
SUBSTITUTE SENATE BILL 6166

State of Washington**57th Legislature****2001 Regular Session**

By Senate Committee on Ways & Means (originally sponsored by Senators Brown, Snyder, Long, Fraser, Rossi, Constantine, Spanel, B. Sheldon and Carlson)

READ FIRST TIME 03/30/01.

1 AN ACT Relating to termination and restatement of plan 1 of the law
2 enforcement officers' and fire fighters' retirement system; amending
3 RCW 41.26.010, 41.26.040, 41.26.061, 44.44.040, 48.62.031, 48.62.051,
4 2.10.155, 26.09.138, 36.28A.010, 41.04.205, 41.04.270, 41.04.350,
5 41.04.400, 41.05.320, 41.18.210, 41.20.170, 41.20.175, 41.24.400,
6 41.32.800, 41.32.860, 41.35.230, 41.40.690, 41.40.850, 41.45.010,
7 41.45.010, 41.45.020, 41.45.050, 41.45.050, 41.45.070, 41.48.030,
8 41.48.050, 41.50.030, 41.50.055, 41.50.075, 41.50.075, 41.50.080,
9 41.50.090, 41.50.110, 41.50.112, 41.50.150, 41.50.255, 41.50.500,
10 41.50.500, 41.50.670, 43.84.092, 43.84.092, 43.79A.040, 46.52.130, and
11 72.72.060; reenacting and amending RCW 41.26.030, 6.15.020, 41.45.020,
12 41.45.060, 41.45.070, and 41.56.030; adding new chapters to Title 41
13 RCW; creating new sections; repealing RCW 41.26.005, 41.26.035,
14 41.26.045, 41.26.046, 41.26.047, 41.26.075, 41.26.080, 41.26.090,
15 41.26.100, 41.26.110, 41.26.115, 41.26.120, 41.26.125, 41.26.130,
16 41.26.135, 41.26.140, 41.26.150, 41.26.160, 41.26.161, 41.26.162,
17 41.26.170, 41.26.190, 41.26.192, 41.26.194, 41.26.195, 41.26.197,
18 41.26.200, 41.26.211, 41.26.221, 41.26.240, 41.26.250, 41.26.260,
19 41.26.270, 41.26.281, 41.26.3901, 41.26.3902, 41.26.3903, and
20 41.26.410; providing effective dates; providing an expiration date; and
21 declaring an emergency.

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

2 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND DECLARATION. Plan
3 1 of the Washington law enforcement officers' and fire fighters'
4 retirement system (LEOFF plan 1) has been closed to new members for
5 nearly a quarter of a century. During that time, LEOFF plan 1 has
6 achieved full funding and has assets which exceed all projected future
7 liabilities and has a surplus approaching one billion dollars. In
8 recognition of the contributions of working fire fighters and police
9 officers to LEOFF plan 1, it is the purpose of this chapter, in part,
10 to provide for an enhanced retirement benefit to LEOFF plan 1 members
11 which is managed and developed by the fire fighters and police officers
12 themselves.

13 LEOFF plan 1 also provides substantial postretirement health and
14 long-term care benefits. The financial burden of this benefit, which
15 is an integral part of LEOFF plan 1, falls exclusively on the cities,
16 counties, and fire districts that employed the retired fire fighters
17 and police officers. In recognition of the fiscal burdens facing these
18 political subdivisions, it is appropriate to provide an additional
19 source of funding to ensure the integrity of the benefit without
20 undermining the financial stability of the employing governments.

21 The supreme court of the state of Washington, in the 1956 decision
22 *Bakenhus v. City of Seattle*, established that the fire fighters and
23 police officers, active and retired, have a constitutionally protected
24 contractual right to a secure retirement benefit, funded on a sound
25 actuarial basis. While members have a constitutionally protected right
26 to the pension benefits that are provided as part of their contract of
27 employment, there is no such right in surplus assets which are
28 unnecessary to the actuarial soundness of the retirement plan.

29 The state retains the inherent power to terminate a retirement plan
30 and, upon the dedication of sufficient resources to ensure the
31 actuarial soundness of the benefits promised, is entitled to a
32 reversion of the surplus assets upon termination of the plan.

33 The legislature has determined that, in order to accomplish the
34 foregoing goals and objectives, it is in the best interest of the
35 members and beneficiaries of LEOFF plan 1 that the plan be terminated
36 and that a restated retirement plan with enhanced benefits be created.
37 It is further determined to be in the best interest of the health,
38 safety, and welfare of the citizens of the state that surplus assets

1 remaining after adequate actuarial provision for the obligated
2 retirement benefits revert to the state and be allocated for the
3 purposes outlined in this chapter.

4 It is the intent of the legislature that the LEOFF plan 1
5 termination be performed in accordance with the applicable provisions
6 of the federal internal revenue code and in recognition of the contract
7 rights of the members and beneficiaries of the plan to an actuarially
8 sound retirement program.

9 The legislature reserves the right to make such amendments and
10 modifications as may be necessary in the future to accomplish the goals
11 of this section, without any diminution of the rights and benefits of
12 the beneficiaries as they existed prior to July 1, 2001.

13 NEW SECTION. **Sec. 2.** TERMINATION OF LEOFF PLAN 1. Plan 1 of the
14 Washington law enforcement officers' and fire fighters' retirement
15 system (LEOFF plan 1) is hereby terminated. During the transition
16 between the termination of LEOFF plan 1 and the establishment of the
17 restated law enforcement officers' and fire fighters' retirement
18 system, all plan 1 benefits previously approved shall continue without
19 interruption.

20 NEW SECTION. **Sec. 3.** RESTATED LAW ENFORCEMENT OFFICERS' AND FIRE
21 FIGHTERS' RETIREMENT SYSTEM ESTABLISHED. The restated law enforcement
22 officers' and fire fighters' retirement system is hereby established as
23 provided in this chapter, to include the restated law enforcement
24 officers' and fire fighters' defined benefit retirement plan and the
25 restated law enforcement officers' and fire fighters' defined
26 contribution plan.

27 NEW SECTION. **Sec. 4.** RESTATED LAW ENFORCEMENT OFFICERS' AND FIRE
28 FIGHTERS' DEFINED BENEFIT RETIREMENT FUND ESTABLISHED. The restated
29 law enforcement officers' and fire fighters' defined benefit retirement
30 fund is created in the custody of the state treasurer. The fund shall
31 consist of assets transferred from the Washington law enforcement
32 officers' and fire fighters' system plan 1 retirement fund, investment
33 earnings, and other amounts deposited to the fund. The state treasurer
34 shall transfer to the defined benefit retirement fund an amount equal
35 to the present value of the fully projected liabilities of plan 1 of
36 the Washington law enforcement officers' and fire fighters' retirement

1 system as of December 31, 2000. The pension funding council shall
2 adopt the calculation of the present value amount, based on the advice
3 of the state actuary, the long-term economic assumptions in effect on
4 July 1, 2001, under chapter 41.45 RCW, and such other actuarial
5 analysis as the council may deem appropriate. The transfer of these
6 assets shall occur as soon as practical after July 1, 2001. The
7 remaining assets in the law enforcement officers' and fire fighters'
8 system plan 1 retirement fund shall be invested in the same manner as
9 the restated defined benefit retirement fund until the transfers occur
10 under sections 5, 6, and 8 of this act.

11 Expenditures from the restated law enforcement officers' and fire
12 fighters' defined benefit retirement fund may be used only for the
13 purposes of this chapter. Only the director of retirement systems or
14 the director's designee may authorize expenditures from the fund. No
15 appropriation is required for expenditures.

16 NEW SECTION. **Sec. 5.** STATE SURPLUS ASSETS RESERVE FUND
17 ESTABLISHED. (1) The state surplus assets reserve fund is created in
18 the state treasury. By June 1, 2002, the state surplus assets reserve
19 fund shall receive all assets of the Washington law enforcement
20 officers' and fire fighters' system plan 1 retirement fund remaining
21 after (a) the distribution to the restated law enforcement officers'
22 and fire fighters' defined benefit retirement fund required by section
23 4 of this act; (b) the transfer to the restated law enforcement
24 officers' and fire fighters' defined contribution plan fund required by
25 section 6 of this act; and (c) the distribution to the law enforcement
26 officers' and fire fighters' medical benefits risk pool under section
27 8 of this act and chapter 41.--- RCW (sections 301 through 311 of this
28 act).

29 (2) Sufficient assets shall be maintained in the state surplus
30 assets reserve fund at all times to ensure the actuarial soundness of
31 the defined benefits of the restated law enforcement officers' and fire
32 fighters' defined benefit retirement plan without the necessity of
33 further employee or employer contributions. Any actuarial shortfall in
34 the defined benefit plan shall be offset first from the assets of the
35 state surplus assets reserve fund. The state investment board shall
36 develop an investment policy, taking into account the purposes of the
37 reserve fund and the preservation of capital for the purpose of
38 accomplishing the objective of this section.

1 (3) The office of the state actuary shall perform an annual
2 actuarial valuation of the restated law enforcement officers' and fire
3 fighters' defined benefit plan to determine its continued actuarial
4 soundness. Such sums shall be transferred by the legislature from the
5 state surplus assets reserve fund as may be necessary from time to time
6 to maintain the actuarial soundness of the defined benefit plan.

7 (4) The remaining assets of the reserve fund shall be retained as
8 a budget reserve subject to the actuarial needs of the restated law
9 enforcement officers' and fire fighters' defined benefit plan. No
10 appropriation shall be made from the reserve fund for any fiscal year
11 unless the office of the state actuary has certified that the restated
12 law enforcement officers' and fire fighters' defined benefit plan
13 remains fully funded on a sound actuarial basis. No appropriation
14 shall be made from the reserve fund that would reduce the fund balance
15 below two hundred twenty million dollars unless the state actuary has
16 certified that the defined benefit plan assets are greater than one
17 hundred twenty-five percent of the present value of the fully projected
18 liabilities of the defined benefit plan.

19 NEW SECTION. **Sec. 6.** THE RESTATED LAW ENFORCEMENT OFFICERS' AND
20 FIRE FIGHTERS' DEFINED CONTRIBUTION PLAN. The restated law enforcement
21 officers' and fire fighters' defined contribution plan fund is created
22 in the custody of the state treasurer. The fund shall consist of
23 twelve percent of those assets of the Washington law enforcement
24 officers' and fire fighters' system plan 1 retirement fund remaining in
25 the plan 1 fund subsequent to the transfer to the defined benefit
26 retirement fund required by section 4 of this act. The transfer of
27 these assets shall occur by June 1, 2002. Only the director of
28 retirement systems or the director's designee may authorize
29 expenditures from the defined contribution plan fund. No appropriation
30 is required for expenditures.

31 The defined contribution plan shall be developed and managed by a
32 council of advisors as provided in this section.

33 (1) The council of advisors shall consist of seven persons.

34 (a) Two members of the council of advisors shall be retired law
35 enforcement members of the retirement system established by this
36 chapter and one member shall be an active law enforcement member of the
37 retirement system, to be appointed by the governor, following

1 consultation with the president of the Washington state council of
2 police and sheriffs.

3 (b) Two members of the council of advisors shall be retired fire
4 fighter members of the retirement system established by this chapter
5 and one member shall be an active fire fighter who is a member of the
6 retirement system, to be appointed by the governor, following
7 consultation with the president of the Washington state council of fire
8 fighters.

9 (c) One member of the council of advisors shall be appointed by the
10 governor and shall have experience in defined contribution plan
11 administration.

12 (2) Members of the council shall serve terms of three years.
13 However, the governor may stagger the terms of the initial appointees
14 to the council so that approximately one-third of the members' terms
15 expire each year. Members of the council shall continue to hold office
16 until their successors are appointed, with no limit on the number of
17 terms that may be served. In the event of a vacancy on the council, a
18 replacement member shall be appointed in the same manner as the person
19 whom he or she shall replace.

20 (3) Members of the council shall be compensated for their service
21 under RCW 43.03.240 and shall be reimbursed for travel expenses as
22 provided in RCW 43.03.050 and 43.03.060.

23 (4) When the number of active employees in the retirement system
24 established by this chapter falls below two hundred, the council seats
25 held by active employees, upon the expiration of the then-current
26 terms, shall become retired member seats.

27 (5) The department of retirement systems shall provide technical
28 and design advice to the council of advisors and shall assist in the
29 creation of a defined contribution program for the active and retired
30 members of the plan. The state investment board shall advise the
31 council of advisors on the selection of any third party administrative
32 and investment advisors for a program of member-directed investments.
33 The council of advisors shall be responsible for advising the
34 department of retirement systems and the state investment board on
35 participant preferences to be reflected in the program design,
36 investment features, and implementation. There shall be no
37 discrimination in the formulation of benefits or the distribution of
38 assets among the active and retired members of the plan. The state
39 investment board and the council of advisors shall jointly develop an

1 investment policy for the collective assets of the defined contribution
2 plan taking into account the financial needs and interests of the
3 active and retired members, a reasonable rate of investment growth, and
4 the need for preservation of capital.

5 (6) An affirmative vote of five members of the council of advisors
6 is required to approve any action in the creation or implementation of
7 the defined contribution plan. No benefit may be established by the
8 council of advisors which creates an actuarial liability on the part of
9 the active or retired members or beneficiaries of the retirement
10 system, the employers of the members of the system, or the state of
11 Washington.

12 (7) The council is authorized to adopt rules as may be necessary or
13 reasonable and exercise all powers and perform all duties as prescribed
14 by this section.

15 (8) Upon the establishment of the member-directed investment
16 options and any third party administration, the council of advisors
17 shall cause the equitable distribution of the collective funds to
18 eligible beneficiaries. The manner and timing of the distribution
19 shall be determined in the discretion of the council of advisors. No
20 distribution or transfer of assets to members or beneficiaries shall be
21 made prior to July 1, 2003. Following the transfer of all collectively
22 held assets to the members or beneficiaries, the council of advisors
23 shall, jointly with the state investment board and the department of
24 retirement systems, have a continuing duty to monitor the efficiency of
25 any third party administration of the defined contribution plan and the
26 continued performance of the member-directed investment providers. The
27 council of advisors shall meet as may be necessary for the
28 accomplishment of this purpose.

29 (9) No property interest in the defined contribution plan benefits
30 provided for in this section shall be deemed to have existed until the
31 actual transfer of money from the collective funds of the defined
32 contribution plan to the individual account of a member or beneficiary.
33 No community property interest exists for any marriage dissolved prior
34 to the date of the transfer to the individual account of a member or
35 beneficiary.

36 NEW SECTION. **Sec. 7.** INVESTMENT OF FUNDS. (1) The state
37 investment board has the full power to invest, reinvest, manage,
38 contract, sell, or exchange investment money in (a) the restated law

1 enforcement officers' and fire fighters' defined benefit retirement
2 fund, (b) the restated law enforcement officers' and fire fighters'
3 defined contribution plan fund, and (c) the state surplus assets
4 reserve fund. All investment and operating costs of the state
5 investment board and the state treasurer associated with these funds
6 shall be paid under RCW 43.08.190, 43.33A.160, 43.79A.040, and
7 43.84.160. With the exception of these expenses, the earnings from the
8 investment of the funds shall be retained by the funds.

9 (2) All investments made by the state investment board shall be
10 made with the exercise of that degree of judgment and care under RCW
11 43.33A.140 and the investment policy established by the state
12 investment board.

13 (3) As deemed appropriate by the state investment board, money in
14 the funds may be commingled for investment with other funds under the
15 investment authority of the board.

16 NEW SECTION. **Sec. 8.** TRANSFER TO LEOFF MEDICAL BENEFITS RISK
17 POOL. By June 1, 2002, the state treasurer shall transfer from the
18 Washington law enforcement officers' and fire fighters' system plan 1
19 retirement fund to the law enforcement officers' and fire fighters'
20 medical benefits risk pool under chapter 41.--- RCW (sections 301
21 through 311 of this act) an amount equal to the distribution to the
22 restated law enforcement officers' and fire fighters' defined
23 contribution plan fund required by section 6 of this act. The
24 distribution shall be for the exclusive purposes of chapter 41.--- RCW
25 (sections 301 through 311 of this act).

26 **PART I**

27 **AMENDMENTS TO CHAPTER 41.26 RCW**

28 **Sec. 101.** RCW 41.26.010 and 1969 ex.s. c 209 s 1 are each amended
29 to read as follows:

30 This chapter shall be known and cited as the "Washington Law
31 Enforcement Officers' and Fire Fighters' Retirement System--Plan 2
32 Act".

33 **Sec. 102.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are
34 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 "Washington law enforcement
4 officers' and fire fighters' retirement system plan 2" provided herein.

5 (2)~~((a) "Employer" for plan 1 members, means the legislative
6 authority of any city, town, county, or district or the elected
7 officials of any municipal corporation that employs any law enforcement
8 officer and/or fire fighter, any authorized association of such
9 municipalities, and, except for the purposes of RCW 41.26.150, any
10 labor guild, association, or organization, which represents the fire
11 fighters or law enforcement officers of at least seven cities of over
12 20,000 population and the membership of each local lodge or division of
13 which is composed of at least sixty percent law enforcement officers or
14 fire fighters as defined in this chapter.~~

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

18 ~~((i))~~ (a) The legislative authority of any city, town, county, or
19 district;

20 ~~((ii))~~ (b) The elected officials of any municipal corporation;

21 ~~((iii))~~ (c) The governing body of any other general authority law
22 enforcement agency; or

23 ~~((iv))~~ (d) A four-year institution of higher education having a
24 fully operational fire department as of January 1, 1996.

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

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

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

38 (c) Only such full time commissioned law enforcement personnel as
39 have been appointed to offices, positions, or ranks in the police

1 department which have been specifically created or otherwise expressly
2 provided for and designated by city charter provision or by ordinance
3 enacted by the legislative body of the city shall be considered city
4 police officers;

5 ~~(d) ((The term "law enforcement officer" also includes the~~
6 ~~executive secretary of a labor guild, association or organization~~
7 ~~(which is an employer under RCW 41.26.030(2)) if that individual has~~
8 ~~five years previous membership in the retirement system established in~~
9 ~~chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not~~
10 ~~apply to plan 2 members; and~~

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

19 (4) "Fire fighter" means:

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

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

26 (c) Supervisory fire fighter personnel; and

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

30 ~~(e) The executive secretary of a labor guild, association or~~
31 ~~organization (which is an employer under RCW 41.26.030(2) as now or~~
32 ~~hereafter amended), if such individual has five years previous~~
33 ~~membership in a retirement system established in chapter 41.16 or 41.18~~
34 ~~RCW. The provisions of this subsection (4)(e) shall not apply to plan~~
35 ~~2 members;~~

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

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

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

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

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

14 (i) A natural born child;

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

17 (iii) A posthumous child;

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

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

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

29 (8) "Member" means any fire fighter, law enforcement officer, or
30 other person as would apply under subsection~~((s))~~ (3) or (4) of this
31 section ~~((whose membership is transferred to the Washington law~~
32 ~~enforcement officers' and fire fighters' retirement system on or after~~
33 ~~March 1, 1970, and every law enforcement officer and fire fighter))~~ who
34 is employed in that capacity on or after ~~((such date))~~ October 1, 1977.

35 (9) "Retirement fund" means the "Washington law enforcement
36 officers' and fire fighters' ~~((retirement))~~ system plan 2 retirement
37 fund" as provided for ~~((herein))~~ in RCW 41.50.075.

38 (10) "Employee" means any law enforcement officer or fire fighter
39 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
5 receipt of a retirement allowance or other benefit provided by this
6 chapter resulting from service rendered to an employer by another
7 person.

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

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

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

34 ~~(b)) "Basic salary" ((for plan 2 members,))~~ means salaries or
35 wages earned by a member during a payroll period for personal services,
36 including overtime payments, and shall include wages and salaries
37 deferred under provisions established pursuant to sections 403(b),
38 414(h), and 457 of the United States Internal Revenue Code, but shall
39 exclude lump sum payments for deferred annual sick leave, unused

1 accumulated vacation, unused accumulated annual leave, or any form of
2 severance pay. In any year in which a member serves in the legislature
3 the member shall have the option of having such member's basic salary
4 be the greater of:

5 ~~((i))~~ (a) The basic salary the member would have received had
6 such member not served in the legislature; or

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

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

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

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

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

13 Members of the retirement system who are elected or appointed to a
14 state elective position may elect to continue to be members of this
15 retirement system.

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

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

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

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

38 (17) "Actuarial valuation" means a mathematical determination of
39 the financial condition of a retirement plan. It includes the

1 computation of the present monetary value of benefits payable to
2 present members, and the present monetary value of future employer and
3 employee contributions, giving effect to mortality among active and
4 retired members and also to the rates of disability, retirement,
5 withdrawal from service, salary and interest earned on investments.

6 ~~(18) ("Disability board" for plan 1 members means either the
7 county disability board or the city disability board established in RCW
8 41.26.110.~~

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

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

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

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

22 ~~(a) Hospital expenses: These are the charges made by a hospital,
23 in its own behalf, for~~

24 ~~(i) Board and room not to exceed semiprivate room rate unless
25 private room is required by the attending physician due to the
26 condition of the patient.~~

27 ~~(ii) Necessary hospital services, other than board and room,
28 furnished by the hospital.~~

29 ~~(b) Other medical expenses: The following charges are considered
30 "other medical expenses", provided that they have not been considered
31 as "hospital expenses".~~

32 ~~(i) The fees of the following:~~

33 ~~(A) A physician or surgeon licensed under the provisions of chapter
34 18.71 RCW;~~

35 ~~(B) An osteopathic physician and surgeon licensed under the
36 provisions of chapter 18.57 RCW;~~

37 ~~(C) A chiropractor licensed under the provisions of chapter 18.25
38 RCW.~~

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

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

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

6 ~~(B) Diagnostic x ray and laboratory examinations;~~

7 ~~(C) X ray, radium, and radioactive isotopes therapy;~~

8 ~~(D) Anesthesia and oxygen;~~

9 ~~(E) Rental of iron lung and other durable medical and surgical~~
10 ~~equipment;~~

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

12 ~~(G) Professional ambulance service when used to transport the~~
13 ~~member to or from a hospital when injured by an accident or stricken by~~
14 ~~a disease;~~

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

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

19 ~~(J) Physical therapy by a registered physical therapist;~~

20 ~~(K) Blood transfusions, including the cost of blood and blood~~
21 ~~plasma not replaced by voluntary donors;~~

22 ~~(L) An optometrist licensed under the provisions of chapter 18.53~~
23 ~~RCW.~~

24 ~~(23))~~ (19) "Regular interest" means such rate as the director may
25 determine.

26 ~~((24))~~ (20) "Retiree" ~~((for persons who establish membership in~~
27 ~~the retirement system on or after October 1, 1977,))~~ means any member
28 in receipt of a retirement allowance or other benefit provided by this
29 chapter resulting from service rendered to an employer by such member.

30 ~~((25))~~ (21) "Director" means the director of the department.

31 ~~((26))~~ (22) "State actuary" or "actuary" means the person
32 appointed pursuant to RCW 44.44.010(2).

33 ~~((27))~~ (23) "State elective position" means any position held by
34 any person elected or appointed to statewide office or elected or
35 appointed as a member of the legislature.

36 ~~((28))~~ (24) "Plan 1" means the law enforcement officers' and fire
37 fighters' retirement system, plan 1 providing the benefits and funding
38 provisions covering persons who first became members of the system
39 prior to October 1, 1977, which plan was terminated effective July 1,

1 2001, and members transferred to the retirement system established by
2 chapter 41.26A RCW.

3 ~~((+29))~~ (25) "Plan 2" means the law enforcement officers' and fire
4 fighters' retirement system, plan 2 providing the benefits and funding
5 provisions covering persons who first became members of the system on
6 and after October 1, 1977.

7 ~~((+30))~~ (26) "Service credit year" means an accumulation of months
8 of service credit which is equal to one when divided by twelve.

9 ~~((+31))~~ (27) "Service credit month" means a full service credit
10 month or an accumulation of partial service credit months that are
11 equal to one.

12 ~~((+32))~~ (28) "General authority law enforcement agency" means any
13 agency, department, or division of a municipal corporation, political
14 subdivision, or other unit of local government of this state, and any
15 agency, department, or division of state government, having as its
16 primary function the detection and apprehension of persons committing
17 infractions or violating the traffic or criminal laws in general, but
18 not including the Washington state patrol. Such an agency, department,
19 or division is distinguished from a limited authority law enforcement
20 agency having as one of its functions the apprehension or detection of
21 persons committing infractions or violating the traffic or criminal
22 laws relating to limited subject areas, including but not limited to,
23 the state departments of natural resources, fish and wildlife, and
24 social and health services, the state gambling commission, the state
25 lottery commission, the state parks and recreation commission, the
26 state utilities and transportation commission, the state liquor control
27 board, and the state department of corrections.

28 **Sec. 103.** RCW 41.26.040 and 1991 c 35 s 15 are each amended to
29 read as follows:

30 The Washington law enforcement officers' and fire fighters'
31 retirement system plan 2 is hereby created for fire fighters and law
32 enforcement officers.

33 (1) ~~((Notwithstanding RCW 41.26.030(8),))~~ All fire fighters and law
34 enforcement officers employed as such on or after ~~((March 1, 1970))~~
35 October 1, 1977, on a full time fully compensated basis in this state
36 shall be members of the retirement system established by this chapter
37 with respect to all periods of service as such, to the exclusion of any
38 pension system existing under any prior act.

1 (2) (~~Any employee serving as a law enforcement officer or fire~~
2 ~~fighter on March 1, 1970, who is then making retirement contributions~~
3 ~~under any prior act shall have his membership transferred to the system~~
4 ~~established by this chapter as of such date. Upon retirement for~~
5 ~~service or for disability, or death, of any such employee, his~~
6 ~~retirement benefits earned under this chapter shall be computed and~~
7 ~~paid. In addition, his benefits under the prior retirement act to~~
8 ~~which he was making contributions at the time of this transfer shall be~~
9 ~~computed as if he had not transferred. For the purpose of such~~
10 ~~computations, the employee's creditability of service and eligibility~~
11 ~~for service or disability retirement and survivor and all other~~
12 ~~benefits shall continue to be as provided in such prior retirement act,~~
13 ~~as if transfer of membership had not occurred. The excess, if any, of~~
14 ~~the benefits so computed, giving full value to survivor benefits, over~~
15 ~~the benefits payable under this chapter shall be paid whether or not~~
16 ~~the employee has made application under the prior act. If the~~
17 ~~employee's prior retirement system was the Washington public employees'~~
18 ~~retirement system, payment of such excess shall be made by that system;~~
19 ~~if the employee's prior retirement system was the statewide city~~
20 ~~employees' retirement system, payment of such excess shall be made by~~
21 ~~the employer which was the member's employer when his transfer of~~
22 ~~membership occurred: PROVIDED, That any death in line of duty lump sum~~
23 ~~benefit payment shall continue to be the obligation of that system as~~
24 ~~provided in RCW 41.44.210; in the case of all other prior retirement~~
25 ~~systems, payment of such excess shall be made by the employer which was~~
26 ~~the member's employer when his transfer of membership occurred.~~

27 (3)) All funds held by any firemen's or policemen's relief and
28 pension fund shall remain in that fund for the purpose of paying the
29 obligations of the fund. The municipality shall continue to levy the
30 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be
31 used for the purpose of paying the benefits provided in chapters 41.16
32 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to
33 be paid from whatever financial sources the city has been using for
34 this purpose.

35 **Sec. 104.** RCW 41.26.061 and 1997 c 103 s 1 are each amended to
36 read as follows:

37 A member shall not receive a disability retirement benefit under
38 RCW (~~41.26.120, 41.26.125, 41.26.130, or~~) 41.26.470 if the disability

1 is the result of criminal conduct by the member committed after April
2 21, 1997.

3 **PART II**

4 **CHAPTER 41.26A RCW: RESTATED LEOFF RETIREMENT SYSTEM**

5 NEW SECTION. **Sec. 201.** APPLICATION OF CHAPTER. This chapter
6 applies to members of the restated law enforcement officers' and fire
7 fighters' retirement system. Membership in the system is limited to
8 those persons who were members of plan 1 of the law enforcement
9 officers' and fire fighters' retirement system under chapter 41.26 RCW
10 prior to July 1, 2001.

11 NEW SECTION. **Sec. 202.** DEFINITIONS. The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

14 (1) "Retirement system" means the restated law enforcement
15 officers' and fire fighters' retirement system.

16 (2) "Employer" means the legislative authority of any city, town,
17 county, or district or the elected officials of any municipal
18 corporation that employs any law enforcement officer and/or fire
19 fighter, any authorized association of such municipalities, and, except
20 for the purposes of section 225 of this act, any labor guild,
21 association, or organization, which represents the fire fighters or law
22 enforcement officers of at least seven cities of over twenty thousand
23 population and the membership of each local lodge or division of which
24 is composed of at least sixty percent law enforcement officers or fire
25 fighters as defined in this chapter.

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

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

33 (b) Only those deputy sheriffs, including those serving under a
34 different title pursuant to county charter, who have successfully
35 completed a civil service examination for deputy sheriff or the
36 equivalent position, where a different title is used, and those persons

1 serving in unclassified positions authorized by RCW 41.14.070 except a
2 private secretary will be considered law enforcement officers;

3 (c) Only such full-time commissioned law enforcement personnel as
4 have been appointed to offices, positions, or ranks in the police
5 department which have been specifically created or otherwise expressly
6 provided for and designated by city charter provision or by ordinance
7 enacted by the legislative body of the city shall be considered city
8 police officers;

9 (d) The term "law enforcement officer" also includes the executive
10 secretary of a labor guild, association, or organization (which is an
11 employer under this section) if that individual has five years previous
12 membership in the retirement system established in chapter 41.20 RCW;
13 and

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

22 (4) "Fire fighter" means:

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

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

29 (c) Supervisory fire fighter personnel;

30 (d) Any full-time executive secretary of an association of fire
31 protection districts authorized under RCW 52.12.031;

32 (e) The executive secretary of a labor guild, association, or
33 organization (which is an employer under this section), if such
34 individual has five years previous membership in a retirement system
35 established in chapter 41.16 or 41.18 RCW;

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

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

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

7 (6) "Surviving spouse" means the surviving widow or widower of a
8 member. "Surviving spouse" shall not include the divorced spouse of a
9 member except as provided in section 228 of this act.

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

14 (i) A natural born child;

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

17 (iii) A posthumous child;

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

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

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

29 (8) "Member" means any fire fighter, law enforcement officer, or
30 other person as would apply under subsection (3) or (4) of this section
31 whose membership is transferred to the Washington law enforcement
32 officers' and fire fighters' retirement system on or after March 1,
33 1970, and every law enforcement officer and fire fighter who is
34 employed in that capacity on or after such date.

35 (9) "Retirement fund" means the restated law enforcement officers'
36 and fire fighters' defined benefit retirement fund.

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

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

4 (12) "Final average salary" means (a) for a member holding the same
5 position or rank for a minimum of twelve months preceding the date of
6 retirement, the basic salary attached to such same position or rank at
7 time of retirement; (b) for any other member, including a civil service
8 member who has not served a minimum of twelve months in the same
9 position or rank preceding the date of retirement, the average of the
10 greatest basic salaries payable to such member during any consecutive
11 twenty-four month period within such member's last ten years of service
12 for which service credit is allowed, computed by dividing the total
13 basic salaries payable to such member during the selected twenty-four
14 month period by twenty-four; (c) in the case of disability of any
15 member, the basic salary payable to such member at the time of
16 disability retirement; (d) in the case of a member who hereafter vests
17 pursuant to section 216 of this act, the basic salary payable to such
18 member at the time of vesting.

19 (13) "Basic salary" means the basic monthly rate of salary or
20 wages, including longevity pay but not including overtime earnings or
21 special salary or wages, upon which pension or retirement benefits will
22 be computed and upon which employer contributions and salary deductions
23 will be based.

24 (14) "Service" means all periods of employment for an employer as
25 a fire fighter or law enforcement officer, for which compensation is
26 paid, together with periods of suspension not exceeding thirty days in
27 duration. For the purposes of this chapter service also includes
28 service in the armed forces of the United States as provided in section
29 230 of this act. Credit shall be allowed for all service credit months
30 of service rendered by a member from and after the member's initial
31 commencement of employment as a fire fighter or law enforcement
32 officer, during which the member worked for seventy or more hours, or
33 was on disability leave or disability retirement. Only service credit
34 months of service shall be counted in the computation of any retirement
35 allowance or other benefit provided for in this chapter.

36 (a) For members retiring after May 21, 1971, who were employed
37 under the coverage of a prior pension act before March 1, 1970,
38 "service" also includes (i) such military service not exceeding five
39 years as was creditable to the member as of March 1, 1970, under the

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

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

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

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

20 (17) "Actuarial valuation" means a mathematical determination of
21 the financial condition of a retirement plan. It includes the
22 computation of the present monetary value of benefits payable to
23 present members, and the present monetary value of future employer and
24 employee contributions, giving effect to mortality among active and
25 retired members and also to the rates of disability, retirement,
26 withdrawal from service, salary and interest earned on investments.

27 (18) "Disability board" means either the county disability board or
28 the city disability board established in section 218 of this act.

29 (19) "Disability leave" means the period of six months or any
30 portion thereof during which a member is on leave at an allowance equal
31 to the member's full salary prior to the commencement of disability
32 retirement.

33 (20) "Disability retirement" means the period following termination
34 of a member's disability leave, during which the member is in receipt
35 of a disability retirement allowance.

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

1 (22) "Medical services" include the following as minimum services
2 to be provided. Reasonable charges for these services shall be paid in
3 accordance with section 225 of this act.

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

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

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

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

14 (i) The fees of the following:

15 (A) A physician or surgeon licensed under the provisions of chapter
16 18.71 RCW;

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

19 (C) A chiropractor licensed under the provisions of chapter 18.25
20 RCW.

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

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

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

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

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

28 (D) Anesthesia and oxygen;

29 (E) Rental of iron lung and other durable medical and surgical
30 equipment;

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

32 (G) Professional ambulance service when used to transport the
33 member to or from a hospital when injured by an accident or stricken by
34 a disease;

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

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

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

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

3 (L) An optometrist licensed under the provisions of chapter 18.53
4 RCW.

5 (23) "Regular interest" means such rate as the director may
6 determine.

7 (24) "Director" means the director of the department.

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

10 (26) "State elective position" means any position held by any
11 person elected or appointed to statewide office or elected or appointed
12 as a member of the legislature.

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

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

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

33 NEW SECTION. **Sec. 203.** SYSTEM CREATED--MEMBERSHIP--FUNDS. The
34 restated law enforcement officers' and fire fighters' retirement system
35 is hereby created for fire fighters and law enforcement officers.

36 (1) Notwithstanding section 202(8) of this act, all fire fighters
37 and law enforcement officers employed as such on or after March 1,
38 1970, on a full-time fully compensated basis in this state shall be

1 members of the retirement system established by this chapter with
2 respect to all periods of service as such, to the exclusion of any
3 pension system existing under any prior act.

4 (2) Any employee serving as a law enforcement officer or fire
5 fighter on March 1, 1970, who is then making retirement contributions
6 under any prior act shall have his or her membership transferred to the
7 system established by this chapter as of such date. Upon retirement
8 for service or for disability, or death, of any such employee, his or
9 her retirement benefits earned under this chapter shall be computed and
10 paid. In addition, his or her benefits under the prior retirement act
11 to which he or she was making contributions at the time of this
12 transfer shall be computed as if he or she had not transferred. For
13 the purpose of such computations, the employee's creditability of
14 service and eligibility for service or disability retirement and
15 survivor and all other benefits shall continue to be as provided in
16 such prior retirement act, as if transfer of membership had not
17 occurred. The excess, if any, of the benefits so computed, giving full
18 value to survivor benefits, over the benefits payable under this
19 chapter shall be paid whether or not the employee has made application
20 under the prior act. If the employee's prior retirement system was the
21 Washington public employees' retirement system, payment of such excess
22 shall be made by that system; if the employee's prior retirement system
23 was the statewide city employees' retirement system, payment of such
24 excess shall be made by the employer which was the member's employer
25 when his or her transfer of membership occurred: PROVIDED, That any
26 death in line of duty lump sum benefit payment shall continue to be the
27 obligation of that system as provided in RCW 41.44.210; in the case of
28 all other prior retirement systems, payment of such excess shall be
29 made by the employer which was the member's employer when his or her
30 transfer of membership occurred.

31 (3) All funds held by any firemen's or policemen's relief and
32 pension fund shall remain in that fund for the purpose of paying the
33 obligations of the fund. The municipality shall continue to levy the
34 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be
35 used for the purpose of paying the benefits provided in chapters 41.16
36 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to
37 be paid from whatever financial sources the city has been using for
38 this purpose.

1 NEW SECTION. **Sec. 204.** "MINIMUM MEDICAL AND HEALTH STANDARDS"
2 DEFINED. The term "minimum medical and health standards" means minimum
3 medical and health standards adopted by the department under this
4 chapter.

5 NEW SECTION. **Sec. 205.** MINIMUM MEDICAL AND HEALTH STANDARDS.
6 Notwithstanding any other provision of law after February 19, 1974, no
7 law enforcement officer or fire fighter, may become eligible for
8 coverage in the pension system established by this chapter until the
9 individual has met and has been certified as having met minimum medical
10 and health standards: PROVIDED, That an elected sheriff or an
11 appointed chief of police or fire chief, shall not be required to meet
12 the age standard: PROVIDED FURTHER, That in cities and towns having
13 not more than two law enforcement officers and/or not more than two
14 fire fighters and if one or more of such persons do not meet the
15 minimum medical and health standards as required by the provisions of
16 this chapter, then such person or persons may join any other pension
17 system that the city has available for its other employees: AND
18 PROVIDED FURTHER, That for one year after February 19, 1974, any such
19 medical or health standard now existing or hereinafter adopted, insofar
20 as it establishes a maximum age beyond which an applicant is to be
21 deemed ineligible for coverage, shall be waived as to any applicant for
22 employment or reemployment who is otherwise eligible except for his or
23 her age, who has been a member of any one or more of the retirement
24 systems created by chapter 41.20 RCW and who has restored all
25 contributions which he or she has previously withdrawn from any such
26 system or systems.

27 NEW SECTION. **Sec. 206.** MINIMUM MEDICAL AND HEALTH
28 STANDARDS--BOARD TO ADOPT--PUBLICATION AND DISTRIBUTION--EMPLOYER
29 CERTIFICATION PROCEDURES. The department shall adopt minimum medical
30 and health standards for membership coverage into the retirement
31 system. In adopting such standards the department shall consider
32 existing standards recommended by the international association of
33 chiefs of police and the international association of fire fighters,
34 and shall adopt equal or higher standards, together with appropriate
35 standards and procedures to ensure uniform compliance with this
36 chapter. The standards when adopted shall be published and distributed
37 to each employer, and each employer shall adopt certification

1 procedures and such other procedures as are required to ensure that no
2 law enforcement officer or fire fighter receives membership coverage
3 unless and until he or she has actually met minimum medical and health
4 standards: PROVIDED, That an elected sheriff or an appointed chief of
5 police, fire chief, or director of public safety shall not be required
6 to meet the age standard. The department may amend the minimum medical
7 and health standards as experience indicates, even if the standards as
8 so amended are lower or less rigid than those recommended by the
9 international associations mentioned above. The cost of the medical
10 examination contemplated by this section is to be paid by the employer.

11 NEW SECTION. **Sec. 207.** MINIMUM MEDICAL AND HEALTH
12 STANDARDS--EXEMPTIONS--EMPLOYER MAY ADOPT HIGHER STANDARDS. Nothing in
13 sections 204 through 206 of this act shall apply to any fire fighters
14 or law enforcement officers who are employed as such on or before
15 August 1, 1971, as long as they continue in such employment; nor to
16 promotional appointments after becoming a member in the police or fire
17 department of any employer nor to the reemployment of a law enforcement
18 officer or fire fighter by the same or a different employer within six
19 months after the termination of his or her employment, nor to the
20 reinstatement of a law enforcement officer or fire fighter who has been
21 on military or disability leave, disability retirement status, or leave
22 of absence status. Nothing in this chapter shall be deemed to prevent
23 any employer from adopting higher medical and health standards than
24 those which are adopted by the department.

25 NEW SECTION. **Sec. 208.** SPECIAL DEATH BENEFIT--DEATH IN THE COURSE
26 OF EMPLOYMENT. (1) A one hundred fifty thousand dollar death benefit
27 shall be paid to the member's estate, or such person or persons, trust
28 or organization as the member shall have nominated by written
29 designation duly executed and filed with the department. If there be
30 no such designated person or persons still living at the time of the
31 member's death, such member's death benefit shall be paid to the
32 member's surviving spouse as if in fact such spouse had been nominated
33 by written designation, or if there be no such surviving spouse, then
34 to such member's legal representatives.

35 (2) The benefit under this section shall be paid only where death
36 occurs as a result of injuries sustained in the course of employment.
37 The determination of eligibility for the benefit shall be made

1 consistent with Title 51 RCW by the department of labor and industries.
2 The department of labor and industries shall notify the department of
3 retirement systems by order under RCW 51.52.050.

4 NEW SECTION. **Sec. 209.** EXEMPTION FROM JUDICIAL PROCESS,
5 TAXES--EXCEPTIONS--DEDUCTION FOR INSURANCE UPON REQUEST. (1) Subject
6 to subsections (2) and (3) of this section, the right of a person to a
7 retirement allowance, disability allowance, or death benefit, to the
8 return of accumulated contributions, the retirement, disability, or
9 death allowance itself, any optional benefit, any other right accrued
10 or accruing to any person under the provisions of this chapter, and the
11 moneys in the fund created under this chapter, are hereby exempt from
12 any state, county, municipal, or other local tax and shall not be
13 subject to execution, garnishment, attachment, the operation of
14 bankruptcy or insolvency laws, or any other process of law whatsoever,
15 and shall be unassignable.

16 (2) On the written request of any person eligible to receive
17 benefits under this section, the department may deduct from such
18 payments the premiums for life, health, or other insurance. The
19 request on behalf of any child or children shall be made by the legal
20 guardian of such child or children. The department may provide for
21 such persons one or more plans of group insurance, through contracts
22 with regularly constituted insurance carriers or health care service
23 contractors.

24 (3) Subsection (1) of this section shall not prohibit the
25 department from complying with (a) a wage assignment order for child
26 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
27 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
28 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
29 benefits assignment order issued by the department, (e) a court order
30 directing the department to pay benefits directly to an obligee under
31 a dissolution order as defined in RCW 41.50.500(3) which fully complies
32 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
33 order expressly authorized by federal law.

34 NEW SECTION. **Sec. 210.** NO BOND REQUIRED ON APPEAL TO COURT. No
35 bond of any kind shall be required of a claimant appealing to the
36 superior court, the court of appeals, or the supreme court from a

1 decision of the director affecting such claimant's right to retirement
2 or disability benefits.

3 NEW SECTION. **Sec. 211.** BENEFIT CALCULATION--LIMITATION. (1) The
4 annual compensation taken into account in calculating retiree benefits
5 under this system shall not exceed the limits imposed by section
6 401(a)(17) of the federal internal revenue code for qualified trusts.

7 (2) The department shall adopt rules as necessary to implement this
8 section.

9 NEW SECTION. **Sec. 212.** ESTABLISHING, RESTORING SERVICE CREDIT.
10 Notwithstanding any provision to the contrary, persons who fail to:

11 (1) Establish allowable membership service not previously credited;

12 (2) Restore all or a part of that previously credited membership
13 service represented by withdrawn contributions; or

14 (3) Restore service credit represented by a lump sum payment in
15 lieu of benefits, before the deadline established by statute, may do so
16 under the conditions set forth in RCW 41.50.165.

17 NEW SECTION. **Sec. 213.** DISABILITY RETIREMENT--CRIMINAL CONDUCT.
18 A member shall not receive a disability retirement benefit under
19 sections 220 through 222 of this act if the disability is the result of
20 criminal conduct by the member committed after April 21, 1997.

21 NEW SECTION. **Sec. 214.** FALSIFICATION--PENALTY. Any employer,
22 member, or beneficiary who knowingly makes false statements or
23 falsifies or permits to be falsified any record or records of the
24 retirement system in an attempt to defraud the retirement system, is
25 guilty of a felony.

26 NEW SECTION. **Sec. 215.** FUNDING TOTAL LIABILITY OF SYSTEM. No
27 employer or member contribution is required. The total liability of
28 the retirement system is funded as provided in sections 4 and 5 of this
29 act.

30 NEW SECTION. **Sec. 216.** RETIREMENT FOR SERVICE. Retirement of a
31 member for service shall be made by the department as follows:

32 (1) Any member having five or more service credit years of service
33 and having attained the age of fifty years shall be eligible for a

1 service retirement allowance and shall be retired upon the member's
2 written request effective the first day following the date upon which
3 the member is separated from service.

4 (2) Any member having five or more service credit years of service,
5 who terminates his or her employment with any employer, may leave his
6 or her contributions in the fund. Any employee who so elects, upon
7 attaining age fifty, shall be eligible to apply for and receive a
8 service retirement allowance based on his or her years of service,
9 commencing on the first day following his or her attainment of age
10 fifty.

11 (3) Any member selecting optional vesting under subsection (2) of
12 this section with less than twenty service credit years of service
13 shall not be covered by the provisions of section 225 of this act, and
14 the member's survivors shall not be entitled to the benefits of section
15 226 of this act unless his or her death occurs after he or she has
16 attained the age of fifty years. Those members selecting this optional
17 vesting with twenty or more years service shall not be covered by the
18 provisions of section 225 of this act until the attainment of the age
19 of fifty years. A member selecting this optional vesting, with less
20 than twenty service credit years of service credit, who dies prior to
21 attaining the age of fifty years, shall have paid from the restated law
22 enforcement officers' and fire fighters' defined benefit retirement
23 fund, to such member's surviving spouse, if any, otherwise to such
24 beneficiary as the member shall have designated in writing, or if no
25 such designation has been made, to the personal representative of his
26 or her estate, a lump sum which is equal to the amount of such member's
27 accumulated contributions plus accrued interest. If the vested member
28 has twenty or more service credit years of service credit the surviving
29 spouse or children shall then become eligible for the benefits of
30 section 226 of this act regardless of the member's age at the time of
31 his or her death, to the exclusion of the lump sum amount provided by
32 this subsection.

33 (4) Any member who has attained the age of sixty years shall be
34 retired on the first day of the calendar month next succeeding that in
35 which said member shall have attained the age of sixty and may not
36 thereafter be employed as a law enforcement officer or fire fighter:
37 PROVIDED, That for any member who is elected or appointed to the office
38 of sheriff, chief of police, or fire chief, his or her election or
39 appointment shall be considered as a waiver of the age sixty provision

1 for retirement and nonemployment for whatever number of years remain in
2 his or her present term of office and any succeeding periods for which
3 he or she may be so elected or appointed. The provisions of this
4 subsection shall not apply to any member who is employed as a law
5 enforcement officer or fire fighter on March 1, 1970.

6 NEW SECTION. **Sec. 217.** ALLOWANCE ON RETIREMENT FOR SERVICE. A
7 member upon retirement for service shall receive a monthly retirement
8 allowance computed according to his or her completed creditable service
9 credit years of service as follows: Five years but under ten years,
10 one-twelfth of one percent of his or her final average salary for each
11 month of service; ten years but under twenty years, one-twelfth of one
12 and one-half percent of his or her final average salary for each month
13 of service; and twenty years and over one-twelfth of two percent of his
14 or her final average salary for each month of service: PROVIDED, That
15 the recipient of a retirement allowance who shall return to service as
16 a law enforcement officer or fire fighter shall be considered to have
17 terminated his or her retirement status and he or she shall immediately
18 become a member of the retirement system with the status of membership
19 he or she had as of the date of retirement. Retirement benefits shall
20 be suspended during the period of his or her return to service and he
21 or she shall make contributions and receive service credit. Such a
22 member shall have the right to again retire at any time and his or her
23 retirement allowance shall be recomputed, and paid, based upon
24 additional service rendered and any change in final average salary:
25 PROVIDED FURTHER, That no retirement allowance paid pursuant to this
26 section shall exceed sixty percent of final average salary, except as
27 such allowance may be increased by virtue of section 238 of this act.

28 NEW SECTION. **Sec. 218.** CITY AND COUNTY DISABILITY BOARDS
29 AUTHORIZED. (1) All claims for disability shall be acted upon and
30 either approved or disapproved by either type of disability board
31 created under this section.

32 (a) Each city having a population of twenty thousand or more shall
33 establish a disability board having jurisdiction over all members
34 employed by the cities and composed of the following five members: Two
35 members of the city legislative body to be appointed by the mayor, one
36 active or retired fire fighter to be elected by the fire fighters
37 employed by or retired from the city, one active or retired law

1 enforcement officer to be elected by the law enforcement officers
2 employed by or retired from the city, and one member from the public at
3 large who resides within the city to be appointed by the other four
4 members designated in this subsection. Retired members who are subject
5 to the jurisdiction of the board have both the right to elect and the
6 right to be elected under this section. Each of the elected members
7 shall serve a two-year term. The members appointed pursuant to this
8 subsection shall serve for two-year terms: PROVIDED, That cities of
9 the first class only, shall retain existing firemen's pension boards
10 established pursuant to RCW 41.16.020 and existing boards of trustees
11 of the relief and pension fund of the police department as established
12 pursuant to RCW 41.20.010 which such boards shall have authority to act
13 upon and approve or disapprove claims for disability by fire fighters
14 or law enforcement officers as provided under this chapter. No
15 disability boards shall be established under the authority of this
16 subsection (1)(a) after December 31, 2001.

17 (b) Each county shall establish a disability board having
18 jurisdiction over all members residing in the county and not employed
19 by a city in which a disability board is established. The county
20 disability board so created shall be composed of five members to be
21 chosen as follows: One member of the legislative body of the county to
22 be appointed by the county legislative body, one member of a city or
23 town legislative body located within the county which does not contain
24 a city disability board established pursuant to (a) of this subsection
25 to be chosen by a majority of the mayors of such cities and towns
26 within the county which does not contain a city disability board, one
27 fire fighter or retired fire fighter to be elected by the fire fighters
28 employed or retired in the county who are not employed by or retired
29 from a city in which a disability board is established, one law
30 enforcement officer or retired law enforcement officer to be elected by
31 the law enforcement officers employed in or retired from the county who
32 are not employed by or retired from a city in which a disability board
33 is established, and one member from the public at large who resides
34 within the county but does not reside within a city in which a city
35 disability board is established, to be appointed by the other four
36 members designated in this subsection. However, in counties with a
37 population less than sixty thousand, the member of the disability board
38 appointed by a majority of the mayors of the cities and towns within
39 the county that do not contain a city disability board must be a

1 resident of one of the cities and towns but need not be a member of a
2 city or town legislative body. Retired members who are subject to the
3 jurisdiction of the board have both the right to elect and the right to
4 be elected under this section. All members appointed or elected
5 pursuant to this subsection shall serve for two-year terms.

6 (2) The members of both the county and city disability boards shall
7 not receive compensation for their service upon the boards but the
8 members shall be reimbursed by their respective county or city for all
9 expenses incidental to such service as to the amount authorized by law.

10 (3) The disability boards authorized for establishment by this
11 section shall perform all functions, exercise all powers, and make all
12 such determinations as specified in this chapter.

13 NEW SECTION. **Sec. 219.** DIRECTOR TO ADOPT RULES GOVERNING
14 DISABILITY BOARDS. (1) The director shall adopt rules, in accordance
15 with chapter 34.05 RCW, under which each disability board shall execute
16 its disability retirement duties under this chapter. The rules shall
17 include, but not be limited to, the following:

18 (a) Standards governing the type and manner of presentation of
19 medical, employability, and other evidence before disability boards;
20 and

21 (b) Standards governing the necessity and frequency of medical and
22 employability reexaminations of persons receiving disability benefits.

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

27 NEW SECTION. **Sec. 220.** RETIREMENT FOR DISABILITY INCURRED IN THE
28 LINE OF DUTY. Any member, regardless of age or years of service, may
29 be retired by the disability board, subject to approval by the
30 director, for any disability incurred in the line of duty which has
31 been continuous since his or her discontinuance of service and which
32 renders the member unable to continue service. No disability
33 retirement allowance shall be paid until the expiration of a period of
34 six months after the discontinuance of service during which period the
35 member, if found to be physically or mentally unfit for duty by the
36 disability board following receipt of his or her application for
37 disability retirement, shall be granted a disability leave by the

1 disability board and shall receive an allowance equal to the full
2 monthly salary and shall continue to receive all other benefits
3 provided to active employees from the employer for such period.
4 However, if, at any time during the initial six-month period, the
5 disability board finds the beneficiary is no longer disabled, the
6 disability leave allowance shall be canceled and the member shall be
7 restored to duty in the same rank or position, if any, held by the
8 beneficiary at the time the member became disabled. Applications for
9 disability retirement shall be processed in accordance with the
10 following procedures:

11 (1) Any member who believes he or she is or is believed to be
12 physically or mentally disabled shall be examined by such medical
13 authority as the disability board shall employ, upon application of the
14 member, or a person acting in his or her behalf, stating that the
15 member is disabled, either physically or mentally: PROVIDED, That no
16 such application shall be considered unless the member or someone in
17 his or her behalf, in case of the incapacity of a member, shall have
18 filed the application within a period of one year from and after the
19 discontinuance of service of the member.

20 (2) If the examination shows, to the satisfaction of the disability
21 board, that the member is physically or mentally disabled from the
22 further performance of duty, that such disability was incurred in the
23 line of duty, and that such disability has been continuous from the
24 discontinuance of service, the disability board shall enter its written
25 decision and order, accompanied by appropriate findings of fact and by
26 conclusions evidencing compliance with this chapter, granting the
27 member a disability retirement allowance; otherwise, if the member is
28 not found by the disability board to be so disabled, the application
29 shall be denied pursuant to a similar written decision and order,
30 subject to appeal to the director in accordance with section 235 of
31 this act: PROVIDED, That in any order granting a duty disability
32 retirement allowance, the disability board shall make a finding that
33 the disability was incurred in line of duty.

34 (3) Every order of a disability board granting a duty disability
35 retirement allowance shall immediately be reviewed by the director
36 except the finding that the disability was incurred in the line of
37 duty. The director may affirm the decision of the disability board or
38 remand the case for further proceedings, or the director may reverse

1 the decision of the disability board if the director finds the
2 disability board's findings, inferences, conclusions, or decisions are:

- 3 (a) In violation of constitutional provisions;
- 4 (b) In excess of the statutory authority or jurisdiction of the
5 disability board;
- 6 (c) Made upon unlawful procedure;
- 7 (d) Affected by other error of law;
- 8 (e) Clearly erroneous in view of the entire record as submitted and
9 the public policy contained in this chapter; or
- 10 (f) Arbitrary or capricious.

11 (4) Every member who can establish, to the disability board, that
12 he or she is physically or mentally disabled from the further
13 performance of duty, that such disability was incurred in the line of
14 duty, and that such disability will be in existence for a period of at
15 least six months may waive the six-month period of disability leave and
16 be immediately granted a duty disability retirement allowance, subject
17 to the approval of the director as provided in subsection (3) of this
18 section.

19 NEW SECTION. **Sec. 221.** RETIREMENT FOR DISABILITY NOT INCURRED IN
20 THE LINE OF DUTY. Any member, regardless of age or years of service,
21 may be retired by the disability board, subject to approval by the
22 director as provided in this section, for any disability not incurred
23 in the line of duty which has been continuous since discontinuance of
24 service and which renders the member unable to continue service. No
25 disability retirement allowance may be paid until the expiration of a
26 period of six months after the discontinuance of service during which
27 period the member, if found to be physically or mentally unfit for duty
28 by the disability board following receipt of the member's application
29 for disability retirement, shall be granted a disability leave by the
30 disability board and shall receive an allowance equal to the member's
31 full monthly salary and shall continue to receive all other benefits
32 provided to active employees from the member's employer for the period.
33 However, if, at any time during the initial six-month period, the
34 disability board finds the beneficiary is no longer disabled, the
35 disability leave allowance shall be canceled and the member shall be
36 restored to duty in the same rank or position, if any, held by the
37 member at the time the member became disabled. Applications for

1 disability retirement shall be processed in accordance with the
2 following procedures:

3 (1) Any member who believes he or she is, or is believed to be,
4 physically or mentally disabled shall be examined by such medical
5 authority as the disability board shall employ, upon application of the
6 member, or a person acting in the member's behalf, stating that the
7 member is disabled, either physically or mentally: PROVIDED, That no
8 such application shall be considered unless the member or someone
9 acting in the member's behalf, in case of the incapacity of a member,
10 has filed the application within a period of one year from and after
11 the discontinuance of service of the member.

12 (2) If the examination shows, to the satisfaction of the disability
13 board, that the member is physically or mentally disabled from the
14 further performance of duty, that such disability was not incurred in
15 the line of duty, and that such disability had been continuous from the
16 discontinuance of service, the disability board shall enter its written
17 decision and order, accompanied by appropriate findings of fact and by
18 conclusions evidencing compliance with this chapter, granting the
19 member a disability retirement allowance. Otherwise, if the member is
20 not found by the disability board to be so disabled, the application
21 shall be denied pursuant to a similar written decision and order,
22 subject to appeal to the director in accordance with section 235 of
23 this act: PROVIDED, That in any order granting a nonduty disability
24 retirement allowance, the disability board shall make a finding that
25 the disability was not incurred in the line of duty.

26 (3) Every order of a disability board granting a nonduty disability
27 retirement allowance shall immediately be reviewed by the director
28 except the finding that the disability was not incurred in the line of
29 duty. The director may affirm the decision of the disability board or
30 remand the case for further proceedings, or the director may reverse
31 the decision of the disability board if the director finds the
32 disability board's findings, inferences, conclusions, or decisions are:

- 33 (a) In violation of constitutional provisions;
- 34 (b) In excess of the statutory authority or jurisdiction of the
35 disability board;
- 36 (c) Made upon unlawful procedure;
- 37 (d) Affected by other error of law;
- 38 (e) Clearly erroneous in view of the entire record as submitted and
39 the public policy contained in this chapter; or

1 (f) Arbitrary or capricious.

2 (4) Every member who can establish to the disability board that the
3 member is physically or mentally disabled from the further performance
4 of duty, that such disability was not incurred in the line of duty, and
5 that such disability will be in existence for a period of at least six
6 months, may waive the six-month period of disability leave and be
7 immediately granted a nonduty disability retirement allowance, subject
8 to the approval of the director as provided in subsection (3) of this
9 section.

10 NEW SECTION. **Sec. 222.** ALLOWANCE ON RETIREMENT FOR DISABILITY.

11 (1) Upon retirement for disability a member shall be entitled to
12 receive a monthly retirement allowance computed as follows: (a) A
13 basic amount of fifty percent of final average salary at time of
14 disability retirement, and (b) an additional five percent of final
15 average salary for each child as defined in section 202(7) of this act,
16 (c) the combined total of (a) and (b) of this subsection shall not
17 exceed a maximum of sixty percent of final average salary.

18 (2) A disabled member shall begin receiving the disability
19 retirement allowance as of the expiration of his or her six-month
20 period of disability leave or, if his or her application was filed
21 after the sixth month of discontinuance of service but prior to the
22 one-year time limit, the member's disability retirement allowance shall
23 be retroactive to the end of the sixth month.

24 (3) Benefits under this section will be payable until the member
25 recovers from the disability or dies. If at the time that the
26 disability ceases the member is over the age of fifty, he or she shall
27 then receive either disability retirement allowance or retirement for
28 service allowance, whichever is greater.

29 (4) Benefits under this section for a disability that is incurred
30 while in other employment will be reduced by any amount the member
31 receives or is entitled to receive from workers' compensation, social
32 security, group insurance, other pension plan, or any other similar
33 source provided by another employer on account of the same disability.

34 (5) A member retired for disability shall be subject to periodic
35 examinations by a physician approved by the disability board prior to
36 attainment of age fifty, pursuant to rules adopted by the director
37 under section 219 of this act. Examinations of members who retired for

1 disability prior to July 26, 1981, shall not exceed two medical
2 examinations per year.

3 NEW SECTION. **Sec. 223.** CESSATION OF DISABILITY--DETERMINATION.

4 (1) A disabled member who believes that his or her disability has
5 ceased in accordance with section 222(3) of this act may make
6 application to the disability board which originally found the member
7 to be disabled, for a determination that the disability has ceased.

8 (2) Every order of a disability board determining that a member's
9 disability has ceased pursuant to section 222(3) of this act shall
10 immediately be reviewed by the director. The director may affirm the
11 decision of the disability board or remand the case for further
12 proceedings if the director finds the disability board's findings,
13 inferences, conclusions, or decisions are:

14 (a) In violation of constitutional provisions;

15 (b) In excess of the statutory authority or jurisdiction of the
16 disability board;

17 (c) Made upon unlawful procedure;

18 (d) Affected by other error of law;

19 (e) Clearly erroneous in view of the entire record as submitted and
20 the public policy contained in this chapter; or

21 (f) Arbitrary or capricious.

22 (3) Determinations of whether a disability has ceased under section
23 222(3) of this act and this section shall be made in accordance with
24 the same procedures and standards governing other cancellations of
25 disability retirement.

26 NEW SECTION. **Sec. 224.** REEXAMINATIONS OF DISABILITY

27 BENEFICIARIES--REENTRY--APPEAL. (1) Upon the basis of reexaminations
28 of members on disability retirement as provided in section 222 of this
29 act, the disability board shall determine whether such disability
30 beneficiary is still unable to perform his or her duties either
31 physically or mentally for service in the department where he or she
32 was employed.

33 (2) If the disability board determines that the beneficiary is not
34 so incapacitated the retirement allowance shall be canceled and the
35 member shall be restored to duty in the same civil service rank, if
36 any, held by the beneficiary at the time of his or her retirement or if
37 unable to perform the duties of that rank, then, at his or her request,

1 in such other like or lesser rank as may be or become open and
2 available, the duties of which he or she is then able to perform. In
3 no event, shall a beneficiary previously drawing a disability allowance
4 be returned or be restored to duty at a salary or rate of pay less than
5 the current salary attached to the rank or position held by the
6 beneficiary at the date of retirement for disability. If the
7 disability board determines that the beneficiary is able to return to
8 service he or she shall be entitled to notice and a hearing, both the
9 notice and the hearing shall comply with the requirements of chapter
10 34.05 RCW.

11 (3) Should a disability beneficiary reenter service and be eligible
12 for membership in the retirement system, the retirement allowance shall
13 be canceled and he or she shall immediately become a member of the
14 retirement system.

15 (4) Should any disability beneficiary under age fifty refuse to
16 submit to examination, the retirement allowance shall be discontinued
17 until withdrawal of such refusal, and should such refusal continue for
18 one year or more, the retirement allowance shall be canceled.

19 (5) Should the disability retirement allowance of any disability
20 beneficiary be canceled for any cause other than reentrance into
21 service or retirement for service, he or she shall be paid the excess,
22 if any, of the accumulated contributions at the time of retirement over
23 all payments made on his or her behalf under this chapter.

24 (6) Any person feeling aggrieved by an order of a disability board
25 determining that a beneficiary's disability has not ceased, pursuant to
26 section 222(3) of this act has the right to appeal the order or
27 determination to the director. The director shall have no jurisdiction
28 to entertain the appeal unless a notice of appeal is filed with the
29 director within thirty days following the rendition of the order by the
30 disability board. A copy of the notice of appeal shall be served upon
31 the director and the applicable disability board and, within ninety
32 days thereof, the disability board shall certify its decision and order
33 which shall include findings of fact and conclusions of law, together
34 with a transcript of all proceedings in connection therewith, to the
35 director for review. Upon review of the record, the director may
36 affirm the order of the disability board or may remand the case for
37 further proceedings if the director finds that the disability board's
38 findings, inferences, conclusions, or decisions are:

39 (a) In violation of constitutional provisions;

1 (b) In excess of the statutory authority or jurisdiction of the
2 disability board;

3 (c) Made upon unlawful procedure;

4 (d) Affected by other error of law;

5 (e) Clearly erroneous in view of the entire record as submitted and
6 the public policy contained in this chapter; or

7 (f) Arbitrary or capricious.

8 NEW SECTION. **Sec. 225.** SICKNESS OR DISABILITY BENEFITS--MEDICAL
9 SERVICES. (1) Whenever any active member, or any member hereafter
10 retired, on account of service, sickness, or disability, not caused or
11 brought on by dissipation or abuse, of which the disability board shall
12 be judge, is confined in any hospital or in home, and whether or not so
13 confined, requires medical services, the employer shall pay for the
14 active or retired member the necessary medical services not payable
15 from some other source as provided for in subsection (2) of this
16 section. In the case of active or retired fire fighters the employer
17 may make the payments provided for in this section from the firemen's
18 pension fund established pursuant to RCW 41.16.050 where the fund had
19 been established prior to March 1, 1970. If this pension fund is
20 depleted, the employer shall have the obligation to pay all benefits
21 payable under chapters 41.16 and 41.18 RCW.

22 (a) The disability board in all cases may have the active or
23 retired member suffering from such sickness or disability examined at
24 any time by a licensed physician or physicians, to be appointed by the
25 disability board, for the purpose of ascertaining the nature and extent
26 of the sickness or disability, the physician or physicians to report to
27 the disability board the result of the examination within three days
28 thereafter. Any active or retired member who refuses to submit to such
29 examination or examinations shall forfeit all rights to benefits under
30 this section for the period of the refusal.

31 (b) The disability board shall designate the medical services
32 available to any sick or disabled member.

33 (2) The medical services payable under this section will be reduced
34 by any amount received or eligible to be received by the member under
35 workers' compensation, social security including the changes
36 incorporated under Public Law 89-97, insurance provided by another
37 employer, other pension plan, or any other similar source. Failure to
38 apply for coverage if otherwise eligible under the provisions of Public

1 Law 89-97 shall not be deemed a refusal of payment of benefits thereby
2 enabling collection of charges under the provisions of this chapter.

3 (3) Upon making the payments provided for in subsection (1) of this
4 section, the employer shall be subrogated to all rights of the member
5 against any third party who may be held liable for the member's
6 injuries or for payment of the cost of medical services in connection
7 with a member's sickness or disability to the extent necessary to
8 recover the amount of payments made by the employer.

9 (4) Any employer under this chapter, either singly, or jointly with
10 any other such employer or employers through an association thereof as
11 provided for in chapter 48.21 RCW, may provide for all or part of one
12 or more plans of group hospitalization and medical aid insurance to
13 cover any of its employees who are members of the restated law
14 enforcement officers' and fire fighters' retirement system, and/or
15 retired former employees who were, before retirement, members of the
16 retirement system, through contracts with regularly constituted
17 insurance carriers, with health maintenance organizations as defined in
18 chapter 48.46 RCW, or with health care service contractors as defined
19 in chapter 48.44 RCW. Benefits payable under the plan or plans shall
20 be deemed to be amounts received or eligible to be received by the
21 active or retired member under subsection (2) of this section.

22 (5) Any employer, jointly with any other employer or employers of
23 the state, may participate in the medical benefits risk pool
24 established under chapter 41.--- RCW (sections 301 through 311 of this
25 act).

26 (6) Any employer under this chapter may, at its discretion, elect
27 to reimburse a retired former employee under this chapter for premiums
28 the retired former employee has paid for medical insurance that
29 supplements medicare, including premiums the retired former employee
30 has paid for medicare part B coverage.

31 NEW SECTION. **Sec. 226.** DEATH BENEFITS--DUTY CONNECTED. (1) In
32 the event of the duty connected death of any member who is in active
33 service, or who has vested under section 216 of this act with twenty or
34 more service credit years of service, or who is on duty connected
35 disability leave or retired for duty connected disability, the
36 surviving spouse shall become entitled to receive a monthly allowance
37 equal to fifty percent of the final average salary at the date of death
38 if active, or the amount of retirement allowance the vested member

1 would have received at age fifty, or the amount of the retirement
2 allowance such retired member was receiving at the time of death if
3 retired for duty connected disability. The amount of this allowance
4 will be increased five percent of final average salary for each child
5 as defined in section 202(7) of this act, subject to a maximum combined
6 allowance of sixty percent of final average salary: PROVIDED, That if
7 the child or children is or are in the care of a legal guardian,
8 payment of the increase attributable to each child will be made to the
9 child's legal guardian or, in the absence of a legal guardian and if
10 the member has created a trust for the benefit of the child or
11 children, payment of the increase attributable to each child will be
12 made to the trust.

13 (2) If at the time of the duty connected death of a vested member
14 with twenty or more service credit years of service as provided in
15 subsection (1) of this section or a member retired for duty connected
16 disability, the surviving spouse has not been lawfully married to such
17 member for one year prior to retirement or separation from service if
18 a vested member, the surviving spouse shall not be eligible to receive
19 the benefits under this section: PROVIDED, That if a member dies as a
20 result of a disability incurred in the line of duty, then if he or she
21 was married at the time he or she was disabled, the surviving spouse
22 shall be eligible to receive the benefits under this section.

23 (3) If there be no surviving spouse eligible to receive benefits at
24 the time of such member's duty connected death, then the child or
25 children of such member shall receive a monthly allowance equal to
26 thirty percent of final average salary for one child and an additional
27 ten percent for each additional child subject to a maximum combined
28 payment, under this subsection, of sixty percent of final average
29 salary. When there cease to be any eligible children as defined in
30 section 202(7) of this act, there shall be paid to the legal heirs of
31 the member the excess, if any, of accumulated contributions of the
32 member at the time of death over all payments made to survivors on his
33 or her behalf under this chapter: PROVIDED, That payments under this
34 subsection to children shall be prorated equally among the children, if
35 more than one. If the member has created a trust for the benefit of
36 the child or children, the payment shall be made to the trust.

37 (4) In the event that there is no surviving spouse eligible to
38 receive benefits under this section, and that there be no child or

1 children eligible to receive benefits under this section, then the
2 accumulated contributions shall be paid to the estate of the member.

3 (5) If a surviving spouse receiving benefits under the provisions
4 of this section thereafter dies and there are children as defined in
5 section 202(7) of this act, payment to the spouse shall cease and the
6 child or children shall receive the benefits as provided in subsection
7 (3) of this section.

8 (6) The payment provided by this section shall become due the day
9 following the date of death and payments shall be retroactive to that
10 date.

11 NEW SECTION. **Sec. 227.** DEATH BENEFITS--NONDUTY CONNECTED. (1) In
12 the event of the nonduty connected death of any member who is in active
13 service, or who has vested under section 216 of this act with twenty or
14 more service credit years of service, or who is on disability leave or
15 retired, whether for nonduty connected disability or service, the
16 surviving spouse shall become entitled to receive a monthly allowance
17 equal to fifty percent of the final average salary at the date of death
18 if active, or the amount of retirement allowance the vested member
19 would have received at age fifty, or the amount of the retirement
20 allowance such retired member was receiving at the time of death if
21 retired for service or nonduty connected disability. The amount of
22 this allowance will be increased five percent of final average salary
23 for each child as defined in section 202(7) of this act, subject to a
24 maximum combined allowance of sixty percent of final average salary:
25 PROVIDED, That if the child or children is or are in the care of a
26 legal guardian, payment of the increase attributable to each child will
27 be made to the child's legal guardian or, in the absence of a legal
28 guardian and if the member has created a trust for the benefit of the
29 child or children, payment of the increase attributable to each child
30 will be made to the trust.

31 (2) If at the time of the death of a vested member with twenty or
32 more service credit years of service as provided in subsection (1) of
33 this section or a member retired for service or disability, the
34 surviving spouse has not been lawfully married to such member for one
35 year prior to retirement or separation from service if a vested member,
36 the surviving spouse shall not be eligible to receive the benefits
37 under this section.

1 (3) If there be no surviving spouse eligible to receive benefits at
2 the time of such member's death, then the child or children of such
3 member shall receive a monthly allowance equal to thirty percent of
4 final average salary for one child and an additional ten percent for
5 each additional child subject to a maximum combined payment, under this
6 subsection, of sixty percent of final average salary. When there cease
7 to be any eligible children as defined in section 202(7) of this act,
8 there shall be paid to the legal heirs of the member the excess, if
9 any, of accumulated contributions of the member at the time of death
10 over all payments made to survivors on his or her behalf under this
11 chapter: PROVIDED, That payments under this subsection to children
12 shall be prorated equally among the children, if more than one. If the
13 member has created a trust for the benefit of the child or children,
14 the payment shall be made to the trust.

15 (4) In the event that there is no surviving spouse eligible to
16 receive benefits under this section, and that there be no child or
17 children eligible to receive benefits under this section, then the
18 accumulated contributions shall be paid to the estate of the member.

19 (5) If a surviving spouse receiving benefits under the provisions
20 of this section thereafter dies and there are children as defined in
21 section 202(7) of this act, payment to the spouse shall cease and the
22 child or children shall receive the benefits as provided in subsection
23 (3) of this section.

24 (6) The payment provided by this section shall become due the day
25 following the date of death and payments shall be retroactive to that
26 date.

27 NEW SECTION. Sec. 228. EX SPOUSE QUALIFYING AS SURVIVING SPOUSE--
28 WHEN. (1) An ex spouse of a retiree shall qualify as surviving spouse
29 under section 226 of this act if the ex spouse:

30 (a) Has been provided benefits under any currently effective court
31 decree of dissolution or legal separation or in any court order or
32 court-approved property settlement agreement incident to any court
33 decree of dissolution or legal separation entered after the member's
34 retirement and prior to December 31, 1979; and

35 (b) Was married to the retiree for at least thirty years, including
36 at least twenty years prior to the member's retirement or separation
37 from service if a vested member.

1 (2) If two or more persons are eligible for a surviving spouse
2 benefit under this subsection, benefits shall be divided between the
3 surviving spouses based on the percentage of total service credit the
4 member accrued during each marriage.

5 (3) This section shall apply retroactively.

6 NEW SECTION. Sec. 229. REFUND OF CONTRIBUTIONS ON DISCONTINUANCE
7 OF SERVICE--REENTRY. (1) Should service of a member be discontinued
8 except by death, disability, or retirement, the member shall, upon
9 application therefor, be paid the accumulated contributions within
10 sixty days after the day of application and the rights to all benefits
11 as a member shall cease: PROVIDED, That any member with at least five
12 years' service may elect the provisions of section 216(2) of this act.

13 (2) Any member whose contributions have been paid in accordance
14 with subsection (1) of this section and who reenters the service of an
15 employer shall upon the restoration of withdrawn contributions, which
16 restoration must be completed within a total period of five years of
17 service following resumption of employment, then receive credit toward
18 retirement for the period of previous service which these contributions
19 are to cover.

20 (3) If the member fails to meet the time limitations of subsection
21 (2) of this section, the member may make the payment required under RCW
22 41.50.165(2) prior to retirement. The member shall then receive credit
23 toward retirement for the period of previous service that the withdrawn
24 contributions cover.

25 NEW SECTION. Sec. 230. CREDIT FOR MILITARY SERVICE. Each person
26 affected by this chapter who at the time of entering the armed services
27 was a member of this system or plan 1 under chapter 41.26 RCW, and has
28 honorably served in the armed services of the United States, shall have
29 added to the period of service as computed under this chapter, the
30 period of service in the armed forces: PROVIDED, That such credited
31 service shall not exceed five years.

32 NEW SECTION. Sec. 231. CREDIT FOR SERVICE UNDER PRIOR PENSION
33 SYSTEM--RESTORATION OF WITHDRAWN CONTRIBUTIONS. If a member of this
34 retirement system served as a law enforcement officer or fire fighter
35 under a prior pension system and that service is not creditable to this
36 retirement system because the member withdrew his or her contributions

1 plus accrued interest from the prior pension system, the member's prior
2 service as a law enforcement officer shall be credited to this
3 retirement system if the member pays to the retirement system the
4 amount under RCW 41.50.165(2) prior to retirement.

5 NEW SECTION. **Sec. 232.** CREDIT FOR SERVICE UNDER PRIOR PENSION
6 SYSTEM--SERVICE NOT COVERED UNDER PRIOR SYSTEM. If a member's prior
7 service as a law enforcement officer or fire fighter under a prior
8 pension system is not creditable because, although employed in a
9 position covered by a prior pension act, the member had not yet become
10 a member of the pension system governed by the act, the member's prior
11 service as a law enforcement officer or fire fighter shall be
12 creditable if the member pays to the plan the amount set forth under
13 RCW 41.50.165(2) prior to retirement.

14 NEW SECTION. **Sec. 233.** TRANSFER OF SERVICE CREDIT FROM OTHER
15 RETIREMENT SYSTEM--IRREVOCABLE ELECTION ALLOWED. Any member of the
16 teachers' retirement system plans 1, 2, or 3, the public employees'
17 retirement system plans 1 or 2, or the Washington state patrol
18 retirement system who has previously established service credit in the
19 restated law enforcement officers' and fire fighters' retirement system
20 may make an irrevocable election to have such service transferred to
21 their current retirement system and plan subject to the following
22 conditions:

23 (1) If the individual is employed by an employer in an eligible
24 position, as of July 1, 1997, the election to transfer service must be
25 filed in writing with the department no later than July 1, 1998. If
26 the individual is not employed by an employer in an eligible position,
27 as of July 1, 1997, the election to transfer service must be filed in
28 writing with the department no later than one year from the date they
29 are employed by an employer in an eligible position.

30 (2) An individual transferring service under this section forfeits
31 the rights to all benefits as a member of the restated law enforcement
32 officers' and fire fighters' retirement system and will be permanently
33 excluded from membership.

34 (3) Any individual choosing to transfer service under this section
35 will have transferred to their current retirement system and plan: (a)
36 All the individual's accumulated contributions; (b) an amount
37 sufficient to ensure that the employer contribution rate in the

1 individual's current system and plan will not increase due to the
2 transfer; and (c) all applicable months of service, as defined in
3 section 202(14) of this act.

4 (4) If an individual has withdrawn contributions from the law
5 enforcement officers' and fire fighters' retirement system plan 1 or
6 the plan established by this chapter, the individual may restore the
7 contributions, together with interest as determined by the director,
8 and recover the service represented by the contributions for the sole
9 purpose of transferring service under this section. The contributions
10 must be restored before the transfer can occur and the restoration must
11 be completed within the time limitations specified in subsection (1) of
12 this section.

13 (5) Any service transferred under this section does not apply to
14 the eligibility requirements for military service credit as defined in
15 RCW 41.40.170(3) or 43.43.260(3).

16 (6) If an individual does not meet the time limitations of
17 subsection (1) of this section, the individual may elect to restore any
18 withdrawn contributions and transfer service under this section by
19 paying the amount required under subsection (3)(b) of this section less
20 any employee contributions transferred.

21 NEW SECTION. **Sec. 234.** SERVICE CREDIT FOR PAID LEAVE OF ABSENCE--
22 APPLICATION TO ELECTED OFFICIALS OF LABOR ORGANIZATIONS. (1) A member
23 who is on a paid leave of absence authorized by a member's employer
24 shall continue to receive service credit as provided under this
25 chapter.

26 (2) A member who receives compensation from an employer while on an
27 authorized leave of absence to serve as an elected official of a labor
28 organization, and whose employer is reimbursed by the labor
29 organization for the compensation paid to the member during the period
30 of absence, may also be considered to be on a paid leave of absence.
31 This subsection shall only apply if the member's leave of absence is
32 authorized by a collective bargaining agreement that provides that the
33 member retains seniority rights with the employer during the period of
34 leave. The basic salary reported for a member who establishes service
35 credit under this subsection may not be greater than the salary paid to
36 the highest paid job class covered by the collective bargaining
37 agreement.

1 NEW SECTION. **Sec. 235.** APPEAL TO DIRECTOR. Any person feeling
2 aggrieved by any order or determination of a disability board denying
3 disability leave or disability retirement, or canceling a previously
4 granted disability retirement allowance, shall have the right to appeal
5 the order or determination to the director. The director shall have no
6 jurisdiction to entertain the appeal unless a notice of appeal is filed
7 with the director within thirty days following the rendition of the
8 order by the applicable disability board. A copy of the notice of
9 appeal shall be served upon the director and the applicable disability
10 board and, within ninety days thereof, the disability board shall
11 certify its decision and order which shall include findings of fact and
12 conclusions of law, together with a transcript of all proceedings in
13 connection therewith, to the director for review. Upon review of the
14 record, the director may affirm the order of the disability board or
15 may remand the case for such further proceedings as he or she may
16 direct, in accordance with such rules of procedure as the director
17 shall adopt.

18 NEW SECTION. **Sec. 236.** NOTICE FOR HEARING REQUIRED PRIOR TO
19 PETITIONING FOR JUDICIAL REVIEW. Any person aggrieved by any final
20 decision of the director must, before petitioning for judicial review,
21 file with the director by mail or personally within sixty days from the
22 day the decision was communicated to the person, a notice for a
23 hearing. The notice of hearing shall set forth in full detail the
24 grounds upon which such person considers such decision unjust or
25 unlawful and shall include every issue to be considered, and it must
26 contain a detailed statement of facts upon which such person relies in
27 support thereof. Such persons shall be deemed to have waived all
28 objections or irregularities concerning the matter on which such appeal
29 is taken other than those specifically set forth in the notice of
30 hearing or appearing in the records of the retirement system.

31 NEW SECTION. **Sec. 237.** HEARING--CONDUCT. A hearing shall be held
32 by the director, or the director's duly authorized representative, in
33 the county of the residence of the claimant at a time and place
34 designated by the director. Such hearing shall be de novo and shall
35 conform to the provisions of chapter 34.05 RCW. The disability board
36 and the department shall be entitled to appear in all such proceedings
37 and introduce testimony in support of the decision. Judicial review of

1 any final decision by the director shall be governed by the provisions
2 of chapter 34.05 RCW.

3 NEW SECTION. **Sec. 238.** INCREASES OR DECREASES IN RETIREMENT
4 ALLOWANCES TO BE DETERMINED BY DEPARTMENT IN ACCORDANCE WITH CONSUMER
5 PRICE INDEX. For purposes of this section:

6 (1) "Index" means, for any calendar year, that year's average
7 consumer price index for the Seattle, Washington area for urban wage
8 earners and clerical workers, all items (1957-1959=100), compiled by
9 the bureau of labor statistics of the United States department of
10 labor;

11 (2) "Retirement allowance" means the retirement allowance provided
12 for in sections 217 and 222 of this act, and the monthly allowance
13 provided for in section 226 of this act.

14 On April 1st of each year, every retirement allowance which has
15 been in effect for more than one year shall be adjusted to that dollar
16 amount which exceeds its original dollar amount by the percentage
17 difference which the department finds to exist between the index for
18 the previous calendar year and the index for the calendar year prior to
19 the effective retirement date of the person to whom, or on behalf of
20 whom, such retirement allowance is being paid.

21 For the purposes of this section, "basic allowance" means that
22 portion of a total retirement allowance, and any cost-of-living
23 adjustment thereon, attributable to a member (individually) and shall
24 not include the increased amounts attributable to the existence of a
25 child or children. In those cases where a child ceases to be qualified
26 as an eligible child, so as to lessen the total allowance, the
27 allowance shall, at that time, be reduced to the basic allowance plus
28 the amount attributable for the appropriate number of eligible
29 children. In those cases where a child qualifies as an eligible child
30 subsequent to the retirement of a member so as to increase the total
31 allowance payable, such increased allowance shall at the time of the
32 next and appropriate subsequent cost-of-living adjustments, be
33 considered the original dollar amount of the allowance.

34 NEW SECTION. **Sec. 239.** INCREASE IN PRESENTLY PAYABLE BENEFITS FOR
35 SERVICE OR DISABILITY AUTHORIZED. All benefits presently payable
36 pursuant to the provisions of RCW 41.20.050, 41.20.060, and 41.20.080
37 as such RCW sections existed prior to the effective date of the

1 amendment of such RCW sections by sections 1, 2, 3, chapter 191, Laws
2 of 1961 to persons who retired prior to the effective date of the 1961
3 amendatory act, shall be increased annually as provided in this
4 section. The local pension board shall meet subsequent to March 31st
5 but prior to June 30th of each year for the purpose of adjusting
6 benefit allowances payable pursuant to RCW 41.20.050, 41.20.060, and
7 41.20.080. The local board shall determine the increase in the
8 consumer price index between January 1st and December 31st of the
9 previous year and increase in dollar amount the benefits payable
10 subsequent to July 1st of the year in which the board makes such
11 determination by a dollar amount proportionate to the increase in the
12 consumer price index: PROVIDED, That regardless of the change in the
13 consumer price index, such increase shall be at least two percent each
14 year such adjustment is made.

15 Each year effective with the July payment all benefits specified in
16 this section, shall be increased as authorized by this section. This
17 benefit increase shall be paid monthly as part of the regular pension
18 payment and shall be cumulative.

19 For the purpose of this section, "consumer price index" means, for
20 any calendar year, the consumer price index for the Seattle, Washington
21 area as compiled by the bureau of labor statistics of the United States
22 department of labor.

23 NEW SECTION. **Sec. 240.** INCREASE IN CERTAIN PRESENTLY PAYABLE
24 DEATH BENEFITS AUTHORIZED. All benefits presently payable pursuant to
25 the provisions of RCW 41.20.085 which are not related to the amount of
26 current salary attached to the position held by the deceased member
27 shall be increased annually in the same manner and to the same extent
28 as provided for pursuant to section 239 of this act.

29 NEW SECTION. **Sec. 241.** DECLARATION OF POLICY RESPECTING BENEFITS
30 FOR INJURY OR DEATH--CIVIL ACTIONS ABOLISHED. The legislature of the
31 state of Washington hereby declares that the relationship between
32 members of the restated law enforcement officers' and fire fighters'
33 retirement system and their governmental employers is similar to that
34 of workers to their employers and that the sure and certain relief
35 granted by this chapter is desirable, and as beneficial to such law
36 enforcement officers and fire fighters as workers' compensation
37 coverage is to persons covered by Title 51 RCW. The legislature

1 further declares that removal of law enforcement officers and fire
2 fighters from workers' compensation coverage under Title 51 RCW
3 necessitates the (1) continuance of sure and certain relief for
4 personal injuries incurred in the course of employment or occupational
5 disease, which the legislature finds to be accomplished by the
6 provisions of this chapter and (2) protection for the governmental
7 employer from actions at law; and to this end the legislature further
8 declares that the benefits and remedies conferred by this chapter upon
9 law enforcement officers and fire fighters covered under this chapter
10 shall be to the exclusion of any other remedy, proceeding, or
11 compensation for personal injuries or sickness, caused by the
12 governmental employer except as otherwise provided by this chapter; and
13 to that end all civil actions and civil causes of actions by such law
14 enforcement officers and fire fighters against their governmental
15 employers for personal injuries or sickness are hereby abolished,
16 except as otherwise provided in this chapter.

17 NEW SECTION. **Sec. 242.** CAUSE OF ACTION FOR INJURY OR DEATH, WHEN.
18 If injury or death results to a member from the intentional or
19 negligent act or omission of a member's governmental employer, the
20 member, the widow, widower, child, or dependent of the member shall
21 have the privilege to benefit under this chapter and also have cause of
22 action against the governmental employer as otherwise provided by law,
23 for any excess of damages over the amount received or receivable under
24 this chapter.

25 NEW SECTION. **Sec. 243.** Sections 1 through 8 and 201 through 242
26 of this act constitute a new chapter in Title 41 RCW, to be designated
27 chapter 41.26A RCW.

28 **PART III**

29 **LEOFF MEDICAL BENEFITS RISK POOL**

30 NEW SECTION. **Sec. 301.** The purpose of this chapter is to
31 establish a risk assumption program whereby employers of active and
32 retired members of the restated law enforcement officers' and fire
33 fighters' retirement system under chapter 41.26A RCW voluntarily enter
34 into membership in a risk pool for the purpose of sharing the
35 noninsured medical costs of long-term care and major medical services

1 for retired members of the retirement system. Such long-term care and
2 major medical services are those required under chapter 41.26A RCW and
3 approved by city and county disability boards.

4 NEW SECTION. **Sec. 302.** The definitions in this section apply to
5 this chapter unless the context clearly requires otherwise.

6 (1) "Actuary" means the state actuary, office of the state actuary.

7 (2) "Beneficiary" means any person in receipt of a retirement
8 allowance or disability allowance who is eligible for medical services
9 under the restated law enforcement officers' and fire fighters'
10 retirement system under chapter 41.26A RCW.

11 (3) "Director" means the director, office of community development,
12 department of community, trade, and economic development.

13 (4) "Employer" means the legislative authority of any city, town,
14 county, or district or the elected officials of any municipal
15 corporation that employs any member of the restated law enforcement
16 officers' and fire fighters' retirement system, or any authorized
17 association of such municipalities.

18 (5) "Executive board" means the law enforcement officers' and fire
19 fighters' risk pool executive board.

20 (6) "Long-term care" means those medically necessary services
21 required under section 202(22) of this act, authorized under section
22 225 of this act, and received in a facility for skilled nursing care,
23 intermediate care, custodial care, hospice care, day care, in-home
24 nursing care, or other in-home care or services. For purposes of
25 expenditures from the medical account, long-term care only includes
26 qualified long-term care services as defined in internal revenue code
27 section 7702B(2), and qualified long-term care insurance contract as
28 defined in internal revenue code section 7702B(b).

29 (7) "Medical costs" means those costs incurred in the provision of
30 the medically necessary medical services required under section 202(22)
31 of this act and authorized under section 225 of this act. For purposes
32 of expenditures from the medical account, medical costs only include
33 cost of medical care as defined in internal revenue code section
34 213(d).

35 (8) "Risk assumption" means a decision to absorb the entity's
36 financial exposure to a risk of loss without the creation of a formal
37 program of advance funding of anticipated losses.

1 (9) "Risk pool" means the long-term care and medical costs risk
2 pool created for the law enforcement officers' and fire fighters'
3 medical benefits risk pool.

4 (10) "State risk manager" means the risk manager, risk management
5 division, department of general administration.

6 NEW SECTION. Sec. 303. (1) There is hereby established the law
7 enforcement officers' and fire fighters' medical benefits risk pool.

8 (2) The risk pool is a risk assumption insurance program for the
9 sole purpose of employers sharing the noninsured medical costs of long-
10 term care and medical costs for beneficiaries.

11 (3) An employer's participation and withdrawal from the risk pool
12 is subject to rules established by the executive board.

13 NEW SECTION. Sec. 304. (1) The law enforcement officers' and fire
14 fighters' risk pool executive board is hereby established.

15 (2)(a) The membership of the executive board shall consist of nine
16 persons as follows:

17 (i) The chair is appointed by the governor for a four-year term of
18 office. The chair shall be familiar with risk pool operation, medical,
19 and long-term care matters but shall not have been employed as a law
20 enforcement officer or fire fighter or served on a law enforcement
21 officers' and fire fighters' disability board; and

22 (ii) Eight others selected by the governor from lists of
23 recommended persons made by their respective organizations as follows:

24 (A) Two persons representing counties, one of which is an elected
25 official;

26 (B) Two persons representing cities and towns, one of which is an
27 elected official;

28 (C) Two persons representing fire protection districts, one of
29 which is an elected commissioner;

30 (D) One person representing law enforcement officers; and

31 (E) One person representing fire fighters.

32 (b) If a member vacates his or her position, the governor shall
33 select a person from a list recommended by his or her respective
34 organization to replace the vacating member for the remainder of the
35 term of office for the vacated position.

36 (3) One position of the county, city, and town, and fire protection
37 district groups and the law enforcement officer position have an

1 initial term of two years and four years thereafter. The remaining
2 positions have terms of four years.

3 (4) A vice-chair shall be elected at the first meeting of the
4 executive board and every two years thereafter. Upon the absence of
5 the chair, the vice-chair shall act in his or her place.

6 (5) The executive board shall meet at least quarterly and shall
7 maintain minutes of each meeting and any records as may be necessary,
8 which are public records.

9 (6) The chair and four other members constitute a quorum.

10 (7) The members of the executive board shall not receive
11 compensation for their service upon the executive board but shall be
12 reimbursed for all expenses incidental to such service as to the amount
13 authorized by either RCW 42.24.090 or 43.03.050 and 43.03.060,
14 whichever is applicable.

15 NEW SECTION. **Sec. 305.** The duties of the executive board are as
16 follows:

17 (1) Establish the basis of membership in the risk pool;

18 (2) Define and establish the benefits to be reimbursed by the risk
19 pool;

20 (3) Authorize distribution of moneys from the risk pool account
21 consistent with the provisions of rules and regulations established by
22 the internal revenue service;

23 (4) Determine, with the assistance of the actuary, employer
24 premiums to the risk pool, which shall include administrative expenses
25 of the office of community development;

26 (5) Authorize reimbursement for medical and long-term care costs,
27 required under section 202(22) of this act and authorized under section
28 225 of this act that are not covered by standard medical insurance
29 policies. The board shall adopt rules governing these reimbursements
30 consistent with the provisions of the internal revenue code and rules
31 and regulations established by the internal revenue service;

32 (6) Purchase reinsurance as necessary; and

33 (7) Adopt rules under chapter 34.05 RCW.

34 NEW SECTION. **Sec. 306.** The director shall:

35 (1) Appoint other staff as necessary for the operation of the risk
36 pool; fix their compensation within the limits provided by law; and
37 prescribe their duties;

- 1 (2) Enter into contracts necessary for the operation of the risk
2 pool, including risk management, claims, and administrative services;
3 (3) Adopt rules under chapter 34.05 RCW pertaining to the risk pool
4 operation;
5 (4) Provide staff support to the executive board; and
6 (5) Perform those other duties and responsibilities required to
7 implement the medical benefits risk pool established in section 303 of
8 this act.

9 NEW SECTION. **Sec. 307.** Funding for the risk pool account,
10 established in section 311 of this act, shall come from three sources:
11 (1) Employer premiums; (2) surplus assets which are transferred from
12 the Washington law enforcement officers' and fire fighters' system plan
13 1 retirement fund under section 8 of this act; and (3) investment
14 earnings.

15 NEW SECTION. **Sec. 308.** The state risk manager shall adopt rules
16 governing the implementation, management, and operation of the risk
17 pool in consultation with the health and welfare advisory board under
18 RCW 48.62.051. All rules shall be appropriate for the type of program
19 and class of risk covered. The state risk manager's rules shall
20 include:

- 21 (1) Standards for the implementation, management, operation, and
22 solvency of the risk pool, including the necessity and frequency of
23 actuarial analyses and claims audits;
24 (2) Standards for claims management procedures;
25 (3) Standards for contracts between the risk pool and private
26 businesses including standards for contracts between third-party
27 administrators and the risk pool; and
28 (4) Standards for an annual report with the state risk manager and
29 state auditor including, but not limited to:
30 (a) Copies of all the insurance coverage documents;
31 (b) A description of the program structure;
32 (c) An actuarial analysis, if required;
33 (d) A list of contractors and service providers;
34 (e) The financial and loss experience of the program; and
35 (f) Such other information as required by rule of the state risk
36 manager.

1 NEW SECTION. **Sec. 309.** The risk pool may not engage in an act or
2 practice that in any respect significantly differs from the management
3 and operation plan that formed the basis for the state risk manager's
4 approval unless the risk pool first notifies the state risk manager in
5 writing and obtains the state risk manager's approval. The state risk
6 manager shall approve or disapprove the proposed change within sixty
7 days of receipt of the notice. If the state risk manager denies a
8 requested change, the risk manager shall specify in detail the reasons
9 for denial and the manner in which the risk pool would fail to meet the
10 requirements of this chapter or any rules adopted in accordance with
11 this chapter.

12 NEW SECTION. **Sec. 310.** (1) The state risk manager shall establish
13 and charge an investigation fee in an amount necessary to cover the
14 costs for the initial review and approval of the risk pool. The fee
15 must accompany the initial submission of the plan of operation and
16 management.

17 (2) The costs of subsequent reviews and investigations shall be
18 charged to the risk pool being reviewed or investigated in accordance
19 with the actual time and expenses incurred in the review or
20 investigation.

21 (3) The risk pool shall pay any required fee or assessment required
22 by the health and welfare advisory board under RCW 48.62.051.

23 NEW SECTION. **Sec. 311.** (1) The law enforcement officers' and fire
24 fighters' medical benefits risk pool account is hereby established in
25 the custody of the state treasurer.

26 (2) The account shall consist of such money as is directed by law
27 for deposit in the account, and such other money not subject to
28 appropriation that the law enforcement officers' and fire fighters'
29 risk pool executive board authorizes to be deposited in the account.
30 Any money deposited in the account, the use of which has been
31 restricted by law, may only be expended in accordance with those
32 restrictions.

33 (3) The director, office of community development, department of
34 community, trade, and economic development, or the director's designee,
35 may make disbursements from the account.

36 (4) Only those funds within this account necessary for the
37 administration of the law enforcement officers' and fire fighters'

1 medical benefits risk pool by the office of community development are
2 subject to legislative appropriation.

3 NEW SECTION. **Sec. 312.** Sections 301 through 311 of this act
4 constitute a new chapter in Title 41 RCW.

5 **Sec. 313.** RCW 44.44.040 and 1987 c 25 s 3 are each amended to read
6 as follows:

7 The office of the state actuary shall have the following powers and
8 duties:

9 (1) Perform all actuarial services for the department of retirement
10 systems, including all studies required by law, the state board for
11 volunteer fire fighters and reserve officers, and the law enforcement
12 officers' and fire fighters' risk pool executive board. Reimbursement
13 for such services shall be made to the state actuary pursuant to the
14 provisions of RCW 39.34.130 as now or hereafter amended.

15 (2) Advise the legislature and the governor regarding pension
16 benefit provisions, and funding policies and investment policies of the
17 state investment board.

18 (3) Consult with the legislature and the governor concerning
19 determination of actuarial assumptions used by the department of
20 retirement systems.

21 (4) Prepare a report, to be known as the actuarial fiscal note, on
22 each pension bill introduced in the legislature which briefly explains
23 the financial impact of the bill. The actuarial fiscal note shall
24 include: (a) The statutorily required contribution for the biennium
25 and the following twenty-five years; (b) the biennial cost of the
26 increased benefits if these exceed the required contribution; and (c)
27 any change in the present value of the unfunded accrued benefits. An
28 actuarial fiscal note shall also be prepared for all amendments which
29 are offered in committee or on the floor of the house of
30 representatives or the senate to any pension bill. However, a majority
31 of the members present may suspend the requirement for an actuarial
32 fiscal note for amendments offered on the floor of the house of
33 representatives or the senate.

34 (5) Provide such actuarial services to the legislature as may be
35 requested from time to time.

36 (6) Provide staff and assistance to the committee established under
37 (~~RCW 46.44.050~~) RCW 44.44.050.

1 (7) Provide assistance as required under section 305 of this act.

2 **Sec. 314.** RCW 48.62.031 and 1991 sp.s. c 30 s 3 are each amended
3 to read as follows:

4 (1) The governing body of a local government entity may
5 individually self-insure, may join or form a self-insurance program
6 together with other entities, and may jointly purchase insurance or
7 reinsurance with other entities for property and liability risks, and
8 health and welfare benefits only as permitted under this chapter. In
9 addition, the entity or entities may contract for or hire personnel to
10 provide risk management, claims, and administrative services in
11 accordance with this chapter.

12 (2) The governing body of a local government entity individually
13 may join or form a risk assumption program together with other
14 entities, and may jointly purchase insurance or reinsurance with other
15 entities for health and welfare benefits only as permitted under this
16 chapter. In addition, the entity or entities may contract for or hire
17 personnel to provide risk management, claims, and administrative
18 services in accordance with this chapter.

19 (3) The agreement to form a joint self-insurance or risk assumption
20 program shall be made under chapter 39.34 RCW.

21 ~~((+3))~~ (4) Every individual and joint self-insurance program and
22 a health and welfare risk assumption program is subject to audit by the
23 state auditor.

24 ~~((+4))~~ (5) If provided for in the agreement or contract
25 established under chapter 39.34 RCW, a joint self-insurance or risk
26 assumption program may, in conformance with this chapter:

27 (a) Contract or otherwise provide for risk management and loss
28 control services;

29 (b) Contract or otherwise provide legal counsel for the defense of
30 claims and other legal services;

31 (c) Consult with the state insurance commissioner and the state
32 risk manager;

33 (d) Jointly purchase insurance and reinsurance coverage in such
34 form and amount as the program's participants agree by contract; and

35 (e) Possess any other powers and perform all other functions
36 reasonably necessary to carry out the purposes of this chapter.

37 ~~((+5))~~ (6) A local government entity or a health and welfare risk
38 assumption program that has decided to assume a risk of loss must have

1 available for inspection by the state auditor a written report
2 indicating the class of risk or risks the governing body of the entity
3 has decided to assume.

4 ~~((6))~~ (7) Every joint self-insurance or risk assumption program
5 governed by this chapter shall appoint the risk manager as its attorney
6 to receive service of, and upon whom shall be served, all legal process
7 issued against it in this state upon causes of action arising in this
8 state.

9 (a) Service upon the risk manager as attorney shall constitute
10 service upon the program. Service upon joint insurance programs
11 subject to chapter 30, Laws of 1991 1st sp. sess. can be had only by
12 service upon the risk manager. At the time of service, the plaintiff
13 shall pay to the risk manager a fee to be set by the risk manager,
14 taxable as costs in the action.

15 (b) With the initial filing for approval with the risk manager,
16 each joint self-insurance program shall designate by name and address
17 the person to whom the risk manager shall forward legal process so
18 served upon him or her. The joint self-insurance program may change
19 such person by filing a new designation.

20 (c) The appointment of the risk manager as attorney shall be
21 irrevocable, shall bind any successor in interest or to the assets or
22 liabilities of the joint self-insurance program, and shall remain in
23 effect as long as there is in force in this state any contract made by
24 the joint self-insurance program or liabilities or duties arising
25 therefrom.

26 (d) The risk manager shall keep a record of the day and hour of
27 service upon him or her of all legal process. A copy of the process,
28 by registered mail with return receipt requested, shall be sent by the
29 risk manager, to the person designated for the purpose by the joint
30 self-insurance or risk assumption program in its most recent such
31 designation filed with the risk manager. No proceedings shall be had
32 against the joint self-insurance or risk assumption program, and the
33 program shall not be required to appear, plead, or answer, until the
34 expiration of forty days after the date of service upon the risk
35 manager.

36 **Sec. 315.** RCW 48.62.051 and 1991 sp.s. c 30 s 5 are each amended
37 to read as follows:

1 (1) The health and welfare advisory board is created consisting of
2 the insurance commissioner and the state risk manager, or their
3 designees, as ex officio members and six members appointed by the
4 governor on the basis of their experience and knowledge pertaining to
5 local government self-insured health and welfare benefits programs.
6 The board shall include one city management representative; one county
7 management representative; two management representatives from local
8 government self-insured health and welfare programs; and two
9 representatives of statewide employee organizations representing local
10 government employees.

11 (2) The board shall assist the state risk manager in:

12 (a) Adopting rules governing the operation and management of both
13 individual and joint self-insured health and welfare benefits programs
14 and the law enforcement officers' and fire fighters' medical benefits
15 risk pool;

16 (b) Reviewing and approving the creation of both individual and
17 joint self-insured health and welfare benefits programs;

18 (c) Reviewing annual reports filed by health and welfare benefits
19 programs and in recommending that corrective action be taken by the
20 programs when necessary; and

21 (d) Responding to concerns of the state auditor related to the
22 management and operation of health and welfare benefits programs.

23 (3) The board shall annually elect a chair and a vice-chair from
24 its members. The board shall meet at least quarterly at such times as
25 the state risk manager may fix. The board members who are appointed
26 shall serve without compensation from the state but shall suffer no
27 loss because of absence from their regular employment. Members of the
28 board who are not public employees shall be compensated in accordance
29 with RCW 43.03.240.

30 (4) A majority of the board constitutes a quorum for the
31 transaction of business.

32 (5) The board shall keep public records of its proceedings.

33

PART IV

34

MISCELLANEOUS AMENDATORY SECTIONS

35 **Sec. 401.** RCW 2.10.155 and 1990 c 274 s 14 are each amended to
36 read as follows:

1 (1) No judge shall be eligible to receive the judge's monthly
2 service or disability retirement allowance if the retired judge is
3 employed:

4 (a) For more than eight hundred ten hours in a calendar year as a
5 pro tempore judge; or

6 (b) In an eligible position as defined in RCW 41.40.010 or
7 41.32.010, or as a law enforcement officer or fire fighter as defined
8 in RCW 41.26.030 or section 202 of this act.

9 (2) Subsection (1) of this section notwithstanding, a previously
10 elected judge of the superior court who retired before June 7, 1990,
11 leaving a pending case in which the judge had made discretionary
12 rulings may hear the pending case as a judge pro tempore without having
13 his or her retirement allowance suspended.

14 (3) If a retired judge's benefits have been suspended under this
15 section, his or her benefits shall be reinstated when the retiree
16 terminates the employment that caused his or her benefits to be
17 suspended. Upon reinstatement, the retired judge's benefits shall be
18 actuarially recomputed pursuant to the rules adopted by the department.

19 (4) The department shall adopt rules implementing this section.

20 **Sec. 402.** RCW 6.15.020 and 1999 c 81 s 1 and 1999 c 42 s 603 are
21 each reenacted and amended to read as follows:

22 (1) It is the policy of the state of Washington to ensure the well-
23 being of its citizens by protecting retirement income to which they are
24 or may become entitled. For that purpose generally and pursuant to the
25 authority granted to the state of Washington under 11 U.S.C. Sec.
26 522(b)(2), the exemptions in this section relating to retirement
27 benefits are provided.

28 (2) Unless otherwise provided by federal law, any money received by
29 any citizen of the state of Washington as a pension from the government
30 of the United States, whether the same be in the actual possession of
31 such person or be deposited or loaned, shall be exempt from execution,
32 attachment, garnishment, or seizure by or under any legal process
33 whatever, and when a debtor dies, or absconds, and leaves his or her
34 family any money exempted by this subsection, the same shall be exempt
35 to the family as provided in this subsection. This subsection shall
36 not apply to child support collection actions issued under chapter
37 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

1 (3) The right of a person to a pension, annuity, or retirement
2 allowance or disability allowance, or death benefits, or any optional
3 benefit, or any other right accrued or accruing to any citizen of the
4 state of Washington under any employee benefit plan, and any fund
5 created by such a plan or arrangement, shall be exempt from execution,
6 attachment, garnishment, or seizure by or under any legal process
7 whatever. This subsection shall not apply to child support collection
8 actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise
9 permitted by federal law. This subsection shall permit benefits under
10 any such plan or arrangement to be payable to a spouse, former spouse,
11 child, or other dependent of a participant in such plan to the extent
12 expressly provided for in a qualified domestic relations order that
13 meets the requirements for such orders under the plan, or, in the case
14 of benefits payable under a plan described in sections 403(b) or 408 of
15 the internal revenue code of 1986, as amended, or section 409 of such
16 code as in effect before January 1, 1984, to the extent provided in any
17 order issued by a court of competent jurisdiction that provides for
18 maintenance or support. This subsection shall not prohibit actions
19 against an employee benefit plan, or fund for valid obligations
20 incurred by the plan or fund for the benefit of the plan or fund.

21 (4) For the purposes of this section, the term "employee benefit
22 plan" means any plan or arrangement that is described in RCW 49.64.020,
23 including any Keogh plan, whether funded by a trust or by an annuity
24 contract, and in sections 401(a) or 403(a) of the internal revenue code
25 of 1986, as amended; or that is a tax-sheltered annuity described in
26 section 403(b) of such code or an individual retirement account
27 described in section 408 of such code; or a Roth individual retirement
28 account described in section 408A of such code; or a medical savings
29 account described in section 220 of such code; or an education
30 individual retirement account described in section 530 of such code; or
31 a retirement bond described in section 409 of such code as in effect
32 before January 1, 1984. The term "employee benefit plan" also means
33 any rights accruing on account of money paid currently or in advance
34 for purchase of tuition units under the advanced college tuition
35 payment program in chapter 28B.95 RCW. The term "employee benefit
36 plan" shall not include any employee benefit plan that is established
37 or maintained for its employees by the government of the United States,
38 by the state of Washington under chapter 2.10, 2.12, 41.26, 41.26A,

1 41.32, 41.34, 41.35, 41.40 or 43.43 RCW or RCW 41.50.770, or by any
2 agency or instrumentality of the government of the United States.

3 (5) An employee benefit plan shall be deemed to be a spendthrift
4 trust, regardless of the source of funds, the relationship between the
5 trustee or custodian of the plan and the beneficiary, or the ability of
6 the debtor to withdraw or borrow or otherwise become entitled to
7 benefits from the plan before retirement. This subsection shall not
8 apply to child support collection actions issued under chapter 26.18,
9 26.23, or 74.20A RCW, if otherwise permitted by federal law. This
10 subsection shall permit benefits under any such plan or arrangement to
11 be payable to a spouse, former spouse, child, or other dependent of a
12 participant in such plan to the extent expressly provided for in a
13 qualified domestic relations order that meets the requirements for such
14 orders under the plan, or, in the case of benefits payable under a plan
15 described in sections 403(b) or 408 of the internal revenue code of
16 1986, as amended, or section 409 of such code as in effect before
17 January 1, 1984, to the extent provided in any order issued by a court
18 of competent jurisdiction that provides for maintenance or support.

19 (6) Unless contrary to applicable federal law, nothing contained in
20 subsection (3), (4), or (5) of this section shall be construed as a
21 termination or limitation of a spouse's community property interest in
22 an individual retirement account held in the name of or on account of
23 the other spouse, the account holder spouse. At the death of the
24 nonaccount holder spouse, the nonaccount holder spouse may transfer or
25 distribute the community property interest of the nonaccount holder
26 spouse in the account holder spouse's individual retirement account to
27 the nonaccount holder spouse's estate, testamentary trust, inter vivos
28 trust, or other successor or successors pursuant to the last will of
29 the nonaccount holder spouse or the law of intestate succession, and
30 that distributee may, but shall not be required to, obtain an order of
31 a court of competent jurisdiction, including a nonjudicial dispute
32 resolution agreement entered into pursuant to RCW 11.96.170 or other
33 order entered under chapter 11.96A RCW, to confirm the distribution.
34 For purposes of subsection (3) of this section, the distributee of the
35 nonaccount holder spouse's community property interest in an individual
36 retirement account shall be considered a person entitled to the full
37 protection of subsection (3) of this section. The nonaccount holder
38 spouse's consent to a beneficiary designation by the account holder
39 spouse with respect to an individual retirement account shall not,

1 absent clear and convincing evidence to the contrary, be deemed a
2 release, gift, relinquishment, termination, limitation, or transfer of
3 the nonaccount holder spouse's community property interest in an
4 individual retirement account. For purposes of this subsection, the
5 term "nonaccount holder spouse" means the spouse of the person in whose
6 name the individual retirement account is maintained. The term
7 "individual retirement account" includes an individual retirement
8 account and an individual retirement annuity both as described in
9 section 408 of the internal revenue code of 1986, as amended, a Roth
10 individual retirement account as described in section 408A of the
11 internal revenue code of 1986, as amended, and an individual retirement
12 bond as described in section 409 of the internal revenue code as in
13 effect before January 1, 1984. As used in this subsection, an order of
14 a court of competent jurisdiction includes an agreement, as that term
15 is used under RCW 11.96A.220.

16 **Sec. 403.** RCW 26.09.138 and 1991 c 365 s 24 are each amended to
17 read as follows:

18 (1) Any obligee of a court order or decree establishing a spousal
19 maintenance obligation may seek a mandatory benefits assignment order
20 under chapter 41.50 RCW if any spousal maintenance payment is more than
21 fifteen days past due and the total of such past due payments is equal
22 to or greater than one hundred dollars, or if the obligor requests a
23 withdrawal of accumulated contributions from the department of
24 retirement systems.

25 (2) Any court order or decree establishing a spousal maintenance
26 obligation may state that, if any spousal maintenance payment is more
27 than fifteen days past due and the total of such past due payments is
28 equal to or greater than one hundred dollars, or if the obligor
29 requests a withdrawal of accumulated contributions from the department
30 of retirement systems, the obligee may seek a mandatory benefits
31 assignment order under chapter 41.50 RCW without prior notice to the
32 obligor. Any such court order or decree may also, or in the
33 alternative, contain a provision that would allow the department to
34 make a direct payment of all or part of a withdrawal of accumulated
35 contributions pursuant to RCW 41.50.550(3). Failure to include this
36 provision does not affect the validity of the court order or decree
37 establishing the spousal maintenance, nor does such failure affect the

1 general applicability of RCW 41.50.500 through 41.50.650 to such
2 obligations.

3 (3) The remedies in RCW 41.50.530 through 41.50.630 are the
4 exclusive provisions of law enforceable against the department of
5 retirement systems in connection with any action for enforcement of a
6 spousal maintenance obligation ordered pursuant to a divorce,
7 dissolution, or legal separation, and no other remedy ordered by a
8 court under this chapter shall be enforceable against the department of
9 retirement systems for collection of spousal maintenance.

10 (4)(a) Nothing in this section regarding mandatory assignment of
11 benefits to enforce a spousal maintenance obligation shall abridge the
12 right of an ex spouse to receive direct payment of retirement benefits
13 payable pursuant to: (i) A court decree of dissolution or legal
14 separation; or (ii) any court order or court-approved property
15 settlement agreement; or (iii) incident to any court decree of
16 dissolution or legal separation, if such dissolution orders fully
17 comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW
18 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, ~~((41.26.180))~~
19 41.26.053, section 209 of this act, 41.32.052, 41.40.052, or 43.43.310
20 as those statutes existed before July 1, 1987, and as those statutes
21 exist on and after July 28, 1991.

22 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)
23 were entered between July 1, 1987, and July 28, 1991, shall be entitled
24 to receive direct payments of retirement benefits to satisfy court-
25 ordered property divisions if the dissolution orders filed with the
26 department comply or are amended to comply with RCW 41.50.670 through
27 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, ~~((41.26.180))~~
28 41.26.053, section 209 of this act, 41.32.052, 41.40.052, or 43.43.310.

29 **Sec. 404.** RCW 36.28A.010 and 1975 1st ex.s. c 172 s 1 are each
30 amended to read as follows:

31 The Washington association of sheriffs and police chiefs is hereby
32 declared to be a combination of units of local government: PROVIDED,
33 That such association shall not be considered an "employer" within the
34 meaning of RCW 41.26.030(2), section 202 of this act, or 41.40.010(4):
35 PROVIDED FURTHER, That no compensation received as an employee of the
36 association shall be considered salary for purposes of the provisions
37 of any retirement system created pursuant to the general laws of this
38 state: PROVIDED FURTHER, That such association shall not qualify for

1 inclusion under the unallocated two mills of the property tax of any
2 political subdivision: PROVIDED FURTHER, That the association shall
3 not have the authority to assess any excess levy or bond measure.

4 **Sec. 405.** RCW 41.04.205 and 1995 1st sp.s. c 6 s 8 are each
5 amended to read as follows:

6 (1) Notwithstanding the provisions of RCW 41.04.180, the employees,
7 with their dependents, of any county, municipality, or other political
8 subdivision of this state shall be eligible to participate in any
9 insurance or self-insurance program for employees administered under
10 chapter 41.05 RCW if the legislative authority of any such county,
11 municipality, or other political subdivisions of this state determines,
12 subject to collective bargaining under applicable statutes, a transfer
13 to an insurance or self-insurance program administered under chapter
14 41.05 RCW should be made. In the event of a special district employee
15 transfer pursuant to this section, members of the governing authority
16 shall be eligible to be included in such transfer if such members are
17 authorized by law as of June 25, 1976, to participate in the insurance
18 program being transferred from and subject to payment by such members
19 of all costs of insurance for members.

20 (2) When the legislative authority of a county, municipality, or
21 other political subdivision determines to so transfer, the state health
22 care authority shall:

23 (a) Establish the conditions for participation; and

24 (b) Have the sole right to reject the application.

25 Approval of the application by the state health care authority
26 shall effect a transfer of the employees involved to the insurance,
27 self-insurance, or health care program applied for.

28 (3) Any application of this section to members of the law
29 enforcement officers' and fire fighters' retirement system under
30 chapter 41.26 or 41.26A RCW is subject to chapter 41.56 RCW.

31 (4) School districts may voluntarily transfer, except that all
32 eligible employees in a bargaining unit of a school district may
33 transfer only as a unit and all nonrepresented employees in a district
34 may transfer only as a unit.

35 **Sec. 406.** RCW 41.04.270 and 1988 c 195 s 5 are each amended to
36 read as follows:

1 (1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26,
2 41.26A, 41.28, 41.32, 41.40, or 43.43 RCW to the contrary, on and after
3 March 19, 1976, any member or former member who (a) receives a
4 retirement allowance earned by said former member as deferred
5 compensation from any public retirement system authorized by the
6 general laws of this state, or (b) is eligible to receive a retirement
7 allowance from any public retirement system listed in RCW 41.50.030,
8 but chooses not to apply, or (c) is the beneficiary of a disability
9 allowance from any public retirement system listed in RCW 41.50.030
10 shall be estopped from becoming a member of or accruing any contractual
11 rights whatsoever in any other public retirement system listed in RCW
12 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not
13 apply to persons who have accumulated less than fifteen years service
14 credit in any such system.

15 (2) Nothing in this section is intended to apply to any retirement
16 system except those listed in RCW 41.50.030 and the city employee
17 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)
18 of this section does not apply to a dual member as defined in RCW
19 41.54.010.

20 **Sec. 407.** RCW 41.04.350 and 1979 ex.s. c 159 s 1 are each amended
21 to read as follows:

22 (1) Notwithstanding any other provisions of law, no employee of the
23 state of Washington or any of its political subdivisions or any
24 institution supported in total or in part by the state or any of its
25 political subdivisions, other than employees covered by chapters 41.26,
26 41.26A, and 43.43 RCW, shall be compelled to retire solely on the basis
27 of age prior to attaining seventy years of age.

28 (2) All compulsory retirement provisions relating to public
29 employees, other than employees covered by chapters 41.26, 41.26A, and
30 43.43 RCW, may be waived for individuals attaining seventy years of age
31 by the individual's employer.

32 **Sec. 408.** RCW 41.04.400 and 1984 c 184 s 22 are each amended to
33 read as follows:

34 It is the purpose of RCW 41.04.405 through 41.04.430 to govern the
35 retirement rights of persons whose employment status is altered when:
36 (1) Two or more units of local government of this state, at least one
37 of which is a first class city with its own retirement system, enter

1 into an agreement for the consolidated performance of a governmental
2 service, activity, or undertaking; (2) the service, activity, or
3 undertaking is to be performed either by one of the participating
4 local governmental units or by a newly established separate legal
5 entity; and (3) the employees of the participating local governmental
6 units are not all members of the same Washington public retirement
7 system.

8 RCW 41.04.405 through 41.04.430 are not intended to and do not
9 govern retirement rights of any members of the retirement systems
10 established by chapter 41.16, 41.18, 41.20, (~~(or)~~) 41.26, or 41.26A
11 RCW, or of employees described in RCW 35.58.265, 35.58.390, or
12 70.08.070. To the extent there is any conflict between RCW 41.04.405
13 through 41.04.430 and RCW 41.04.110, the provisions of RCW 41.04.405
14 through 41.04.430 shall govern.

15 **Sec. 409.** RCW 41.05.320 and 1995 1st sp.s. c 6 s 13 are each
16 amended to read as follows:

17 (1) Elected officials and all permanent employees of the state are
18 eligible to participate in the benefits contribution plan and
19 contribute amount(s) by agreement with the authority. The authority
20 may adopt rules to permit participation in the plan by temporary
21 employees of the state.

22 (2) Persons eligible under subsection (1) of this section may enter
23 into benefits contribution agreements with the state.

24 (3)(a) In the initial year of the medical flexible spending
25 arrangement or cafeteria plan, if authorized, an eligible person may
26 become a participant after the adoption of the plan and before its
27 effective date by agreeing to have a portion of his or her gross salary
28 contributed and deposited into a health care and other benefits account
29 to be used for reimbursement of expenses covered by the plan.

30 (b) After the initial year of the medical flexible spending
31 arrangement or cafeteria plan, if authorized, an eligible person may
32 become a participant for a full plan year, with annual benefit
33 selection for each new plan year made before the beginning of the plan
34 year, as determined by the authority, or upon becoming eligible.

35 (c) Once an eligible person elects to participate and the amount of
36 gross salary that he or she shall contribute and the benefit for which
37 the funds are to be used during the plan year is determined, the
38 agreement shall be irrevocable and may not be amended during the plan

1 year except as provided in (d) of this subsection. Prior to making an
2 election to participate in the (~~(benefit[s])~~) benefits contribution
3 plan, the eligible person shall be informed in writing of all the
4 benefits and contributions that will occur as a result of such
5 election.

6 (d) The authority shall provide in the benefits contribution plan
7 that a participant may enroll, terminate, or change his or her election
8 after the plan year has begun if there is a significant change in a
9 participant's status, as provided by 26 U.S.C. Sec. 125 and the
10 regulations adopted under that section and defined by the authority.

11 (4) The authority shall establish as part of the benefits
12 contribution plan the procedures for and effect of withdrawal from the
13 plan by reason of retirement, death, leave of absence, or termination
14 of employment. To the extent possible under federal law, the authority
15 shall protect participants from forfeiture of rights under the plan.

16 (5) Any contribution under the benefits contribution plan shall
17 continue to be included as reportable compensation for the purpose of
18 computing the state retirement and pension benefits earned by the
19 employee pursuant to chapters 41.26, 41.26A, 41.32, 41.40, and 43.43
20 RCW.

21 **Sec. 410.** RCW 41.18.210 and 1974 ex.s. c 148 s 1 are each amended
22 to read as follows:

23 Any former employee of a department of a city of the first class,
24 who (1) was a member of the employees' retirement system of such city,
25 and (2) is now employed within the fire department of such city, may
26 transfer his former membership credit from the city employees'
27 retirement system to the fireman's pension system created by chapters
28 41.16 and 41.18 RCW by filing a written request with the board of
29 administration and the municipal fireman's pension board, respectively.

30 Upon the receipt of such request, the transfer of membership to the
31 city's fireman's pension system shall be made, together with a transfer
32 of all accumulated contributions credited to such member. The board of
33 administration shall transmit to the municipal fireman's pension board
34 a record of service credited to such member which shall be computed and
35 credited to such member as a part of his period of employment in the
36 city's fireman's pension system. For the purpose of the transfer
37 contemplated by this section, those affected individuals who have
38 formerly withdrawn funds from the city employees' retirement system

1 shall be allowed to restore contributions withdrawn from that
2 retirement system directly to the fireman's pension system and receive
3 credit in the fireman's pension system for their former membership
4 service in the prior system.

5 Any employee so transferring shall have all the rights, benefits,
6 and privileges that he would have been entitled to had he been a member
7 of the city's fireman's pension system from the beginning of his
8 employment with the city.

9 No person so transferring shall thereafter be entitled to any other
10 public pension, except that provided by chapter 41.26 or 41.26A RCW or
11 social security, which is based upon such service with the city.

12 The right of any employee to file a written request for transfer of
13 membership as set forth in this section shall expire December 31, 1974.

14 **Sec. 411.** RCW 41.20.170 and 1973 c 143 s 2 are each amended to
15 read as follows:

16 Any former employee of a department of a city of the first class
17 who (1) was a member of the employees' retirement system of such city,
18 and (2) is now employed within the police department of such city, may
19 transfer his or her membership from the city employees' retirement
20 system to the city's police relief and pension fund system by filing a
21 written request with the board of administration and the board of
22 trustees, respectively, of the two systems.

23 Upon the receipt of such request, the transfer of membership to the
24 city's police relief and pension fund system shall be made, together
25 with a transfer of all accumulated contributions credited to such
26 member. The board of administration of the city's employees'
27 retirement system shall transmit to the board of trustees of the city's
28 police relief and pension fund system a record of service credited to
29 such member which shall be computed and credited to such member as a
30 part of his or her period of employment in the city's police relief and
31 pension fund system. For the purpose of the transfer contemplated by
32 this section, the affected individuals shall be allowed to restore
33 withdrawn contributions to the city employees' retirement system and
34 reinstate their membership service records.

35 Any employee so transferring shall have all the rights, benefits
36 and privileges that he or she would have been entitled to had he or she
37 been a member of the city's police relief and pension fund system from
38 the beginning of his or her employment with the city.

1 No person so transferring shall thereafter be entitled to any other
2 public pension, except that provided by chapter 41.26 or 41.26A RCW or
3 social security, which is based upon service with the city.

4 The right of any employee to file a written request for transfer of
5 membership as set forth herein shall expire December 31, 1973.

6 **Sec. 412.** RCW 41.20.175 and 1974 ex.s. c 148 s 2 are each amended
7 to read as follows:

8 A former employee of a fire department of a city of the first class
9 who (1) was a member of the fireman's pension system created by
10 chapters 41.16 or 41.18 RCW, and (2) is now employed within the police
11 department of such city, will be regarded as having received membership
12 service credit for such service to the fire department in the city's
13 police and relief pension system at the time he recovers such service
14 credit by paying withdrawn contributions to the Washington law
15 enforcement officers' and fire fighters' retirement system pursuant to
16 RCW 41.26.030(~~((+14))~~) or section 202 of this act.

17 **Sec. 413.** RCW 41.24.400 and 1999 c 148 s 31 are each amended to
18 read as follows:

19 (1) Except as provided in subsection (2) of this section, any
20 municipality may make provision by appropriate legislation and payment
21 of fees required by RCW 41.24.030(1) solely for the purpose of enabling
22 any reserve officer to enroll under the retirement pension provisions
23 of this chapter or fees required under RCW 41.24.030(1) to pay for the
24 costs of extending the relief provisions of this chapter to its reserve
25 officers.

26 (2) A reserve officer is not eligible to receive a benefit under
27 the retirement provisions of this chapter for service under chapter
28 41.26, 41.26A, 41.32, or 41.40 RCW.

29 (3) Every municipality shall make provisions for the collection and
30 payment of the fees required under this chapter, and shall continue to
31 make provisions for all reserve officers who come under this chapter as
32 long as they continue to be employed as reserve officers.

33 (4) Except as provided under RCW 41.24.450, a reserve officer is
34 not eligible to receive a benefit under the relief provisions of this
35 chapter.

1 **Sec. 414.** RCW 41.32.800 and 1998 c 341 s 605 are each amended to
2 read as follows:

3 (1) Except as provided in RCW 41.32.802, no retiree under the
4 provisions of plan 2 shall be eligible to receive such retiree's
5 monthly retirement allowance if he or she is employed in an eligible
6 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
7 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
8 section 202 of this act.

9 If a retiree's benefits have been suspended under this section, his
10 or her benefits shall be reinstated when the retiree terminates the
11 employment that caused his or her benefits to be suspended. Upon
12 reinstatement, the retiree's benefits shall be actuarially recomputed
13 pursuant to the rules adopted by the department.

14 (2) The department shall adopt rules implementing this section.

15 **Sec. 415.** RCW 41.32.860 and 1997 c 254 s 7 are each amended to
16 read as follows:

17 (1) Except under RCW 41.32.862, no retiree shall be eligible to
18 receive such retiree's monthly retirement allowance if he or she is
19 employed in an eligible position as defined in RCW 41.40.010 or
20 41.32.010, or as a law enforcement officer or fire fighter as defined
21 in RCW 41.26.030 or section 202 of this act.

22 (2) If a retiree's benefits have been suspended under this section,
23 his or her benefits shall be reinstated when the retiree terminates the
24 employment that caused the suspension of benefits. Upon reinstatement,
25 the retiree's benefits shall be actuarially recomputed pursuant to the
26 rules adopted by the department.

27 **Sec. 416.** RCW 41.35.230 and 1998 c 341 s 24 are each amended to
28 read as follows:

29 (1) Except as provided in RCW 41.35.060, no retiree under the
30 provisions of plan 2 shall be eligible to receive such retiree's
31 monthly retirement allowance if he or she is employed in an eligible
32 position as defined in RCW 41.35.010, RCW 41.40.010 or 41.32.010, or as
33 a law enforcement officer or fire fighter as defined in RCW 41.26.030
34 or section 202 of this act, except that a retiree who ends his or her
35 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
36 not subject to this section if the retiree's only employment is as an
37 elective official.

1 (2) If a retiree's benefits have been suspended under this section,
2 his or her benefits shall be reinstated when the retiree terminates the
3 employment that caused his or her benefits to be suspended. Upon
4 reinstatement, the retiree's benefits shall be actuarially recomputed
5 pursuant to the rules adopted by the department.

6 (3) The department shall adopt rules implementing this section.

7 **Sec. 417.** RCW 41.40.690 and 1998 c 341 s 606 are each amended to
8 read as follows:

9 (1) Except as provided in RCW 41.40.037, no retiree under the
10 provisions of plan 2 shall be eligible to receive such retiree's
11 monthly retirement allowance if he or she is employed in an eligible
12 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
13 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
14 section 202 of this act, except that a retiree who ends his or her
15 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
16 not subject to this section if the retiree's only employment is as an
17 elective official of a city or town.

18 (2) If a retiree's benefits have been suspended under this section,
19 his or her benefits shall be reinstated when the retiree terminates the
20 employment that caused his or her benefits to be suspended. Upon
21 reinstatement, the retiree's benefits shall be actuarially recomputed
22 pursuant to the rules adopted by the department.

23 (3) The department shall adopt rules implementing this section.

24 **Sec. 418.** RCW 41.40.850 and 2000 c 247 s 315 are each amended to
25 read as follows:

26 (1) Except as provided in RCW 41.40.037, no retiree under the
27 provisions of plan 3 shall be eligible to receive such retiree's
28 monthly retirement allowance if he or she is employed in an eligible
29 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
30 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
31 section 202 of this act, except that a retiree who ends his or her
32 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
33 not subject to this section if the retiree's only employment is as an
34 elective official of a city or town.

35 (2) If a retiree's benefits have been suspended under this section,
36 his or her benefits shall be reinstated when the retiree terminates the
37 employment that caused his or her benefits to be suspended. Upon

1 reinstatement, the retiree's benefits shall be actuarially recomputed
2 pursuant to the rules adopted by the department.

3 (3) The department shall adopt rules implementing this section.

4 **Sec. 419.** RCW 41.45.010 and 1998 c 341 s 401 are each amended to
5 read as follows:

6 It is the intent of the legislature to provide a dependable and
7 systematic process for funding the benefits provided to members and
8 retirees of the public employees' retirement system, chapter 41.40 RCW;
9 the teachers' retirement system, chapter 41.32 RCW; the law enforcement
10 officers' and fire fighters' retirement systems, chapter 41.26 and
11 41.26A RCW; the school employees' retirement system, chapter 41.35 RCW;
12 and the Washington state patrol retirement system, chapter 43.43 RCW.

13 The funding processes established by this chapter ~~((is))~~ are
14 intended to achieve the following goals:

15 (1) To continue to fully fund the public employees' retirement
16 system plan 2, the teachers' retirement system plans 2 and 3, the
17 school employees' retirement system plans 2 and 3, and the law
18 enforcement officers' and fire fighters' retirement system plan 2 as
19 provided by law;

20 (2) To fully amortize the total costs of the public employees'
21 retirement system plan 1 ~~((7))~~ and the teachers' retirement system plan
22 ~~1((7 and the law enforcement officers' and fire fighters' retirement~~
23 ~~system plan 1))~~ not later than June 30, 2024;

24 (3) To maintain the sound actuarially funding of the restated law
25 enforcement officers' and fire fighters' retirement system;

26 (4) To enable taxpayers and retirement system members to benefit
27 from favorable actuarial experience and investment returns by means of
28 contribution rate reductions for plan 2 members and employers, and by
29 a return of surplus assets from the termination of the law enforcement
30 officers' and fire fighters' retirement system plan 1 to employees,
31 employers, and the state;

32 (5) To establish predictable long-term employer contribution rates
33 which will remain a relatively constant proportion of the future state
34 budgets; and

35 ~~((4))~~ (6) To fund, to the extent feasible, benefit increases for
36 plan 1 members and all benefits for plan 2 and 3 members over the
37 working lives of those members so that the cost of those benefits are

1 paid by the taxpayers who receive the benefit of those members'
2 service.

3 **Sec. 420.** RCW 41.45.010 and 2000 c 247 s 501 are each amended to
4 read as follows:

5 It is the intent of the legislature to provide a dependable and
6 systematic process for funding the benefits provided to members and
7 retirees of the public employees' retirement system, chapter 41.40 RCW;
8 the teachers' retirement system, chapter 41.32 RCW; the law enforcement
9 officers' and fire fighters' retirement systems, chapter 41.26 and
10 41.26A RCW; the school employees' retirement system, chapter 41.35 RCW;
11 and the Washington state patrol retirement system, chapter 43.43 RCW.

12 The funding processes established by this chapter (~~is~~) are
13 intended to achieve the following goals:

14 (1) To continue to fully fund the public employees' retirement
15 system plans 2 and 3, the teachers' retirement system plans 2 and 3,
16 the school employees' retirement system plans 2 and 3, and the law
17 enforcement officers' and fire fighters' retirement system plan 2 as
18 provided by law;

19 (2) To fully amortize the total costs of the public employees'
20 retirement system plan 1(~~7~~) and the teachers' retirement system plan
21 1(~~7~~ and the law enforcement officers' and fire fighters' retirement
22 system plan 1)) not later than June 30, 2024;

23 (3) To maintain the sound actuarial funding of the restated law
24 enforcement officers' and fire fighters' retirement system;

25 (4) To enable taxpayers and retirement system members to benefit
26 from favorable actuarial experience and investment returns by means of
27 contribution rate reductions for plan 2 members and employers, and by
28 a return of surplus assets from the termination of the law enforcement
29 officers' and fire fighters' retirement system plan 1 to employees,
30 employers, and the state;

31 (5) To establish predictable long-term employer contribution rates
32 which will remain a relatively constant proportion of the future state
33 budgets; and

34 (~~4~~) (6) To fund, to the extent feasible, benefit increases for
35 plan 1 members and all benefits for plan 2 and 3 members over the
36 working lives of those members so that the cost of those benefits are
37 paid by the taxpayers who receive the benefit of those members'
38 service.

1 **Sec. 421.** RCW 41.45.020 and 1998 c 341 s 402 and 1998 c 283 s 1
2 are each reenacted and amended to read as follows:

3 As used in this chapter, the following terms have the meanings
4 indicated unless the context clearly requires otherwise.

5 (1) "Council" means the pension funding council created in RCW
6 41.45.100.

7 (2) "Department" means the department of retirement systems.

8 (3) "Restated law enforcement officers' and fire fighters'
9 retirement system ((plan 1))" and "law enforcement officers' and fire
10 fighters' retirement system plan 2" mean the benefits and funding
11 provisions under chapter 41.26A and 41.26 RCW, respectively.

12 (4) "Public employees' retirement system plan 1" and "public
13 employees' retirement system plan 2" mean the benefits and funding
14 provisions under chapter 41.40 RCW.

15 (5) "Teachers' retirement system plan 1," "teachers' retirement
16 system plan 2," and "teachers' retirement system plan 3" mean the
17 benefits and funding provisions under chapter 41.32 RCW.

18 (6) "School employees' retirement system plan 2" and "school
19 employees' retirement system plan 3" mean the benefits and funding
20 provisions under chapter 41.35 RCW.

21 (7) "Washington state patrol retirement system" means the
22 retirement benefits provided under chapter 43.43 RCW.

23 (8) "Unfunded liability" means the unfunded actuarial accrued
24 liability of a retirement system.

25 (9) "Actuary" or "state actuary" means the state actuary employed
26 under chapter 44.44 RCW.

27 (10) "State retirement systems" means the retirement systems listed
28 in RCW 41.50.030.

29 (11) "Work group" means the pension funding work group created in
30 RCW 41.45.120.

31 (12) "Classified employee" means a member of the Washington school
32 employees' retirement system plan 2 or plan 3 as defined in RCW
33 41.35.010.

34 (13) "Teacher" means a member of the teachers' retirement system as
35 defined in RCW 41.32.010(15).

36 **Sec. 422.** RCW 41.45.020 and 2000 c 247 s 502 are each amended to
37 read as follows:

1 As used in this chapter, the following terms have the meanings
2 indicated unless the context clearly requires otherwise.

3 (1) "Council" means the pension funding council created in RCW
4 41.45.100.

5 (2) "Department" means the department of retirement systems.

6 (3) "Restated law enforcement officers' and fire fighters'
7 retirement system ((plan 1))" and "law enforcement officers' and fire
8 fighters' retirement system plan 2" mean the benefits and funding
9 provisions under chapter 41.26A and 41.26 RCW, respectively.

10 (4) "Public employees' retirement system plan 1," "public
11 employees' retirement system plan 2," and "public employees' retirement
12 system plan 3" mean the benefits and funding provisions under chapter
13 41.40 RCW.

14 (5) "Teachers' retirement system plan 1," "teachers' retirement
15 system plan 2," and "teachers' retirement system plan 3" mean the
16 benefits and funding provisions under chapter 41.32 RCW.

17 (6) "School employees' retirement system plan 2" and "school
18 employees' retirement system plan 3" mean the benefits and funding
19 provisions under chapter 41.35 RCW.

20 (7) "Washington state patrol retirement system" means the
21 retirement benefits provided under chapter 43.43 RCW.

22 (8) "Unfunded liability" means the unfunded actuarial accrued
23 liability of a retirement system.

24 (9) "Actuary" or "state actuary" means the state actuary employed
25 under chapter 44.44 RCW.

26 (10) "State retirement systems" means the retirement systems listed
27 in RCW 41.50.030.

28 (11) "Work group" means the pension funding work group created in
29 RCW 41.45.120.

30 (12) "Classified employee" means a member of the Washington school
31 employees' retirement system plan 2 or plan 3 as defined in RCW
32 41.35.010.

33 (13) "Teacher" means a member of the teachers' retirement system as
34 defined in RCW 41.32.010(15).

35 **Sec. 423.** RCW 41.45.050 and 1998 c 341 s 403 are each amended to
36 read as follows:

37 (1) Employers of members of the public employees' retirement
38 system, the teachers' retirement system, the school employees'

1 retirement system, and the Washington state patrol retirement system
2 shall make contributions to those systems based on the rates
3 established in RCW 41.45.060 and 41.45.070.

4 (2) The state shall make contributions to the law enforcement
5 officers' and fire fighters' retirement system plan 2 based on the
6 rates established in RCW 41.45.060 and 41.45.070. The state treasurer
7 shall transfer the required contributions each month on the basis of
8 salary data provided by the department. The state shall make
9 contributions pursuant to section 5 of this act to maintain the sound
10 actuarial status of the restated law enforcement officers' and fire
11 fighters' defined benefit retirement plan.

12 (3) The department shall bill employers, and the state shall make
13 contributions to the law enforcement officers' and fire fighters'
14 retirement system plan 2, using the combined rates established in RCW
15 41.45.060 and 41.45.070 regardless of the level of pension funding
16 provided in the biennial budget. Any member of an affected retirement
17 system may, by mandamus or other appropriate proceeding, require the
18 transfer and payment of funds as directed in this section.

19 (4) The contributions received for the public employees' retirement
20 system shall be allocated between the public employees' retirement
21 system plan 1 fund and public employees' retirement system plan 2 fund
22 as follows: The contributions necessary to fully fund the public
23 employees' retirement system plan 2 employer contribution required by
24 RCW 41.40.650 shall first be deposited in the public employees'
25 retirement system plan 2 fund. All remaining public employees'
26 retirement system employer contributions shall be deposited in the
27 public employees' retirement system plan 1 fund.

28 (5) The contributions received for the teachers' retirement system
29 shall be allocated between the plan 1 fund and the combined plan 2 and
30 plan 3 fund as follows: The contributions necessary to fully fund the
31 combined plan 2 and plan 3 employer contribution shall first be
32 deposited in the combined plan 2 and plan 3 fund. All remaining
33 teachers' retirement system employer contributions shall be deposited
34 in the plan 1 fund.

35 (6) The contributions received for the school employees' retirement
36 system shall be allocated between the public employees' retirement
37 system plan 1 fund and the school employees' retirement system combined
38 plan 2 and plan 3 fund as follows: The contributions necessary to
39 fully fund the combined plan 2 and plan 3 employer contribution shall

1 first be deposited in the combined plan 2 and plan 3 fund. All
2 remaining school employees' retirement system employer contributions
3 shall be deposited in the public employees' retirement system plan 1
4 fund.

5 (7) The contributions received under RCW 41.26.450 for the law
6 enforcement officers' and fire fighters' retirement system shall be
7 allocated (~~((between the law enforcement officers' and fire fighters'
8 retirement system plan 1 and))~~) to the law enforcement officers' and
9 fire fighters' retirement system plan 2 fund (~~((as follows:—The
10 contributions necessary to fully fund the law enforcement officers' and
11 fire fighters' retirement system plan 2 employer contributions shall be
12 first deposited in the law enforcement officers' and fire fighters'
13 retirement system plan 2 fund. All remaining law enforcement officers'
14 and fire fighters' retirement system employer contributions shall be
15 deposited in the law enforcement officers' and fire fighters'
16 retirement system plan 1 fund))~~)).

17 (8) The funding of the restated law enforcement officers' and fire
18 fighters' defined benefit retirement plan shall be provided pursuant to
19 section 5 of this act.

20 **Sec. 424.** RCW 41.45.050 and 2000 c 247 s 503 are each amended to
21 read as follows:

22 (1) Employers of members of the public employees' retirement
23 system, the teachers' retirement system, the school employees'
24 retirement system, and the Washington state patrol retirement system
25 shall make contributions to those systems based on the rates
26 established in RCW 41.45.060 and 41.45.070.

27 (2) The state shall make contributions to the law enforcement
28 officers' and fire fighters' retirement system plan 2 based on the
29 rates established in RCW 41.45.060 and 41.45.070. The state treasurer
30 shall transfer the required contributions each month on the basis of
31 salary data provided by the department. The state shall make
32 contributions pursuant to section 5 of this act to maintain the sound
33 actuarial status of the restated law enforcement officers' and fire
34 fighters' defined benefit retirement plan.

35 (3) The department shall bill employers, and the state shall make
36 contributions to the law enforcement officers' and fire fighters'
37 retirement system plan 2, using the combined rates established in RCW
38 41.45.060 and 41.45.070 regardless of the level of pension funding

1 provided in the biennial budget. Any member of an affected retirement
2 system may, by mandamus or other appropriate proceeding, require the
3 transfer and payment of funds as directed in this section.

4 (4) The contributions received for the public employees' retirement
5 system shall be allocated between the public employees' retirement
6 system plan 1 fund and the public employees' retirement system combined
7 plan 2 and plan 3 fund as follows: The contributions necessary to
8 fully fund the public employees' retirement system combined plan 2 and
9 plan 3 employer contribution shall first be deposited in the public
10 employees' retirement system combined plan 2 and plan 3 fund. All
11 remaining public employees' retirement system employer contributions
12 shall be deposited in the public employees' retirement system plan 1
13 fund.

14 (5) The contributions received for the teachers' retirement system
15 shall be allocated between the plan 1 fund and the combined plan 2 and
16 plan 3 fund as follows: The contributions necessary to fully fund the
17 combined plan 2 and plan 3 employer contribution shall first be
18 deposited in the combined plan 2 and plan 3 fund. All remaining
19 teachers' retirement system employer contributions shall be deposited
20 in the plan 1 fund.

21 (6) The contributions received for the school employees' retirement
22 system shall be allocated between the public employees' retirement
23 system plan 1 fund and the school employees' retirement system combined
24 plan 2 and plan 3 fund as follows: The contributions necessary to
25 fully fund the combined plan 2 and plan 3 employer contribution shall
26 first be deposited in the combined plan 2 and plan 3 fund. All
27 remaining school employees' retirement system employer contributions
28 shall be deposited in the public employees' retirement system plan 1
29 fund.

30 (7) The contributions received under RCW 41.45.060, 41.45.061, and
31 41.45.067 for the law enforcement officers' and fire fighters'
32 retirement system shall be allocated (~~((between the law enforcement
33 officers' and fire fighters' retirement system plan 1 and))~~) to the law
34 enforcement officers' and fire fighters' retirement system plan 2 fund
35 (~~((as follows:—The contributions necessary to fully fund the law
36 enforcement officers' and fire fighters' retirement system plan 2
37 employer contributions shall be first deposited in the law enforcement
38 officers' and fire fighters' retirement system plan 2 fund.—All
39 remaining law enforcement officers' and fire fighters' retirement~~

1 ~~system employer contributions shall be deposited in the law enforcement~~
2 ~~officers' and fire fighters' retirement system plan 1 fund)).~~

3 (8) The funding of the restated law enforcement officers' and fire
4 fighters' defined benefit retirement plan shall be provided pursuant to
5 section 5 of this act.

6 **Sec. 425.** RCW 41.45.060 and 2000 2nd sp.s. c 1 s 905 and 2000 c
7 247 s 504 are each reenacted and amended to read as follows:

8 (1) The state actuary shall provide actuarial valuation results
9 based on the assumptions adopted under RCW 41.45.030.

10 (2) Not later than September 30, 1998, and every two years
11 thereafter, consistent with the assumptions adopted under RCW
12 41.45.030, the council shall adopt and may make changes to:

13 (a) A basic state contribution rate for the law enforcement
14 officers' and fire fighters' retirement system plan 2;

15 (b) Basic employer contribution rates for the public employees'
16 retirement system, the teachers' retirement system, and the Washington
17 state patrol retirement system to be used in the ensuing biennial
18 period; and

19 (c) A basic employer contribution rate for the school employees'
20 retirement system for funding the public employees' retirement system
21 plan 1.

22 For the 1999-2001 fiscal biennium, the rates adopted by the council
23 shall be effective for the period designated in section 902, chapter 1,
24 Laws of 2000 2nd sp. sess. and RCW 41.45.0602.

25 (3) The employer and state contribution rates adopted by the
26 council shall be the level percentages of pay that are needed:

27 (a) To fully amortize the total costs of the public employees'
28 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
29 ~~law enforcement officers' and fire fighters' retirement system plan~~
30 ~~1-7)) and the unfunded liability of the Washington state patrol
31 retirement system not later than June 30, 2024, except as provided in
32 subsection (5) of this section;~~

33 (b) To also continue to fully fund the public employees' retirement
34 system plans 2 and 3, the teachers' retirement system plans 2 and 3,
35 the school employees' retirement system plans 2 and 3, and the law
36 enforcement officers' and fire fighters' retirement system plan 2 in
37 accordance with RCW 41.45.061, 41.45.067, and this section; and

1 (c) For the law enforcement officers' and fire fighters' system
2 plan 2, the rate charged to employers, except as provided in RCW
3 41.26.450, shall be thirty percent of the cost of the retirement system
4 and the rate charged to the state shall be twenty percent of the cost
5 of the retirement system.

6 (4) The aggregate actuarial cost method shall be used to calculate
7 a combined plan 2 and 3 employer contribution rate.

8 (5) An amount equal to the amount of extraordinary investment gains
9 as defined in RCW 41.31.020 shall be used to shorten the amortization
10 period for the public employees' retirement system plan 1 and the
11 teachers' retirement system plan 1.

12 (6) The council shall immediately notify the directors of the
13 office of financial management and department of retirement systems of
14 the state and employer contribution rates adopted.

15 (7) The director of the department of retirement systems shall
16 collect those rates adopted by the council.

17 **Sec. 426.** RCW 41.45.070 and 1998 c 340 s 10 and 1998 c 341 s 406
18 are each reenacted and amended to read as follows:

19 (1) In addition to the basic employer contribution rate established
20 in RCW 41.45.060, the department shall also charge employers of public
21 employees' retirement system, teachers' retirement system, school
22 employees' retirement system, or Washington state patrol retirement
23 system members an additional supplemental rate to pay for the cost of
24 additional benefits, if any, granted to members of those systems.
25 Except as provided in subsections (6) and (7) of this section, the
26 supplemental contribution rates required by this section shall be
27 calculated by the state actuary and shall be charged regardless of
28 language to the contrary contained in the statute which authorizes
29 additional benefits.

30 (2) In addition to the basic state contribution rate established in
31 RCW 41.45.060 for the law enforcement officers' and fire fighters'
32 retirement system plan 2 the department shall also establish a
33 supplemental rate to pay for the cost of additional benefits, if any,
34 granted to members of the law enforcement officers' and fire fighters'
35 retirement system plan 2. Except as provided in subsection (6) of this
36 section, this supplemental rate shall be calculated by the state
37 actuary and the state treasurer shall transfer the additional required

1 contributions regardless of language to the contrary contained in the
2 statute which authorizes the additional benefits.

3 (3) The supplemental rate charged under this section to fund
4 benefit increases provided to active members of the public employees'
5 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
6 ~~law enforcement officers' and fire fighters' retirement system plan~~
7 ~~17~~)) and Washington state patrol retirement system, shall be calculated
8 as the level percentage of all members' pay needed to fund the cost of
9 the benefit not later than June 30, 2024.

10 (4) The supplemental rate charged under this section to fund
11 benefit increases provided to active and retired members of the public
12 employees' retirement system plan 2, the teachers' retirement system
13 plan 2 and plan 3, the school employees' retirement system plan 2 and
14 plan 3, or the law enforcement officers' and fire fighters' retirement
15 system plan 2, shall be calculated as the level percentage of all
16 members' pay needed to fund the cost of the benefit, as calculated
17 under RCW 41.40.650 or 41.26.450, respectively.

18 (5) The supplemental rate charged under this section to fund
19 postretirement adjustments which are provided on a nonautomatic basis
20 to current retirees shall be calculated as the percentage of pay needed
21 to fund the adjustments as they are paid to the retirees. The
22 supplemental rate charged under this section to fund automatic
23 postretirement adjustments for active or retired members of the public
24 employees' retirement system plan 1 and the teachers' retirement system
25 plan 1 shall be calculated as the level percentage of pay needed to
26 fund the cost of the automatic adjustments not later than June 30,
27 2024.

28 (6) A supplemental rate shall not be charged to pay for the cost of
29 additional benefits granted to members pursuant to chapter 340, Laws of
30 1998.

31 (7) A supplemental rate shall not be charged to pay for the cost of
32 additional benefits granted to members pursuant to chapter 41.31A RCW;
33 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,
34 Laws of 1998.

35 **Sec. 427.** RCW 41.45.070 and 2000 c 247 s 505 are each amended to
36 read as follows:

37 (1) In addition to the basic employer contribution rate established
38 in RCW 41.45.060, the department shall also charge employers of public

1 employees' retirement system, teachers' retirement system, school
2 employees' retirement system, or Washington state patrol retirement
3 system members an additional supplemental rate to pay for the cost of
4 additional benefits, if any, granted to members of those systems.
5 Except as provided in subsections (6) and (7) of this section, the
6 supplemental contribution rates required by this section shall be
7 calculated by the state actuary and shall be charged regardless of
8 language to the contrary contained in the statute which authorizes
9 additional benefits.

10 (2) In addition to the basic state contribution rate established in
11 RCW 41.45.060 for the law enforcement officers' and fire fighters'
12 retirement system plan 2 the department shall also establish a
13 supplemental rate to pay for the cost of additional benefits, if any,
14 granted to members of the law enforcement officers' and fire fighters'
15 retirement system plan 2. Except as provided in subsection (6) of this
16 section, this supplemental rate shall be calculated by the state
17 actuary and the state treasurer shall transfer the additional required
18 contributions regardless of language to the contrary contained in the
19 statute which authorizes the additional benefits.

20 (3) The supplemental rate charged under this section to fund
21 benefit increases provided to active members of the public employees'
22 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
23 ~~law enforcement officers' and fire fighters' retirement system plan~~
24 ~~1,7~~)) and Washington state patrol retirement system, shall be calculated
25 as the level percentage of all members' pay needed to fund the cost of
26 the benefit not later than June 30, 2024.

27 (4) The supplemental rate charged under this section to fund
28 benefit increases provided to active and retired members of the public
29 employees' retirement system plan 2 and plan 3, the teachers'
30 retirement system plan 2 and plan 3, the school employees' retirement
31 system plan 2 and plan 3, or the law enforcement officers' and fire
32 fighters' retirement system plan 2, shall be calculated as the level
33 percentage of all members' pay needed to fund the cost of the benefit,
34 as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

35 (5) The supplemental rate charged under this section to fund
36 postretirement adjustments which are provided on a nonautomatic basis
37 to current retirees shall be calculated as the percentage of pay needed
38 to fund the adjustments as they are paid to the retirees. The
39 supplemental rate charged under this section to fund automatic

1 postretirement adjustments for active or retired members of the public
2 employees' retirement system plan 1 and the teachers' retirement system
3 plan 1 shall be calculated as the level percentage of pay needed to
4 fund the cost of the automatic adjustments not later than June 30,
5 2024.

6 (6) A supplemental rate shall not be charged to pay for the cost of
7 additional benefits granted to members pursuant to chapter 340, Laws of
8 1998.

9 (7) A supplemental rate shall not be charged to pay for the cost of
10 additional benefits granted to members pursuant to chapter 41.31A RCW;
11 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,
12 Laws of 1998.

13 **Sec. 428.** RCW 41.48.030 and 1971 ex.s. c 257 s 19 are each amended
14 to read as follows:

15 (1) The governor is hereby authorized to enter on behalf of the
16 state into an agreement with the secretary of health, education, and
17 welfare consistent with the terms and provisions of this chapter, for
18 the purpose of extending the benefits of the federal old-age and
19 survivors insurance system to employees of the state or any political
20 subdivision not members of an existing retirement system, or to members
21 of a retirement system established by the state or by a political
22 subdivision thereof or by an institution of higher learning with
23 respect to services specified in such agreement which constitute
24 "employment" as defined in RCW 41.48.020. Such agreement may contain
25 such provisions relating to coverage, benefits, contributions,
26 effective date, modification and termination of the agreement,
27 administration, and other appropriate provisions as the governor and
28 secretary of health, education, and welfare shall agree upon, but,
29 except as may be otherwise required by or under the social security act
30 as to the services to be covered, such agreement shall provide in
31 effect that--

32 (a) Benefits will be provided for employees whose services are
33 covered by the agreement (and their dependents and survivors) on the
34 same basis as though such services constituted employment within the
35 meaning of title II of the social security act;

36 (b) The state will pay to the secretary of the treasury, at such
37 time or times as may be prescribed under the social security act,
38 contributions with respect to wages (as defined in RCW 41.48.020),

1 equal to the sum of the taxes which would be imposed by the federal
2 insurance contributions act if the services covered by the agreement
3 constituted employment within the meaning of that act;

4 (c) Such agreement shall be effective with respect to services in
5 employment covered by the agreement or modification thereof performed
6 after a date specified therein but in no event may it be effective with
7 respect to any such services performed prior to the first day of the
8 calendar year immediately preceding the calendar year in which such
9 agreement or modification of the agreement is accepted by the secretary
10 of health, education and welfare.

11 (d) All services which constitute employment as defined in RCW
12 41.48.020 and are performed in the employ of the state by employees of
13 the state, shall be covered by the agreement;

14 (e) All services which (i) constitute employment as defined in RCW
15 41.48.020, (ii) are performed in the employ of a political subdivision
16 of the state, and (iii) are covered by a plan which is in conformity
17 with the terms of the agreement and has been approved by the governor
18 under RCW 41.48.050, shall be covered by the agreement; and

19 (f) As modified, the agreement shall include all services described
20 in either paragraph (d) or paragraph (e) of this subsection and
21 performed by individuals to whom section 218(c)(3)(C) of the social
22 security act is applicable, and shall provide that the service of any
23 such individual shall continue to be covered by the agreement in case
24 he thereafter becomes eligible to be a member of a retirement system;
25 and

26 (g) As modified, the agreement shall include all services described
27 in either paragraph (d) or paragraph (e) of this subsection and
28 performed by individuals in positions covered by a retirement system
29 with respect to which the governor has issued a certificate to the
30 secretary of health, education, and welfare pursuant to subsection (5)
31 of this section.

32 (h) Law enforcement officers and firemen of each political
33 subdivision of this state who are covered by the Washington law
34 enforcement officers' and fire fighters' retirement systems (~~(Act~~
35 ~~chapter 209, Laws of 1969 ex. sess.)~~) under chapters 41.26 and 41.26A
36 RCW as now in existence or hereafter amended shall constitute a
37 separate "coverage group" for purposes of the agreement entered into
38 under this section and for purposes of section 218 of the social
39 security act. To the extent that the agreement between this state and

1 the federal secretary of health, education, and welfare in existence on
2 the date of adoption of this subsection is inconsistent with this
3 subsection, the governor shall seek to modify the inconsistency.

4 (2) Any instrumentality jointly created by this state and any other
5 state or states is hereby authorized, upon the granting of like
6 authority by such other state or states, (a) to enter into an agreement
7 with the secretary of health, education, and welfare whereby the
8 benefits of the federal old-age and survivors insurance system shall be
9 extended to employees of such instrumentality, (b) to require its
10 employees to pay (and for that purpose to deduct from their wages)
11 contributions equal to the amounts which they would be required to pay
12 under RCW 41.48.040(1) if they were covered by an agreement made
13 pursuant to subsection (1) of this section, and (c) to make payments to
14 the secretary of the treasury in accordance with such agreement,
15 including payments from its own funds, and otherwise to comply with
16 such agreements. Such agreement shall, to the extent practicable, be
17 consistent with the terms and provisions of subsection (1) and other
18 provisions of this chapter.

19 (3) The governor is empowered to authorize a referendum, and to
20 designate an agency or individual to supervise its conduct, in
21 accordance with the requirements of section 218(d)(3) of the social
22 security act, and subsection (4) of this section on the question of
23 whether service in all positions covered by a retirement system
24 established by the state or by a political subdivision thereof should
25 be excluded from or included under an agreement under this chapter. If
26 a retirement system covers positions of employees of the state of
27 Washington, of the institutions of higher learning, and positions of
28 employees of one or more of the political subdivisions of the state,
29 then for the purpose of the referendum as provided herein, there may be
30 deemed to be a separate retirement system with respect to employees of
31 the state, or any one or more of the political subdivisions, or
32 institutions of higher learning and the governor shall authorize a
33 referendum upon request of the subdivisions' or institutions' of higher
34 learning governing body: PROVIDED HOWEVER, That if a referendum of
35 state employees generally fails to produce a favorable majority vote
36 then the governor may authorize a referendum covering positions of
37 employees in any state department who are compensated in whole or in
38 part from grants made to this state under title III of the federal
39 social security act: PROVIDED, That any city or town affiliated with

1 the statewide city employees retirement system organized under chapter
2 41.44 RCW may at its option agree to a plan submitted by the board of
3 trustees of said statewide city employees retirement system for
4 inclusion under an agreement under this chapter if the referendum to be
5 held as provided herein indicates a favorable result: PROVIDED
6 FURTHER, That the teachers' retirement system be considered one system
7 for the purpose of the referendum except as applied to the several
8 colleges of education. The notice of referendum required by section
9 218(d)(3)(C) of the social security act to be given to employees shall
10 contain or shall be accompanied by a statement, in such form and such
11 detail as the agency or individual designated to supervise the
12 referendum shall deem necessary and sufficient, to inform the employees
13 of the rights which will accrue to them and their dependents and
14 survivors, and the liabilities to which they will be subject, if their
15 services are included under an agreement under this chapter.

16 (4) The governor, before authorizing a referendum, shall require
17 the following conditions to be met:

18 (a) The referendum shall be by secret written ballot on the
19 question of whether service in positions covered by such retirement
20 system shall be excluded from or included under the agreement between
21 the governor and the secretary of health, education, and welfare
22 provided for in RCW 41.48.030(1);

23 (b) An opportunity to vote in such referendum shall be given and
24 shall be limited to eligible employees;

25 (c) Not less than ninety days' notice of such referendum shall be
26 given to all such employees;

27 (d) Such referendum shall be conducted under the supervision (of
28 the governor or) of an agency or individual designated by the governor;

29 (e) The proposal for coverage shall be approved only if a majority
30 of the eligible employees vote in favor of including services in such
31 positions under the agreement;

32 (f) The state legislature, in the case of a referendum affecting
33 the rights and liabilities of state employees covered under the state
34 employees' retirement system and employees under the teachers'
35 retirement system, and in all other cases the local legislative
36 authority or governing body, shall have specifically approved the
37 proposed plan and approved any necessary structural adjustment to the
38 existing system to conform with the proposed plan.

1 (5) Upon receiving satisfactory evidence that with respect to any
2 such referendum the conditions specified in subsection (4) of this
3 section and section 218(d)(3) of the social security act have been met,
4 the governor shall so certify to the secretary of health, education,
5 and welfare.

6 (6) If the legislative body of any political subdivision of this
7 state certifies to the governor that a referendum has been held under
8 the terms of RCW 41.48.050(1)(i) and gives notice to the governor of
9 termination of social security for any coverage group of the political
10 subdivision, the governor shall give two years advance notice in
11 writing to the federal department of health, education, and welfare of
12 such termination of the agreement entered into under this section with
13 respect to said coverage group.

14 **Sec. 429.** RCW 41.48.050 and 1981 c 119 s 1 are each amended to
15 read as follows:

16 (1) Each political subdivision of the state is hereby authorized to
17 submit for approval by the governor a plan for extending the benefits
18 of title II of the social security act, in conformity with the
19 applicable provisions of such act, to those employees of such political
20 subdivisions who are not covered by an existing pension or retirement
21 system. Each pension or retirement system established by the state or
22 a political subdivision thereof is hereby authorized to submit for
23 approval by the governor a plan for extending the benefits of title II
24 of the social security act, in conformity with applicable provisions of
25 such act, to members of such pension or retirement system. Each such
26 plan and any amendment thereof shall be approved by the governor if he
27 finds that such plan, or such plan as amended, is in conformity with
28 such requirements as are provided in regulations of the governor,
29 except that no such plan shall be approved unless--

30 (a) It is in conformity with the requirements of the social
31 security act and with the agreement entered into under RCW 41.48.030;

32 (b) It provides that all services which constitute employment as
33 defined in RCW 41.48.020 and are performed in the employ of the
34 political subdivision by employees thereof, shall be covered by the
35 plan;

36 (c) It specifies the source or sources from which the funds
37 necessary to make the payments required by paragraph (a) of subsection
38 (3) and by subsection (4) of this section are expected to be derived

1 and contains reasonable assurance that such sources will be adequate
2 for such purposes;

3 (d) It provides that in the plan of coverage for members of the
4 state teachers' retirement system or for state employee members of the
5 state employees' retirement system, there shall be no additional cost
6 to or involvement of the state until such plan has received prior
7 approval by the legislature;

8 (e) It provides for such methods of administration of the plan by
9 the political subdivision as are found by the governor to be necessary
10 for the proper and efficient administration of the plan;

11 (f) It provides that the political subdivision will make such
12 reports, in such form and containing such information, as the governor
13 may from time to time require and comply with such provisions as the
14 governor or the secretary of health, education, and welfare may from
15 time to time find necessary to assure the correctness and verification
16 of such reports; and

17 (g) It authorizes the governor to terminate the plan in its
18 entirety, in his discretion, if he finds that there has been a failure
19 to comply substantially with any provision contained in such plan, such
20 termination to take effect at the expiration of such notice and on such
21 conditions as may be provided by regulations of the governor and may be
22 consistent with the provisions of the social security act.

23 (h) It provides that law enforcement officers and fire fighters of
24 each political subdivision of this state who are covered by the
25 Washington law enforcement officers' and fire fighters' retirement
26 systems (~~(Act (chapter 209, Laws of 1969 ex. sess.))~~) under chapters
27 41.26 and 41.26A RCW as now in existence or hereafter amended shall
28 constitute a separate "coverage group" for purposes of the plan or
29 agreement entered into under this section and for purposes of section
30 216 of the social security act. To the extent that the plan or
31 agreement entered into between the state and any political subdivision
32 of this state is inconsistent with this subsection, the governor shall
33 seek to modify the inconsistency.

34 (i) It provides that the plan or agreement may be terminated by any
35 political subdivision as to any such coverage group upon giving at
36 least two years advance notice in writing to the governor, effective at
37 the end of the calendar quarter specified in the notice. It shall
38 specify that before notice of such termination is given, a referendum

1 shall be held among the members of the coverage group under the
2 following conditions:

3 (i) The referendum shall be conducted under the supervision of the
4 legislative body of the political subdivision.

5 (ii) Not less than sixty days' notice of such referendum shall be
6 given to members of the coverage group.

7 (iii) An opportunity to vote by secret ballot in such referendum
8 shall be given and shall be limited to all members of the coverage
9 group.

10 (iv) The proposal for termination shall be approved only if a
11 majority of the coverage group vote in favor of termination.

12 (v) If a majority of the coverage group vote in favor of
13 termination, the legislative body of the political subdivision shall
14 certify the results of the referendum to the governor and give notice
15 of termination of such coverage group.

16 (2) The governor shall not finally refuse to approve a plan
17 submitted by a political subdivision under subsection (1), and shall
18 not terminate an approved plan, without reasonable notice and
19 opportunity for hearing to the political subdivision affected thereby.

20 (3)(a) Each political subdivision as to which a plan has been
21 approved under this section shall pay into the contribution ((fund))
22 account, with respect to wages (as defined in RCW 41.48.020), at such
23 time or times as the governor may by regulation prescribe,
24 contributions in the amounts and at the rates specified in the
25 applicable agreement entered into by the governor under RCW 41.48.030.

26 (b) Each political subdivision required to make payments under
27 paragraph (a) of this subsection is authorized, in consideration of the
28 employee's retention in, or entry upon, employment after enactment of
29 this chapter, to impose upon each of its employees, as to services
30 which are covered by an approved plan, a contribution with respect to
31 his wages (as defined in RCW 41.48.020), not exceeding the amount of
32 employee tax which is imposed by the federal insurance contributions
33 act, and to deduct the amount of such contribution from his wages as
34 and when paid. Contributions so collected shall be paid into the OASI
35 contribution ((fund)) account in partial discharge of the liability of
36 such political subdivision or instrumentality under paragraph (a) of
37 this subsection. Failure to deduct such contribution shall not relieve
38 the employee or employer of liability therefor.

1 (4) Delinquent reports and payments due under paragraph (f) of
2 subsection (1) and paragraph (a) of subsection (3) of this section will
3 be subject to an added interest charge of six percent per year or, if
4 higher, the rate chargeable to the state by the secretary by virtue of
5 federal law, if the late report or payment contributes to any federal
6 penalty for late filing of reports or for late deposit of
7 contributions. Delinquent contributions, interest and penalties may be
8 recovered by civil action or may, at the request of the governor, be
9 deducted from any other moneys payable to the political subdivision by
10 any department or agency of the state.

11 **Sec. 430.** RCW 41.50.030 and 1998 c 341 s 501 are each amended to
12 read as follows:

13 (1) As soon as possible but not more than one hundred and eighty
14 days after March 19, 1976, there is transferred to the department of
15 retirement systems, except as otherwise provided in this chapter, all
16 powers, duties, and functions of:

17 (a) The Washington public employees' retirement system;

18 (b) The Washington state teachers' retirement system;

19 (c) The Washington law enforcement officers' and fire fighters'
20 retirement system;

21 (d) The Washington state patrol retirement system;

22 (e) The Washington judicial retirement system; and

23 (f) The state treasurer with respect to the administration of the
24 judges' retirement fund imposed pursuant to chapter 2.12 RCW.

25 (2) On July 1, 1996, there is transferred to the department all
26 powers, duties, and functions of the deferred compensation committee.

27 (3) The department shall administer chapter 41.34 RCW.

28 (4) The department shall administer the Washington school
29 employees' retirement system created under chapter 41.35 RCW.

30 (5) The department shall administer the restated law enforcement
31 officers' and fire fighters' retirement system under chapter 41.26A
32 RCW.

33 **Sec. 431.** RCW 41.50.055 and 1991 c 35 s 16 are each amended to
34 read as follows:

35 The administration of the Washington law enforcement officers' and
36 fire fighters' retirement systems ~~((is))~~ under chapters 41.26 and

1 41.26A RCW are hereby vested in the director of retirement systems, and
2 the director shall:

3 (1) Keep in convenient form such data as shall be deemed necessary
4 for actuarial evaluation purposes;

5 (2) As of March 1, 1970, and at least every two years thereafter,
6 through the state actuary, make an actuarial valuation as to the
7 mortality and service experience of the beneficiaries under this
8 chapter and the various accounts created for the purpose of showing the
9 financial status of the retirement fund;

10 (3) Adopt for the Washington law enforcement officers' and fire
11 fighters' retirement systems the mortality tables and such other tables
12 as shall be deemed necessary;

13 (4) Keep a record of all its proceedings, which shall be open to
14 inspection by the public;

15 (5) From time to time adopt such rules and regulations not
16 inconsistent with chapters 41.26 and 41.26A RCW, for the administration
17 of the provisions of this chapter, for the administration of the funds
18 created by this chapter and chapter 41.26A RCW and the several accounts
19 thereof, and for the transaction of the business of the system;

20 (6) Prepare and publish annually a financial statement showing the
21 condition of the Washington law enforcement officers' and fire
22 fighters' funds and the various accounts thereof, and setting forth
23 such other facts, recommendations and data as may be of use in the
24 advancement of knowledge concerning the Washington law enforcement
25 officers' and fire fighters' retirement systems, and furnish a copy
26 thereof to each employer, and to such members as may request copies
27 thereof;

28 (7) Perform such other functions as are required for the execution
29 of the provisions of chapters 41.26 and 41.26A RCW;

30 (8) Fix the amount of interest to be credited at a rate which shall
31 be based upon the net annual earnings of the Washington law enforcement
32 officers' and fire fighters' funds for the preceding twelve-month
33 period and from time to time make any necessary changes in such rate;

34 (9) Pay from the department of retirement systems expense fund the
35 expenses incurred in administration of the Washington law enforcement
36 officers' and fire fighters' retirement systems from those funds
37 appropriated for that purpose;

38 (10) Perform any other duties prescribed elsewhere in chapter 41.26
39 or 41.26A RCW;

1 (11) Issue decisions relating to appeals initiated pursuant to RCW
2 41.16.145 and 41.18.104 as now or hereafter amended and shall be
3 authorized to order increased benefits pursuant to RCW 41.16.145 and
4 41.18.104 as now or hereafter amended.

5 **Sec. 432.** RCW 41.50.075 and 1998 c 341 s 503 are each amended to
6 read as follows:

7 (1) ~~((Two funds are))~~ A fund is hereby created and established in
8 the state treasury to be known as ~~((the Washington law enforcement
9 officers' and fire fighters' system plan 1 retirement fund, and))~~ the
10 Washington law enforcement officers' and fire fighters' system plan 2
11 retirement fund which shall consist of all moneys paid into ~~((them))~~
12 the fund in accordance with the provisions of this chapter and chapter
13 41.26 RCW, whether such moneys take the form of cash, securities, or
14 other assets. The ~~((plan 1 fund shall consist of all moneys paid to
15 finance the benefits provided to members of the law enforcement
16 officers' and fire fighters' retirement system plan 1, and the))~~ plan
17 2 fund shall consist of all moneys paid to finance the benefits
18 provided to members of the law enforcement officers' and fire fighters'
19 retirement system plan 2.

20 (2) All of the assets of the Washington state teachers' retirement
21 system shall be credited according to the purposes for which they are
22 held, to two funds to be maintained in the state treasury, namely, the
23 teachers' retirement system plan 1 fund and the teachers' retirement
24 system combined plan 2 and 3 fund. The plan 1 fund shall consist of
25 all moneys paid to finance the benefits provided to members of the
26 Washington state teachers' retirement system plan 1, and the combined
27 plan 2 and 3 fund shall consist of all moneys paid to finance the
28 benefits provided to members of the Washington state teachers'
29 retirement system plan 2 and 3.

30 (3) There is hereby established in the state treasury two separate
31 funds, namely the public employees' retirement system plan 1 fund and
32 the public employees' retirement system plan 2 fund. The plan 1 fund
33 shall consist of all moneys paid to finance the benefits provided to
34 members of the public employees' retirement system plan 1, and the plan
35 2 fund shall consist of all moneys paid to finance the benefits
36 provided to members of the public employees' retirement system plan 2.

37 (4) There is hereby established in the state treasury the school
38 employees' retirement system combined plan 2 and 3 fund. The combined

1 plan 2 and 3 fund shall consist of all moneys paid to finance the
2 benefits provided to members of the school employees' retirement system
3 plan 2 and plan 3.

4 **Sec. 433.** RCW 41.50.075 and 2000 c 247 s 601 are each amended to
5 read as follows:

6 (1) ~~((Two funds are))~~ A fund is hereby created and established in
7 the state treasury to be known as ~~((the Washington law enforcement
8 officers' and fire fighters' system plan 1 retirement fund, and))~~ the
9 Washington law enforcement officers' and fire fighters' system plan 2
10 retirement fund which shall consist of all moneys paid into ~~((them))~~
11 the fund in accordance with the provisions of this chapter and chapter
12 41.26 RCW, whether such moneys take the form of cash, securities, or
13 other assets. The ~~((plan 1 fund shall consist of all moneys paid to
14 finance the benefits provided to members of the law enforcement
15 officers' and fire fighters' retirement system plan 1, and the))~~ plan
16 2 fund shall consist of all moneys paid to finance the benefits
17 provided to members of the law enforcement officers' and fire fighters'
18 retirement system plan 2.

19 (2) All of the assets of the Washington state teachers' retirement
20 system shall be credited according to the purposes for which they are
21 held, to two funds to be maintained in the state treasury, namely, the
22 teachers' retirement system plan 1 fund and the teachers' retirement
23 system combined plan 2 and 3 fund. The plan 1 fund shall consist of
24 all moneys paid to finance the benefits provided to members of the
25 Washington state teachers' retirement system plan 1, and the combined
26 plan 2 and 3 fund shall consist of all moneys paid to finance the
27 benefits provided to members of the Washington state teachers'
28 retirement system plan 2 and 3.

29 (3) There is hereby established in the state treasury two separate
30 funds, namely the public employees' retirement system plan 1 fund and
31 the public employees' retirement system combined plan 2 and plan 3
32 fund. The plan 1 fund shall consist of all moneys paid to finance the
33 benefits provided to members of the public employees' retirement system
34 plan 1, and the combined plan 2 and plan 3 fund shall consist of all
35 moneys paid to finance the benefits provided to members of the public
36 employees' retirement system plans 2 and 3.

37 (4) There is hereby established in the state treasury the school
38 employees' retirement system combined plan 2 and 3 fund. The combined

1 plan 2 and 3 fund shall consist of all moneys paid to finance the
2 benefits provided to members of the school employees' retirement system
3 plan 2 and plan 3.

4 (5) The department shall administer the funds established under the
5 restated law enforcement officers' and fire fighters' retirement system
6 under chapter 41.26A RCW, including:

7 (a) The restated law enforcement officers' and fire fighters'
8 defined benefit retirement fund;

9 (b) The restated law enforcement officers' and fire fighters'
10 defined contribution plan fund; and

11 (c) The state surplus assets reserve fund.

12 **Sec. 434.** RCW 41.50.080 and 1998 c 341 s 504 are each amended to
13 read as follows:

14 The state investment board shall provide for the investment of all
15 funds of the Washington public employees' retirement system, the
16 teachers' retirement system, the school employees' retirement system,
17 the Washington law enforcement officers' and fire fighters' retirement
18 systems under chapters 41.26 and 41.26A RCW, the Washington state
19 patrol retirement system, the Washington judicial retirement system,
20 and the judges' retirement fund, pursuant to RCW 43.84.150, and may
21 sell or exchange investments acquired in the exercise of that
22 authority.

23 **Sec. 435.** RCW 41.50.090 and 1985 c 102 s 6 are each amended to
24 read as follows:

25 (1) Except as otherwise provided in this section, on the effective
26 date of transfer as provided in RCW 41.50.030, the department shall
27 succeed to and is vested with all powers, duties, and functions now or
28 by any concurrent act of this 1976 legislature vested in the individual
29 retirement boards set forth in RCW 41.50.030 relating to the
30 administration of their various retirement systems, including but not
31 limited to the power to appoint a staff and define the duties thereof:
32 PROVIDED, That actuarial services required by the department shall be
33 performed by the state actuary as provided in RCW 44.44.040.

34 (2) The department shall keep each retirement board fully informed
35 on the administration of the corresponding retirement system, and shall
36 furnish any information requested by a retirement board.

1 (3) Rules proposed by the director under RCW 2.10.070, 41.50.055,
2 41.32.025, or 41.40.020 shall be submitted to the appropriate
3 retirement boards for review prior to adoption. After receiving
4 approval of the members of the appropriate board, such rules shall
5 become effective as provided by the administrative procedure act,
6 chapter 34.05 RCW.

7 (4) Each retirement board shall continue to perform all functions
8 as are vested in it by law with respect to applications for benefits
9 paid upon either temporary or permanent disability, with such staff
10 assistance from the department as may be required. The director shall
11 perform those functions with respect to disability benefits as are
12 vested in him or her by ((RCW ~~41.26.120, 41.26.125, and 41.26.200~~))
13 chapter 41.26A RCW.

14 **Sec. 436.** RCW 41.50.110 and 1998 c 341 s 508 are each amended to
15 read as follows:

16 (1) Except as provided by RCW 41.50.255 and subsection (6) of this
17 section, all expenses of the administration of the department and the
18 expenses of administration of the retirement systems created in
19 chapters 2.10, 2.12, 41.26, 41.26A, 41.32, 41.40, 41.34, 41.35, and
20 43.43 RCW shall be paid from the department of retirement systems
21 expense fund.

22 (2) In order to reimburse the department of retirement systems
23 expense fund on an equitable basis the department shall ascertain and
24 report to each employer, as defined in RCW 41.26.030, section 202 of
25 this act, 41.32.010, 41.35.010, or 41.40.010, the sum necessary to
26 defray its proportional share of the entire expense of the
27 administration of the retirement system that the employer participates
28 in during the ensuing biennium or fiscal year whichever may be
29 required. Such sum is to be computed in an amount directly
30 proportional to the estimated entire expense of the administration as
31 the ratio of monthly salaries of the employer's members bears to the
32 total salaries of all members in the entire system. It shall then be
33 the duty of all such employers to include in their budgets or otherwise
34 provide the amounts so required.

35 (3) The department shall compute and bill each employer, as defined
36 in RCW 41.26.030, section 202 of this act, 41.32.010, 41.35.010, or
37 41.40.010, at the end of each month for the amount due for that month
38 to the department of retirement systems expense fund and the same shall

1 be paid as are its other obligations. Such computation as to each
2 employer shall be made on a percentage rate of salary established by
3 the department. However, the department may at its discretion
4 establish a system of billing based upon calendar year quarters in
5 which event the said billing shall be at the end of each such quarter.

6 (4) The director may adjust the expense fund contribution rate for
7 each system at any time when necessary to reflect unanticipated costs
8 or savings in administering the department.

9 (5) An employer who fails to submit timely and accurate reports to
10 the department may be assessed an additional fee related to the
11 increased costs incurred by the department in processing the deficient
12 reports. Fees paid under this subsection shall be deposited in the
13 retirement system expense fund.

14 (a) Every six months the department shall determine the amount of
15 an employer's fee by reviewing the timeliness and accuracy of the
16 reports submitted by the employer in the preceding six months. If
17 those reports were not both timely and accurate the department may
18 prospectively assess an additional fee under this subsection.

19 (b) An additional fee assessed by the department under this
20 subsection shall not exceed fifty percent of the standard fee.

21 (c) The department shall adopt rules implementing this section.

22 (6) Expenses other than those under RCW 41.34.060(~~(+2)~~) (3) shall
23 be paid pursuant to subsection (1) of this section.

24 **Sec. 437.** RCW 41.50.112 and 2000 c 247 s 1107 are each amended to
25 read as follows:

26 Employers, as defined in RCW 41.26.030, section 202 of this act,
27 41.32.010, 41.34.020, 41.35.010, and 41.40.010, must report all member
28 data to the department in a format designed and communicated by the
29 department. Employers failing to comply with this reporting
30 requirement shall be assessed an additional fee as defined under RCW
31 41.50.110(5).

32 **Sec. 438.** RCW 41.50.150 and 1998 c 341 s 509 are each amended to
33 read as follows:

34 (1) The employer of any employee whose retirement benefits are
35 based in part on excess compensation, as defined in this section,
36 shall, upon receipt of a billing from the department, pay into the
37 appropriate retirement system the present value at the time of the

1 employee's retirement of the total estimated cost of all present and
2 future benefits from the retirement system attributable to the excess
3 compensation. The state actuary shall determine the estimated cost
4 using the same method and procedure as is used in preparing fiscal note
5 costs for the legislature. However, the director may in the director's
6 discretion decline to bill the employer if the amount due is less than
7 fifty dollars. Accounts unsettled within thirty days of the receipt of
8 the billing shall be assessed an interest penalty of one percent of the
9 amount due for each month or fraction thereof beyond the original
10 thirty-day period.

11 (2) "Excess compensation," as used in this section, includes the
12 following payments, if used in the calculation of the employee's
13 retirement allowance:

14 (a) A cash out of unused annual leave in excess of two hundred
15 forty hours of such leave. "Cash out" for purposes of this subsection
16 means:

17 (i) Any payment in lieu of an accrual of annual leave; or

18 (ii) Any payment added to salary or wages, concurrent with a
19 reduction of annual leave;

20 (b) A cash out of any other form of leave;

21 (c) A payment for, or in lieu of, any personal expense or
22 transportation allowance to the extent that payment qualifies as
23 reportable compensation in the member's retirement system;

24 (d) The portion of any payment, including overtime payments, that
25 exceeds twice the regular daily or hourly rate of pay; and

26 (e) Any termination or severance payment.

27 (3) This section applies to the retirement systems listed in RCW
28 41.50.030 and to retirements occurring on or after March 15, 1984.
29 Nothing in this section is intended to amend or determine the meaning
30 of any definition in chapter 2.10, 2.12, 41.26, 41.26A, 41.32, 41.40,
31 41.35, or 43.43 RCW or to determine in any manner what payments are
32 includable in the calculation of a retirement allowance under such
33 chapters.

34 (4) An employer is not relieved of liability under this section
35 because of the death of any person either before or after the billing
36 from the department.

37 **Sec. 439.** RCW 41.50.255 and 1998 c 341 s 511 are each amended to
38 read as follows:

1 The director is authorized to pay from the interest earnings of the
2 trust funds of the public employees' retirement system, the teachers'
3 retirement system, the Washington state patrol retirement system, the
4 Washington judicial retirement system, the judges' retirement system,
5 the school district employees' retirement system, or the law
6 enforcement officers' and fire fighters' retirement systems under
7 chapter 41.26 and 41.26A RCW lawful obligations of the appropriate
8 system for legal expenses and medical expenses which expenses are
9 primarily incurred for the purpose of protecting the appropriate trust
10 fund or are incurred in compliance with statutes governing such funds.

11 The term "legal expense" includes, but is not limited to, legal
12 services provided through the legal services revolving fund, fees for
13 expert witnesses, travel expenses, fees for court reporters, cost of
14 transcript preparation, and reproduction of documents.

15 The term "medical costs" includes, but is not limited to, expenses
16 for the medical examination or reexamination of members or retirees,
17 the costs of preparation of medical reports, and fees charged by
18 medical professionals for attendance at discovery proceedings or
19 hearings.

20 The director may also pay from the interest earnings of the trust
21 funds specified in this section costs incurred in investigating fraud
22 and collecting overpayments, including expenses incurred to review and
23 investigate cases of possible fraud against the trust funds and
24 collection agency fees and other costs incurred in recovering
25 overpayments. Recovered funds must be returned to the appropriate
26 trust funds.

27 **Sec. 440.** RCW 41.50.500 and 1998 c 341 s 512 are each amended to
28 read as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout RCW 41.50.500 through 41.50.650,
31 41.50.670 through 41.50.720, and 26.09.138.

32 (1) "Benefits" means periodic retirement payments or a withdrawal
33 of accumulated contributions.

34 (2) "Disposable benefits" means that part of the benefits of an
35 individual remaining after the deduction from those benefits of any
36 amount required by law to be withheld. The term "required by law to be
37 withheld" does not include any deduction elective to the member.

1 (3) "Dissolution order" means any judgment, decree, or order of
2 spousal maintenance, property division, or court-approved property
3 settlement incident to a decree of divorce, dissolution, invalidity, or
4 legal separation issued by the superior court of the state of
5 Washington or a judgment, decree, or other order of spousal support
6 issued by a court of competent jurisdiction in another state or
7 country, that has been registered or otherwise made enforceable in this
8 state.

9 (4) "Mandatory benefits assignment order" means an order issued to
10 the department of retirement systems pursuant to RCW 41.50.570 to
11 withhold and deliver benefits payable to an obligor under chapter 2.10,
12 2.12, 41.26, 41.26A, 41.32, 41.40, 41.35, or 43.43 RCW.

13 (5) "Obligee" means an ex spouse or spouse to whom a duty of
14 spousal maintenance or property division obligation is owed.

15 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
16 maintenance or a property division obligation.

17 (7) "Periodic retirement payments" means periodic payments of
18 retirement allowances, including but not limited to service retirement
19 allowances, disability retirement allowances, and survivors'
20 allowances. The term does not include a withdrawal of accumulated
21 contributions.

22 (8) "Property division obligation" means any outstanding court-
23 ordered property division or court-approved property settlement
24 obligation incident to a decree of divorce, dissolution, or legal
25 separation.

26 (9) "Standard allowance" means a benefit payment option selected
27 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),
28 41.40.188(1)(a), 41.40.660(1), or 41.35.220 that ceases upon the death
29 of the retiree. Standard allowance also means the benefit allowance
30 provided under RCW 2.10.110, 2.10.130, 43.43.260, (~~41.26.100,~~
31 ~~41.26.130(1)(a)~~) section 217 of this act, section 222(1)(a) of this
32 act, or chapter 2.12 RCW. Standard allowance also means the maximum
33 retirement allowance available under RCW 41.32.530(1) following member
34 withdrawal of accumulated contributions, if any.

35 (10) "Withdrawal of accumulated contributions" means a lump sum
36 payment to a retirement system member of all or a part of the member's
37 accumulated contributions, including accrued interest, at the request
38 of the member including any lump sum amount paid upon the death of the
39 member.

1 **Sec. 441.** RCW 41.50.500 and 2000 c 247 s 603 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout RCW 41.50.500 through 41.50.650,
5 41.50.670 through 41.50.720, and 26.09.138.

6 (1) "Benefits" means periodic retirement payments or a withdrawal
7 of accumulated contributions.

8 (2) "Disposable benefits" means that part of the benefits of an
9 individual remaining after the deduction from those benefits of any
10 amount required by law to be withheld. The term "required by law to be
11 withheld" does not include any deduction elective to the member.

12 (3) "Dissolution order" means any judgment, decree, or order of
13 spousal maintenance, property division, or court-approved property
14 settlement incident to a decree of divorce, dissolution, invalidity, or
15 legal separation issued by the superior court of the state of
16 Washington or a judgment, decree, or other order of spousal support
17 issued by a court of competent jurisdiction in another state or
18 country, that has been registered or otherwise made enforceable in this
19 state.

20 (4) "Mandatory benefits assignment order" means an order issued to
21 the department of retirement systems pursuant to RCW 41.50.570 to
22 withhold and deliver benefits payable to an obligor under chapter 2.10,
23 2.12, 41.26, 41.26A, 41.32, 41.40, 41.35, or 43.43 RCW.

24 (5) "Obligee" means an ex spouse or spouse to whom a duty of
25 spousal maintenance or property division obligation is owed.

26 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
27 maintenance or a property division obligation.

28 (7) "Periodic retirement payments" means periodic payments of
29 retirement allowances, including but not limited to service retirement
30 allowances, disability retirement allowances, and survivors'
31 allowances. The term does not include a withdrawal of accumulated
32 contributions.

33 (8) "Property division obligation" means any outstanding court-
34 ordered property division or court-approved property settlement
35 obligation incident to a decree of divorce, dissolution, or legal
36 separation.

37 (9) "Standard allowance" means a benefit payment option selected
38 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),
39 41.40.188(1)(a), 41.40.660(1), 41.40.845(1)(a), or 41.35.220 that

1 ceases upon the death of the retiree. Standard allowance also means
2 the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260,
3 (~~41.26.100, 41.26.130(1)(a)~~) section 217 of this act, section
4 222(1)(a) of this act, or chapter 2.12 RCW. Standard allowance also
5 means the maximum retirement allowance available under RCW 41.32.530(1)
6 following member withdrawal of accumulated contributions, if any.

7 (10) "Withdrawal of accumulated contributions" means a lump sum
8 payment to a retirement system member of all or a part of the member's
9 accumulated contributions, including accrued interest, at the request
10 of the member including any lump sum amount paid upon the death of the
11 member.

12 **Sec. 442.** RCW 41.50.670 and 1998 c 341 s 513 are each amended to
13 read as follows:

14 (1) Nothing in this chapter regarding mandatory assignment of
15 benefits to enforce a spousal maintenance obligation shall abridge the
16 right of an obligee to direct payments of retirement benefits to
17 satisfy a property division obligation ordered pursuant to a court
18 decree of dissolution or legal separation or any court order or court-
19 approved property settlement agreement incident to any court decree of
20 dissolution or legal separation as provided in RCW 2.10.180, 2.12.090,
21 41.04.310, 41.04.320, 41.04.330, 41.26.053, section 209 of this act,
22 41.32.052, 41.35.100, 41.34.070(~~(+3)~~) (4), 41.40.052, 43.43.310, or
23 26.09.138, as those statutes existed before July 1, 1987, and as those
24 statutes exist on and after July 28, 1991. The department shall pay
25 benefits under this chapter in a lump sum or as a portion of periodic
26 retirement payments as expressly provided by the dissolution order. A
27 dissolution order may not order the department to pay a periodic
28 retirement payment or lump sum unless that payment is specifically
29 authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.26A,
30 41.32, 41.35, 41.34, 41.40, or 43.43 RCW, as applicable.

31 (2) The department shall pay directly to an obligee the amount of
32 periodic retirement payments or lump sum payment, as appropriate,
33 specified in the dissolution order if the dissolution order filed with
34 the department pursuant to subsection (1) of this section includes a
35 provision that states in the following form:

36 If (the obligor) receives periodic retirement payments
37 as defined in RCW 41.50.500, the department of retirement systems shall
38 pay to (the obligee) dollars from such payments

1 or . . . percent of such payments. If the obligor's debt is expressed
2 as a percentage of his or her periodic retirement payment and the
3 obligee does not have a survivorship interest in the obligor's benefit,
4 the amount received by the obligee shall be the percentage of the
5 periodic retirement payment that the obligor would have received had he
6 or she selected a standard allowance.

7 If (the obligor) requests or has requested a withdrawal
8 of accumulated contributions as defined in RCW 41.50.500, or becomes
9 eligible for a lump sum death benefit, the department of retirement
10 systems shall pay to (the obligee) dollars plus
11 interest at the rate paid by the department of retirement systems on
12 member contributions. Such interest to accrue from the date of this
13 order's entry with the court of record.

14 (3) This section does not require a member to select a standard
15 allowance upon retirement nor does it require the department to
16 recalculate the amount of a retiree's periodic retirement payment based
17 on a change in survivor option.

18 (4) A court order under this section may not order the department
19 to pay more than seventy-five percent of an obligor's periodic
20 retirement payment to an obligee.

21 (5) Persons whose court decrees were entered between July 1, 1987,
22 and July 28, 1991, shall also be entitled to receive direct payments of
23 retirement benefits to satisfy court-ordered property divisions if the
24 dissolution orders comply or are modified to comply with this section
25 and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180,
26 2.12.090, 41.26.053, section 209 of this act, 41.32.052, 41.35.100,
27 41.34.070, 41.40.052, 43.43.310, and 26.09.138.

28 (6) The obligee must file a copy of the dissolution order with the
29 department within ninety days of that order's entry with the court of
30 record.

31 (7) A division of benefits pursuant to a dissolution order under
32 this section shall be based upon the obligor's gross benefit prior to
33 any deductions. If the department is required to withhold a portion of
34 the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of
35 that amount plus the amount owed to the obligee exceeds the total
36 benefit, the department shall satisfy the withholding requirements
37 under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee.
38 The provisions of this subsection do not apply to amounts withheld
39 pursuant to 26 U.S.C. Sec. 3402(i).

1 **Sec. 443.** RCW 41.56.030 and 2000 c 23 s 1 and 2000 c 19 s 1 are
2 each reenacted and amended to read as follows:

3 As used in this chapter:

4 (1) "Public employer" means any officer, board, commission,
5 council, or other person or body acting on behalf of any public body
6 governed by this chapter, or any subdivision of such public body. For
7 the purposes of this section, the public employer of district court or
8 superior court employees for wage-related matters is the respective
9 county legislative authority, or person or body acting on behalf of the
10 legislative authority, and the public employer for nonwage-related
11 matters is the judge or judge's designee of the respective district
12 court or superior court.

13 (2) "Public employee" means any employee of a public employer
14 except any person (a) elected by popular vote, or (b) appointed to
15 office pursuant to statute, ordinance or resolution for a specified
16 term of office as a member of a multimember board, commission, or
17 committee, whether appointed by the executive head or body of the
18 public employer, or (c) whose duties as deputy, administrative
19 assistant or secretary necessarily imply a confidential relationship to
20 (i) the executive head or body of the applicable bargaining unit, or
21 (ii) any person elected by popular vote, or (iii) any person appointed
22 to office pursuant to statute, ordinance or resolution for a specified
23 term of office as a member of a multimember board, commission, or
24 committee, whether appointed by the executive head or body of the
25 public employer, or (d) who is a court commissioner or a court
26 magistrate of superior court, district court, or a department of a
27 district court organized under chapter 3.46 RCW, or (e) who is a
28 personal assistant to a district court judge, superior court judge, or
29 court commissioner, or (f) excluded from a bargaining unit under RCW
30 41.56.201(2)(a). For the purpose of (e) of this subsection, no more
31 than one assistant for each judge or commissioner may be excluded from
32 a bargaining unit.

33 (3) "Bargaining representative" means any lawful organization which
34 has as one of its primary purposes the representation of employees in
35 their employment relations with employers.

36 (4) "Collective bargaining" means the performance of the mutual
37 obligations of the public employer and the exclusive bargaining
38 representative to meet at reasonable times, to confer and negotiate in
39 good faith, and to execute a written agreement with respect to

1 grievance procedures and collective negotiations on personnel matters,
2 including wages, hours and working conditions, which may be peculiar to
3 an appropriate bargaining unit of such public employer, except that by
4 such obligation neither party shall be compelled to agree to a proposal
5 or be required to make a concession unless otherwise provided in this
6 chapter.

7 (5) "Commission" means the public employment relations commission.

8 (6) "Executive director" means the executive director of the
9 commission.

10 (7) "Uniformed personnel" means: (a) Law enforcement officers as
11 defined in RCW 41.26.030 and section 202 of this act employed by the
12 governing body of any city or town with a population of two thousand
13 five hundred or more and law enforcement officers employed by the
14 governing body of any county with a population of ten thousand or more;
15 (b) correctional employees who are uniformed and nonuniformed,
16 commissioned and noncommissioned security personnel employed in a jail
17 as defined in RCW 70.48.020(5), by a county with a population of
18 seventy thousand or more, and who are trained for and charged with the
19 responsibility of controlling and maintaining custody of inmates in the
20 jail and safeguarding inmates from other inmates; (c) general authority
21 Washington peace officers as defined in RCW 10.93.020 employed by a
22 port district in a county with a population of one million or more; (d)
23 security forces established under RCW 43.52.520; (e) fire fighters as
24 that term is defined in RCW 41.26.030 and section 202 of this act; (f)
25 employees of a port district in a county with a population of one
26 million or more whose duties include crash fire rescue or other fire
27 fighting duties; (g) employees of fire departments of public employers
28 who dispatch exclusively either fire or emergency medical services, or
29 both; or (h) employees in the several classes of advanced life support
30 technicians, as defined in RCW 18.71.200, who are employed by a public
31 employer.

32 (8) "Institution of higher education" means the University of
33 Washington, Washington State University, Central Washington University,
34 Eastern Washington University, Western Washington University, The
35 Evergreen State College, and the various state community colleges.

36 **Sec. 444.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 5 are each
37 amended to read as follows:

1 (1) All earnings of investments of surplus balances in the state
2 treasury shall be deposited to the treasury income account, which
3 account is hereby established in the state treasury.

4 (2) The treasury income account shall be utilized to pay or receive
5 funds associated with federal programs as required by the federal cash
6 management improvement act of 1990. The treasury income account is
7 subject in all respects to chapter 43.88 RCW, but no appropriation is
8 required for refunds or allocations of interest earnings required by
9 the cash management improvement act. Refunds of interest to the
10 federal treasury required under the cash management improvement act
11 fall under RCW 43.88.180 and shall not require appropriation. The
12 office of financial management shall determine the amounts due to or
13 from the federal government pursuant to the cash management improvement
14 act. The office of financial management may direct transfers of funds
15 between accounts as deemed necessary to implement the provisions of the
16 cash management improvement act, and this subsection. Refunds or
17 allocations shall occur prior to the distributions of earnings set
18 forth in subsection (4) of this section.

19 (3) Except for the provisions of RCW 43.84.160, the treasury income
20 account may be utilized for the payment of purchased banking services
21 on behalf of treasury funds including, but not limited to, depository,
22 safekeeping, and disbursement functions for the state treasury and
23 affected state agencies. The treasury income account is subject in all
24 respects to chapter 43.88 RCW, but no appropriation is required for
25 payments to financial institutions. Payments shall occur prior to
26 distribution of earnings set forth in subsection (4) of this section.

27 (4) Monthly, the state treasurer shall distribute the earnings
28 credited to the treasury income account. The state treasurer shall
29 credit the general fund with all the earnings credited to the treasury
30 income account except:

31 (a) The following accounts and funds shall receive their
32 proportionate share of earnings based upon each account's and fund's
33 average daily balance for the period: The capitol building
34 construction account, the Cedar River channel construction and
35 operation account, the Central Washington University capital projects
36 account, the charitable, educational, penal and reformatory
37 institutions account, the common school construction fund, the county
38 criminal justice assistance account, the county sales and use tax
39 equalization account, the data processing building construction

1 account, the deferred compensation administrative account, the deferred
2 compensation principal account, the department of retirement systems
3 expense account, the drinking water assistance account, the Eastern
4 Washington University capital projects account, the education
5 construction fund, the emergency reserve fund, the federal forest
6 revolving account, the health services account, the public health
7 services account, the health system capacity account, the personal
8 health services account, the state higher education construction
9 account, the higher education construction account, the highway
10 infrastructure account, the industrial insurance premium refund
11 account, the judges' retirement account, the judicial retirement
12 administrative account, the judicial retirement principal account, the
13 local leasehold excise tax account, the local real estate excise tax
14 account, the local sales and use tax account, the medical aid account,
15 the mobile home park relocation fund, the multimodal transportation
16 account, the municipal criminal justice assistance account, the
17 municipal sales and use tax equalization account, the natural resources
18 deposit account, the perpetual surveillance and maintenance account,
19 the public employees' retirement system plan 1 account, the public
20 employees' retirement system plan 2 account, the Puyallup tribal
21 settlement account, the resource management cost account, the site
22 closure account, the special wildlife account, the state employees'
23 insurance account, the state employees' insurance reserve account, the
24 state investment board expense account, the state investment board
25 commingled trust fund accounts, the state surplus assets reserve
26 account, the supplemental pension account, the teachers' retirement
27 system plan 1 account, the teachers' retirement system combined plan 2
28 and plan 3 account, the tobacco prevention and control account, the
29 tobacco settlement account, the transportation infrastructure account,
30 the tuition recovery trust fund, the University of Washington bond
31 retirement fund, the University of Washington building account, the
32 volunteer fire fighters' and reserve officers' relief and pension
33 principal fund, the volunteer fire fighters' and reserve officers'
34 administrative fund, the Washington judicial retirement system account,
35 (~~the Washington law enforcement officers' and fire fighters' system~~
36 ~~plan 1 retirement account,~~) the Washington law enforcement officers'
37 and fire fighters' system plan 2 retirement account, the Washington
38 school employees' retirement system combined plan 2 and 3 account, the
39 Washington state health insurance pool account, the Washington state

1 patrol retirement account, the Washington State University building
2 account, the Washington State University bond retirement fund, the
3 water pollution control revolving fund, and the Western Washington
4 University capital projects account. Earnings derived from investing
5 balances of the agricultural permanent fund, the normal school
6 permanent fund, the permanent common school fund, the scientific
7 permanent fund, and the state university permanent fund shall be
8 allocated to their respective beneficiary accounts. All earnings to be
9 distributed under this subsection (4)(a) shall first be reduced by the
10 allocation to the state treasurer's service fund pursuant to RCW
11 43.08.190.

12 (b) The following accounts and funds shall receive eighty percent
13 of their proportionate share of earnings based upon each account's or
14 fund's average daily balance for the period: The aeronautics account,
15 the aircraft search and rescue account, the county arterial
16 preservation account, the department of licensing services account, the
17 essential rail assistance account, the ferry bond retirement fund, the
18 grade crossing protective fund, the high capacity transportation
19 account, the highway bond retirement fund, the highway safety account,
20 the motor vehicle fund, the motorcycle safety education account, the
21 pilotage account, the public transportation systems account, the Puget
22 Sound capital construction account, the Puget Sound ferry operations
23 account, the recreational vehicle account, the rural arterial trust
24 account, the safety and education account, the special category C
25 account, the state patrol highway account, the transportation equipment
26 fund, the transportation fund, the transportation improvement account,
27 the transportation improvement board bond retirement account, and the
28 urban arterial trust account.

29 (5) In conformance with Article II, section 37 of the state
30 Constitution, no treasury accounts or funds shall be allocated earnings
31 without the specific affirmative directive of this section.

32 **Sec. 445.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 6 are each
33 amended to read as follows:

34 (1) All earnings of investments of surplus balances in the state
35 treasury shall be deposited to the treasury income account, which
36 account is hereby established in the state treasury.

37 (2) The treasury income account shall be utilized to pay or receive
38 funds associated with federal programs as required by the federal cash

1 management improvement act of 1990. The treasury income account is
2 subject in all respects to chapter 43.88 RCW, but no appropriation is
3 required for refunds or allocations of interest earnings required by
4 the cash management improvement act. Refunds of interest to the
5 federal treasury required under the cash management improvement act
6 fall under RCW 43.88.180 and shall not require appropriation. The
7 office of financial management shall determine the amounts due to or
8 from the federal government pursuant to the cash management improvement
9 act. The office of financial management may direct transfers of funds
10 between accounts as deemed necessary to implement the provisions of the
11 cash management improvement act, and this subsection. Refunds or
12 allocations shall occur prior to the distributions of earnings set
13 forth in subsection (4) of this section.

14 (3) Except for the provisions of RCW 43.84.160, the treasury income
15 account may be utilized for the payment of purchased banking services
16 on behalf of treasury funds including, but not limited to, depository,
17 safekeeping, and disbursement functions for the state treasury and
18 affected state agencies. The treasury income account is subject in all
19 respects to chapter 43.88 RCW, but no appropriation is required for
20 payments to financial institutions. Payments shall occur prior to
21 distribution of earnings set forth in subsection (4) of this section.

22 (4) Monthly, the state treasurer shall distribute the earnings
23 credited to the treasury income account. The state treasurer shall
24 credit the general fund with all the earnings credited to the treasury
25 income account except:

26 (a) The following accounts and funds shall receive their
27 proportionate share of earnings based upon each account's and fund's
28 average daily balance for the period: The capitol building
29 construction account, the Cedar River channel construction and
30 operation account, the Central Washington University capital projects
31 account, the charitable, educational, penal and reformatory
32 institutions account, the common school construction fund, the county
33 criminal justice assistance account, the county sales and use tax
34 equalization account, the data processing building construction
35 account, the deferred compensation administrative account, the deferred
36 compensation principal account, the department of retirement systems
37 expense account, the drinking water assistance account, the Eastern
38 Washington University capital projects account, the education
39 construction fund, the emergency reserve fund, the federal forest

1 revolving account, the health services account, the public health
2 services account, the health system capacity account, the personal
3 health services account, the state higher education construction
4 account, the higher education construction account, the highway
5 infrastructure account, the industrial insurance premium refund
6 account, the judges' retirement account, the judicial retirement
7 administrative account, the judicial retirement principal account, the
8 local leasehold excise tax account, the local real estate excise tax
9 account, the local sales and use tax account, the medical aid account,
10 the mobile home park relocation fund, the multimodal transportation
11 account, the municipal criminal justice assistance account, the
12 municipal sales and use tax equalization account, the natural resources
13 deposit account, the perpetual surveillance and maintenance account,
14 the public employees' retirement system plan 1 account, the public
15 employees' retirement system combined plan 2 and plan 3 account, the
16 Puyallup tribal settlement account, the resource management cost
17 account, the site closure account, the special wildlife account, the
18 state employees' insurance account, the state employees' insurance
19 reserve account, the state investment board expense account, the state
20 investment board commingled trust fund accounts, the state surplus
21 assets reserve account, the supplemental pension account, the teachers'
22 retirement system plan 1 account, the teachers' retirement system
23 combined plan 2 and plan 3 account, the tobacco prevention and control
24 account, the tobacco settlement account, the transportation
25 infrastructure account, the tuition recovery trust fund, the University
26 of Washington bond retirement fund, the University of Washington
27 building account, the volunteer fire fighters' and reserve officers'
28 relief and pension principal fund, the volunteer fire fighters' and
29 reserve officers' administrative fund, the Washington judicial
30 retirement system account, (~~the Washington law enforcement officers'~~
31 ~~and fire fighters' system plan 1 retirement account,~~) the Washington
32 law enforcement officers' and fire fighters' system plan 2 retirement
33 account, the Washington school employees' retirement system combined
34 plan 2 and 3 account, the Washington state health insurance pool
35 account, the Washington state patrol retirement account, the Washington
36 State University building account, the Washington State University bond
37 retirement fund, the water pollution control revolving fund, and the
38 Western Washington University capital projects account. Earnings
39 derived from investing balances of the agricultural permanent fund, the

1 normal school permanent fund, the permanent common school fund, the
2 scientific permanent fund, and the state university permanent fund
3 shall be allocated to their respective beneficiary accounts. All
4 earnings to be distributed under this subsection (4)(a) shall first be
5 reduced by the allocation to the state treasurer's service fund
6 pursuant to RCW 43.08.190.

7 (b) The following accounts and funds shall receive eighty percent
8 of their proportionate share of earnings based upon each account's or
9 fund's average daily balance for the period: The aeronautics account,
10 the aircraft search and rescue account, the county arterial
11 preservation account, the department of licensing services account, the
12 essential rail assistance account, the ferry bond retirement fund, the
13 grade crossing protective fund, the high capacity transportation
14 account, the highway bond retirement fund, the highway safety account,
15 the motor vehicle fund, the motorcycle safety education account, the
16 pilotage account, the public transportation systems account, the Puget
17 Sound capital construction account, the Puget Sound ferry operations
18 account, the recreational vehicle account, the rural arterial trust
19 account, the safety and education account, the special category C
20 account, the state patrol highway account, the transportation equipment
21 fund, the transportation fund, the transportation improvement account,
22 the transportation improvement board bond retirement account, and the
23 urban arterial trust account.

24 (5) In conformance with Article II, section 37 of the state
25 Constitution, no treasury accounts or funds shall be allocated earnings
26 without the specific affirmative directive of this section.

27 **Sec. 446.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to
28 read as follows:

29 (1) Money in the treasurer's trust fund may be deposited, invested,
30 and reinvested by the state treasurer in accordance with RCW 43.84.080
31 in the same manner and to the same extent as if the money were in the
32 state treasury.

33 (2) All income received from investment of the treasurer's trust
34 fund shall be set aside in an account in the treasury trust fund to be
35 known as the investment income account.

36 (3) The investment income account may be utilized for the payment
37 of purchased banking services on behalf of treasurer's trust funds
38 including, but not limited to, depository, safekeeping, and

1 disbursement functions for the state treasurer or affected state
2 agencies. The investment income account is subject in all respects to
3 chapter 43.88 RCW, but no appropriation is required for payments to
4 financial institutions. Payments shall occur prior to distribution of
5 earnings set forth in subsection (4) of this section.

6 (4)(a) Monthly, the state treasurer shall distribute the earnings
7 credited to the investment income account to the state general fund
8 except under (b) and (c) of this subsection.

9 (b) The following accounts and funds shall receive their
10 proportionate share of earnings based upon each account's or fund's
11 average daily balance for the period: The Washington advanced college
12 tuition payment program account, the agricultural local fund, the
13 American Indian scholarship endowment fund, the basic health plan self-
14 insurance reserve account, the Washington international exchange
15 scholarship endowment fund, the developmental disabilities endowment
16 trust fund, the energy account, the fair fund, the game farm
17 alternative account, the grain inspection revolving fund, the juvenile
18 accountability incentive account, the law enforcement officers' and
19 fire fighters' medical benefits risk pool account, the rural
20 rehabilitation account, the stadium and exhibition center account, the
21 youth athletic facility ((grant)) account, the self-insurance revolving
22 fund, the sulfur dioxide abatement account, the restated law
23 enforcement officers' and fire fighters' defined benefit retirement
24 fund, the restated law enforcement officers' and fire fighters' defined
25 contribution plan fund, and the children's trust fund. However, the
26 earnings to be distributed shall first be reduced by the allocation to
27 the state treasurer's service fund pursuant to RCW 43.08.190.

28 (c) The following accounts and funds shall receive eighty percent
29 of their proportionate share of earnings based upon each account's or
30 fund's average daily balance for the period: The advanced right of way
31 revolving fund, the advanced environmental mitigation revolving
32 account, the federal narcotics asset forfeitures account, the high
33 occupancy vehicle account, the local rail service assistance account,
34 and the miscellaneous transportation programs account.

35 (5) In conformance with Article II, section 37 of the state
36 Constitution, no trust accounts or funds shall be allocated earnings
37 without the specific affirmative directive of this section.

1 **Sec. 447.** RCW 46.52.130 and 1998 c 165 s 11 are each amended to
2 read as follows:

3 A certified abstract of the driving record shall be furnished only
4 to the individual named in the abstract, an employer or prospective
5 employer or an agent acting on behalf of an employer or prospective
6 employer, the insurance carrier that has insurance in effect covering
7 the employer or a prospective employer, the insurance carrier that has
8 insurance in effect covering the named individual, the insurance
9 carrier to which the named individual has applied, an alcohol/drug
10 assessment or treatment agency approved by the department of social and
11 health services, to which the named individual has applied or been
12 assigned for evaluation or treatment, or city and county prosecuting
13 attorneys. City attorneys and county prosecuting attorneys may provide
14 the driving record to alcohol/drug assessment or treatment agencies
15 approved by the department of social and health services to which the
16 named individual has applied or been assigned for evaluation or
17 treatment. The director, upon proper request, shall furnish a
18 certified abstract covering the period of not more than the last three
19 years to insurance companies. Upon proper request, the director shall
20 furnish a certified abstract covering a period of not more than the
21 last five years to state approved alcohol/drug assessment or treatment
22 agencies, except that the certified abstract shall also include records
23 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a
24 period of not more than the last ten years. Upon proper request, a
25 certified abstract of the full driving record maintained by the
26 department shall be furnished to a city or county prosecuting attorney,
27 to the individual named in the abstract or to an employer or
28 prospective employer or an agent acting on behalf of an employer or
29 prospective employer of the named individual. The abstract, whenever
30 possible, shall include an enumeration of motor vehicle accidents in
31 which the person was driving; the total number of vehicles involved;
32 whether the vehicles were legally parked or moving; whether the
33 vehicles were occupied at the time of the accident; whether the
34 accident resulted in any fatality; any reported convictions,
35 forfeitures of bail, or findings that an infraction was committed based
36 upon a violation of any motor vehicle law; and the status of the
37 person's driving privilege in this state. The enumeration shall
38 include any reports of failure to appear in response to a traffic
39 citation or failure to respond to a notice of infraction served upon

1 the named individual by an arresting officer. Certified abstracts
2 furnished to prosecutors and alcohol/drug assessment or treatment
3 agencies shall also indicate whether a recorded violation is an
4 alcohol-related offense as defined in RCW 46.01.260(2) that was
5 originally charged as one of the alcohol-related offenses designated in
6 RCW 46.01.260(2)(b)(i).

7 The abstract provided to the insurance company shall exclude any
8 information, except that related to the commission of misdemeanors or
9 felonies by the individual, pertaining to law enforcement officers or
10 fire fighters as defined in RCW 41.26.030 or section 202 of this act,
11 or any officer of the Washington state patrol, while driving official
12 vehicles in the performance of occupational duty. The abstract
13 provided to the insurance company shall include convictions for RCW
14 46.61.5249 and 46.61.525 except that the abstract shall report them
15 only as negligent driving without reference to whether they are for
16 first or second degree negligent driving. The abstract provided to the
17 insurance company shall exclude any deferred prosecution under RCW
18 10.05.060, except that if a person is removed from a deferred
19 prosecution under RCW 10.05.090, the abstract shall show the deferred
20 prosecution as well as the removal.

21 The director shall collect for each abstract the sum of four
22 dollars and fifty cents which shall be deposited in the highway safety
23 fund.

24 Any insurance company or its agent receiving the certified abstract
25 shall use it exclusively for its own underwriting purposes and shall
26 not divulge any of the information contained in it to a third party.
27 No policy of insurance may be canceled, nonrenewed, denied, or have the
28 rate increased on the basis of such information unless the policyholder
29 was determined to be at fault. No insurance company or its agent for
30 underwriting purposes relating to the operation of commercial motor
31 vehicles may use any information contained in the abstract relative to
32 any person's operation of motor vehicles while not engaged in such
33 employment, nor may any insurance company or its agent for underwriting
34 purposes relating to the operation of noncommercial motor vehicles use
35 any information contained in the abstract relative to any person's
36 operation of commercial motor vehicles.

37 Any employer or prospective employer or an agent acting on behalf
38 of an employer or prospective employer receiving the certified abstract
39 shall use it exclusively for his or her own purpose to determine

1 whether the licensee should be permitted to operate a commercial
2 vehicle or school bus upon the public highways of this state and shall
3 not divulge any information contained in it to a third party.

4 Any alcohol/drug assessment or treatment agency approved by the
5 department of social and health services receiving the certified
6 abstract shall use it exclusively for the purpose of assisting its
7 employees in making a determination as to what level of treatment, if
8 any, is appropriate. The agency, or any of its employees, shall not
9 divulge any information contained in the abstract to a third party.

10 Release of a certified abstract of the driving record of an
11 employee or prospective employee requires a statement signed by: (1)
12 The employee or prospective employee that authorizes the release of the
13 record, and (2) the employer attesting that the information is
14 necessary to determine whether the licensee should be employed to
15 operate a commercial vehicle or school bus upon the public highways of
16 this state. If the employer or prospective employer authorizes an
17 agent to obtain this information on their behalf, this must be noted in
18 the statement.

19 Any violation of this section is a gross misdemeanor.

20 **Sec. 448.** RCW 72.72.060 and 1983 c 279 s 5 are each amended to
21 read as follows:

22 The state shall reimburse cities and counties for their costs
23 incurred under chapters 41.26 and 41.26A RCW if the costs are the
24 direct result of physical injuries sustained in the implementation of
25 a contingency plan adopted under RCW 72.02.150 and if reimbursement is
26 not precluded by the following provisions: If the secretary of
27 corrections identifies in the contingency plan the prison walls or
28 other perimeter of the secured area, then reimbursement will not be
29 made unless the injuries occur within the walls or other perimeter of
30 the secured area. If the secretary of corrections does not identify
31 prison walls or other perimeter of the secured area, then reimbursement
32 shall not be made unless the injuries result from providing assistance,
33 requested by the secretary of corrections or the secretary's designee,
34 which is beyond the description of the assistance contained in the
35 contingency plan. In no case shall reimbursement be made when the
36 injuries result from conduct which either is not requested by the
37 secretary of corrections or the secretary's designee, or is in
38 violation of orders by superiors of the local law enforcement agency.

1 (11) RCW 41.26.115 (Director of retirement systems to adopt rules
2 governing disability boards--Remand of orders not in accordance with
3 rules) and 1981 c 294 s 1;

4 (12) RCW 41.26.120 (Retirement for disability incurred in the line
5 of duty) and 1991 c 35 s 19, 1986 c 176 s 5, 1985 c 102 s 2, 1981 c 294
6 s 2, 1974 ex.s. c 120 s 10, 1972 ex.s. c 131 s 8, 1970 ex.s. c 6 s 7,
7 & 1969 ex.s. c 209 s 12;

8 (13) RCW 41.26.125 (Retirement for disability not incurred in the
9 line of duty) and 1986 c 176 s 6 & 1985 c 102 s 3;

10 (14) RCW 41.26.130 (Allowance on retirement for disability) and
11 1991 c 35 s 20, 1987 c 185 s 11, 1981 c 294 s 3, 1970 ex.s. c 6 s 8, &
12 1969 ex.s. c 209 s 13;

13 (15) RCW 41.26.135 (Cessation of disability--Determination) and
14 1985 c 103 s 1;

15 (16) RCW 41.26.140 (Reexaminations of disability beneficiaries--
16 Reentry--Appeal) and 1991 c 35 s 21, 1985 c 103 s 2, 1981 c 294 s 4,
17 1974 ex.s. c 120 s 4, 1970 ex.s. c 6 s 9, & 1969 ex.s. c 209 s 14;

18 (17) RCW 41.26.150 (Sickness or disability benefits--Medical
19 services) and 1992 c 22 s 3, 1991 c 35 s 22, 1987 c 185 s 12, 1983 c
20 106 s 23, 1974 ex.s. c 120 s 11, 1971 ex.s. c 257 s 10, 1970 ex.s. c 6
21 s 10, 1969 ex.s. c 219 s 4, & 1969 ex.s. c 209 s 15;

22 (18) RCW 41.26.160 (Death benefits--Duty connected) and 1999 c 134
23 s 2 & 1991 sp.s. c 11 s 5;

24 (19) RCW 41.26.161 (Death benefits--Nonduty connected) and 1999 c
25 134 s 3;

26 (20) RCW 41.26.162 (Ex spouse qualifying as surviving spouse--When)
27 and 1991 sp.s. c 12 s 2;

28 (21) RCW 41.26.170 (Refund of contributions on discontinuance of
29 service--Reentry) and 1994 c 197 s 6, 1991 c 35 s 24, 1970 ex.s. c 6 s
30 14, & 1969 ex.s. c 209 s 22;

31 (22) RCW 41.26.190 (Credit for military service) and 1991 c 35 s
32 26, 1970 ex.s. c 6 s 13, & 1969 ex.s. c 209 s 18;

33 (23) RCW 41.26.192 (Credit for service under prior pension system--
34 Restoration of withdrawn contributions) and 1994 c 197 s 7 & 1992 c 157
35 s 1;

36 (24) RCW 41.26.194 (Credit for service under prior pension system--
37 Service not covered under prior system) and 1994 c 197 s 8 & 1992 c 157
38 s 2;

1 (25) RCW 41.26.195 (Transfer of service credit from other
2 retirement system--Irrevocable election allowed) and 1997 c 122 s 1;
3 (26) RCW 41.26.197 (Service credit for paid leave of absence--
4 Application to elected officials of labor organizations) and 1993 c 95
5 s 3;
6 (27) RCW 41.26.200 (Appeal to director of retirement systems) and
7 1981 c 294 s 5, 1974 ex.s. c 120 s 6, 1971 ex.s. c 257 s 13, 1970 ex.s.
8 c 6 s 11, & 1969 ex.s. c 209 s 16;
9 (28) RCW 41.26.211 (Notice for hearing required prior to
10 petitioning for judicial review) and 1984 c 184 s 16, 1981 c 294 s 6,
11 & 1969 ex.s. c 209 s 19;
12 (29) RCW 41.26.221 (Hearing--Conduct) and 1984 c 184 s 17, 1981 c
13 294 s 7, & 1969 ex.s. c 209 s 20;
14 (30) RCW 41.26.240 (Increases or decreases in retirement allowances
15 to be determined by department in accordance with consumer price index)
16 and 1991 c 35 s 27, 1974 ex.s. c 120 s 13, 1970 ex.s. c 6 s 16, & 1969
17 ex.s. c 209 s 24;
18 (31) RCW 41.26.250 (Increase in presently payable benefits for
19 service or disability authorized) and 1975 1st ex.s. c 178 s 3, 1974
20 ex.s. c 190 s 3, 1970 ex.s. c 37 s 2, & 1969 ex.s. c 209 s 34;
21 (32) RCW 41.26.260 (Increase in certain presently payable death
22 benefits authorized) and 1974 ex.s. c 190 s 4 & 1969 ex.s. c 209 s 35;
23 (33) RCW 41.26.270 (Declaration of policy respecting benefits for
24 injury or death--Civil actions abolished) and 1989 c 12 s 13, 1987 c
25 185 s 13, 1985 c 102 s 4, & 1971 ex.s. c 257 s 14;
26 (34) RCW 41.26.281 (Cause of action for injury or death, when) and
27 1991 c 35 s 28 & 1971 ex.s. c 257 s 15;
28 (35) RCW 41.26.3901 (Severability--1969 ex.s. c 209) and 1969 ex.s.
29 c 209 s 42;
30 (36) RCW 41.26.3902 (Act to control inconsistencies) and 1969 ex.s.
31 c 209 s 43;
32 (37) RCW 41.26.3903 (Effective date--1969 ex.s. c 209) and 1969
33 ex.s. c 209 s 45; and
34 (38) RCW 41.26.410 (Provisions applicable to plan 2) and 1991 c 35
35 s 29 & 1977 ex.s. c 294 s 2.

36 NEW SECTION. **Sec. 502.** SAVINGS. The repeals in section 501 of
37 this act do not affect any existing right acquired or liability or
38 obligation incurred under the statutes repealed or under any rule or

1 order adopted under those statutes nor do they affect any proceeding
2 instituted under them. Rules adopted by the department of retirement
3 systems relating to plan 1 of the law enforcement officers' and fire
4 fighters' retirement system under chapter 41.26 RCW shall continue in
5 effect and apply to the restated law enforcement officers' and fire
6 fighters' retirement system under chapter 41.26A RCW unless expressly
7 inconsistent therewith and until repealed or superseded.

8 NEW SECTION. **Sec. 503.** SEVERABILITY. If any provision of this
9 act or its application to any person or circumstance is held invalid,
10 the remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 504.** CAPTIONS. Part headings and captions used
13 in this act are not any part of the law.

14 NEW SECTION. **Sec. 505.** EFFECTIVE DATE. Except as provided in
15 section 449 of this act, this act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and takes effect
18 July 1, 2001.

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