic salaries payable to such member  
27 during any consecutive twenty-four month period within such member's  
28 last ten years of service for which service credit is allowed, computed  
29 by dividing the total basic salaries payable to such member during the  
30 selected twenty-four month period by twenty-four; (iii) in the case of  
31 disability of any member, the basic salary payable to such member at  
32 the time of disability retirement; (iv) in the case of a member who  
33 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to  
34 such member at the time of vesting.

35 (b) "Final average salary" for plan II members, means the monthly  
36 average of the member's basic salary for the highest consecutive sixty  
37 service credit months of service prior to such member's retirement,  
38 termination, or death. Periods constituting authorized unpaid leaves  
39 of absence may not be used in the calculation of final average salary.

1 (13)(a) "Basic salary" for plan I members, means the basic monthly  
2 rate of salary or wages, including longevity pay but not including  
3 overtime earnings or special salary or wages, upon which pension or  
4 retirement benefits will be computed and upon which employer  
5 contributions and salary deductions will be based.

6 (b) "Basic salary" for plan II members, means salaries or wages  
7 earned by a member during a payroll period for personal services,  
8 including overtime payments, and shall include wages and salaries  
9 deferred under provisions established pursuant to sections 403(b),  
10 414(h), and 457 of the United States Internal Revenue Code, but shall  
11 exclude lump sum payments for deferred annual sick leave, unused  
12 accumulated vacation, unused accumulated annual leave, or any form of  
13 severance pay. In any year in which a member serves in the legislature  
14 the member shall have the option of having such member's basic salary  
15 be the greater of:

16 (i) The basic salary the member would have received had such member  
17 not served in the legislature; or

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

24 (14)(a) "Service" for plan I members, means all periods of  
25 employment for an employer as a fire fighter or law enforcement  
26 officer, for which compensation is paid, together with periods of  
27 suspension not exceeding thirty days in duration. For the purposes of  
28 this chapter service shall also include service in the armed forces of  
29 the United States as provided in RCW 41.26.190. Credit shall be  
30 allowed for all service credit months of service rendered by a member  
31 from and after the member's initial commencement of employment as a  
32 fire fighter or law enforcement officer, during which the member worked  
33 for seventy or more hours, or was on disability leave or disability  
34 retirement. Only service credit months of service shall be counted in  
35 the computation of any retirement allowance or other benefit provided  
36 for in this chapter.

37 (i) For members retiring after May 21, 1971 who were employed under  
38 the coverage of a prior pension act before March 1, 1970, "service"  
39 shall also include (A) such military service not exceeding five years

1 as was creditable to the member as of March 1, 1970, under the member's  
2 particular prior pension act, and (B) such other periods of service as  
3 were then creditable to a particular member under the provisions of RCW  
4 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit  
5 be allowed for any service rendered prior to March 1, 1970, where the  
6 member at the time of rendition of such service was employed in a  
7 position covered by a prior pension act, unless such service, at the  
8 time credit is claimed therefor, is also creditable under the  
9 provisions of such prior act.

10 (ii) A member who is employed by two employers at the same time  
11 shall only be credited with service to one such employer for any month  
12 during which the member rendered such dual service.

13 (b) "Service" for plan II members, means periods of employment by  
14 a member for one or more employers for which basic salary is earned for  
15 ninety or more hours per calendar month which shall constitute a  
16 service credit month. Periods of employment by a member for one or  
17 more employers for which basic salary is earned for at least seventy  
18 hours but less than ninety hours per calendar month shall constitute  
19 one-half service credit month. Periods of employment by a member for  
20 one or more employers for which basic salary is earned for less than  
21 seventy hours shall constitute a one-quarter service credit month.

22 Members of the retirement system who are elected or appointed to a  
23 state elective position may elect to continue to be members of this  
24 retirement system.

25 Service credit years of service shall be determined by dividing the  
26 total number of service credit months of service by twelve. Any  
27 fraction of a service credit year of service as so determined shall be  
28 taken into account in the computation of such retirement allowance or  
29 benefits.

30 If a member receives basic salary from two or more employers during  
31 any calendar month, the individual shall receive one service credit  
32 month's service credit during any calendar month in which multiple  
33 service for ninety or more hours is rendered; or one-half service  
34 credit month's service credit during any calendar month in which  
35 multiple service for at least seventy hours but less than ninety hours  
36 is rendered; or one-quarter service credit month during any calendar  
37 month in which multiple service for less than seventy hours is  
38 rendered.



1 (15) "Accumulated contributions" means the employee's contributions  
2 made by a member, including any amount paid under RCW 41.50.165(2),  
3 plus accrued interest credited thereon.

4 (16) "Actuarial reserve" means a method of financing a pension or  
5 retirement plan wherein reserves are accumulated as the liabilities for  
6 benefit payments are incurred in order that sufficient funds will be  
7 available on the date of retirement of each member to pay the member's  
8 future benefits during the period of retirement.

9 (17) "Actuarial valuation" means a mathematical determination of  
10 the financial condition of a retirement plan. It includes the  
11 computation of the present monetary value of benefits payable to  
12 present members, and the present monetary value of future employer and  
13 employee contributions, giving effect to mortality among active and  
14 retired members and also to the rates of disability, retirement,  
15 withdrawal from service, salary and interest earned on investments.

16 (18) "Disability board" for plan I members means either the county  
17 disability board or the city disability board established in RCW  
18 41.26.110.

19 (19) "Disability leave" means the period of six months or any  
20 portion thereof during which a member is on leave at an allowance equal  
21 to the member's full salary prior to the commencement of disability  
22 retirement. The definition contained in this subsection shall apply  
23 only to plan I members.

24 (20) "Disability retirement" for plan I members, means the period  
25 following termination of a member's disability leave, during which the  
26 member is in receipt of a disability retirement allowance.

27 (21) "Position" means the employment held at any particular time,  
28 which may or may not be the same as civil service rank.

29 (22) "Medical services" for plan I members, shall include the  
30 following as minimum services to be provided. Reasonable charges for  
31 these services shall be paid in accordance with RCW 41.26.150.

32 (a) Hospital expenses: These are the charges made by a hospital,  
33 in its own behalf, for

34 (i) Board and room not to exceed semiprivate room rate unless  
35 private room is required by the attending physician due to the  
36 condition of the patient.

37 (ii) Necessary hospital services, other than board and room,  
38 furnished by the hospital.

1 (b) Other medical expenses: The following charges are considered  
2 "other medical expenses", provided that they have not been considered  
3 as "hospital expenses".

4 (i) The fees of the following:

5 (A) A physician or surgeon licensed under the provisions of chapter  
6 18.71 RCW;

7 (B) An (~~osteopath~~ [~~osteopathic~~ ~~physician~~ and ~~surgeon~~])  
8 osteopathic physician and surgeon licensed under the provisions of  
9 chapter 18.57 RCW;

10 (C) A chiropractor licensed under the provisions of chapter 18.25  
11 RCW.

12 (ii) The charges of a registered graduate nurse other than a nurse  
13 who ordinarily resides in the member's home, or is a member of the  
14 family of either the member or the member's spouse.

15 (iii) The charges for the following medical services and supplies:

16 (A) Drugs and medicines upon a physician's prescription;

17 (B) Diagnostic x-ray and laboratory examinations;

18 (C) X-ray, radium, and radioactive isotopes therapy;

19 (D) Anesthesia and oxygen;

20 (E) Rental of iron lung and other durable medical and surgical  
21 equipment;

22 (F) Artificial limbs and eyes, and casts, splints, and trusses;

23 (G) Professional ambulance service when used to transport the  
24 member to or from a hospital when injured by an accident or stricken by  
25 a disease;

26 (H) Dental charges incurred by a member who sustains an accidental  
27 injury to his or her teeth and who commences treatment by a legally  
28 licensed dentist within ninety days after the accident;

29 (I) Nursing home confinement or hospital extended care facility;

30 (J) Physical therapy by a registered physical therapist;

31 (K) Blood transfusions, including the cost of blood and blood  
32 plasma not replaced by voluntary donors;

33 (L) An optometrist licensed under the provisions of chapter 18.53  
34 RCW.

35 (23) "Regular interest" means such rate as the director may  
36 determine.

37 (24) "Retiree" for persons who establish membership in the  
38 retirement system on or after October 1, 1977, means any member in

1 receipt of a retirement allowance or other benefit provided by this  
2 chapter resulting from service rendered to an employer by such member.

3 (25) "Director" means the director of the department.

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

6 (27) "State elective position" means any position held by any  
7 person elected or appointed to state-wide office or elected or  
8 appointed as a member of the legislature.

9 (28) "Plan I" means the law enforcement officers' and fire  
10 fighters' retirement system, plan I providing the benefits and funding  
11 provisions covering persons who first became members of the system  
12 prior to October 1, 1977.

13 (29) "Plan II" means the law enforcement officers' and fire  
14 fighters' retirement system, plan II providing the benefits and funding  
15 provisions covering persons who first became members of the system on  
16 and after October 1, 1977.

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

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

21 (32) "General authority law enforcement agency" means any agency,  
22 department, or division of a municipal corporation, political  
23 subdivision, or other unit of local government of this state, and any  
24 agency, department, or division of state government, having as its  
25 primary function the detection and apprehension of persons committing  
26 infractions or violating the traffic or criminal laws in general, but  
27 not including the Washington state patrol. Such an agency, department,  
28 or division is distinguished from a limited authority law enforcement  
29 agency having as one of its functions the apprehension or detection of  
30 persons committing infractions or violating the traffic or criminal  
31 laws relating to limited subject areas, including but not limited to,  
32 the state departments of natural resources, fish and wildlife, and  
33 social and health services, the state gambling commission, the state  
34 lottery commission, the state parks and recreation commission, the  
35 state utilities and transportation commission, the state liquor control  
36 board, and the state department of corrections.

37 **Sec. 3.** RCW 41.26.450 and 1993 c 502 s 2 are each amended to read  
38 as follows:

1       (1) The required contribution rates to the plan II system for  
2 members, employers, and the state of Washington shall be established by  
3 the director from time to time as may be necessary upon the advice of  
4 the state actuary. The state actuary shall use the aggregate actuarial  
5 cost method to calculate contribution rates.

6       (2) Except as provided in subsection (3) of this section, the  
7 member, the employer and the state shall each contribute the following  
8 shares of the cost of the retirement system:

9	Member	50%
10	Employer	30%
11	State	20%

12       (~~However,~~) (3) Port districts established under Title 53 RCW and  
13 institutions of higher education as defined in RCW 28B.10.016 shall  
14 contribute both the employer and state shares of the cost of the  
15 retirement system for any of their employees who are law enforcement  
16 officers. Institutions of higher education shall contribute both the  
17 employer and the state shares of the cost of the retirement system for  
18 any of their employees who are fire fighters.

19       (4) Effective January 1, 1987, however, no member or employer  
20 contributions are required for any calendar month in which the member  
21 is not granted service credit.

22       (5) Any adjustments in contribution rates required from time to  
23 time for future costs shall likewise be shared proportionally by the  
24 members, employers, and the state.

25       (6) Any increase in the contribution rate required as the result of  
26 a failure of the state or of an employer to make any contribution  
27 required by this section shall be borne in full by the state or by that  
28 employer not making the contribution.

29       (7) The director shall notify all employers of any pending  
30 adjustment in the required contribution rate and such increase shall be  
31 announced at least thirty days prior to the effective date of the  
32 change.

33       (8) Members' contributions required by this section shall be  
34 deducted from the members basic salary each payroll period. The  
35 members contribution and the employers contribution shall be remitted  
36 directly to the department within fifteen days following the end of the  
37 calendar month during which the payroll period ends. The state's  
38 contribution required by this section shall be transferred to the plan

1 II fund from the total contributions transferred by the state treasurer  
2 under RCW 41.45.060 and 41.45.070.

3 NEW SECTION. **Sec. 4.** RCW 41.40.093 is decodified.

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