

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1213

Chapter 180, Laws of 2001

57th Legislature
2001 Regular Session

PUBLIC EMPLOYEES AND SCHOOL EMPLOYEES RETIREMENT SYSTEMS

EFFECTIVE DATE: 7/22/01 - Except sections 1 and 2, which become effective 3/1/02.

Passed by the House March 9, 2001
Yeas 98 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

CLYDE BALLARD
Speaker of the House of Representatives

Passed by the Senate April 10, 2001
Yeas 48 Nays 0

BRAD OWEN
President of the Senate

Approved May 7, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1213** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

CYNTHIA ZEHNDER
Chief Clerk

FILED

May 7, 2001 - 1:22 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1213

Passed Legislature - 2001 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By Representatives Delvin, Conway, H. Sommers, Lambert, Doumit and Hurst; by request of Joint Committee on Pension Policy

Read first time 01/19/2001. Referred to Committee on Appropriations.

1 AN ACT Relating to correcting statutes pertaining to the public
2 employees' and school employees' retirement systems; amending RCW
3 41.34.060, 41.35.010, and 41.04.270; reenacting and amending RCW
4 41.45.061; decodifying RCW 41.54.050; and providing an effective date.

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

6 **Sec. 1.** RCW 41.45.061 and 2000 c 247 s 506 and 2000 c 230 s 2 are
7 each reenacted and amended to read as follows:

8 (1) The required contribution rate for members of the plan 2
9 teachers' retirement system shall be fixed at the rates in effect on
10 July 1, 1996, subject to the following:

11 (a) Beginning September 1, 1997, except as provided in (b) of this
12 subsection, the employee contribution rate shall not exceed the
13 employer plan 2 and 3 rates adopted under RCW 41.45.060 and 41.45.070
14 for the teachers' retirement system;

15 (b) In addition, the employee contribution rate for plan 2 shall be
16 increased by fifty percent of the contribution rate increase caused by
17 any plan 2 benefit increase passed after July 1, 1996;

1 (c) In addition, the employee contribution rate for plan 2 shall
2 not be increased as a result of any distributions pursuant to section
3 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

4 (2) The required contribution rate for members of the school
5 employees' retirement system plan 2 shall ~~((be fixed at the rates in
6 effect on September 1, 2000, for members of the public employees'
7 retirement system plan 2, subject to the following:~~

8 ~~((a) Except as provided in (b) of this subsection, the member
9 contribution rate shall not exceed)) equal the school employees'
10 retirement system employer plan 2 and 3 contribution rate adopted under
11 RCW 41.45.060 and 41.45.070(~~(+)~~), except as provided in subsection (3)
12 of this section.~~

13 ~~((b))~~ (3) The member contribution rate for the school employees'
14 retirement system plan 2 shall be increased by fifty percent of the
15 contribution rate increase caused by any plan 2 benefit increase passed
16 after September 1, 2000.

17 ~~((3))~~ (4) The required contribution rate for members of the
18 public employees' retirement system plan 2 shall be set at the same
19 rate as the employer combined plan 2 and plan 3 rate.

20 ~~((4))~~ (5) The required contribution rate for members of the law
21 enforcement officers' and fire fighters' retirement system plan 2 shall
22 be set at fifty percent of the cost of the retirement system.

23 ~~((5))~~ (6) The employee contribution rates for plan 2 under
24 subsections (3) and (4) of this section shall not include any increase
25 as a result of any distributions pursuant to RCW 41.31A.020 and
26 41.31A.030.

27 ~~((6))~~ (7) The required plan 2 and 3 contribution rates for
28 employers shall be adopted in the manner described in RCW 41.45.060.

29 **Sec. 2.** RCW 41.34.060 and 2000 c 247 s 404 are each amended to
30 read as follows:

31 (1) Except as provided in subsection (3) of this section, the
32 member's account shall be invested by the state investment board. In
33 order to reduce transaction costs and address liquidity issues, based
34 upon recommendations of the state investment board, the department may
35 require members to provide up to ninety days' notice prior to moving
36 funds from the state investment board portfolio to self-directed
37 investment options provided under subsection (3) of this section.

1 (a) For members of the retirement system as provided for in chapter
2 41.32 RCW of plan 3, investment shall be in the same portfolio as that
3 of the teachers' retirement system combined plan 2 and 3 fund under RCW
4 41.50.075(2).

5 (b) For members of the retirement system as provided for in chapter
6 41.35 RCW of plan 3, investment shall be in the same portfolio as that
7 of the school employees' retirement system combined plan 2 and 3 fund
8 under RCW 41.50.075(4).

9 (c) For members of the retirement system as provided for in chapter
10 41.40 RCW of plan 3, investment shall be in the same portfolio as that
11 of the public employees' retirement system combined plan 2 and 3 fund
12 under RCW 41.50.075(3).

13 (2) The state investment board shall declare monthly unit values
14 for the portfolios or funds, or portions thereof, utilized under
15 subsection (1)(a) (~~(and)~~), (b), and (c) of this section. The declared
16 values shall be an approximation of portfolio or fund values, based on
17 internal procedures of the state investment board. Such declared unit
18 values and internal procedures shall be in the sole discretion of the
19 state investment board. The state investment board may delegate any of
20 the powers and duties under this subsection, including discretion,
21 pursuant to RCW 43.33A.030. Member accounts shall be credited by the
22 department with a rate of return based on changes to such unit values.

23 (3) Members may elect to self-direct their investments as set forth
24 in RCW 41.34.130 and 43.33A.190.

25 **Sec. 3.** RCW 41.35.010 and 1998 c 341 s 2 are each amended to read
26 as follows:

27 The definitions in this section apply throughout this chapter,
28 unless the context clearly requires otherwise:

29 (1) "Retirement system" means the Washington school employees'
30 retirement system provided for in this chapter.

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

33 (3) "State treasurer" means the treasurer of the state of
34 Washington.

35 (4) "Employer," for plan 2 and plan 3 members, means a school
36 district or an educational service district.

37 (5) "Member" means any employee included in the membership of the
38 retirement system, as provided for in RCW 41.35.030.

1 (6)(a) "Compensation earnable" for plan 2 and plan 3 members, means
2 salaries or wages earned by a member during a payroll period for
3 personal services, including overtime payments, and shall include wages
4 and salaries deferred under provisions established pursuant to sections
5 403(b), 414(h), and 457 of the United States internal revenue code, but
6 shall exclude nonmoney maintenance compensation and lump sum or other
7 payments for deferred annual sick leave, unused accumulated vacation,
8 unused accumulated annual leave, or any form of severance pay.

9 (b) "Compensation earnable" for plan 2 and plan 3 members also
10 includes the following actual or imputed payments, which are not paid
11 for personal services:

12 (i) Retroactive payments to an individual by an employer on
13 reinstatement of the employee in a position, or payments by an employer
14 to an individual in lieu of reinstatement, which are awarded or granted
15 as the equivalent of the salary or wage which the individual would have
16 earned during a payroll period shall be considered compensation
17 earnable to the extent provided in this subsection, and the individual
18 shall receive the equivalent service credit;

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

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

24 (B) Such member's actual compensation earnable received for
25 nonlegislative public employment and legislative service combined. Any
26 additional contributions to the retirement system required because
27 compensation earnable under (b)(ii)(A) of this subsection is greater
28 than compensation earnable under this (b)(ii)(B) of this subsection
29 shall be paid by the member for both member and employer contributions;

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

32 (iv) Compensation that a member would have received but for a
33 disability occurring in the line of duty only as authorized by RCW
34 41.40.038;

35 (v) Compensation that a member receives due to participation in the
36 leave sharing program only as authorized by RCW 41.04.650 through
37 41.04.670; and

38 (vi) Compensation that a member receives for being in standby
39 status. For the purposes of this section, a member is in standby

1 status when not being paid for time actually worked and the employer
2 requires the member to be prepared to report immediately for work, if
3 the need arises, although the need may not arise.

4 (7) "Service" for plan 2 and plan 3 members means periods of
5 employment by a member in an eligible position or positions for one or
6 more employers for which compensation earnable is paid. Compensation
7 earnable earned for ninety or more hours in any calendar month shall
8 constitute one service credit month except as provided in RCW
9 41.35.180. Compensation earnable earned for at least seventy hours but
10 less than ninety hours in any calendar month shall constitute one-half
11 service credit month of service. Compensation earnable earned for less
12 than seventy hours in any calendar month shall constitute one-quarter
13 service credit month of service. Time spent in standby status, whether
14 compensated or not, is not service.

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

17 (a) Service in any state elective position shall be deemed to be
18 full-time service.

19 (b) A member shall receive a total of not more than twelve service
20 credit months of service for such calendar year. If an individual is
21 employed in an eligible position by one or more employers the
22 individual shall receive no more than one service credit month during
23 any calendar month in which multiple service for ninety or more hours
24 is rendered.

25 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
26 28A.400.300 is equal to two service credit months. Use of less than
27 forty-five days of sick leave is creditable as allowed under this
28 subsection as follows:

29 (i) Less than eleven days equals one-quarter service credit month;

30 (ii) Eleven or more days but less than twenty-two days equals one-
31 half service credit month;

32 (iii) Twenty-two days equals one service credit month;

33 (iv) More than twenty-two days but less than thirty-three days
34 equals one and one-quarter service credit month; and

35 (v) Thirty-three or more days but less than forty-five days equals
36 one and one-half service credit month.

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

1 (9) "Service credit month" means a month or an accumulation of
2 months of service credit which is equal to one.

3 (10) "Membership service" means all service rendered as a member.

4 (11) "Beneficiary" for plan 2 and plan 3 members means any person
5 in 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) "Regular interest" means such rate as the director may
9 determine.

10 (13) "Accumulated contributions" means the sum of all contributions
11 standing to the credit of a member in the member's individual account,
12 including any amount paid under RCW 41.50.165(2), together with the
13 regular interest thereon.

14 (14) "Average final compensation" for plan 2 and plan 3 members
15 means the member's average compensation earnable of the highest
16 consecutive sixty months of service credit months prior to such
17 member's retirement, termination, or death. Periods constituting
18 authorized leaves of absence may not be used in the calculation of
19 average final compensation except under RCW 41.40.710(2).

20 (15) "Final compensation" means the annual rate of compensation
21 earnable by a member at the time of termination of employment.

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

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

28 (18) "Retirement allowance" for plan 2 and plan 3 members means
29 monthly payments to a retiree or beneficiary as provided in this
30 chapter.

31 (19) "Employee" or "employed" means a person who is providing
32 services for compensation to an employer, unless the person is free
33 from the employer's direction and control over the performance of work.
34 The department shall adopt rules and interpret this subsection
35 consistent with common law.

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

1 (21) "Retirement" means withdrawal from active service with a
2 retirement allowance as provided by this chapter.

3 (22) "Eligible position" means any position that, as defined by the
4 employer, normally requires five or more months of service a year for
5 which regular compensation for at least seventy hours is earned by the
6 occupant thereof. For purposes of this chapter an employer shall not
7 define "position" in such a manner that an employee's monthly work for
8 that employer is divided into more than one position.

9 (23) "Ineligible position" means any position which does not
10 conform with the requirements set forth in subsection (22) of this
11 section.

12 (24) "Leave of absence" means the period of time a member is
13 authorized by the employer to be absent from service without being
14 separated from membership.

15 (~~(25) ("Totally incapacitated for duty" means total inability to~~
16 ~~perform the duties of a member's employment or office or any other work~~
17 ~~for which the member is qualified by training or experience.~~

18 ~~(26))~~ (26) "Retiree" means any person who has begun accruing a
19 retirement allowance or other benefit provided by this chapter
20 resulting from service rendered to an employer while a member.

21 (~~(27))~~ (27) "Director" means the director of the department.

22 (~~(28))~~ (28) "State elective position" means any position held by
23 any person elected or appointed to statewide office or elected or
24 appointed as a member of the legislature.

25 (~~(29))~~ (29) "State actuary" or "actuary" means the person
26 appointed pursuant to RCW 44.44.010(2).

27 (~~(30))~~ (30) "Plan 2" means the Washington school employees'
28 retirement system plan 2 providing the benefits and funding provisions
29 covering persons who first became members of the public employees'
30 retirement system on and after October 1, 1977, and transferred to the
31 Washington school employees' retirement system under RCW 41.40.750.

32 (~~(31))~~ (31) "Plan 3" means the Washington school employees'
33 retirement system plan 3 providing the benefits and funding provisions
34 covering persons who first became members of the system on and after
35 September 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

36 (~~(32))~~ (32) "Index" means, for any calendar year, that year's
37 annual average consumer price index, Seattle, Washington area, for
38 urban wage earners and clerical workers, all items, compiled by the
39 bureau of labor statistics, United States department of labor.

1 (~~(33)~~) (32) "Index A" means the index for the year prior to the
2 determination of a postretirement adjustment.

3 (~~(34)~~) (33) "Index B" means the index for the year prior to index
4 A.

5 (~~(35)~~) (34) "Adjustment ratio" means the value of index A divided
6 by index B.

7 (~~(36)~~) (35) "Separation from service" occurs when a person has
8 terminated all employment with an employer.

9 (~~(37)~~) (36) "Member account" or "member's account" for purposes
10 of plan 3 means the sum of the contributions and earnings on behalf of
11 the member in the defined contribution portion of plan 3.

12 (~~(38)~~) (37) "Classified employee" means an employee of a school
13 district or an educational service district who is not eligible for
14 membership in the teachers' retirement system established under chapter
15 41.32 RCW.

16
17 **Sec. 4.** RCW 41.04.270 and 1988 c 195 s 5 are each amended to read
18 as follows:

19 (1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26,
20 41.28, 41.32, 41.35, 41.40, or 43.43 RCW to the contrary, on and after
21 March 19, 1976, any member or former member who (a) receives a
22 retirement allowance earned by said former member as deferred
23 compensation from any public retirement system authorized by the
24 general laws of this state, or (b) is eligible to receive a retirement
25 allowance from any public retirement system listed in RCW 41.50.030,
26 but chooses not to apply, or (c) is the beneficiary of a disability
27 allowance from any public retirement system listed in RCW 41.50.030
28 shall be estopped from becoming a member of or accruing any contractual
29 rights whatsoever in any other public retirement system listed in RCW
30 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not
31 apply to persons who have accumulated less than fifteen years service
32 credit in any such system.

33 (2) Nothing in this section is intended to apply to any retirement
34 system except those listed in RCW 41.50.030 and the city employee
35 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)
36 of this section does not apply to a dual member as defined in RCW
37 41.54.010.

1 NEW SECTION. **Sec. 5.** RCW 41.54.050 (Election to establish
2 membership in public employees' retirement system) is decodified.

3 NEW SECTION. **Sec. 6.** Sections 1 and 2 of this act take effect
4 March 1, 2002.

 Passed the House March 9, 2001.

 Passed the Senate April 10, 2001.

 Approved by the Governor May 7, 2001.

 Filed in Office of Secretary of State May 7, 2001.