

2 EHB 2073 - S AMD - 526
3 By Senator West

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5 On page 3, after line 32, insert the following:

6 "NEW SECTION. Sec. 3. (1) An employee who was a member of the
7 public employees' retirement system on or before January 1, 1999, and,
8 on the effective date of this section, is employed by the department of
9 fish and wildlife as a law enforcement officer as defined in RCW
10 41.26.030, has the 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, 2000, to
14 transfer to the law enforcement officers' and fire fighters' retirement
15 system plan 2 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.

19 (2)(a) An employee who transferred membership under subsection
20 (1)(b) of this section may choose to transfer service credit as a law
21 enforcement officer previously earned under the public employees'
22 retirement system, to the law enforcement officers' and fire fighters'
23 retirement system plan 2, by making an irrevocable choice filed in
24 writing with the department of retirement systems within one year of
25 the department's announcement of the ability to make such a transfer.

26 (b) Any law enforcement officer choosing to transfer under this
27 subsection shall have transferred from the retirement system to the law
28 enforcement officers' and fire fighters' retirement system plan 2: (i)
29 All the employee's applicable accumulated contributions and employer
30 contributions attributed to such employee; and (ii) all applicable
31 months of service, as defined in RCW 41.26.030(14)(b), credited to the
32 employee under chapter 41.40 RCW, as though such service was rendered
33 as a member of the law enforcement officers' and fire fighters'
34 retirement system.

35 (c) For the applicable period of service, the employee shall pay
36 the difference between the contributions such employee paid to the

1 retirement system, and the contributions which would have been paid by
2 the employee had the employee been a member of the law enforcement
3 officers' and fire fighters' retirement system, plus interest as
4 determined by the director. This payment shall be made no later than
5 December 31, 2005, or the date of retirement, whichever comes first.
6 If the payment required by this subsection is not paid in full by the
7 deadline, the transferred service credit shall not be used to determine
8 eligibility for benefits nor to calculate benefits under the law
9 enforcement officers' and fire fighters' retirement system. In such
10 case, the additional employee contributions transferred under this
11 subsection, and any payments made under this subsection, shall be
12 refunded to the employee and the employer shall be entitled to a credit
13 for the payments made under (d) of this subsection.

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

15 (i) The difference between the employer contributions paid to the
16 public employees' retirement system, and the combined employer and
17 state contributions which would have been payable to the law
18 enforcement officers' and fire fighters' retirement system; and

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

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

26 (e) An individual who transfers service credit and contributions
27 under this subsection shall be permanently excluded from the public
28 employees' retirement system for all service as a law enforcement
29 officer.

30 **Sec. 4.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are
31 each reenacted and amended to read as follows:

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

34 (1) "Retirement system" means the "Washington law enforcement
35 officers' and fire fighters' retirement system" provided herein.

36 (2)(a) "Employer" for plan 1 members, means the legislative
37 authority of any city, town, county, or district or the elected
38 officials of any municipal corporation that employs any law enforcement

1 officer and/or fire fighter, any authorized association of such
2 municipalities, and, except for the purposes of RCW 41.26.150, any
3 labor guild, association, or organization, which represents the fire
4 fighters or law enforcement officers of at least seven cities of over
5 20,000 population and the membership of each local lodge or division of
6 which is composed of at least sixty percent law enforcement officers or
7 fire fighters as defined in this chapter.

8 (b) "Employer" for plan 2 members, means the following entities to
9 the extent that the entity employs any law enforcement officer and/or
10 fire fighter:

11 (i) The legislative authority of any city, town, county, or
12 district;

13 (ii) The elected officials of any municipal corporation;

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

16 (iv) A four-year institution of higher education having a fully
17 operational fire department as of January 1, 1996; or

18 (v) The department of fish and wildlife.

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

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

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

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

38 (d) The term "law enforcement officer" also includes the executive
39 secretary of a labor guild, association or organization (which is an

1 employer under RCW 41.26.030(2)) if that individual has five years
2 previous membership in the retirement system established in chapter
3 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
4 plan 2 members; ((and))

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

13 (f) The term "law enforcement officer" also includes a person
14 employed on or after the effective date of this section by the
15 department of fish and wildlife as a fish and wildlife enforcement
16 officer.

17 (4) "Fire fighter" means:

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

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

24 (c) Supervisory fire fighter personnel;

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

28 (e) The executive secretary of a labor guild, association or
29 organization (which is an employer under RCW 41.26.030(2) as now or
30 hereafter amended), if such individual has five years previous
31 membership in a retirement system established in chapter 41.16 or 41.18
32 RCW. The provisions of this subsection (4)(e) shall not apply to plan
33 2 members;

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

38 (g) Any person who on March 1, 1970, was employed on a full time,
39 fully compensated basis by an employer, and who on May 21, 1971, was

1 making retirement contributions under the provisions of chapter 41.16
2 or 41.18 RCW.

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

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

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

12 (i) A natural born child;

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

15 (iii) A posthumous child;

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

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

20 (b) A person shall also be deemed to be a child up to and including
21 the age of twenty years and eleven months while attending any high
22 school, college, or vocational or other educational institution
23 accredited, licensed, or approved by the state, in which it is located,
24 including the summer vacation months and all other normal and regular
25 vacation periods at the particular educational institution after which
26 the child returns to school.

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

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

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

1 (11)(a) "Beneficiary" for plan 1 members, means any person in
2 receipt of a retirement allowance, disability allowance, death benefit,
3 or any other benefit described herein.

4 (b) "Beneficiary" for plan 2 members, means any person in receipt
5 of a retirement allowance or other benefit provided by this chapter
6 resulting from service rendered to an employer by another person.

7 (12)(a) "Final average salary" for plan 1 members, means (i) for a
8 member holding the same position or rank for a minimum of twelve months
9 preceding the date of retirement, the basic salary attached to such
10 same position or rank at time of retirement; (ii) for any other member,
11 including a civil service member who has not served a minimum of twelve
12 months in the same position or rank preceding the date of retirement,
13 the average of the greatest basic salaries payable to such member
14 during any consecutive twenty-four month period within such member's
15 last ten years of service for which service credit is allowed, computed
16 by dividing the total basic salaries payable to such member during the
17 selected twenty-four month period by twenty-four; (iii) in the case of
18 disability of any member, the basic salary payable to such member at
19 the time of disability retirement; (iv) in the case of a member who
20 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
21 such member at the time of vesting.

22 (b) "Final average salary" for plan 2 members, means the monthly
23 average of the member's basic salary for the highest consecutive sixty
24 service credit months of service prior to such member's retirement,
25 termination, or death. Periods constituting authorized unpaid leaves
26 of absence may not be used in the calculation of final average salary.

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

32 (b) "Basic salary" for plan 2 members, means salaries or wages
33 earned by a member during a payroll period for personal services,
34 including overtime payments, and shall include wages and salaries
35 deferred under provisions established pursuant to sections 403(b),
36 414(h), and 457 of the United States Internal Revenue Code, but shall
37 exclude lump sum payments for deferred annual sick leave, unused
38 accumulated vacation, unused accumulated annual leave, or any form of
39 severance pay. In any year in which a member serves in the legislature

1 the member shall have the option of having such member's basic salary
2 be the greater of:

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

5 (ii) Such member's actual basic salary received for nonlegislative
6 public employment and legislative service combined. Any additional
7 contributions to the retirement system required because basic salary
8 under (b)(i) of this subsection is greater than basic salary under
9 (b)(ii) of this subsection shall be paid by the member for both member
10 and employer contributions.

11 (14)(a) "Service" for plan 1 members, means all periods of
12 employment for an employer as a fire fighter or law enforcement
13 officer, for which compensation is paid, together with periods of
14 suspension not exceeding thirty days in duration. For the purposes of
15 this chapter service shall also include service in the armed forces of
16 the United States as provided in RCW 41.26.190. Credit shall be
17 allowed for all service credit months of service rendered by a member
18 from and after the member's initial commencement of employment as a
19 fire fighter or law enforcement officer, during which the member worked
20 for seventy or more hours, or was on disability leave or disability
21 retirement. Only service credit months of service shall be counted in
22 the computation of any retirement allowance or other benefit provided
23 for in this chapter.

24 (i) For members retiring after May 21, 1971 who were employed under
25 the coverage of a prior pension act before March 1, 1970, "service"
26 shall also include (A) such military service not exceeding five years
27 as was creditable to the member as of March 1, 1970, under the member's
28 particular prior pension act, and (B) such other periods of service as
29 were then creditable to a particular member under the provisions of RCW
30 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
31 be allowed for any service rendered prior to March 1, 1970, where the
32 member at the time of rendition of such service was employed in a
33 position covered by a prior pension act, unless such service, at the
34 time credit is claimed therefor, is also creditable under the
35 provisions of such prior act.

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

1 (b) "Service" for plan 2 members, means periods of employment by a
2 member for one or more employers for which basic salary is earned for
3 ninety or more hours per calendar month which shall constitute a
4 service credit month. Periods of employment by a member for one or
5 more employers for which basic salary is earned for at least seventy
6 hours but less than ninety hours per calendar month shall constitute
7 one-half service credit month. Periods of employment by a member for
8 one or more employers for which basic salary is earned for less than
9 seventy hours shall constitute a one-quarter service credit month.

10 Members of the retirement system who are elected or appointed to a
11 state elective position may elect to continue to be members of this
12 retirement system.

13 Service credit years of service shall be determined by dividing the
14 total number of service credit months of service by twelve. Any
15 fraction of a service credit year of service as so determined shall be
16 taken into account in the computation of such retirement allowance or
17 benefits.

18 If a member receives basic salary from two or more employers during
19 any calendar month, the individual shall receive one service credit
20 month's service credit during any calendar month in which multiple
21 service for ninety or more hours is rendered; or one-half service
22 credit month's service credit during any calendar month in which
23 multiple service for at least seventy hours but less than ninety hours
24 is rendered; or one-quarter service credit month during any calendar
25 month in which multiple service for less than seventy hours is
26 rendered.

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

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

35 (17) "Actuarial valuation" means a mathematical determination of
36 the financial condition of a retirement plan. It includes the
37 computation of the present monetary value of benefits payable to
38 present members, and the present monetary value of future employer and
39 employee contributions, giving effect to mortality among active and

1 retired members and also to the rates of disability, retirement,
2 withdrawal from service, salary and interest earned on investments.

3 (18) "Disability board" for plan 1 members means either the county
4 disability board or the city disability board established in RCW
5 41.26.110.

6 (19) "Disability leave" means the period of six months or any
7 portion thereof during which a member is on leave at an allowance equal
8 to the member's full salary prior to the commencement of disability
9 retirement. The definition contained in this subsection shall apply
10 only to plan 1 members.

11 (20) "Disability retirement" for plan 1 members, means the period
12 following termination of a member's disability leave, during which the
13 member is in receipt of a disability retirement allowance.

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

16 (22) "Medical services" for plan 1 members, shall include the
17 following as minimum services to be provided. Reasonable charges for
18 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

29 (i) The fees of the following:

30 (A) A physician or surgeon licensed under the provisions of chapter
31 18.71 RCW;

32 (B) An osteopathic physician and surgeon licensed under the
33 provisions of chapter 18.57 RCW;

34 (C) A chiropractor licensed under the provisions of chapter 18.25
35 RCW.

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

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

1 (A) Drugs and medicines upon a physician's prescription;
2 (B) Diagnostic x-ray and laboratory examinations;
3 (C) X-ray, radium, and radioactive isotopes therapy;
4 (D) Anesthesia and oxygen;
5 (E) Rental of iron lung and other durable medical and surgical
6 equipment;
7 (F) Artificial limbs and eyes, and casts, splints, and trusses;
8 (G) Professional ambulance service when used to transport the
9 member to or from a hospital when injured by an accident or stricken by
10 a disease;
11 (H) Dental charges incurred by a member who sustains an accidental
12 injury to his or her teeth and who commences treatment by a legally
13 licensed dentist within ninety days after the accident;
14 (I) Nursing home confinement or hospital extended care facility;
15 (J) Physical therapy by a registered physical therapist;
16 (K) Blood transfusions, including the cost of blood and blood
17 plasma not replaced by voluntary donors;
18 (L) An optometrist licensed under the provisions of chapter 18.53
19 RCW.

20 (23) "Regular interest" means such rate as the director may
21 determine.

22 (24) "Retiree" for persons who establish membership in the
23 retirement system on or after October 1, 1977, means any member in
24 receipt of a retirement allowance or other benefit provided by this
25 chapter resulting from service rendered to an employer by such member.

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

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

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

32 (28) "Plan 1" means the law enforcement officers' and fire
33 fighters' retirement system, plan 1 providing the benefits and funding
34 provisions covering persons who first became members of the system
35 prior to October 1, 1977.

36 (29) "Plan 2" means the law enforcement officers' and fire
37 fighters' retirement system, plan 2 providing the benefits and funding
38 provisions covering persons who first became members of the system on
39 and after October 1, 1977.

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

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

5 (32) "General authority law enforcement agency" means any agency,
6 department, or division of a municipal corporation, political
7 subdivision, or other unit of local government of this state, and any
8 agency, department, or division of state government, having as its
9 primary function the detection and apprehension of persons committing
10 infractions or violating the traffic or criminal laws in general, but
11 not including the Washington state patrol. Such an agency, department,
12 or division is distinguished from a limited authority law enforcement
13 agency having as one of its functions the apprehension or detection of
14 persons committing infractions or violating the traffic or criminal
15 laws relating to limited subject areas, including but not limited to,
16 the state departments of natural resources(~~(, fish and wildlife,)~~) and
17 social and health services, the state gambling commission, the state
18 lottery commission, the state parks and recreation commission, the
19 state utilities and transportation commission, the state liquor control
20 board, and the state department of corrections."

21 **EHB 2073** - S AMD - 526
22 By Senator West

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24 On page 1, on line 2 of the title, after "system;" strike the
25 remainder of the title and insert "amending RCW 41.26.430 and
26 41.26.470; reenacting and amending RCW 41.26.030; and creating a new
27 section."

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