
SUBSTITUTE HOUSE BILL 1082

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Education (originally sponsored by Representatives Ruderman, Tom, Hunter, Jarrett, McDermott, Nixon, Clibborn, Sommers, Sullivan, McIntire, O'Brien, Simpson, Hunt, Moeller, Kirby, Cooper, Chase, Wood, Miloscia, Shabro, Hudgins, Kenney, Conway, Kagi and Dickerson)

READ FIRST TIME 02/24/03.

1 AN ACT Relating to housing allowances for nonsupervisory K-12
2 employees; amending RCW 28A.400.200, 84.52.053, 84.52.0531, 41.32.010,
3 41.40.010, and 41.35.010; adding a new section to chapter 28A.400 RCW;
4 adding a new section to chapter 28A.500 RCW; adding a new section to
5 chapter 84.52 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** As the disparity in the cost-of-living
8 between school districts across the state has grown in recent years,
9 the purchasing power of equalized salaries has become more disparate
10 for K-12 employees. A major contributor to these costs is housing.
11 The purpose of this act is to authorize a housing allowance for
12 nonsupervisory public school employees in order to encourage these
13 employees to live in the districts in which they work.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.400
15 RCW to read as follows:

16 (1) Eligible school districts may provide a housing allowance for
17 nonsupervisory classified and certificated employees with revenues
18 raised from a housing allowance levy authorized under this section.

1 (2) The cost of the housing for each school district and the
2 statewide median shall be determined every four years based on a
3 standard set of housing specifications and on data reported for the
4 most recent annual period for which data are available. The collection
5 of data shall be done by a nationally recognized entity that collects
6 statistically valid housing cost data for federal government agencies
7 and businesses, selected by the superintendent of public instruction
8 and subject to approval by the legislative fiscal committees and the
9 office of financial management. The office of financial management
10 shall contract with the entity selected under this subsection (2) from
11 funds provided for this purpose. For the purposes of this section, the
12 "statewide median cost of housing" is the cost at which there is an
13 equal number of districts with higher housing costs and with lower
14 housing costs.

15 (3) The maximum housing allowance levy allowed for a school
16 district shall be the sum of the following: Each nonsupervisory
17 employee's full-time equivalence multiplied by the difference between
18 the statewide median cost of housing and the lesser of (a) the
19 district's cost of housing or (b) the cost of housing in the district
20 in which each employee resides. For purposes of this calculation, the
21 difference between the district's cost of housing and the statewide
22 median shall not exceed fifty percent of the median.

23 (4) Individual payment of the housing allowance to nonsupervisory
24 classified and certificated employees is subject to collective
25 bargaining but shall be paid only to actively employed nonsupervisory
26 classified and certificated employees using a formula that recognizes
27 and is responsive to the disproportionate housing assistance needs of
28 new teachers and of certificated and classified employees at the bottom
29 end of a salary schedule or pay scale. The housing allowance shall not
30 be considered as within the definition of basic education for the
31 purposes of chapter 28A.150 RCW, nor is it earnable compensation as
32 defined in RCW 41.32.010 or compensation earnable as defined in RCW
33 41.40.010 and 41.35.010.

34 (5) Local school districts may submit to voters an excess general
35 fund levy on real and personal property to support up to and including
36 the maximum housing levy authority determined in subsection (3) of this
37 section. This levy is not subject to the limitations in RCW

1 84.52.0531. This levy does not qualify a school district for local
2 effort assistance under chapter 28A.500 RCW.

3 (6) The office of the superintendent of public instruction shall
4 administer the housing allowance program and shall adopt rules for
5 implementation.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.500
7 RCW to read as follows:

8 Levies authorized under section 2 of this act shall not be
9 considered in determining a school district's eligibility for local
10 effort assistance under this chapter.

11 **Sec. 4.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to
12 read as follows:

13 (1) Every school district board of directors shall fix, alter,
14 allow, and order paid salaries and compensation for all district
15 employees in conformance with this section.

16 (2)(a) Salaries for certificated instructional staff shall not be
17 less than the salary provided in the appropriations act in the
18 statewide salary allocation schedule for an employee with a
19 baccalaureate degree and zero years of service; and

20 (b) Salaries for certificated instructional staff with a masters
21 degree shall not be less than the salary provided in the appropriations
22 act in the statewide salary allocation schedule for an employee with a
23 masters degree and zero years of service;

24 (3)(a) The actual average salary paid to certificated instructional
25 staff shall not exceed the district's average certificated
26 instructional staff salary used for the state basic education
27 allocations for that school year as determined pursuant to RCW
28 28A.150.410.

29 (b) Fringe benefit contributions for certificated instructional
30 staff shall be included as salary under (a) of this subsection only to
31 the extent that the district's actual average benefit contribution
32 exceeds the amount of the insurance benefits allocation provided per
33 certificated instructional staff unit in the state operating
34 appropriations act in effect at the time the compensation is payable.
35 For purposes of this section, fringe benefits shall not include payment
36 for unused leave for illness or injury under RCW 28A.400.210; employer

1 contributions for old age survivors insurance, workers' compensation,
2 unemployment compensation, and retirement benefits under the Washington
3 state retirement system; or employer contributions for health benefits
4 in excess of the insurance benefits allocation provided per
5 certificated instructional staff unit in the state operating
6 appropriations act in effect at the time the compensation is payable.
7 A school district may not use state funds to provide employer
8 contributions for such excess health benefits.

9 (c) Salary and benefits for certificated instructional staff in
10 programs other than basic education shall be consistent with the salary
11 and benefits paid to certificated instructional staff in the basic
12 education program.

13 (4) Salaries and benefits for certificated instructional staff may
14 exceed the limitations in subsection (3) of this section only by
15 separate contract for additional time, additional responsibilities, or
16 incentives. Supplemental contracts shall not cause the state to incur
17 any present or future funding obligation. Supplemental contracts shall
18 be subject to the collective bargaining provisions of chapter 41.59 RCW
19 and the provisions of RCW 28A.405.240, shall not exceed one year, and
20 if not renewed shall not constitute adverse change in accordance with
21 RCW 28A.405.300 through 28A.405.380. No district may enter into a
22 supplemental contract under this subsection for the provision of
23 services which are a part of the basic education program required by
24 Article IX, section 3 of the state Constitution.

25 (5) Employee benefit plans offered by any district shall comply
26 with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

27 (6) Housing allowances authorized in section 2 of this act shall
28 not be included as salary under this section and shall not be included
29 in salary limitations.

30 **Sec. 5.** RCW 84.52.053 and 1997 c 260 s 1 are each amended to read
31 as follows:

32 The limitations imposed by RCW 84.52.050 through 84.52.056, and
33 84.52.043 shall not prevent the levy of taxes by school districts, when
34 authorized so to do by the voters of such school district in the manner
35 and for the purposes and number of years allowable under Article VII,
36 section 2(a) of the Constitution of this state. Elections for such
37 taxes shall be held in the year in which the levy is made or, in the

1 case of propositions authorizing two-year through four-year levies for
2 maintenance and operation support of a school district, authorizing
3 two-year through four-year levies for a housing allowance, authorizing
4 two-year levies for transportation vehicle funds established in RCW
5 28A.160.130, or authorizing two-year through six-year levies to support
6 the construction, modernization, or remodeling of school facilities, in
7 the year in which the first annual levy is made: PROVIDED, That once
8 additional tax levies have been authorized for maintenance and
9 operation support of a school district for a two-year through four-year
10 period, no further additional tax levies for maintenance and operation
11 support of the district for that period may be authorized. This
12 section shall not be construed to prevent authorization of a housing
13 allowance levy during the same period in which a levy for maintenance
14 and operation support has been authorized.

15 A special election may be called and the time therefor fixed by the
16 board of school directors, by giving notice thereof by publication in
17 the manner provided by law for giving notices of general elections, at
18 which special election the proposition authorizing such excess levy
19 shall be submitted in such form as to enable the voters favoring the
20 proposition to vote "yes" and those opposed thereto to vote "no".

21 **Sec. 6.** RCW 84.52.0531 and 1997 c 259 s 2 are each amended to read
22 as follows:

23 The maximum dollar amount which may be levied by or for any school
24 district for maintenance and operation support under the provisions of
25 RCW 84.52.053 shall be determined as follows:

26 (1) For excess levies for collection in calendar year 1997, the
27 maximum dollar amount shall be calculated pursuant to the laws and
28 rules in effect in November 1996.

29 (2) For excess levies for collection in calendar year 1998 and
30 thereafter, the maximum dollar amount shall be the sum of (a) plus or
31 minus (b) and (c) of this subsection minus (d) of this subsection:

32 (a) The district's levy base as defined in subsection (3) of this
33 section multiplied by the district's maximum levy percentage as defined
34 in subsection (4) of this section;

35 (b) For districts in a high/nonhigh relationship, the high school
36 district's maximum levy amount shall be reduced and the nonhigh school
37 district's maximum levy amount shall be increased by an amount equal to

1 the estimated amount of the nonhigh payment due to the high school
2 district under RCW 28A.545.030(3) and 28A.545.050 for the school year
3 commencing the year of the levy;

4 (c) For districts in an interdistrict cooperative agreement, the
5 nonresident school district's maximum levy amount shall be reduced and
6 the resident school district's maximum levy amount shall be increased
7 by an amount equal to the per pupil basic education allocation included
8 in the nonresident district's levy base under subsection (3) of this
9 section multiplied by:

10 (i) The number of full-time equivalent students served from the
11 resident district in the prior school year; multiplied by:

12 (ii) The serving district's maximum levy percentage determined
13 under subsection (4) of this section; increased by:

14 (iii) The percent increase per full-time equivalent student as
15 stated in the state basic education appropriation section of the
16 biennial budget between the prior school year and the current school
17 year divided by fifty-five percent;

18 (d) The district's maximum levy amount shall be reduced by the
19 maximum amount of state matching funds for which the district is
20 eligible under RCW 28A.500.010.

21 (3) For excess levies for collection in calendar year 1998 and
22 thereafter, a district's levy base shall be the sum of allocations in
23 (a) through (c) of this subsection received by the district for the
24 prior school year, including allocations for compensation increases,
25 plus the sum of such allocations multiplied by the percent increase per
26 full time equivalent student as stated in the state basic education
27 appropriation section of the biennial budget between the prior school
28 year and the current school year and divided by fifty-five percent. A
29 district's levy base shall not include local school district property
30 tax levies or other local revenues, or state and federal allocations
31 not identified in (a) through (c) of this subsection.

32 (a) The district's basic education allocation as determined
33 pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

34 (b) State and federal categorical allocations for the following
35 programs:

36 (i) Pupil transportation;

37 (ii) Special education;

38 (iii) Education of highly capable students;

1 (iv) Compensatory education, including but not limited to learning
2 assistance, migrant education, Indian education, refugee programs, and
3 bilingual education;

4 (v) Food services; and

5 (vi) Statewide block grant programs; and

6 (c) Any other federal allocations for elementary and secondary
7 school programs, including direct grants, other than federal impact aid
8 funds and allocations in lieu of taxes.

9 (4) A district's maximum levy percentage shall be twenty-two
10 percent in 1998 and twenty-four percent in 1999 and every year
11 thereafter; plus, for qualifying districts, the grandfathered
12 percentage determined as follows:

13 (a) For 1997, the difference between the district's 1993 maximum
14 levy percentage and twenty percent; and

15 (b) For 1998 and thereafter, the percentage calculated as follows:

16 (i) Multiply the grandfathered percentage for the prior year times
17 the district's levy base determined under subsection (3) of this
18 section;

19 (ii) Reduce the result of (b)(i) of this subsection by any levy
20 reduction funds as defined in subsection (5) of this section that are
21 to be allocated to the district for the current school year;

22 (iii) Divide the result of (b)(ii) of this subsection by the
23 district's levy base; and

24 (iv) Take the greater of zero or the percentage calculated in
25 (b)(iii) of this subsection.

26 (5) "Levy reduction funds" shall mean increases in state funds from
27 the prior school year for programs included under subsection (3) of
28 this section: (a) That are not attributable to enrollment changes,
29 compensation increases, or inflationary adjustments; and (b) that are
30 or were specifically identified as levy reduction funds in the
31 appropriations act. If levy reduction funds are dependent on formula
32 factors which would not be finalized until after the start of the
33 current school year, the superintendent of public instruction shall
34 estimate the total amount of levy reduction funds by using prior school
35 year data in place of current school year data. Levy reduction funds
36 shall not include moneys received by school districts from cities or
37 counties.

1 (6) For the purposes of this section, "prior school year" means the
2 most recent school year completed prior to the year in which the levies
3 are to be collected.

4 (7) For the purposes of this section, "current school year" means
5 the year immediately following the prior school year.

6 (8) Funds collected from transportation vehicle fund tax levies
7 shall not be subject to the levy limitations in this section.

8 (9) The limitations in this section do not apply to excess general
9 fund levies for the support of the housing allowance provided for in
10 section 2 of this act.

11 (10) The superintendent of public instruction shall develop rules
12 ((and regulations)) and inform school districts of the pertinent data
13 necessary to carry out the provisions of this section.

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 84.52 RCW
15 to read as follows:

16 A levy submitted to voters under section 2 of this act may be
17 submitted as a separate levy, or as part of a maintenance and operation
18 levy if the housing allowance levy is separately identified.

19 **Sec. 8.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to read
20 as follows:

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

23 (1)(a) "Accumulated contributions" for plan 1 members, means the
24 sum of all regular annuity contributions and, except for the purpose of
25 withdrawal at the time of retirement, any amount paid under RCW
26 41.50.165(2) with regular interest thereon.

27 (b) "Accumulated contributions" for plan 2 members, means the sum
28 of all contributions standing to the credit of a member in the member's
29 individual account, including any amount paid under RCW 41.50.165(2),
30 together with the regular interest thereon.

31 (2) "Actuarial equivalent" means a benefit of equal value when
32 computed upon the basis of such mortality tables and regulations as
33 shall be adopted by the director and regular interest.

34 (3) "Annuity" means the moneys payable per year during life by
35 reason of accumulated contributions of a member.

1 (4) "Member reserve" means the fund in which all of the accumulated
2 contributions of members are held.

3 (5)(a) "Beneficiary" for plan 1 members, means any person in
4 receipt of a retirement allowance or other benefit provided by this
5 chapter.

6 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
7 in receipt of a retirement allowance or other benefit provided by this
8 chapter resulting from service rendered to an employer by another
9 person.

10 (6) "Contract" means any agreement for service and compensation
11 between a member and an employer.

12 (7) "Creditable service" means membership service plus prior
13 service for which credit is allowable. This subsection shall apply
14 only to plan 1 members.

15 (8) "Dependent" means receiving one-half or more of support from a
16 member.

17 (9) "Disability allowance" means monthly payments during
18 disability. This subsection shall apply only to plan 1 members.

19 (10)(a) "Earnable compensation" for plan 1 members, means:

20 (i) All salaries and wages paid by an employer to an employee
21 member of the retirement system for personal services rendered during
22 a fiscal year. In all cases where compensation includes maintenance
23 the employer shall fix the value of that part of the compensation not
24 paid in money.

25 (ii) "Earnable compensation" for plan 1 members also includes the
26 following actual or imputed payments, which are not paid for personal
27 services:

28 (A) Retroactive payments to an individual by an employer on
29 reinstatement of the employee in a position, or payments by an employer
30 to an individual in lieu of reinstatement in a position which are
31 awarded or granted as the equivalent of the salary or wages which the
32 individual would have earned during a payroll period shall be
33 considered earnable compensation and the individual shall receive the
34 equivalent service credit.

35 (B) If a leave of absence, without pay, is taken by a member for
36 the purpose of serving as a member of the state legislature, and such
37 member has served in the legislature five or more years, the salary
38 which would have been received for the position from which the leave of

1 absence was taken shall be considered as compensation earnable if the
2 employee's contribution thereon is paid by the employee. In addition,
3 where a member has been a member of the state legislature for five or
4 more years, earnable compensation for the member's two highest
5 compensated consecutive years of service shall include a sum not to
6 exceed thirty-six hundred dollars for each of such two consecutive
7 years, regardless of whether or not legislative service was rendered
8 during those two years.

9 (iii) For members employed less than full time under written
10 contract with a school district, or community college district, in an
11 instructional position, for which the member receives service credit of
12 less than one year in all of the years used to determine the earnable
13 compensation used for computing benefits due under RCW 41.32.497,
14 41.32.498, and 41.32.520, the member may elect to have earnable
15 compensation defined as provided in RCW 41.32.345. For the purposes of
16 this subsection, the term "instructional position" means a position in
17 which more than seventy-five percent of the member's time is spent as
18 a classroom instructor (including office hours), a librarian, or a
19 counselor. Earnable compensation shall be so defined only for the
20 purpose of the calculation of retirement benefits and only as necessary
21 to insure that members who receive fractional service credit under RCW
22 41.32.270 receive benefits proportional to those received by members
23 who have received full-time service credit.

24 (iv) "Earnable compensation" does not include:

25 (A) Remuneration for unused sick leave authorized under RCW
26 41.04.340, 28A.400.210, or 28A.310.490;

27 (B) Remuneration for unused annual leave in excess of thirty days
28 as authorized by RCW 43.01.044 and 43.01.041;

29 (C) Housing allowances authorized in section 2 of this act.

30 (b) "Earnable compensation" for plan 2 and plan 3 members, means
31 salaries or wages earned by a member during a payroll period for
32 personal services, including overtime payments, and shall include wages
33 and salaries deferred under provisions established pursuant to sections
34 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
35 shall exclude lump sum payments for deferred annual sick leave, unused
36 accumulated vacation, unused accumulated annual leave, (~~or~~) any form
37 of severance pay, and housing allowances authorized in section 2 of
38 this act.

1 "Earnable compensation" for plan 2 and plan 3 members also includes
2 the following actual or imputed payments which, except in the case of
3 (b)(ii)(B) of this subsection, are not paid for personal services:

4 (i) Retroactive payments to an individual by an employer on
5 reinstatement of the employee in a position or payments by an employer
6 to an individual in lieu of reinstatement in a position which are
7 awarded or granted as the equivalent of the salary or wages which the
8 individual would have earned during a payroll period shall be
9 considered earnable compensation, to the extent provided above, and the
10 individual shall receive the equivalent service credit.

11 (ii) In any year in which a member serves in the legislature the
12 member shall have the option of having such member's earnable
13 compensation be the greater of:

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

16 (B) Such member's actual earnable compensation received for
17 teaching and legislative service combined. Any additional
18 contributions to the retirement system required because compensation
19 earnable under (b)(ii)(A) of this subsection is greater than
20 compensation earnable under (b)(ii)(B) of this subsection shall be paid
21 by the member for both member and employer contributions.

22 (11) "Employer" means the state of Washington, the school district,
23 or any agency of the state of Washington by which the member is paid.

24 (12) "Fiscal year" means a year which begins July 1st and ends June
25 30th of the following year.

26 (13) "Former state fund" means the state retirement fund in
27 operation for teachers under chapter 187, Laws of 1923, as amended.

28 (14) "Local fund" means any of the local retirement funds for
29 teachers operated in any school district in accordance with the
30 provisions of chapter 163, Laws of 1917 as amended.

31 (15) "Member" means any teacher included in the membership of the
32 retirement system. Also, any other employee of the public schools who,
33 on July 1, 1947, had not elected to be exempt from membership and who,
34 prior to that date, had by an authorized payroll deduction, contributed
35 to the member reserve.

36 (16) "Membership service" means service rendered subsequent to the
37 first day of eligibility of a person to membership in the retirement
38 system: PROVIDED, That where a member is employed by two or more

1 employers the individual shall receive no more than one service credit
2 month during any calendar month in which multiple service is rendered.
3 The provisions of this subsection shall apply only to plan 1 members.

4 (17) "Pension" means the moneys payable per year during life from
5 the pension reserve.

6 (18) "Pension reserve" is a fund in which shall be accumulated an
7 actuarial reserve adequate to meet present and future pension
8 liabilities of the system and from which all pension obligations are to
9 be paid.

10 (19) "Prior service" means service rendered prior to the first date
11 of eligibility to membership in the retirement system for which credit
12 is allowable. The provisions of this subsection shall apply only to
13 plan 1 members.

14 (20) "Prior service contributions" means contributions made by a
15 member to secure credit for prior service. The provisions of this
16 subsection shall apply only to plan 1 members.

17 (21) "Public school" means any institution or activity operated by
18 the state of Washington or any instrumentality or political subdivision
19 thereof employing teachers, except the University of Washington and
20 Washington State University.

21 (22) "Regular contributions" means the amounts required to be
22 deducted from the compensation of a member and credited to the member's
23 individual account in the member reserve. This subsection shall apply
24 only to plan 1 members.

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

27 (24)(a) "Retirement allowance" for plan 1 members, means monthly
28 payments based on the sum of annuity and pension, or any optional
29 benefits payable in lieu thereof.

30 (b) "Retirement allowance" for plan 2 and plan 3 members, means
31 monthly payments to a retiree or beneficiary as provided in this
32 chapter.

33 (25) "Retirement system" means the Washington state teachers'
34 retirement system.

35 (26)(a) "Service" for plan 1 members means the time during which a
36 member has been employed by an employer for compensation.

37 (i) If a member is employed by two or more employers the individual

1 shall receive no more than one service credit month during any calendar
2 month in which multiple service is rendered.

3 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
4 sick leave may be creditable as service solely for the purpose of
5 determining eligibility to retire under RCW 41.32.470.

6 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
7 state retirement system that covers teachers in public schools may be
8 applied solely for the purpose of determining eligibility to retire
9 under RCW 41.32.470.

10 (b) "Service" for plan 2 and plan 3 members, means periods of
11 employment by a member for one or more employers for which earnable
12 compensation is earned subject to the following conditions:

13 (i) A member employed in an eligible position or as a substitute
14 shall receive one service credit month for each month of September
15 through August of the following year if he or she earns earnable
16 compensation for eight hundred ten or more hours during that period and
17 is employed during nine of those months, except that a member may not
18 receive credit for any period prior to the member's employment in an
19 eligible position except as provided in RCW 41.32.812 and 41.50.132;

20 (ii) If a member is employed either in an eligible position or as
21 a substitute teacher for nine months of the twelve month period between
22 September through August of the following year but earns earnable
23 compensation for less than eight hundred ten hours but for at least six
24 hundred thirty hours, he or she will receive one-half of a service
25 credit month for each month of the twelve month period;

26 (iii) All other members in an eligible position or as a substitute
27 teacher shall receive service credit as follows:

28 (A) A service credit month is earned in those calendar months where
29 earnable compensation is earned for ninety or more hours;

30 (B) A half-service credit month is earned in those calendar months
31 where earnable compensation is earned for at least seventy hours but
32 less than ninety hours; and

33 (C) A quarter-service credit month is earned in those calendar
34 months where earnable compensation is earned for less than seventy
35 hours.

36 (iv) Any person who is a member of the teachers' retirement system
37 and who is elected or appointed to a state elective position may

1 continue to be a member of the retirement system and continue to
2 receive a service credit month for each of the months in a state
3 elective position by making the required member contributions.

4 (v) When an individual is employed by two or more employers the
5 individual shall only receive one month's service credit during any
6 calendar month in which multiple service for ninety or more hours is
7 rendered.

8 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
9 sick leave may be creditable as service solely for the purpose of
10 determining eligibility to retire under RCW 41.32.470. For purposes of
11 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
12 to two service credit months. Use of less than forty-five days of sick
13 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

22 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
23 state retirement system that covers teachers in public schools may be
24 applied solely for the purpose of determining eligibility to retire
25 under RCW 41.32.470.

26 (viii) The department shall adopt rules implementing this
27 subsection.

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

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

32 (29) "Teacher" means any person qualified to teach who is engaged
33 by a public school in an instructional, administrative, or supervisory
34 capacity. The term includes state, educational service district, and
35 school district superintendents and their assistants and all employees
36 certificated by the superintendent of public instruction; and in
37 addition thereto any full time school doctor who is employed by a

1 public school and renders service of an instructional or educational
2 nature.

3 (30) "Average final compensation" for plan 2 and plan 3 members,
4 means the member's average earnable compensation of the highest
5 consecutive sixty service credit months prior to such member's
6 retirement, termination, or death. Periods constituting authorized
7 leaves of absence may not be used in the calculation of average final
8 compensation except under RCW 41.32.810(2).

9 (31) "Retiree" means any person who has begun accruing a retirement
10 allowance or other benefit provided by this chapter resulting from
11 service rendered to an employer while a member.

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

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

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

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

20 (36) "Substitute teacher" means:

21 (a) A teacher who is hired by an employer to work as a temporary
22 teacher, except for teachers who are annual contract employees of an
23 employer and are guaranteed a minimum number of hours; or

24 (b) Teachers who either (i) work in ineligible positions for more
25 than one employer or (ii) work in an ineligible position or positions
26 together with an eligible position.

27 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
28 through September 1, 1991, means a position which normally requires two
29 or more uninterrupted months of creditable service during September
30 through August of the following year.

31 (b) "Eligible position" for plan 2 and plan 3 on and after
32 September 1, 1991, means a position that, as defined by the employer,
33 normally requires five or more months of at least seventy hours of
34 earnable compensation during September through August of the following
35 year.

36 (c) For purposes of this chapter an employer shall not define
37 "position" in such a manner that an employee's monthly work for that
38 employer is divided into more than one position.

1 (d) The elected position of the superintendent of public
2 instruction is an eligible position.

3 (38) "Plan 1" means the teachers' retirement system, plan 1
4 providing the benefits and funding provisions covering persons who
5 first became members of the system prior to October 1, 1977.

6 (39) "Plan 2" means the teachers' retirement system, plan 2
7 providing the benefits and funding provisions covering persons who
8 first became members of the system on and after October 1, 1977, and
9 prior to July 1, 1996.

10 (40) "Plan 3" means the teachers' retirement system, plan 3
11 providing the benefits and funding provisions covering persons who
12 first become members of the system on and after July 1, 1996, or who
13 transfer under RCW 41.32.817.

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

18 (42) "Index A" means the index for the year prior to the
19 determination of a postretirement adjustment.

20 (43) "Index B" means the index for the year prior to index A.

21 (44) "Index year" means the earliest calendar year in which the
22 index is more than sixty percent of index A.

23 (45) "Adjustment ratio" means the value of index A divided by index
24 B.

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

28 (47) "Member account" or "member's account" for purposes of plan 3
29 means the sum of the contributions and earnings on behalf of the member
30 in the defined contribution portion of plan 3.

31 (48) "Separation from service or employment" occurs when a person
32 has terminated all employment with an employer.

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

1 **Sec. 9.** RCW 41.40.010 and 2000 c 247 s 102 are each amended to
2 read as follows:

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

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

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

9 (3) "State treasurer" means the treasurer of the state of
10 Washington.

11 (4)(a) "Employer" for plan 1 members, means every branch,
12 department, agency, commission, board, and office of the state, any
13 political subdivision or association of political subdivisions of the
14 state admitted into the retirement system, and legal entities
15 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
16 term shall also include any labor guild, association, or organization
17 the membership of a local lodge or division of which is comprised of at
18 least forty percent employees of an employer (other than such labor
19 guild, association, or organization) within this chapter. The term may
20 also include any city of the first class that has its own retirement
21 system.

22 (b) "Employer" for plan 2 and plan 3 members, means every branch,
23 department, agency, commission, board, and office of the state, and any
24 political subdivision and municipal corporation of the state admitted
25 into the retirement system, including public agencies created pursuant
26 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
27 31, 2000, school districts and educational service districts will no
28 longer be employers for the public employees' retirement system plan 2.

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

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

35 (a) Any person who became a member of the system prior to April 1,
36 1949;

37 (b) Any person who becomes a member through the admission of an

1 employer into the retirement system on and after April 1, 1949, and
2 prior to April 1, 1951;

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

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

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

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

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

30 (8)(a) "Compensation earnable" for plan 1 members, means salaries
31 or wages earned during a payroll period for personal services and where
32 the compensation is not all paid in money, maintenance compensation
33 shall be included upon the basis of the schedules established by the
34 member's employer.

35 (i) "Compensation earnable" for plan 1 members also includes the
36 following actual or imputed payments, which are not paid for personal
37 services:

1 (A) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an employer
3 to an individual in lieu of reinstatement in a position which are
4 awarded or granted as the equivalent of the salary or wage which the
5 individual would have earned during a payroll period shall be
6 considered compensation earnable and the individual shall receive the
7 equivalent service credit;

8 (B) If a leave of absence is taken by an individual for the purpose
9 of serving in the state legislature, the salary which would have been
10 received for the position from which the leave of absence was taken,
11 shall be considered as compensation earnable if the employee's
12 contribution is paid by the employee and the employer's contribution is
13 paid by the employer or employee;

14 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
15 72.09.240;

16 (D) Compensation that a member would have received but for a
17 disability occurring in the line of duty only as authorized by RCW
18 41.40.038;

19 (E) Compensation that a member receives due to participation in the
20 leave sharing program only as authorized by RCW 41.04.650 through
21 41.04.670; and

22 (F) Compensation that a member receives for being in standby
23 status. For the purposes of this section, a member is in standby
24 status when not being paid for time actually worked and the employer
25 requires the member to be prepared to report immediately for work, if
26 the need arises, although the need may not arise.

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

28 (A) Remuneration for unused sick leave authorized under RCW
29 41.04.340, 28A.400.210, or 28A.310.490;

30 (B) Remuneration for unused annual leave in excess of thirty days
31 as authorized by RCW 43.01.044 and 43.01.041;

32 (C) Housing allowances authorized in section 2 of this act.

33 (b) "Compensation earnable" for plan 2 and plan 3 members, means
34 salaries or wages earned by a member during a payroll period for
35 personal services, including overtime payments, and shall include wages
36 and salaries deferred under provisions established pursuant to sections
37 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
38 shall exclude nonmoney maintenance compensation and lump sum or other

1 payments for deferred annual sick leave, unused accumulated vacation,
2 unused accumulated annual leave, (~~(or)~~) any form of severance pay, and
3 housing allowances authorized in section 2 of this act.

4 "Compensation earnable" for plan 2 and plan 3 members also includes
5 the following actual or imputed payments, which are not paid for
6 personal services:

7 (i) Retroactive payments to an individual by an employer on
8 reinstatement of the employee in a position, or payments by an employer
9 to an individual in lieu of reinstatement in a position which are
10 awarded or granted as the equivalent of the salary or wage which the
11 individual would have earned during a payroll period shall be
12 considered compensation earnable to the extent provided above, and the
13 individual shall receive the equivalent service credit;

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

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

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

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

27 (iv) Compensation that a member would have received but for a
28 disability occurring in the line of duty only as authorized by RCW
29 41.40.038;

30 (v) Compensation that a member receives due to participation in the
31 leave sharing program only as authorized by RCW 41.04.650 through
32 41.04.670; and

33 (vi) Compensation that a member receives for being in standby
34 status. For the purposes of this section, a member is in standby
35 status when not being paid for time actually worked and the employer
36 requires the member to be prepared to report immediately for work, if
37 the need arises, although the need may not arise.

1 (9)(a) "Service" for plan 1 members, except as provided in RCW
2 41.40.088, means periods of employment in an eligible position or
3 positions for one or more employers rendered to any employer for which
4 compensation is paid, and includes time spent in office as an elected
5 or appointed official of an employer. Compensation earnable earned in
6 full time work for seventy hours or more in any given calendar month
7 shall constitute one service credit month except as provided in RCW
8 41.40.088. Compensation earnable earned for less than seventy hours in
9 any calendar month shall constitute one-quarter service credit month of
10 service except as provided in RCW 41.40.088. Only service credit
11 months and one-quarter service credit months shall be counted in the
12 computation of any retirement allowance or other benefit provided for
13 in this chapter. Any fraction of a year of service shall be taken into
14 account in the computation of such retirement allowance or benefits.
15 Time spent in standby status, whether compensated or not, is not
16 service.

17 (i) Service by a state employee officially assigned by the state on
18 a temporary basis to assist another public agency, shall be considered
19 as service as a state employee: PROVIDED, That service to any other
20 public agency shall not be considered service as a state employee if
21 such service has been used to establish benefits in any other public
22 retirement system.

23 (ii) An individual shall receive no more than a total of twelve
24 service credit months of service during any calendar year. If an
25 individual is employed in an eligible position by one or more employers
26 the individual shall receive no more than one service credit month
27 during any calendar month in which multiple service for seventy or more
28 hours is rendered.

29 (iii) A school district employee may count up to forty-five days of
30 sick leave as creditable service solely for the purpose of determining
31 eligibility to retire under RCW 41.40.180 as authorized by RCW
32 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
33 28A.400.300 is equal to two service credit months. Use of less than
34 forty-five days of sick leave is creditable as allowed under this
35 subsection as follows:

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

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

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

3 (b) "Service" for plan 2 and plan 3 members, means periods of
4 employment by a member in an eligible position or positions for one or
5 more employers for which compensation earnable is paid. Compensation
6 earnable earned for ninety or more hours in any calendar month shall
7 constitute one service credit month except as provided in RCW
8 41.40.088. Compensation earnable earned for at least seventy hours but
9 less than ninety hours in any calendar month shall constitute one-half
10 service credit month of service. Compensation earnable earned for less
11 than seventy hours in any calendar month shall constitute one-quarter
12 service credit month of service. Time spent in standby status, whether
13 compensated or not, is not service.

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

16 (i) Service in any state elective position shall be deemed to be
17 full time service, except that persons serving in state elective
18 positions who are members of the Washington school employees'
19 retirement system, teachers' retirement system, or law enforcement
20 officers' and fire fighters' retirement system at the time of election
21 or appointment to such position may elect to continue membership in the
22 Washington school employees' retirement system, teachers' retirement
23 system, or law enforcement officers' and fire fighters' retirement
24 system.

25 (ii) A member shall receive a total of not more than twelve service
26 credit months of service for such calendar year. If an individual is
27 employed in an eligible position by one or more employers the
28 individual shall receive no more than one service credit month during
29 any calendar month in which multiple service for ninety or more hours
30 is rendered.

31 (iii) Up to forty-five days of sick leave may be creditable as
32 service solely for the purpose of determining eligibility to retire
33 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
34 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
35 to two service credit months. Use of less than forty-five days of sick
36 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

14 (13) "Membership service" means:

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

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

20 (c) Service not to exceed six consecutive months of probationary
21 service rendered after April 1, 1949, and prior to becoming a member,
22 in the case of any member, upon payment in full by such member of the
23 total amount of the employer's contribution to the retirement fund
24 which would have been required under the law in effect when such
25 probationary service was rendered if the member had been a member
26 during such period, except that the amount of the employer's
27 contribution shall be calculated by the director based on the first
28 month's compensation earnable as a member;

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

36 (14)(a) "Beneficiary" for plan 1 members, means any person in
37 receipt of a retirement allowance, pension or other benefit provided by
38 this chapter.

1 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
2 in receipt of a retirement allowance or other benefit provided by this
3 chapter resulting from service rendered to an employer by another
4 person.

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

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

11 (17)(a) "Average final compensation" for plan 1 members, means the
12 annual average of the greatest compensation earnable by a member during
13 any consecutive two year period of service credit months for which
14 service credit is allowed; or if the member has less than two years of
15 service credit months then the annual average compensation earnable
16 during the total years of service for which service credit is allowed.

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

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

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

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

31 (21) "Retirement allowance" means the sum of the annuity and the
32 pension.

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

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

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

6 (25) "Eligible position" means:

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

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

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

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

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

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

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

30 (31) "State elective position" means any position held by any
31 person elected or appointed to statewide office or elected or appointed
32 as a member of the legislature.

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

35 (33) "Plan 1" means the public employees' retirement system, plan
36 1 providing the benefits and funding provisions covering persons who
37 first became members of the system prior to October 1, 1977.

1 (34) "Plan 2" means the public employees' retirement system, plan
2 2 providing the benefits and funding provisions covering persons who
3 first became members of the system on and after October 1, 1977, and
4 are not included in plan 3.

5 (35) "Plan 3" means the public employees' retirement system, plan
6 3 providing the benefits and funding provisions covering persons who:

7 (a) First become a member on or after:

8 (i) March 1, 2002, and are employed by a state agency or institute
9 of higher education and who did not choose to enter plan 2; or

10 (ii) September 1, 2002, and are employed by other than a state
11 agency or institute of higher education and who did not choose to enter
12 plan 2; or

13 (b) Transferred to plan 3 under RCW 41.40.795.

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

18 (37) "Index A" means the index for the year prior to the
19 determination of a postretirement adjustment.

20 (38) "Index B" means the index for the year prior to index A.

21 (39) "Index year" means the earliest calendar year in which the
22 index is more than sixty percent of index A.

23 (40) "Adjustment ratio" means the value of index A divided by index
24 B.

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

28 (42) "Separation from service" occurs when a person has terminated
29 all employment with an employer.

30 (43) "Member account" or "member's account" for purposes of plan 3
31 means the sum of the contributions and earnings on behalf of the member
32 in the defined contribution portion of plan 3.

33 **Sec. 10.** RCW 41.35.010 and 2001 c 180 s 3 are each amended to read
34 as follows:

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

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

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

5 (3) "State treasurer" means the treasurer of the state of
6 Washington.

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

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

11 (6)(a) "Compensation earnable" for plan 2 and plan 3 members, means
12 salaries or wages earned by a member during a payroll period for
13 personal services, including overtime payments, and shall include wages
14 and salaries deferred under provisions established pursuant to sections
15 403(b), 414(h), and 457 of the United States internal revenue code, but
16 shall exclude nonmoney maintenance compensation and lump sum or other
17 payments for deferred annual sick leave, unused accumulated vacation,
18 unused accumulated annual leave, ~~((or))~~ any form of severance pay, and
19 housing allowances authorized under section 2 of this act.

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

23 (i) Retroactive payments to an individual by an employer on
24 reinstatement of the employee in a position, or payments by an employer
25 to an individual in lieu of reinstatement, which are awarded or granted
26 as the equivalent of the salary or wage which the individual would have
27 earned during a payroll period shall be considered compensation
28 earnable to the extent provided in this subsection, and the individual
29 shall receive the equivalent service credit;

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

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

35 (B) Such member's actual compensation earnable received for
36 nonlegislative public employment and legislative service combined. Any
37 additional contributions to the retirement system required because

1 compensation earnable under (b)(ii)(A) of this subsection is greater
2 than compensation earnable under this (b)(ii)(B) of this subsection
3 shall be paid by the member for both member and employer contributions;

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

6 (iv) Compensation that a member would have received but for a
7 disability occurring in the line of duty only as authorized by RCW
8 41.40.038;

9 (v) Compensation that a member receives due to participation in the
10 leave sharing program only as authorized by RCW 41.04.650 through
11 41.04.670; and

12 (vi) Compensation that a member receives for being in standby
13 status. For the purposes of this section, a member is in standby
14 status when not being paid for time actually worked and the employer
15 requires the member to be prepared to report immediately for work, if
16 the need arises, although the need may not arise.

17 (7) "Service" for plan 2 and plan 3 members means periods of
18 employment by a member in an eligible position or positions for one or
19 more employers for which compensation earnable is paid. Compensation
20 earnable earned for ninety or more hours in any calendar month shall
21 constitute one service credit month except as provided in RCW
22 41.35.180. Compensation earnable earned for at least seventy hours but
23 less than ninety hours in any calendar month shall constitute one-half
24 service credit month of service. Compensation earnable earned for less
25 than seventy hours in any calendar month shall constitute one-quarter
26 service credit month of service. Time spent in standby status, whether
27 compensated or not, is not service.

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

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

32 (b) A member shall receive a total of not more than twelve service
33 credit months of service for such calendar year. If an individual is
34 employed in an eligible position by one or more employers the
35 individual shall receive no more than one service credit month during
36 any calendar month in which multiple service for ninety or more hours
37 is rendered.

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

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

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

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

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

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

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

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

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

18 (11) "Beneficiary" for plan 2 and plan 3 members means any person
19 in receipt of a retirement allowance or other benefit provided by this
20 chapter resulting from service rendered to an employer by another
21 person.

22 (12) "Regular interest" means such rate as the director may
23 determine.

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

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

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

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

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

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

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

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

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

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

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

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

29 (25) "Retiree" means any person who has begun accruing a retirement
30 allowance or other benefit provided by this chapter resulting from
31 service rendered to an employer while a member.

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

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

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

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

6 (30) "Plan 3" means the Washington school employees' retirement
7 system plan 3 providing the benefits and funding provisions covering
8 persons who first became members of the system on and after September
9 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

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

14 (32) "Index A" means the index for the year prior to the
15 determination of a postretirement adjustment.

16 (33) "Index B" means the index for the year prior to index A.

17 (34) "Adjustment ratio" means the value of index A divided by index
18 B.

19 (35) "Separation from service" occurs when a person has terminated
20 all employment with an employer.

21 (36) "Member account" or "member's account" for purposes of plan 3
22 means the sum of the contributions and earnings on behalf of the member
23 in the defined contribution portion of plan 3.

24 (37) "Classified employee" means an employee of a school district
25 or an educational service district who is not eligible for membership
26 in the teachers' retirement system established under chapter 41.32 RCW.

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