

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5937

Chapter 10, Laws of 2001

(partial veto)

57th Legislature
2001 Second Special Session

POSTRETIREMENT EMPLOYMENT--RETIREMENT SYSTEM RETIREES

EFFECTIVE DATE: 7/1/01 - Except section 12, which becomes effective 12/31/04.

Passed by the Senate June 20, 2001
YEAS 39 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House June 19, 2001
YEAS 84 NAYS 1

FRANK CHOPP
**Speaker of the
House of Representatives**

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved June 26, 2001, with the exception of sections 5 and 6, which are vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5937** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

June 26, 2001 - 11:47 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5937

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 2nd Special Session

State of Washington 57th Legislature 2001 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Shin, Rasmussen, Jacobsen, Winsley, Kohl-Welles and McAuliffe; by request of Governor Locke and Superintendent of Public Instruction)

READ FIRST TIME 03/08/01.

1 AN ACT Relating to postretirement employment for teachers'
2 retirement system, public employees' retirement system, and school
3 employees' retirement system retirees; amending RCW 28A.405.900,
4 41.32.570, 41.40.037, 41.32.802, 41.32.860, 41.32.862, 41.35.060,
5 41.40.037, and 41.40.750; creating new sections; providing effective
6 dates; providing expiration dates; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The department of retirement systems,
9 the office of the superintendent of public instruction, the department
10 of personnel, and the health care authority shall jointly develop
11 publications for use during the 2001-03 biennium to explain options
12 for, and implications of, postretirement employment for members and
13 retirees of the teachers' retirement system plan 1 and the public
14 employees' retirement system plan 1.

15 (2) The publications shall address such issues as: (a) Health
16 insurance coverage upon reemployment; (b) health benefit options upon
17 termination of postretirement employment; (c) sick leave, annual leave,
18 and other compensation practices; (d) options for, and implications of,
19 reentry into active retirement system membership; (e) hiring procedures

1 for retirees; and (f) collective bargaining rights and
2 responsibilities.

3 **Sec. 2.** RCW 28A.405.900 and 1990 c 33 s 404 are each amended to
4 read as follows:

5 Certificated employees subject to the provisions of RCW
6 28A.310.250, 28A.405.010 through 28A.405.240, 28A.405.400 through
7 28A.405.410, 28A.415.250, and 28A.405.900 shall not include those
8 certificated employees hired to replace certificated employees who have
9 been granted sabbatical, regular, or other leave by school districts,
10 and shall not include retirees hired for postretirement employment
11 under the provisions of this act.

12 It is not the intention of the legislature that this section apply
13 to any regularly hired certificated employee or that the legal or
14 constitutional rights of such employee be limited, abridged, or
15 abrogated.

16 **Sec. 3.** RCW 41.32.570 and 1999 c 387 s 1 are each amended to read
17 as follows:

18 (1)(a) If a retiree enters employment with an employer sooner than
19 one calendar month after his or her accrual date, the retiree's monthly
20 retirement allowance will be reduced by five and one-half percent for
21 every seven hours worked during that month. This reduction will be
22 applied each month until the retiree remains absent from employment
23 with an employer for one full calendar month.

24 (b) The benefit reduction provided in (a) of this subsection will
25 accrue for a maximum of one hundred forty hours per month. Any monthly
26 benefit reduction over one hundred percent will be applied to the
27 benefit the retiree is eligible to receive in subsequent months.

28 (2) Any retired teacher or retired administrator who enters service
29 in any public educational institution in Washington state and who has
30 satisfied the break in employment requirement of subsection (1) of this
31 section shall cease to receive pension payments while engaged in such
32 service(~~(: PROVIDED, That service may be rendered up to five hundred~~
33 ~~twenty-five hours per school year without reduction of pension.~~

34 ~~(3) In addition to the five hundred twenty-five hours of service~~
35 ~~permitted under subsection (2) of this section, a retired teacher or~~
36 ~~retired administrator may also serve only as a substitute teacher for~~

1 up to an additional three hundred fifteen hours per school year without
2 reduction of pension if:

3 (a) A school district, which is not a member of a multidistrict
4 substitute cooperative, determines that it has exhausted or can
5 reasonably anticipate that it will exhaust its list of qualified and
6 available substitutes and the school board of the district adopts a
7 resolution to make its substitute teachers who are retired teachers or
8 retired administrators eligible for the extended service once the list
9 of qualified and available substitutes has been exhausted. The
10 resolution by the school district shall state that the services of
11 retired teachers and retired administrators are necessary to address
12 the shortage of qualified and available substitutes. The resolution
13 shall be valid only for the school year in which it is adopted. The
14 district shall forward a copy of the resolution with a list of retired
15 teachers and retired administrators who have been employed as
16 substitute teachers to the department and may notify the retired
17 teachers and retired administrators included on the list of their right
18 to take advantage of the provisions of this subsection; or

19 (b) A multidistrict substitute cooperative determines that the
20 school districts have exhausted or can reasonably anticipate that they
21 will exhaust their list of qualified and available substitutes and each
22 of the school boards adopts a resolution to make their substitute
23 teachers who are retired teachers or retired administrators eligible
24 for the extended service once the list of qualified and available
25 substitutes has been exhausted. The resolutions by each of the school
26 districts shall state that the services of retired teachers and retired
27 administrators are necessary to address the shortage of qualified and
28 available substitutes. The resolutions shall be valid only for the
29 school year in which they are adopted. The cooperative shall forward
30 a copy of the resolutions with a list of retired teachers and retired
31 administrators who have been employed as substitute teachers to the
32 department and may notify the retired teachers and retired
33 administrators included on the list of their right to take advantage of
34 the provisions of this subsection.

35 (4) In addition to the five hundred twenty five hours of service
36 permitted under subsection (2) of this section, a retired administrator
37 or retired teacher may also serve as a substitute administrator up to
38 an additional one hundred five hours per school year without reduction
39 of pension if a school district board of directors adopts a resolution

1 ~~declaring that the services of a retired administrator or retired~~
2 ~~teacher are necessary because it cannot find a replacement~~
3 ~~administrator to fill a vacancy. The resolution shall be valid only~~
4 ~~for the school year in which it is adopted. The district shall forward~~
5 ~~a copy of the resolution with the name of the retired administrator or~~
6 ~~retired teacher who has been employed as a substitute administrator to~~
7 ~~the department.~~

8 ~~(5) In addition to the five hundred twenty-five hours of service~~
9 ~~permitted under subsection (2) of this section and the one hundred five~~
10 ~~hours permitted under subsection (4) of this section, a retired~~
11 ~~principal may also serve as a substitute principal up to an additional~~
12 ~~two hundred ten hours per school year without a reduction of pension if~~
13 ~~a school district board of directors adopts a resolution declaring that~~
14 ~~the services of a retired principal are necessary because it cannot~~
15 ~~find a replacement principal to fill a vacancy. The resolution shall~~
16 ~~be valid only for the school year in which it is adopted. The district~~
17 ~~shall forward a copy of the resolution with the name of the retired~~
18 ~~principal who has been employed as a substitute principal to the~~
19 ~~department.~~

20 ~~(6) Subsection (2) of this section shall apply to all persons~~
21 ~~governed by the provisions of plan 1, regardless of the date of their~~
22 ~~retirement, but shall apply only to benefits payable after June 11,~~
23 ~~1986.~~

24 ~~(7) Subsection (3) of this section shall apply to all persons~~
25 ~~governed by the provisions of plan 1, regardless of the date of their~~
26 ~~retirement, but shall only apply to benefits payable after September 1,~~
27 ~~1994)), after the retiree has rendered service for more than one~~
28 ~~thousand five hundred hours in a school year. When a retired teacher~~
29 ~~or administrator renders service beyond eight hundred sixty-seven~~
30 ~~hours, the department shall collect from the employer the applicable~~
31 ~~employer retirement contributions for the entire duration of the~~
32 ~~member's employment during that fiscal year.~~

33 ~~(3) The department shall collect and provide the state actuary with~~
34 ~~information relevant to the use of this section for the joint committee~~
35 ~~on pension policy.~~

36 ~~(4) The legislature reserves the right to amend or repeal this~~
37 ~~section in the future and no member or beneficiary has a contractual~~
38 ~~right to be employed for more than five hundred twenty-five hours per~~
39 ~~year without a reduction of his or her pension.~~

1 **Sec. 4.** RCW 41.40.037 and 1997 c 254 s 14 are each amended to read
2 as follows:

3 (1)(a) If a retiree enters employment with an employer sooner than
4 one calendar month after his or her accrual date, the retiree's monthly
5 retirement allowance will be reduced by five and one-half percent for
6 every eight hours worked during that month. This reduction will be
7 applied each month until the retiree remains absent from employment
8 with an employer for one full calendar month.

9 (b) The benefit reduction provided in (a) of this subsection will
10 accrue for a maximum of one hundred sixty hours per month. Any benefit
11 reduction over one hundred percent will be applied to the benefit the
12 retiree is eligible to receive in subsequent months.

13 (2)(a) A retiree from plan 1 who has satisfied the break in
14 employment requirement of subsection (1) of this section and who enters
15 employment with an employer may continue to receive pension payments
16 while engaged in such service for up to one thousand five hundred hours
17 of service in a calendar year without a reduction of pension. When a
18 plan 1 member renders service beyond eight hundred sixty-seven hours,
19 the department shall collect from the employer the applicable employer
20 retirement contributions for the entire duration of the member's
21 employment during that calendar year.

22 (b) A retiree from plan 2 or plan 3 who has satisfied the break in
23 employment requirement of subsection (1) of this section((7)) may work
24 up to ((five months per)) eight hundred sixty-seven hours in a calendar
25 year in an eligible position, as defined in RCW 41.32.010, 41.35.010,
26 or 41.40.010, or as a fire fighter or law enforcement officer, as
27 defined in RCW 41.26.030, without suspension of his or her benefit.

28 (3) If the retiree opts to reestablish membership under RCW
29 41.40.023(12), he or she terminates his or her retirement status and
30 becomes a member. Retirement benefits shall not accrue during the
31 period of membership and the individual shall make contributions and
32 receive membership credit. Such a member shall have the right to again
33 retire if eligible in accordance with RCW 41.40.180. However, if the
34 right to retire is exercised to become effective before the member has
35 rendered two uninterrupted years of service, the retirement formula and
36 survivor options the member had at the time of the member's previous
37 retirement shall be reinstated.

1 (4) The department shall collect and provide the state actuary with
2 information relevant to the use of this section for the joint committee
3 on pension policy.

4 (5) The legislature reserves the right to amend or repeal this
5 section in the future and no member or beneficiary has a contractual
6 right to be employed for more than five months in a calendar year
7 without a reduction of his or her pension.

8 ****NEW SECTION. Sec. 5. Sections 2 and 3 of this act expire June***
9 ***30, 2004.***

10 ****Sec. 5 was vetoed. See message at end of chapter.***

11 ****NEW SECTION. Sec. 6. Section 4 of this act expires December 31,***
12 ***2004.***

13 ****Sec. 6 was vetoed. See message at end of chapter.***

14 ***NEW SECTION. Sec. 7.*** The office of the state actuary shall review
15 the actuarial impact of the temporary expansion of the postretirement
16 employment limitations provided by sections 3 and 4 of this act. No
17 later than July 1, 2003, the state actuary shall prepare a report for
18 the joint committee on pension policy regarding the fiscal and policy
19 impacts of this act. The joint committee shall solicit information
20 from the superintendent of public instruction, the department of
21 personnel, the office of financial management, the department of
22 retirement systems, and the health care authority regarding the program
23 impacts of this act and shall report to the legislative fiscal
24 committees no later than October 1, 2003, on any proposed changes or
25 improvements to this act. If the state actuary determines the
26 expansion of postretirement options under sections 3 and 4 of this act
27 has resulted in increased costs for the state retirement funds, the
28 joint committee report shall include a proposal for a process to charge
29 those employers who employ retirees pursuant to an extension of
30 sections 3 and 4 of this act for the costs incurred by the retirement
31 funds under the extension.

32 **Sec. 8.** RCW 41.32.802 and 1997 c 254 s 8 are each amended to read
33 as follows:

34 (1)(a) If a retiree enters employment with an employer sooner than
35 one calendar month after his or her accrual date, the retiree's monthly
36 retirement allowance will be reduced by five and one-half percent for

1 every seven hours worked during that month. This reduction will be
2 applied each month until the retiree remains absent from employment
3 with an employer for one full calendar month.

4 (b) The benefit reduction provided in (a) of this subsection will
5 accrue for a maximum of one hundred forty hours per month. Any benefit
6 reduction over one hundred percent will be applied to the benefit the
7 retiree is eligible to receive in subsequent months.

8 (2) A retiree who has satisfied the break in employment requirement
9 of subsection (1) of this section, may work up to (~~(five months)~~) eight
10 hundred sixty-seven hours per calendar year in an eligible position, as
11 defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter
12 or law enforcement officer, as defined in RCW 41.26.030, without
13 suspension of his or her benefit.

14 (3) If the retiree opts to reestablish membership under RCW
15 41.32.044, he or she terminates his or her retirement status and
16 immediately becomes a member. Retirement benefits shall not accrue
17 during the period of membership and the individual shall make
18 contributions and receive membership credit. Such a member shall have
19 the right to again retire if eligible.

20 **Sec. 9.** RCW 41.32.860 and 1997 c 254 s 7 are each amended to read
21 as follows:

22 (1) Except under RCW 41.32.862, no retiree shall be eligible to
23 receive such retiree's monthly retirement allowance if he or she is
24 employed in an eligible position as defined in RCW 41.40.010 (~~(or)~~),
25 41.32.010, or 41.35.010, or as a law enforcement officer or fire
26 fighter as defined in RCW 41.26.030.

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

32 **Sec. 10.** RCW 41.32.862 and 1997 c 254 s 9 are each amended to read
33 as follows:

34 (1)(a) If a retiree enters employment with an employer sooner than
35 one calendar month after his or her accrual date, the retiree's monthly
36 retirement allowance will be reduced by five and one-half percent for
37 every seven hours worked during that month. This reduction will be

1 applied each month until the retiree remains absent from employment
2 with an employer for one full calendar month.

3 (b) The benefit reduction provided in (a) of this subsection will
4 accrue for a maximum of one hundred forty hours per month. Any benefit
5 reduction over one hundred percent will be applied to the benefit the
6 retiree is eligible to receive in subsequent months.

7 (2) A retiree who has satisfied the break in employment requirement
8 of subsection (1) of this section, may work up to (~~five months~~) eight
9 hundred sixty-seven hours per calendar year in an eligible position, as
10 defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter
11 or law enforcement officer, as defined in RCW 41.26.030, without
12 suspension of his or her benefit.

13 (3) If the retiree opts to reestablish membership under RCW
14 41.32.044, he or she terminates his or her retirement status and
15 immediately becomes a member. Retirement benefits shall not accrue
16 during the period of membership and the individual shall make
17 contributions and receive membership credit. Such a member shall have
18 the right to again retire if eligible.

19 **Sec. 11.** RCW 41.35.060 and 1998 c 341 s 7 are each amended to read
20 as follows:

21 (1)(a) If a retiree enters employment with an employer sooner than
22 one calendar month after his or her accrual date, the retiree's monthly
23 retirement allowance will be reduced by five and one-half percent for
24 every eight hours worked during that month. This reduction will be
25 applied each month until the retiree remains absent from employment
26 with an employer for one full calendar month.

27 (b) The benefit reduction provided in (a) of this subsection will
28 accrue for a maximum of one hundred sixty hours per month. Any benefit
29 reduction over one hundred percent will be applied to the benefit the
30 retiree is eligible to receive in subsequent months.

31 (2) A retiree who has satisfied the break in employment requirement
32 of subsection (1) of this section may work up to (~~five months~~) eight
33 hundred sixty-seven hours per calendar year in an eligible position, as
34 defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter
35 or law enforcement officer, as defined in RCW 41.26.030, without
36 suspension of his or her benefit.

37 (3) If the retiree opts to reestablish membership under RCW
38 41.35.030, he or she terminates his or her retirement status and

1 becomes a member. Retirement benefits shall not accrue during the
2 period of membership and the individual shall make contributions and
3 receive membership credit. Such a member shall have the right to again
4 retire if eligible in accordance with RCW 41.35.420 or 41.35.680.
5 However, if the right to retire is exercised to become effective before
6 the member has rendered two uninterrupted years of service, the
7 retirement formula and survivor options the member had at the time of
8 the member's previous retirement shall be reinstated.

9 **Sec. 12.** RCW 41.40.037 and 1997 c 254 s 14 are each amended to
10 read as follows:

11 (1)(a) If a retiree enters employment with an employer sooner than
12 one calendar month after his or her accrual date, the retiree's monthly
13 retirement allowance will be reduced by five and one-half percent for
14 every eight hours worked during that month. This reduction will be
15 applied each month until the retiree remains absent from employment
16 with an employer for one full calendar month.

17 (b) The benefit reduction provided in (a) of this subsection will
18 accrue for a maximum of one hundred sixty hours per month. Any benefit
19 reduction over one hundred percent will be applied to the benefit the
20 retiree is eligible to receive in subsequent months.

21 (2) A retiree who has satisfied the break in employment requirement
22 of subsection (1) of this section, may work up to (~~five months~~) eight
23 hundred sixty-seven hours per calendar year in an eligible position, as
24 defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter
25 or law enforcement officer, as defined in RCW 41.26.030, without
26 suspension of his or her benefit.

27 (3) If the retiree opts to reestablish membership under RCW
28 41.40.023(12), he or she terminates his or her retirement status and
29 becomes a member. Retirement benefits shall not accrue during the
30 period of membership and the individual shall make contributions and
31 receive membership credit. Such a member shall have the right to again
32 retire if eligible in accordance with RCW 41.40.180. However, if the
33 right to retire is exercised to become effective before the member has
34 rendered two uninterrupted years of service, the retirement formula and
35 survivor options the member had at the time of the member's previous
36 retirement shall be reinstated.

1 **Sec. 13.** RCW 41.40.750 and 1998 c 341 s 113 are each amended to
2 read as follows:

3 (1) Effective September 1, 2000, the membership of all plan 2
4 members currently employed in eligible positions in a school district
5 or educational service district and all plan 2 service credit for such
6 members, is transferred to the Washington school employees' retirement
7 system plan 2. Plan 2 members who have withdrawn their member
8 contributions for prior plan 2 service may restore contributions and
9 service credit to the Washington school employees' retirement system
10 plan 2 as provided under RCW 41.40.740.

11 (2)(a) The membership and previous service credit of a plan 2
12 member not employed in an eligible position on September 1, 2000, will
13 be transferred to the Washington school employees' retirement system
14 plan 2 when he or she becomes employed in an eligible position. Plan
15 2 members not employed in an eligible position on September 1, 2000,
16 who have withdrawn their member contributions for prior plan 2 service
17 may restore contributions and service credit to the Washington school
18 employees' retirement system plan 2 as provided under RCW 41.40.740.

19 (b) The membership and previous service credit of a plan 2 member
20 last employed by a school district or educational service district and
21 retired prior to September 1, 2000, will be transferred to the
22 Washington school employees' retirement system plan 2 if the member
23 opts to reestablish membership.

24 (3) Members who restore contributions and service credit under
25 subsection (1) or (2) of this section shall have their contributions
26 and service credit transferred to the Washington school employees'
27 retirement system.

28 NEW SECTION. **Sec. 14.** Except for section 12 of this act which
29 takes effect December 31, 2004, this act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 July 1, 2001.

Passed the Senate June 20, 2001.

Passed the House June 19, 2001.

Approved by the Governor June 26, 2001, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State June 26, 2001.

1 Note: Governor's explanation of partial veto is as follows:

1 "I am returning herewith, without my approval as to sections 5 and
2 6, Engrossed Substitute Senate Bill No. 5937 entitled:

3 "AN ACT Relating to postretirement employment for teachers'
4 retirement system, public employees' retirement system, and school
5 employees' retirement system retirees;"

6 This bill addresses worker retention problems in public employment
7 by expanding post-retirement employment opportunities for Plan 1
8 members of the teachers' and public employees' retirement systems.

9 The state is facing a critical shortage of experienced teachers and
10 other employees with skills that are in high demand. To meet this
11 shortage, we need to attract retirees back to work. ESSB 5937 will
12 help us in this task by creating a program for post-retirement
13 employment. To improve the effectiveness of this program and ensure a
14 steady supply of people with valuable expertise in our schools and
15 state and local agencies, I have vetoed sections 5 and 6, which would
16 have terminated the program in 2004. This sunset date would have been
17 premature and would not have allowed sufficient time for the program to
18 develop.

19 The bill contains provisions for a study of the program, and a
20 means to recover any resulting costs from employers. These provisions
21 provide adequate safeguards for the program and make sections 5 and 6
22 unnecessary.

23 For these reasons, I have vetoed sections 5 and 6 of Engrossed
24 Substitute Senate Bill No. 5937.

25 With the exception of sections 5 and 6, Engrossed Substitute Senate
26 Bill 5937 is approved."