

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5774

Chapter 88, Laws of 1997

55th Legislature
1997 Regular Session

PRO TEMPORE JUDGES--SUPREME COURT AND COURT OF APPEALS

EFFECTIVE DATE: 7/27/97

Passed by the Senate March 15, 1997
YEAS 47 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House April 8, 1997
YEAS 97 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved April 19, 1997

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5774** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

April 19, 1997 - 10:59 a.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5774

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senators Roach, McCaslin, Fairley and Oke; by request of Supreme Court

Read first time 02/12/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to pro tempore judges; amending RCW 2.04.240,
2 2.04.250, 2.06.150, 2.06.160, and 2.10.030; and reenacting and amending
3 RCW 41.40.010.

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

5 **Sec. 1.** RCW 2.04.240 and 1982 c 72 s 1 are each amended to read as
6 follows:

7 (1) DECLARATION OF POLICY. Whenever necessary for the prompt and
8 orderly administration of justice, as authorized and empowered by
9 Article IV, section 2(a), Amendment 38, of the state Constitution, a
10 majority of the supreme court may appoint any regularly elected and
11 qualified judge of the court of appeals or the superior court or any
12 retired judge of a court of record in this state to serve as judge pro
13 tempore of the supreme court.

14 (2) If the term of a justice of the supreme court expires with
15 cases or other judicial business pending, the chief justice of the
16 supreme court may appoint the justice to serve as judge pro tempore of
17 the supreme court, whenever necessary for the prompt and orderly
18 administration of justice. No justice may be appointed under this
19 subsection more than one time and no appointment may exceed sixty days.

1 (3) Before entering upon his or her duties as judge pro tempore of
2 the supreme court, the appointee shall take and subscribe an oath of
3 office as provided for in Article IV, section 28 of the state
4 Constitution.

5 **Sec. 2.** RCW 2.04.250 and 1982 c 72 s 2 are each amended to read as
6 follows:

7 (1) A judge of the court of appeals or of the superior court
8 serving as a judge pro tempore of the supreme court as provided in RCW
9 2.04.240(~~(, as now or hereafter amended,)~~) shall receive, in addition
10 to his or her regular salary, reimbursement for subsistence, lodging,
11 and travel expenses in accordance with the rates applicable to state
12 officers under RCW 43.03.050 and 43.03.060 (~~(as now or hereafter~~
13 ~~amended)~~)).

14 (2) A retired judge of a court of record in this state serving as
15 a judge pro tempore of the supreme court as provided in RCW 2.04.240
16 shall receive, in addition to any retirement pay he or she may be
17 receiving, the following compensation and expenses:

18 (a) Reimbursement for subsistence, lodging, and travel expenses in
19 accordance with the rates applicable to state officers under RCW
20 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~)).

21 (b) During the period of his or her service as a judge pro tempore,
22 an amount equal to the salary of a regularly elected judge of the court
23 in which he or she last served for such period diminished by the amount
24 of retirement pay accrued to him or her for such period.

25 (3) Whenever a superior court judge is appointed to serve as judge
26 pro tempore of the supreme court and a visiting judge is assigned to
27 replace him or her, subsistence, lodging, and travel expenses incurred
28 by such visiting judge as a result of such assignment shall be paid in
29 accordance with the rates applicable to state officers under RCW
30 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~), upon
31 application of such judge from the appropriation of the supreme court.

32 (4) A justice appointed as judge pro tempore of the supreme court
33 under RCW 2.04.240(2) shall continue to receive compensation in
34 accordance with the rates applicable to the justice immediately before
35 the expiration of the term.

36 (5) The provisions of RCW 2.04.240(1) and 2.04.250 (1) through (3)
37 shall not be construed as impairing or enlarging any right or privilege

1 acquired in any retirement or pension system by any judge or his or her
2 dependents.

3 **Sec. 3.** RCW 2.06.150 and 1977 ex.s. c 49 s 2 are each amended to
4 read as follows:

5 (1) Whenever necessary for the prompt and orderly administration of
6 justice, the chief justice of the supreme court of the state of
7 Washington may appoint any regularly elected and qualified judge of the
8 superior court or any retired judge of a court of record in this state
9 to serve as judge pro tempore of the court of appeals: PROVIDED,
10 HOWEVER, That no judge pro tempore appointed to serve on the court of
11 appeals may serve more than ninety days in any one year.

12 (2) If the term of a judge of the court of appeals expires with
13 cases or other judicial business pending, the chief justice of the
14 supreme court of the state of Washington, upon the recommendation of
15 the chief presiding judge of the court of appeals, may appoint the
16 judge to serve as judge pro tempore of the court of appeals, whenever
17 necessary for the prompt and orderly administration of justice. No
18 judge may be appointed under this subsection more than one time and no
19 appointment may exceed sixty days.

20 (3) Before entering upon his or her duties as judge pro tempore of
21 the court of appeals, the appointee shall take and subscribe an oath of
22 office as provided for in Article IV, section 28 of the state
23 Constitution.

24 **Sec. 4.** RCW 2.06.160 and 1981 c 186 s 2 are each amended to read
25 as follows:

26 (1) A judge of a court of record serving as a judge pro tempore of
27 the court of appeals, as provided in RCW 2.06.150, shall receive, in
28 addition to his or her regular salary, reimbursement for subsistence,
29 lodging, and travel expenses in accordance with the rates applicable to
30 state officers under RCW 43.03.050 and 43.03.060 (~~as now or hereafter~~
31 ~~amended~~)).

32 (2) A retired judge of a court of record in this state serving as
33 a judge pro tempore of the court of appeals, as provided in RCW
34 2.06.150, shall receive, in addition to any retirement pay he or she
35 may be receiving, the following compensation and expenses:

1 (a) Reimbursement for subsistence, lodging, and travel expenses in
2 accordance with the rates applicable to state officers under RCW
3 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~); and

4 (b) During the period of his or her service as judge pro tempore,
5 he or she shall receive as compensation sixty percent of one-two
6 hundred and fiftieth of the annual salary of a court of appeals judge
7 for each day of service: PROVIDED, HOWEVER, That the total amount of
8 combined compensation received as salary and retirement by any judge in
9 any calendar year shall not exceed the yearly salary of a full time
10 judge.

11 (3) Whenever a judge of a court of record is appointed to serve as
12 judge pro tempore of the court of appeals and a visiting judge is
13 assigned to replace him or her, subsistence, lodging, and travel
14 expenses incurred by such visiting judge as a result of such assignment
15 shall be paid in accordance with the rates applicable to state officers
16 under RCW 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~), upon
17 application of such judge from the appropriation of the court of
18 appeals.

19 (4) A judge appointed as judge pro tempore of the court of appeals
20 under RCW 2.06.150(2) shall continue to receive compensation in
21 accordance with the rates applicable to the judge immediately before
22 the expiration of the term.

23 (5) The provisions of RCW 2.06.150(1) and 2.06.160 (1) through (3)
24 shall not be construed as impairing or enlarging any right or privilege
25 acquired in any retirement or pension system by any judge or his or her
26 dependents.

27 **Sec. 5.** RCW 2.10.030 and 1988 c 109 s 1 are each amended to read
28 as follows:

29 (1) "Retirement system" means the "Washington judicial retirement
30 system" provided herein.

31 (2) "Judge" means a person elected or appointed to serve as judge
32 of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW.
33 (~~(Said word shall)~~) "Judge" does not include a person serving as a
34 judge pro tempore except for a judge pro tempore appointed under RCW
35 2.04.240(2) or 2.06.150(2).

36 (3) "Retirement board" means the "Washington judicial retirement
37 board" established herein.

1 (4) "Surviving spouse" means the surviving widow or widower of a
2 judge. (~~The word shall~~) "Surviving spouse" does not include the
3 divorced spouse of a judge.

4 (5) "Retirement fund" means the "Washington judicial retirement
5 fund" established herein.

6 (6) "Beneficiary" means any person in receipt of a retirement
7 allowance, disability allowance or any other benefit described herein.

8 (7) "Monthly salary" means the monthly salary of the position held
9 by the judge.

10 (8) "Service" means all periods of time served as a judge, as
11 herein defined. Any calendar month at the beginning or end of a term
12 in which ten or more days are served shall be counted as a full month
13 of service: PROVIDED, That no more than one month's service may be
14 granted for any one calendar month. Only months of service will be
15 counted in the computation of any retirement allowance or other benefit
16 provided for in this chapter. Years of service shall be determined by
17 dividing the total months of service by twelve. Any fraction of a year
18 of service as so determined shall be taken into account in the
19 computation of such retirement allowance or benefit.

20 (9) "Final average salary" means (a) for a judge in service in the
21 same court for a minimum of twelve consecutive months preceding the
22 date of retirement, the salary attached to the position held by the
23 judge immediately prior to retirement; (b) for any other judge, the
24 average monthly salary paid over the highest twenty-four month period
25 in the last ten years of service.

26 (10) "Retirement allowance" for the purpose of applying cost of
27 living increases or decreases (~~shall~~) includes retirement allowances,
28 disability allowances and survivorship benefit.

29 (11) "Index" (~~shall~~) means for any calendar year, that year's
30 annual average consumer price index for urban wage earners and clerical
31 workers, all items (1957-1959 equal one hundred) -- compiled by the
32 bureau of labor statistics, United States department of labor.

33 (12) "Accumulated contributions" means the total amount deducted
34 from the judge's monthly salary pursuant to RCW 2.10.090, together with
35 the regular interest thereon from July 1, 1988, as determined by the
36 director of the department of retirement systems.

37 **Sec. 6.** RCW 41.40.010 and 1995 c 345 s 10, 1995 c 286 s 1, and
38 1995 c 244 s 3 are each reenacted and amended to read as follows:

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

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

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

7 (3) "State treasurer" means the treasurer of the state of
8 Washington.

9 (4)(a) "Employer" for plan I members, means every branch,
10 department, agency, commission, board, and office of the state, any
11 political subdivision or association of political subdivisions of the
12 state admitted into the retirement system, and legal entities
13 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
14 term shall also include any labor guild, association, or organization
15 the membership of a local lodge or division of which is comprised of at
16 least forty percent employees of an employer (other than such labor
17 guild, association, or organization) within this chapter. The term may
18 also include any city of the first class that has its own retirement
19 system.

20 (b) "Employer" for plan II members, means every branch, department,
21 agency, commission, board, and office of the state, and any political
22 subdivision and municipal corporation of the state admitted into the
23 retirement system, including public agencies created pursuant to RCW
24 35.63.070, 36.70.060, and 39.34.030.

25 (5) "Member" means any employee included in the membership of the
26 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
27 does not prohibit a person otherwise eligible for membership in the
28 retirement system from establishing such membership effective when he
29 or she first entered an eligible position.

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

31 (a) Any person who became a member of the system prior to April 1,
32 1949;

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

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

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

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

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

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

24 (8)(a) "Compensation earnable" for plan I members, means salaries
25 or wages earned during a payroll period for personal services and where
26 the compensation is not all paid in money, maintenance compensation
27 shall be included upon the basis of the schedules established by the
28 member's employer.

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

32 (A) 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 wage which the
36 individual would have earned during a payroll period shall be
37 considered compensation earnable and the individual shall receive the
38 equivalent service credit;

1 (B) If a leave of absence is taken by an individual for the purpose
2 of serving in the state legislature, the salary which would have been
3 received for the position from which the leave of absence was taken,
4 shall be considered as compensation earnable if the employee's
5 contribution is paid by the employee and the employer's contribution is
6 paid by the employer or employee;

7 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
8 72.09.240;

9 (D) Compensation that a member would have received but for a
10 disability occurring in the line of duty only as authorized by RCW
11 41.40.038;

12 (E) Compensation that a member receives due to participation in the
13 leave sharing program only as authorized by RCW 41.04.650 through
14 41.04.670; and

15 (F) Compensation that a member receives for being in standby
16 status. For the purposes of this section, a member is in standby
17 status when not being paid for time actually worked and the employer
18 requires the member to be prepared to report immediately for work, if
19 the need arises, although the need may not arise. Standby compensation
20 is regular salary for the purposes of RCW 41.50.150(2).

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

22 (A) Remuneration for unused sick leave authorized under RCW
23 41.04.340, 28A.400.210, or 28A.310.490;

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

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

34 "Compensation earnable" for plan II members also includes the
35 following actual or imputed payments, which are not paid for personal
36 services:

37 (i) Retroactive payments to an individual by an employer on
38 reinstatement of the employee in a position, or payments by an employer
39 to an individual in lieu of reinstatement in a position which are

1 awarded or granted as the equivalent of the salary or wage which the
2 individual would have earned during a payroll period shall be
3 considered compensation earnable to the extent provided above, and the
4 individual shall receive the equivalent service credit;

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

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

10 (B) Such member's actual compensation earnable received for
11 nonlegislative public employment and legislative service combined. Any
12 additional contributions to the retirement system required because
13 compensation earnable under ~~((b)(ii)(B))~~ (b)(ii)(A) of this
14 subsection is greater than compensation earnable under ~~((b)(ii)(A))~~
15 (b)(ii)(B) of this subsection shall be paid by the member for both
16 member and employer contributions;

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

19 (iv) 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;

22 (v) 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; and

25 (vi) Compensation that a member receives for being in standby
26 status. For the purposes of this section, a member is in standby
27 status when not being paid for time actually worked and the employer
28 requires the member to be prepared to report immediately for work, if
29 the need arises, although the need may not arise. Standby compensation
30 is regular salary for the purposes of RCW 41.50.150(2).

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

1 service except as provided in RCW 41.40.088. Only service credit
2 months and one-quarter service credit months shall be counted in the
3 computation of any retirement allowance or other benefit provided for
4 in this chapter. Any fraction of a year of service shall be taken into
5 account in the computation of such retirement allowance or benefits.
6 Time spent in standby status, whether compensated or not, is not
7 service.

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

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

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

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

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

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

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

1 any calendar month shall constitute one-quarter service credit month of
2 service. Time spent in standby status, whether compensated or not, is
3 not service.

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

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

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

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

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

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

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

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

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

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

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

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

39 (13) "Membership service" means:

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

2 (b) All service after October 1, 1947, to any employer prior to the
3 time of its admission into the retirement system for which member and
4 employer contributions, plus interest as required by RCW 41.50.125,
5 have been paid under RCW 41.40.056 or 41.40.057;

6 (c) Service not to exceed six consecutive months of probationary
7 service rendered after April 1, 1949, and prior to becoming a member,
8 in the case of any member, upon payment in full by such member of the
9 total amount of the employer's contribution to the retirement fund
10 which would have been required under the law in effect when such
11 probationary service was rendered if the member had been a member
12 during such period, except that the amount of the employer's
13 contribution shall be calculated by the director based on the first
14 month's compensation earnable as a member;

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

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

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

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

30 (16) "Accumulated contributions" means the sum of all contributions
31 standing to the credit of a member in the member's individual account,
32 including any amount paid under RCW 41.50.165(2), together with the
33 regular interest thereon.

34 (17)(a) "Average final compensation" for plan I members, means the
35 annual average of the greatest compensation earnable by a member during
36 any consecutive two year period of service credit months for which
37 service credit is allowed; or if the member has less than two years of
38 service credit months then the annual average compensation earnable
39 during the total years of service for which service credit is allowed.

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

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

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

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

15 (21) "Retirement allowance" means the sum of the annuity and the
16 pension.

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

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

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

24 (25) "Eligible position" means:

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

31 (b) Any position occupied by an elected official or person
32 appointed directly by the governor, or appointed by the chief justice
33 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
34 compensation is paid.

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

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

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

7 (29) "Retiree" means any person in receipt of a retirement
8 allowance or other benefit provided by this chapter resulting from
9 service rendered to an employer while a member. A person is in receipt
10 of a retirement allowance as defined in subsection (21) of this section
11 or other benefit as provided by this chapter when the department mails,
12 causes to be mailed, or otherwise transmits the retirement allowance
13 warrant.

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

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

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

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

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

26 (35) "Index" means, for any calendar year, that year's annual
27 average consumer price index, Seattle, Washington area, for urban wage
28 earners and clerical workers, all items, compiled by the bureau of
29 labor statistics, United States department of labor.

30 (36) "Index A" means the index for the year prior to the
31 determination of a postretirement adjustment.

32 (37) "Index B" means the index for the year prior to index A.

33 (38) "Index year" means the earliest calendar year in which the
34 index is more than sixty percent of index A.

35 (39) "Adjustment ratio" means the value of index A divided by index
36 B.

37 (40) "Annual increase" means, initially, fifty-nine cents per month
38 per year of service which amount shall be increased each July 1st by
39 three percent, rounded to the nearest cent.

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