
SENATE BILL 5526

State of Washington

58th Legislature

2003 Regular Session

By Senators Swecker, Oke, Kline, Hewitt, West, Jacobsen, Eide, Johnson, Regala, Rasmussen and Esser

Read first time 01/28/2003. Referred to Committee on Ways & Means.

1 AN ACT Relating to state parks and recreation commission law
2 enforcement officers' membership in the law enforcement officers' and
3 fire fighters' retirement system plan 2 for periods of future service;
4 amending RCW 41.26.030; and adding a new section to chapter 41.40 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW
7 to read as follows:

8 (1) An employee who was a member of the public employees'
9 retirement system plan 2 or plan 3 on or before January 1, 2003, and on
10 the effective date of this act is employed by the state parks and
11 recreation commission as a law enforcement officer as defined in RCW
12 41.26.030, shall become a member of the law enforcement officers' and
13 fire fighters' retirement system plan 2. All officers will be dual
14 members as provided in chapter 41.54 RCW, and public employees'
15 retirement system service credit may not be transferred to the law
16 enforcement officers' and fire fighters' retirement system plan 2.

17 (2) An employee who was a member of the public employees'
18 retirement system plan 1 on or before January 1, 2003, and on or after
19 the effective date of this act is employed by the state parks and

1 recreation commission as a law enforcement officer as defined in RCW
2 41.26.030, shall remain a member of the public employees' retirement
3 system plan 1.

4 **Sec. 2.** RCW 41.26.030 and 2002 c 128 s 3 are each amended to read
5 as follows:

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

8 (1) "Retirement system" means the "Washington law enforcement
9 officers' and fire fighters' retirement system" provided herein.

10 (2)(a) "Employer" for plan 1 members, means the legislative
11 authority of any city, town, county, or district or the elected
12 officials of any municipal corporation that employs any law enforcement
13 officer and/or fire fighter, any authorized association of such
14 municipalities, and, except for the purposes of RCW 41.26.150, any
15 labor guild, association, or organization, which represents the fire
16 fighters or law enforcement officers of at least seven cities of over
17 20,000 population and the membership of each local lodge or division of
18 which is composed of at least sixty percent law enforcement officers or
19 fire fighters as defined in this chapter.

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

23 (i) The legislative authority of any city, town, county, or
24 district;

25 (ii) The elected officials of any municipal corporation;

26 (iii) The governing body of any other general authority law
27 enforcement agency; or

28 (iv) A four-year institution of higher education having a fully
29 operational fire department as of January 1, 1996.

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

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

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

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

13 (d) The term "law enforcement officer" also includes the executive
14 secretary of a labor guild, association or organization (which is an
15 employer under RCW 41.26.030(2)) if that individual has five years
16 previous membership in the retirement system established in chapter
17 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
18 plan 2 members; and

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

27 (4) "Fire fighter" means:

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

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

34 (c) Supervisory fire fighter personnel;

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

1 (e) The executive secretary of a labor guild, association or
2 organization (which is an employer under RCW 41.26.030(2) as now or
3 hereafter amended), if such individual has five years previous
4 membership in a retirement system established in chapter 41.16 or 41.18
5 RCW. The provisions of this subsection (4)(e) shall not apply to plan
6 2 members;

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

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

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

17 (6) "Surviving spouse" means the surviving widow or widower of a
18 member. "Surviving spouse" shall not include the divorced spouse of a
19 member except as provided in RCW 41.26.162.

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

24 (i) A natural born child;

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

27 (iii) A posthumous child;

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

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

32 (b) A person shall also be deemed to be a child up to and including
33 the age of twenty years and eleven months while attending any high
34 school, college, or vocational or other educational institution
35 accredited, licensed, or approved by the state, in which it is located,
36 including the summer vacation months and all other normal and regular
37 vacation periods at the particular educational institution after which
38 the child returns to school.

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

7 (9) "Retirement fund" means the "Washington law enforcement
8 officers' and fire fighters' retirement system fund" as provided for
9 herein.

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

12 (11)(a) "Beneficiary" for plan 1 members, means any person in
13 receipt of a retirement allowance, disability allowance, death benefit,
14 or any other benefit described herein.

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

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

33 (b) "Final average salary" for plan 2 members, means the monthly
34 average of the member's basic salary for the highest consecutive sixty
35 service credit months of service prior to such member's retirement,
36 termination, or death. Periods constituting authorized unpaid leaves
37 of absence may not be used in the calculation of final average salary.

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

6 (b) "Basic salary" for plan 2 members, means salaries or wages
7 earned by a member during a payroll period for personal services,
8 including overtime payments, and shall include wages and salaries
9 deferred under provisions established pursuant to sections 403(b),
10 414(h), and 457 of the United States Internal Revenue Code, but shall
11 exclude lump sum payments for deferred annual sick leave, unused
12 accumulated vacation, unused accumulated annual leave, or any form of
13 severance pay. In any year in which a member serves in the legislature
14 the member shall have the option of having such member's basic salary
15 be the greater of:

16 (i) The basic salary the member would have received had such member
17 not served in the legislature; or

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

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

37 (i) For members retiring after May 21, 1971 who were employed under
38 the coverage of a prior pension act before March 1, 1970, "service"

1 shall also include (A) such military service not exceeding five years
2 as was creditable to the member as of March 1, 1970, under the member's
3 particular prior pension act, and (B) such other periods of service as
4 were then creditable to a particular member under the provisions of RCW
5 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
6 be allowed for any service rendered prior to March 1, 1970, where the
7 member at the time of rendition of such service was employed in a
8 position covered by a prior pension act, unless such service, at the
9 time credit is claimed therefor, is also creditable under the
10 provisions of such prior act.

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

14 (b) "Service" for plan 2 members, means periods of employment by a
15 member for one or more employers for which basic salary is earned for
16 ninety or more hours per calendar month which shall constitute a
17 service credit month. Periods of employment by a member for one or
18 more employers for which basic salary is earned for at least seventy
19 hours but less than ninety hours per calendar month shall constitute
20 one-half service credit month. Periods of employment by a member for
21 one or more employers for which basic salary is earned for less than
22 seventy hours shall constitute a one-quarter service credit month.

23 Members of the retirement system who are elected or appointed to a
24 state elective position may elect to continue to be members of this
25 retirement system.

26 Service credit years of service shall be determined by dividing the
27 total number of service credit months of service by twelve. Any
28 fraction of a service credit year of service as so determined shall be
29 taken into account in the computation of such retirement allowance or
30 benefits.

31 If a member receives basic salary from two or more employers during
32 any calendar month, the individual shall receive one service credit
33 month's service credit during any calendar month in which multiple
34 service for ninety or more hours is rendered; or one-half service
35 credit month's service credit during any calendar month in which
36 multiple service for at least seventy hours but less than ninety hours
37 is rendered; or one-quarter service credit month during any calendar

1 month in which multiple service for less than seventy hours is
2 rendered.

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

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

11 (17) "Actuarial valuation" means a mathematical determination of
12 the financial condition of a retirement plan. It includes the
13 computation of the present monetary value of benefits payable to
14 present members, and the present monetary value of future employer and
15 employee contributions, giving effect to mortality among active and
16 retired members and also to the rates of disability, retirement,
17 withdrawal from service, salary and interest earned on investments.

18 (18) "Disability board" for plan 1 members means either the county
19 disability board or the city disability board established in RCW
20 41.26.110.

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

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

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

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

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

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

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

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

6 (i) The fees of the following:

7 (A) A physician or surgeon licensed under the provisions of chapter
8 18.71 RCW;

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

11 (C) A chiropractor licensed under the provisions of chapter 18.25
12 RCW.

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

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

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

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

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

20 (D) Anesthesia and oxygen;

21 (E) Rental of iron lung and other durable medical and surgical
22 equipment;

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

24 (G) Professional ambulance service when used to transport the
25 member to or from a hospital when injured by an accident or stricken by
26 a disease;

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

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

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

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

34 (L) An optometrist licensed under the provisions of chapter 18.53
35 RCW.

36 (23) "Regular interest" means such rate as the director may
37 determine.

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

5 (25) "Director" means the director of the department.

6 (26) "State actuary" or "actuary" means the person appointed
7 pursuant to RCW 44.44.010(2).

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

11 (28) "Plan 1" means the law enforcement officers' and fire
12 fighters' retirement system, plan 1 providing the benefits and funding
13 provisions covering persons who first became members of the system
14 prior to October 1, 1977.

15 (29) "Plan 2" means the law enforcement officers' and fire
16 fighters' retirement system, plan 2 providing the benefits and funding
17 provisions covering persons who first became members of the system on
18 and after October 1, 1977.

19 (30) "Service credit year" means an accumulation of months of
20 service credit which is equal to one when divided by twelve.

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

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

1 transportation commission, the state liquor control board, and the
2 state department of corrections.

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