
SUBSTITUTE HOUSE BILL 2952

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Alexander, Schindler, Romero, McCoy and Edwards)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to leave sharing policies for local government
2 employers; amending RCW 41.35.010 and 41.40.010; and adding a new
3 section to chapter 41.04 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.04 RCW
6 to read as follows:

7 (1) Any county, municipality, or other political subdivision of the
8 state that offers its employees paid leave for vacation, injuries,
9 illness, bereavement, emergencies, or personal holidays may establish
10 a leave sharing policy. The leave sharing policy must permit employees
11 to voluntarily transfer leave to a fellow employee who is suffering
12 from, or has a relative suffering from, an extraordinary or severe
13 illness, injury, impairment, or physical or mental condition, or who
14 has been called into service in the uniformed services, which has
15 caused or is likely to cause the employee to take leave without pay or
16 terminate his or her employment. The leave sharing policy must include
17 eligibility criteria for employees to transfer or receive leave.

18 (2) For the purposes of this section:

1 (a) "Service in the uniformed services" means the performance of
2 duty on a voluntary or involuntary basis in a uniformed service under
3 competent authority and includes active duty, active duty for training,
4 initial active duty for training, inactive duty training, full-time
5 national guard duty including state-ordered active duty, and a period
6 for which a person is absent from a position of employment for the
7 purpose of an examination to determine the fitness of the person to
8 perform any such duty; and

9 (b) "Uniformed services" means the armed forces, the army national
10 guard, and the air national guard of any state, territory,
11 commonwealth, possession, or district when engaged in active duty for
12 training, inactive duty training, full-time national guard duty, or
13 state active duty, the commissioned corps of the public health service,
14 the coast guard, and any other category of persons designated by the
15 President of the United States in time of war or national emergency.

16 **Sec. 2.** RCW 41.35.010 and 2003 c 157 s 1 are each amended to read
17 as follows:

18 The definitions in this section apply throughout this chapter,
19 unless the context clearly requires otherwise.

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

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

24 (3) "State treasurer" means the treasurer of the state of
25 Washington.

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

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

30 (6)(a) "Compensation earnable" 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 nonmoney maintenance compensation and lump sum or other
36 payments for deferred annual sick leave, unused accumulated vacation,
37 unused accumulated annual leave, or any form of severance pay.

1 (b) "Compensation earnable" for plan 2 and plan 3 members also
2 includes the following actual or imputed payments, which are not paid
3 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, which are awarded or granted
7 as the equivalent of the salary or wage which the individual would have
8 earned during a payroll period shall be considered compensation
9 earnable to the extent provided in this subsection, and the individual
10 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 compensation
13 earnable be the greater of:

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

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

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

24 (iv) Compensation that a member would have received but for a
25 disability occurring in the line of duty only as authorized by RCW
26 41.40.038;

27 (v) Compensation that a member receives due to participation in the
28 leave sharing program (~~only as~~) authorized by RCW 41.04.650 through
29 41.04.670 or in a leave sharing program authorized by section 1 of this
30 act; and

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

36 (7) "Service" for plan 2 and plan 3 members means periods of
37 employment by a member in an eligible position or positions for one or
38 more employers for which compensation earnable is paid. Compensation

1 earnable earned for ninety or more hours in any calendar month shall
2 constitute one service credit month except as provided in RCW
3 41.35.180. Compensation earnable earned for at least seventy hours but
4 less than ninety hours in any calendar month shall constitute one-half
5 service credit month of service. Compensation earnable earned for less
6 than seventy hours in any calendar month shall constitute one-quarter
7 service credit month of service. Time spent in standby status, whether
8 compensated or not, is not service.

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

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

13 (b) A member shall receive a total of not more than twelve service
14 credit months of service for such calendar year. If an individual is
15 employed in an eligible position by one or more employers the
16 individual shall receive no more than one service credit month during
17 any calendar month in which multiple service for ninety or more hours
18 is rendered.

19 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
20 28A.400.300 is equal to two service credit months. Use of less than
21 forty-five days of sick leave is creditable as allowed under this
22 subsection as follows:

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

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

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

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

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

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

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

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

36 (11) "Beneficiary" for plan 2 and plan 3 members means any person
37 in receipt of a retirement allowance or other benefit provided by this

1 chapter resulting from service rendered to an employer by another
2 person.

3 (12) "Regular interest" means such rate as the director may
4 determine.

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

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

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

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

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

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

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

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

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

36 (22) "Eligible position" means any position that, as defined by the
37 employer, normally requires five or more months of service a year for
38 which regular compensation for at least seventy hours is earned by the

1 occupant thereof. For purposes of this chapter an employer shall not
2 define "position" in such a manner that an employee's monthly work for
3 that employer is divided into more than one position.

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

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

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

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

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

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

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

24 (30) "Plan 3" means the Washington school employees' retirement
25 system plan 3 providing the benefits and funding provisions covering
26 persons who first became members of the system on and after September
27 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

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

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

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

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

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

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

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

7 (38) "Substitute employee" means a classified employee who is
8 employed by an employer exclusively as a substitute for an absent
9 employee.

10 **Sec. 3.** RCW 41.40.010 and 2003 c 412 s 4 are each amended to read
11 as follows:

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

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

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

18 (3) "State treasurer" means the treasurer of the state of
19 Washington.

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

31 (b) "Employer" for plan 2 and plan 3 members, means every branch,
32 department, agency, commission, board, and office of the state, and any
33 political subdivision and municipal corporation of the state admitted
34 into the retirement system, including public agencies created pursuant
35 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
36 31, 2000, school districts and educational service districts will no
37 longer be employers for the public employees' retirement system plan 2.

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

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

7 (a) Any person who became a member of the system prior to April 1,
8 1949;

9 (b) Any person who becomes a member through the admission of an
10 employer into the retirement system on and after April 1, 1949, and
11 prior to April 1, 1951;

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

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

21 (e) Any member who has restored all contributions that may have
22 been withdrawn as provided by RCW 41.40.150 and who on the effective
23 date of the individual's retirement becomes entitled to be credited
24 with ten years or more of membership service 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 (f) Any member who has been a contributor under the system for two
29 or more years and who has restored all contributions that may have been
30 withdrawn as provided by RCW 41.40.150 and who on the effective date of
31 the individual's retirement has rendered five or more years of service
32 for the state or any political subdivision prior to the time of the
33 admission of the employer into the system; except that the provisions
34 relating to the minimum amount of retirement allowance for the member
35 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
36 apply to the member.

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

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

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

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

16 (B) If a leave of absence is taken by an individual for the purpose
17 of serving in the state legislature, the salary which would have been
18 received for the position from which the leave of absence was taken,
19 shall be considered as compensation earnable if the employee's
20 contribution is paid by the employee and the employer's contribution is
21 paid by the employer or employee;

22 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
23 72.09.240;

24 (D) Compensation that a member would have received but for a
25 disability occurring in the line of duty only as authorized by RCW
26 41.40.038;

27 (E) Compensation that a member receives due to participation in the
28 leave sharing program (~~only as~~) authorized by RCW 41.04.650 through
29 41.04.670 or in a leave sharing program authorized by section 1 of this
30 act; and

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

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

37 (A) Remuneration for unused sick leave authorized under RCW
38 41.04.340, 28A.400.210, or 28A.310.490;

1 (B) Remuneration for unused annual leave in excess of thirty days
2 as authorized by RCW 43.01.044 and 43.01.041.

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

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

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

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

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

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

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

34 (iv) Compensation that a member would have received but for a
35 disability occurring in the line of duty only as authorized by RCW
36 41.40.038;

37 (v) Compensation that a member receives due to participation in the

1 leave sharing program only as authorized by RCW 41.04.650 through
2 41.04.670; and

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

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

24 (i) Service by a state employee officially assigned by the state on
25 a temporary basis to assist another public agency, shall be considered
26 as service as a state employee: PROVIDED, That service to any other
27 public agency shall not be considered service as a state employee if
28 such service has been used to establish benefits in any other public
29 retirement system.

30 (ii) An individual shall receive no more than a total of twelve
31 service credit months of service during any calendar year. If an
32 individual is employed in an eligible position by one or more employers
33 the individual shall receive no more than one service credit month
34 during any calendar month in which multiple service for seventy or more
35 hours is rendered.

36 (iii) A school district employee may count up to forty-five days of
37 sick leave as creditable service solely for the purpose of determining
38 eligibility to retire under RCW 41.40.180 as authorized by RCW

1 28A.400.300. For purposes of plan 1 "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 (A) Less than twenty-two days equals one-quarter service credit
6 month;

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

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

10 (b) "Service" for plan 2 and plan 3 members, means periods of
11 employment by a member in an eligible position or positions for one or
12 more employers for which compensation earnable is paid. Compensation
13 earnable earned for ninety or more hours in any calendar month shall
14 constitute one service credit month except as provided in RCW
15 41.40.088. Compensation earnable earned for at least seventy hours but
16 less than ninety hours in any calendar month shall constitute one-half
17 service credit month of service. Compensation earnable earned for less
18 than seventy hours in any calendar month shall constitute one-quarter
19 service credit month of service. Time spent in standby status, whether
20 compensated or not, is not service.

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

23 (i) Service in any state elective position shall be deemed to be
24 full time service, except that persons serving in state elective
25 positions who are members of the Washington school employees'
26 retirement system, teachers' retirement system, or law enforcement
27 officers' and fire fighters' retirement system at the time of election
28 or appointment to such position may elect to continue membership in the
29 Washington school employees' retirement system, teachers' retirement
30 system, or law enforcement officers' and fire fighters' retirement
31 system.

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

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

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

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

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

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

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

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

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

21 (13) "Membership service" means:

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

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

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

36 (d) Service not to exceed six consecutive months of probationary
37 service, rendered after October 1, 1947, and before April 1, 1949, and
38 prior to becoming a member, in the case of any member, upon payment in

1 full by such member of five percent of such member's salary during said
2 period of probationary service, except that the amount of the
3 employer's contribution shall be calculated by the director based on
4 the first month's compensation earnable as a member.

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

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

12 (15) "Regular interest" means such rate as the director may
13 determine.

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

18 (17)(a) "Average final compensation" for plan 1 members, means the
19 annual average of the greatest compensation earnable by a member during
20 any consecutive two year period of service credit months for which
21 service credit is allowed; or if the member has less than two years of
22 service credit months then the annual average compensation earnable
23 during the total years of service for which service credit is allowed.

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

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

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

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

1 (21) "Retirement allowance" means the sum of the annuity and the
2 pension.

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

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

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

13 (25) "Eligible position" means:

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

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

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

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

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

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

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

37 (31) "State elective position" means any position held by any

1 person elected or appointed to statewide office or elected or appointed
2 as a member of the legislature.

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

5 (33) "Plan 1" means the public employees' retirement system, plan
6 1 providing the benefits and funding provisions covering persons who
7 first became members of the system prior to October 1, 1977.

8 (34) "Plan 2" means the public employees' retirement system, plan
9 2 providing the benefits and funding provisions covering persons who
10 first became members of the system on and after October 1, 1977, and
11 are not included in plan 3.

12 (35) "Plan 3" means the public employees' retirement system, plan
13 3 providing the benefits and funding provisions covering persons who:

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

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

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

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

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

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

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

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

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

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

35 (42) "Separation from service" occurs when a person has terminated
36 all employment with an employer. Separation from service or employment
37 does not occur, and if claimed by an employer or employee may be a

1 violation of RCW 41.40.055, when an employee and employer have a
2 written or oral agreement to resume employment with the same employer
3 following termination.

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

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