
HOUSE BILL 3183

State of Washington

59th Legislature

2006 Regular Session

By Representatives Fromhold and Hasegawa; by request of Select Committee on Pension Policy

Read first time 01/24/2006. Referred to Committee on Appropriations.

1 AN ACT Relating to public pensions that replaces gain-sharing
2 provisions with certain changes in benefits for the teachers'
3 retirement system, the school employees' retirement system, and the
4 public employees' retirement system; amending RCW 41.32.835, 41.32.840,
5 41.34.040, 41.34.040, 41.34.060, 41.34.110, 41.35.610, 41.35.620,
6 41.40.010, 41.40.790, 41.45.061, and 41.45.070; reenacting and amending
7 RCW 41.32.010; adding new sections to chapter 41.32 RCW; adding new
8 sections to chapter 41.35 RCW; adding a new section to chapter 41.40
9 RCW; creating new sections; repealing RCW 41.31.010, 41.31.020,
10 41.31.030, 41.31A.010, 41.31A.020, 41.31A.030, and 41.31A.040; and
11 providing effective dates.

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

13 **Sec. 1.** RCW 41.32.010 and 2005 c 131 s 8 and 2005 c 23 s 1 are
14 each reenacted and amended to read as follows:

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

17 (1)(a) "Accumulated contributions" for plan 1 members, means the
18 sum of all regular annuity contributions and, except for the purpose of

1 withdrawal at the time of retirement, any amount paid under RCW
2 41.50.165(2) with regular interest thereon.

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

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

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

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

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

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

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

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

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

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

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

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

36 (ii) For an employee member of the retirement system teaching in an
37 extended school year program, two consecutive extended school years, as

1 defined by the employer school district, may be used as the annual
2 period for determining earnable compensation in lieu of the two fiscal
3 years.

4 (iii) "Earnable compensation" for plan 1 members also includes the
5 following actual or imputed payments, which are not paid for personal
6 services:

7 (A) 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 wages which the
11 individual would have earned during a payroll period shall be
12 considered earnable compensation and the individual shall receive the
13 equivalent service credit.

14 (B) If a leave of absence, without pay, is taken by a member for
15 the purpose of serving as a member of the state legislature, and such
16 member has served in the legislature five or more years, the salary
17 which would have been received for the position from which the leave of
18 absence was taken shall be considered as compensation earnable if the
19 employee's contribution thereon is paid by the employee. In addition,
20 where a member has been a member of the state legislature for five or
21 more years, earnable compensation for the member's two highest
22 compensated consecutive years of service shall include a sum not to
23 exceed thirty-six hundred dollars for each of such two consecutive
24 years, regardless of whether or not legislative service was rendered
25 during those two years.

26 (iv) For members employed less than full time under written
27 contract with a school district, or community college district, in an
28 instructional position, for which the member receives service credit of
29 less than one year in all of the years used to determine the earnable
30 compensation used for computing benefits due under RCW 41.32.497,
31 41.32.498, and 41.32.520, the member may elect to have earnable
32 compensation defined as provided in RCW 41.32.345. For the purposes of
33 this subsection, the term "instructional position" means a position in
34 which more than seventy-five percent of the member's time is spent as
35 a classroom instructor (including office hours), a librarian, a
36 psychologist, a social worker, a nurse, a physical therapist, an
37 occupational therapist, a speech language pathologist or audiologist,
38 or a counselor. Earnable compensation shall be so defined only for the

1 purpose of the calculation of retirement benefits and only as necessary
2 to insure that members who receive fractional service credit under RCW
3 41.32.270 receive benefits proportional to those received by members
4 who have received full-time service credit.

5 (v) "Earnable compensation" does not include:

6 (A) Remuneration for unused sick leave authorized under RCW
7 41.04.340, 28A.400.210, or 28A.310.490;

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

10 (b) "Earnable compensation" for plan 2 and plan 3 members, means
11 salaries or wages earned by a member during a payroll period for
12 personal services, including overtime payments, and shall include wages
13 and salaries deferred under provisions established pursuant to sections
14 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
15 shall exclude lump sum payments for deferred annual sick leave, unused
16 accumulated vacation, unused accumulated annual leave, or any form of
17 severance pay.

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

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

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

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

33 (B) Such member's actual earnable compensation received for
34 teaching and legislative service combined. Any additional
35 contributions to the retirement system required because compensation
36 earnable under (b)(ii)(A) of this subsection is greater than
37 compensation earnable under (b)(ii)(B) of this subsection shall be paid
38 by the member for both member and employer contributions.

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

3 (12) "Fiscal year" means a year which begins July 1st and ends June
4 30th of the following year.

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

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

10 (15) "Member" means any teacher included in the membership of the
11 retirement system who has not been removed from membership under RCW
12 41.32.878 or 41.32.768. Also, any other employee of the public schools
13 who, on July 1, 1947, had not elected to be exempt from membership and
14 who, prior to that date, had by an authorized payroll deduction,
15 contributed to the member reserve.

16 (16) "Membership service" means service rendered subsequent to the
17 first day of eligibility of a person to membership in the retirement
18 system: PROVIDED, That where a member is employed by two or more
19 employers the individual shall receive no more than one service credit
20 month during any calendar month in which multiple service is rendered.
21 The provisions of this subsection shall apply only to plan 1 members.

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

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

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

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

35 (21) "Public school" means any institution or activity operated by
36 the state of Washington or any instrumentality or political subdivision
37 thereof employing teachers, except the University of Washington and
38 Washington State University.

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

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

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

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

13 (25) "Retirement system" means the Washington state teachers'
14 retirement system.

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

17 (i) If a member is employed by two or more employers the individual
18 shall receive no more than one service credit month during any calendar
19 month in which multiple service is rendered.

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

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

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

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

37 (ii) If a member is employed either in an eligible position or as
38 a substitute teacher for nine months of the twelve month period between

1 September through August of the following year but earns earnable
2 compensation for less than eight hundred ten hours but for at least six
3 hundred thirty hours, he or she will receive one-half of a service
4 credit month for each month of the twelve month period;

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

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

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

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

15 (iv) Any person who is a member of the teachers' retirement system
16 and who is elected or appointed to a state elective position may
17 continue to be a member of the retirement system and continue to
18 receive a service credit month for each of the months in a state
19 elective position by making the required member contributions.

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

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

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

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

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

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

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

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

5 (viii) The department shall adopt rules implementing this
6 subsection.

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

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

11 (29) "Teacher" means any person qualified to teach who is engaged
12 by a public school in an instructional, administrative, or supervisory
13 capacity. The term includes state, educational service district, and
14 school district superintendents and their assistants and all employees
15 certificated by the superintendent of public instruction; and in
16 addition thereto any full time school doctor who is employed by a
17 public school and renders service of an instructional or educational
18 nature.

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

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

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

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

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

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

36 (36) "Substitute teacher" means:

37 (a) A teacher who is hired by an employer to work as a temporary

1 teacher, except for teachers who are annual contract employees of an
2 employer and are guaranteed a minimum number of hours; or

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

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

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

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

18 (d) The elected position of the superintendent of public
19 instruction is an eligible position.

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

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

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

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

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

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

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

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

5 (46) "Annual increase" means(~~(, initially, fifty-nine)~~) one dollar
6 and fifty-seven cents per month per year of service which amount shall
7 be increased each July 1st by three percent, rounded to the nearest
8 cent.

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

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

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

19 **Sec. 2.** RCW 41.32.835 and 1995 c 239 s 105 are each amended to
20 read as follows:

21 (1) All teachers who first become employed by an employer in an
22 eligible position on or after ((July 1, 1996, shall be members of plan
23 3)) July 1, 2007, shall have a period of ninety days to make an
24 irrevocable choice to become a member of plan 2 or plan 3. At the end
25 of ninety days, if the member has not made a choice to become a member
26 of plan 2, he or she becomes a member of plan 3.

27 (2) For administrative efficiency, until a member elects to become
28 a member of plan 3, or becomes a member of plan 3 by default under
29 subsection (1) of this section, the member shall be reported to the
30 department in plan 2, with member and employer contributions. Upon
31 becoming a member of plan 3 by election or by default, all service
32 credit shall be transferred to the member's plan 3 defined benefit, and
33 all employee accumulated contributions shall be transferred to the
34 member's plan 3 defined contribution account.

35 **Sec. 3.** RCW 41.32.840 and 1996 c 39 s 4 are each amended to read
36 as follows:

1 (1) A member of the retirement system shall receive a retirement
2 allowance equal to one percent of such member's average final
3 compensation for each service credit year.

4 (2) In lieu of the retirement allowance under subsection (1) of
5 this section, a member of the retirement system who elects to
6 participate under section 4 of this act shall receive:

7 (a) A monthly retirement allowance equal to one percent of such
8 member's average final compensation for each service credit year; and

9 (b) An additional retirement allowance equal to the excess, if any,
10 of:

11 (i) One percent of such member's average final compensation for
12 each service credit year from the date of election; over

13 (ii) The monthly annuity offset.

14 (A) The monthly annuity offset from the date of election shall be
15 the actuarial equivalent value of the member's account under chapter
16 41.34 RCW, at separation, from the minimum contributions required under
17 RCW 41.34.040 as if it were paid at normal retirement as a single-life
18 annuity with a three percent annual cost-of-living adjustment
19 commencing one year from the date of normal retirement.

20 (B) For the purposes of this subsection, "actuarial equivalent"
21 means a benefit of equal value when computed upon the basis of such
22 mortality tables and regulations as shall be adopted by the director
23 and regular interest.

24 (3) A member who elects to participate under section 4 of this act
25 must, after election, earn at least ten service credit years, or five
26 service credit years including twelve service credit months after age
27 fifty-four, to be eligible for the benefit provided in subsection
28 (2)(b) of this section.

29 (4) The retirement allowance payable under RCW 41.32.875 to a
30 member who separates after having completed at least twenty service
31 credit years shall be increased by twenty-five one-hundredths of one
32 percent, compounded for each month from the date of separation to the
33 date that the retirement allowance commences.

34 NEW SECTION. Sec. 4. A new section is added to chapter 41.32 RCW
35 under the subchapter heading "plan 3" to read as follows:

36 Beginning July 1, 2007, and through June 30, 2008, members who
37 exercised an irrevocable option to transfer to plan 3 prior to January

1 1, 2007, may make an irrevocable election, filed in writing with the
2 department, to participate in the prospective contribution and benefit
3 provisions under RCW 41.32.840(2) and 41.34.040.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.32 RCW
5 under the subchapter heading "plan 3" to read as follows:

6 Beginning July 1, 2007, and through June 30, 2008, a member who
7 established membership under RCW 41.32.835 may make a one-time
8 irrevocable election, filed in writing with the department, to leave
9 any service credit earned as a member of plan 3 in plan 3 and join plan
10 2. A member who makes such an election shall become a dual plan member
11 and may combine service in each plan for the purpose of determining
12 benefit eligibility. The benefits of such members shall be
13 administered in the same manner as benefits administered under the
14 provisions of chapter 41.54 RCW, with such members being treated as if
15 they were members of different systems for portability purposes. The
16 department shall adopt rules to ensure the portability of such members'
17 plan 2 and plan 3 benefits.

18 **Sec. 6.** RCW 41.34.040 and 2003 c 156 s 1 are each amended to read
19 as follows:

20 (1) A member shall contribute from his or her compensation
21 according to one of the following rate structures in addition to the
22 mandatory minimum five percent:

	<u>Option A</u>	<u>Contribution Rate</u>
23		
24	All Ages	0.0% fixed
25	<u>Option B</u>	
26	Up to Age 35	0.0%
27	Age 35 to 44	1.0%
28	Age 45 and above	2.5%
29	<u>Option C</u>	
30	Up to Age 35	1.0%
31	Age 35 to 44	2.5%
32	Age 45 and above	3.5%
33	<u>Option D</u>	
34	All Ages	2.0%

1	<u>Option E</u>	
2	All Ages	5.0%
3	<u>Option F</u>	
4	All Ages	10.0%

(2) The board shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the board shall conform to the requirements stated in subsections (3) and (5) of this section.

(3)(a) For members of the teachers' retirement system entering plan 3 under RCW 41.32.835 or members of the school employees' retirement system entering plan 3 under RCW 41.35.610, within ninety days of becoming a member he or she has an option to choose one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A.

(b) For members of the public employees' retirement system entering plan 3 under RCW 41.40.785, within the ninety days described in RCW 41.40.785 an employee who irrevocably chooses plan 3 shall select one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A.

(c) For members of the teachers' retirement system transferring to plan 3 under RCW 41.32.817, members of the school employees' retirement system transferring to plan 3 under RCW 41.35.510, or members of the public employees' retirement system transferring to plan 3 under RCW 41.40.795, upon election to plan 3 he or she must choose one of the above contribution rate structures.

(d) Within ninety days of the date that an employee changes employers, he or she has an option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, he or she shall be assigned option A.

(4) Each year, members may change their contribution rate option by notifying their employer in writing during the month of January.

(5) Contributions shall begin the first day of the pay cycle in which the rate option is made, or the first day of the pay cycle in which the end of the ninety-day period occurs.

(6) A member of the teachers' retirement system who elects to

1 participate under section 4 of this act shall contribute a minimum of
2 six percent of compensation which shall be directed to the Washington
3 state investment board investment program.

4 (7) A member of the school employees' retirement system who elects
5 to participate under section 12 of this act shall contribute a minimum
6 of five percent of compensation which shall be directed to the
7 Washington state investment board investment program.

8 (8) A member of the public employees' retirement system who elects
9 to participate under section 16 of this act shall contribute a minimum
10 of five percent of compensation which shall be directed to the
11 Washington state investment board investment program.

12 **Sec. 7.** RCW 41.34.040 and 2006 c ... s 6 (section 6 of this act)
13 are each amended to read as follows:

14 (1) A member shall contribute from his or her compensation
15 according to one of the following rate structures in addition to the
16 mandatory minimum five percent:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	0.0% fixed
<u>Option B</u>	
Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
<u>Option C</u>	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
<u>Option D</u>	
All Ages	2.0%
<u>Option E</u>	
All Ages	5.0%
<u>Option F</u>	
All Ages	10.0%

33 (2) The board shall have the right to offer contribution rate
34 options in addition to those listed in subsection (1) of this section,

1 provided that no significant additional administrative costs are
2 created. All options offered by the board shall conform to the
3 requirements stated in subsections (3) and ~~((+5+))~~ (4) of this section.

4 (3)(a) For members of the teachers' retirement system entering plan
5 3 under RCW 41.32.835 or members of the school employees' retirement
6 system entering plan 3 under RCW 41.35.610, within ninety days of
7 becoming a member he or she has an option to choose one of the above
8 contribution rate structures. If the member does not select an option
9 within the ninety-day period, he or she shall be assigned option A.

10 (b) For members of the public employees' retirement system entering
11 plan 3 under RCW 41.40.785, within the ninety days described in RCW
12 41.40.785 an employee who irrevocably chooses plan 3 shall select one
13 of the above contribution rate structures. If the member does not
14 select an option within the ninety-day period, he or she shall be
15 assigned option A.

16 (c) For members of the teachers' retirement system transferring to
17 plan 3 under RCW 41.32.817, members of the school employees' retirement
18 system transferring to plan 3 under RCW 41.35.510, or members of the
19 public employees' retirement system transferring to plan 3 under RCW
20 41.40.795, upon election to plan 3 he or she must choose one of the
21 above contribution rate structures.

22 (d) Within ninety days of the date that an employee changes
23 employers, he or she has an option to choose one of the above
24 contribution rate structures. If the member does not select an option
25 within this ninety-day period, he or she shall be assigned option A.

26 (4) ~~((Each year, members may change their contribution rate option
27 by notifying their employer in writing during the month of January.~~

28 ~~+5+))~~ Contributions shall begin the first day of the pay cycle in
29 which the rate option is made, or the first day of the pay cycle in
30 which the end of the ninety-day period occurs.

31 ~~((+6+))~~ (5) A member of the teachers' retirement system who elects
32 to participate under RCW 41.32.--- (section 4 of this act) shall
33 contribute a minimum of six percent of compensation which shall be
34 directed to the Washington state investment board investment program.

35 ~~((+7+))~~ (6) A member of the school employees' retirement system who
36 elects to participate under RCW 41.35.--- (section 12 of this act)
37 shall contribute a minimum of five percent of compensation which shall

1 be directed to the Washington state investment board investment
2 program.

3 ((+8)) (7) A member of the public employees' retirement system who
4 elects to participate under RCW 41.40.--- (section 16 of this act)
5 shall contribute a minimum of five percent of compensation which shall
6 be directed to the Washington state investment board investment
7 program.

8 **Sec. 8.** RCW 41.34.060 and 2001 c 180 s 2 are each amended to read
9 as follows:

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

17 (a) For members of the retirement system as provided for in chapter
18 41.32 RCW of plan 3, investment shall be in the same portfolio as that
19 of the teachers' retirement system combined plan 2 and 3 fund under RCW
20 41.50.075(2).

21 (b) For members of the retirement system as provided for in chapter
22 41.35 RCW of plan 3, investment shall be in the same portfolio as that
23 of the school employees' retirement system combined plan 2 and 3 fund
24 under RCW 41.50.075(4).

25 (c) For members of the retirement system as provided for in chapter
26 41.40 RCW of plan 3, investment shall be in the same portfolio as that
27 of the public employees' retirement system combined plan 2 and 3 fund
28 under RCW 41.50.075(3).

29 (2) The state investment board shall declare monthly unit values
30 for the portfolios or funds, or portions thereof, utilized under
31 subsection (1)(a), (b), and (c) of this section. The declared values
32 shall be an approximation of portfolio or fund values, based on
33 internal procedures of the state investment board. Such declared unit
34 values and internal procedures shall be in the sole discretion of the
35 state investment board. The state investment board may delegate any of
36 the powers and duties under this subsection, including discretion,

1 pursuant to RCW 43.33A.030. Member accounts shall be credited by the
2 department with a rate of return based on changes to such unit values.

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

5 (b) Members who elect to participate under sections 4, 12, and 16
6 of this act may elect to self-direct their investments for only that
7 portion of their investments related to contributions above the minimum
8 rates established under RCW 41.34.040.

9 **Sec. 9.** RCW 41.34.110 and 1996 c 39 s 12 are each amended to read
10 as follows:

11 (1) A member who separates from service and then reestablishes
12 membership may restore contributions to the member account.

13 (2) A member electing to participate under section 4, 12, or 16 of
14 this act, who separates from service and then reestablishes membership,
15 may continue to be eligible for benefits under RCW 41.32.840(2)(b),
16 41.35.620(2)(b), or 41.40.790(2)(b) by restoring all contributions to
17 the member account made after the election, plus interest as determined
18 by the director.

19 **Sec. 10.** RCW 41.35.610 and 1998 c 341 s 202 are each amended to
20 read as follows:

21 (1) All classified employees who first become employed by an
22 employer in an eligible position on or after (~~September 1, 2000, shall~~
23 ~~be members of plan 3~~) July 1, 2007, shall have a period of ninety days
24 to make an irrevocable choice to become a member of plan 2 or plan 3.
25 At the end of ninety days, if the member has not made a choice to
26 become a member of plan 2, he or she becomes a member of plan 3.

27 (2) For administrative efficiency, until a member elects to become
28 a member of plan 3, or becomes a member of plan 3 by default under
29 subsection (1) of this section, the member shall be reported to the
30 department in plan 2, with member and employer contributions. Upon
31 becoming a member of plan 3 by election or by default, all service
32 credit shall be transferred to the member's plan 3 defined benefit, and
33 all employee accumulated contributions shall be transferred to the
34 member's plan 3 defined contribution account.

1 **Sec. 11.** RCW 41.35.620 and 1998 c 341 s 203 are each amended to
2 read as follows:

3 (1) A member of the retirement system shall receive a retirement
4 allowance equal to one percent of such member's average final
5 compensation for each service credit year.

6 (2) In lieu of the retirement allowance under subsection (1) of
7 this section, a member of the retirement system who elects to
8 participate under section 12 of this act shall receive:

9 (a) A monthly retirement allowance equal to one percent of such
10 member's average final compensation for each service credit year; and

11 (b) An additional retirement allowance equal to the excess, if any,
12 of:

13 (i) One percent of such member's average final compensation for
14 each service credit year from the date of election; over

15 (ii) The monthly annuity offset.

16 (A) The monthly annuity offset from the date of election shall be
17 the actuarial equivalent value of the member's account under chapter
18 41.34 RCW, at separation, from the minimum contributions required under
19 RCW 41.34.040 as if it were paid at normal retirement as a single-life
20 annuity with a three percent annual cost-of-living adjustment
21 commencing one year from the date of normal retirement.

22 (B) For the purposes of this subsection, "actuarial equivalent"
23 means a benefit of equal value when computed upon the basis of such
24 mortality tables and regulations as shall be adopted by the director
25 and regular interest.

26 (3) A member who elects to participate under section 12 of this act
27 must, after election, earn at least ten service credit years, or five
28 service credit years including twelve service credit months after age
29 fifty-four, to be eligible for the benefit provided in subsection
30 (2)(b) of this section.

31 (4) The retirement allowance payable under RCW 41.35.680 to a
32 member who separates after having completed at least twenty service
33 credit years shall be increased by twenty-five one-hundredths of one
34 percent, compounded for each month from the date of separation to the
35 date that the retirement allowance commences.

36 NEW SECTION. Sec. 12. A new section is added to chapter 41.35 RCW
37 under the subchapter heading "plan 3" to read as follows:

1 Beginning July 1, 2007, and through June 30, 2008, members who
2 exercised the irrevocable option to transfer to plan 3 prior to January
3 1, 2007, may make an irrevocable election, filed in writing with the
4 department, to participate in the prospective contribution and benefit
5 provisions under RCW 41.34.040 and 41.35.620(2).

6 NEW SECTION. **Sec. 13.** A new section is added to chapter 41.35 RCW
7 under the subchapter heading "plan 3" to read as follows:

8 Beginning July 1, 2007, and through June 30, 2008, a member who
9 established membership under RCW 41.35.610 may make a one-time
10 irrevocable election, filed in writing with the department, to leave
11 any service credit earned as a member of plan 3 in plan 3 and join plan
12 2. A member who makes such an election shall become a dual plan member
13 and may combine service in each plan for the purpose of determining
14 benefit eligibility. The benefits of such members shall be
15 administered in the same manner as benefits administered under the
16 provisions of chapter 41.54 RCW, with such members being treated as if
17 they were members of different systems for portability purposes. The
18 department shall promulgate rules to ensure the portability of such
19 members' plan 2 and plan 3 benefits.

20 **Sec. 14.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to
21 read as follows:

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

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

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

28 (3) "State treasurer" means the treasurer of the state of
29 Washington.

30 (4)(a) "Employer" for plan 1 members, means every branch,
31 department, agency, commission, board, and office of the state, any
32 political subdivision or association of political subdivisions of the
33 state admitted into the retirement system, and legal entities
34 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
35 term shall also include any labor guild, association, or organization
36 the membership of a local lodge or division of which is comprised of at

1 least forty percent employees of an employer (other than such labor
2 guild, association, or organization) within this chapter. The term may
3 also include any city of the first class that has its own retirement
4 system.

5 (b) "Employer" for plan 2 and plan 3 members, means every branch,
6 department, agency, commission, board, and office of the state, and any
7 political subdivision and municipal corporation of the state admitted
8 into the retirement system, including public agencies created pursuant
9 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
10 31, 2000, school districts and educational service districts will no
11 longer be employers for the public employees' retirement system plan 2.

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

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

18 (a) Any person who became a member of the system prior to April 1,
19 1949;

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

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

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

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

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

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

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

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

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

27 (B) If a leave of absence is taken by an individual for the purpose
28 of serving in the state legislature, the salary which would have been
29 received for the position from which the leave of absence was taken,
30 shall be considered as compensation earnable if the employee's
31 contribution is paid by the employee and the employer's contribution is
32 paid by the employer or employee;

33 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
34 72.09.240;

35 (D) Compensation that a member would have received but for a
36 disability occurring in the line of duty only as authorized by RCW
37 41.40.038;

1 (E) Compensation that a member receives due to participation in the
2 leave sharing program only as authorized by RCW 41.04.650 through
3 41.04.670; and

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

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

10 (A) Remuneration for unused sick leave authorized under RCW
11 41.04.340, 28A.400.210, or 28A.310.490;

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

14 (b) "Compensation earnable" for plan 2 and plan 3 members, means
15 salaries or wages earned by a member during a payroll period for
16 personal services, including overtime payments, and shall include wages
17 and salaries deferred under provisions established pursuant to sections
18 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
19 shall exclude nonmoney maintenance compensation and lump sum or other
20 payments for deferred annual sick leave, unused accumulated vacation,
21 unused accumulated annual leave, or any form of severance pay.

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

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

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

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

37 (B) Such member's actual compensation earnable received for
38 nonlegislative public employment and legislative service combined. Any

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

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

7 (iv) Compensation that a member would have received but for a
8 disability occurring in the line of duty only as authorized by RCW
9 41.40.038;

10 (v) Compensation that a member receives due to participation in the
11 leave sharing program only as authorized by RCW 41.04.650 through
12 41.04.670; and

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

18 (9)(a) "Service" for plan 1 members, except as provided in RCW
19 41.40.088, means periods of employment in an eligible position or
20 positions for one or more employers rendered to any employer for which
21 compensation is paid, and includes time spent in office as an elected
22 or appointed official of an employer. Compensation earnable earned in
23 full time work for seventy hours or more in any given calendar month
24 shall constitute one service credit month except as provided in RCW
25 41.40.088. Compensation earnable earned for less than seventy hours in
26 any calendar month shall constitute one-quarter service credit month of
27 service except as provided in RCW 41.40.088. Only service credit
28 months and one-quarter service credit months shall be counted in the
29 computation of any retirement allowance or other benefit provided for
30 in this chapter. Any fraction of a year of service shall be taken into
31 account in the computation of such retirement allowance or benefits.
32 Time spent in standby status, whether compensated or not, is not
33 service.

34 (i) Service by a state employee officially assigned by the state on
35 a temporary basis to assist another public agency, shall be considered
36 as service as a state employee: PROVIDED, That service to any other
37 public agency shall not be considered service as a state employee if

1 such service has been used to establish benefits in any other public
2 retirement system.

3 (ii) An individual shall receive no more than a total of twelve
4 service credit months of service during any calendar year. If an
5 individual is employed in an eligible position by one or more employers
6 the individual shall receive no more than one service credit month
7 during any calendar month in which multiple service for seventy or more
8 hours is rendered.

9 (iii) A school district employee may count up to forty-five days of
10 sick leave as creditable service solely for the purpose of determining
11 eligibility to retire under RCW 41.40.180 as authorized by RCW
12 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
13 28A.400.300 is equal to two service credit months. Use of less than
14 forty-five days of sick leave is creditable as allowed under this
15 subsection as follows:

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

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

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

21 (b) "Service" for plan 2 and plan 3 members, means periods of
22 employment by a member in an eligible position or positions for one or
23 more employers for which compensation earnable is paid. Compensation
24 earnable earned for ninety or more hours in any calendar month shall
25 constitute one service credit month except as provided in RCW
26 41.40.088. Compensation earnable earned for at least seventy hours but
27 less than ninety hours in any calendar month shall constitute one-half
28 service credit month of service. Compensation earnable earned for less
29 than seventy hours in any calendar month shall constitute one-quarter
30 service credit month of service. Time spent in standby status, whether
31 compensated or not, is not service.

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

34 (i) Service in any state elective position shall be deemed to be
35 full time service, except that persons serving in state elective
36 positions who are members of the Washington school employees'
37 retirement system, teachers' retirement system, public safety
38 employees' retirement system, or law enforcement officers' and fire

1 fighters' retirement system at the time of election or appointment to
2 such position may elect to continue membership in the Washington school
3 employees' retirement system, teachers' retirement system, public
4 safety employees' retirement system, or law enforcement officers' and
5 fire fighters' retirement system.

6 (ii) A member shall receive a total of not more than twelve service
7 credit months of service for such calendar year. If an individual is
8 employed in an eligible position by one or more employers the
9 individual shall receive no more than one service credit month during
10 any calendar month in which multiple service for ninety or more hours
11 is rendered.

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

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

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

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

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

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

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

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

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

32 (13) "Membership service" means:

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

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

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

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

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

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

24 (15) "Regular interest" means such rate as the director may
25 determine.

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

30 (17)(a) "Average final compensation" for plan 1 members, means the
31 annual average of the greatest compensation earnable by a member during
32 any consecutive two year period of service credit months for which
33 service credit is allowed; or if the member has less than two years of
34 service credit months then the annual average compensation earnable
35 during the total years of service for which service credit is allowed.

36 (b) "Average final compensation" for plan 2 and plan 3 members,
37 means the member's average compensation earnable of the highest
38 consecutive sixty months of service credit months prior to such

1 member's retirement, termination, or death. Periods constituting
2 authorized leaves of absence may not be used in the calculation of
3 average final compensation except under RCW 41.40.710(2).

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

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

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

12 (21) "Retirement allowance" means the sum of the annuity and the
13 pension.

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

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

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

24 (25) "Eligible position" means:

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

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

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

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

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

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

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

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

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

16 (33) "Plan 1" means the public employees' retirement system, plan
17 1 providing the benefits and funding provisions covering persons who
18 first became members of the system prior to October 1, 1977.

19 (34) "Plan 2" means the public employees' retirement system, plan
20 2 providing the benefits and funding provisions covering persons who
21 first became members of the system on and after October 1, 1977, and
22 are not included in plan 3.

23 (35) "Plan 3" means the public employees' retirement system, plan
24 3 providing the benefits and funding provisions covering persons who:

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

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

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

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

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

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

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

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

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

5 (41) "Annual increase" means(~~(, initially, fifty-nine)~~) one dollar
6 and fifty-seven cents per month per year of service which amount shall
7 be increased each July 1st by three percent, rounded to the nearest
8 cent.

9 (42) "Separation from service" occurs when a person has terminated
10 all employment with an employer. Separation from service or employment
11 does not occur, and if claimed by an employer or employee may be a
12 violation of RCW 41.40.055, when an employee and employer have a
13 written or oral agreement to resume employment with the same employer
14 following termination.

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

18 **Sec. 15.** RCW 41.40.790 and 2000 c 247 s 303 are each amended to
19 read as follows:

20 (1) A member of the retirement system shall receive a retirement
21 allowance equal to one percent of such member's average final
22 compensation for each service credit year.

23 (2) In lieu of the retirement allowance under subsection (1) of
24 this section, a member of the retirement system who elects to
25 participate under section 16 of this act shall receive:

26 (a) A monthly retirement allowance equal to one percent of such
27 member's average final compensation for each service credit year; and

28 (b) An additional retirement allowance equal to the excess, if any,
29 of:

30 (i) One percent of such member's average final compensation for
31 each service credit year from the date of election; over

32 (ii) The monthly annuity offset.

33 (A) The monthly annuity offset from the date of election shall be
34 the actuarial equivalent value of the member's account under chapter
35 41.34 RCW, at separation, from the minimum contributions required under
36 RCW 41.34.040 as if it were paid at normal retirement as a single-life

1 annuity with a three percent annual cost-of-living adjustment
2 commencing one year from the date of normal retirement.

3 (B) For the purposes of this subsection, "actuarial equivalent"
4 means a benefit of equal value when computed upon the basis of such
5 mortality tables and regulations as shall be adopted by the director
6 and regular interest.

7 (3) A member who elects to participate under section 16 of this act
8 must, after election, earn at least ten service credit years, or five
9 service credit years including twelve service credit months after age
10 fifty-four, to be eligible for the benefit provided in subsection
11 (2)(b) of this section.

12 (4) The retirement allowance payable under RCW 41.40.820 to a
13 member who separates after having completed at least twenty service
14 credit years shall be increased by twenty-five one-hundredths of one
15 percent, compounded for each month from the date of separation to the
16 date that the retirement allowance commences.

17 NEW SECTION. Sec. 16. A new section is added to chapter 41.40 RCW
18 under the subchapter heading "plan 3" to read as follows:

19 Beginning July 1, 2007, and through June 30, 2008, members who
20 exercised an irrevocable option to transfer to plan 3 prior to January
21 1, 2007, may make an irrevocable election, filed in writing with the
22 department, to participate in the prospective contribution and benefit
23 provisions under RCW 41.34.040 and 41.40.790(2).

24 **Sec. 17.** RCW 41.45.061 and 2004 c 242 s 40 are each amended to
25 read as follows:

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

29 ~~(a) Beginning September 1, 1997, except as provided in (b) of this~~
30 ~~subsection, the employee contribution rate shall not exceed the~~
31 ~~employer plan 2 and 3 rates adopted under RCW 41.45.060, 41.45.054, and~~
32 ~~41.45.070 for the teachers' retirement system;~~

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

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

5 (2) The required contribution rate for members of the school
6 employees' retirement system plan 2 shall ~~((equal the school employees'~~
7 ~~retirement system employer plan 2 and 3 contribution rate adopted under~~
8 ~~RCW 41.45.060, 41.45.054, and 41.45.070, except as provided in~~
9 ~~subsection (3) of this section.~~

10 ~~(3) The member contribution rate for the school employees'~~
11 ~~retirement system plan 2 shall be increased by fifty percent of the~~
12 ~~contribution rate increase caused by any plan 2 benefit increase passed~~
13 ~~after September 1, 2000)) be set at the same rate as the employer~~
14 ~~combined plan 2 and plan 3 rate.~~

15 ~~((4))~~ (3) The required contribution rate for members of the
16 public employees' retirement system plan 2 shall be set at the same
17 rate as the employer combined plan 2 and plan 3 rate.

18 ~~((5))~~ (4) The required contribution rate for members of the law
19 enforcement officers' and fire fighters' retirement system plan 2 shall
20 be set at fifty percent of the cost of the retirement system.

21 (5) The required contribution rates for members of the teachers'
22 retirement system plan 2 shall not include any increase as a result of
23 this act.

24 (6) The ~~((employee))~~ required contribution rates for members of the
25 school employees' retirement system plan 2 ~~((under subsections (3) and~~
26 ~~(4) of this section))~~ shall not include any increase as a result of
27 ~~((any distributions pursuant to RCW 41.31A.020 and 41.31A.030))~~ this
28 act.

29 (7) The required contribution rates for members of the public
30 employees' retirement system plan 2 shall not include any increase as
31 a result of this act.

32 (8) The required plan 2 and 3 contribution rates for employers
33 shall be adopted in the manner described in RCW 41.45.060~~((~~
34 ~~41.45.054,))~~ and 41.45.070.

35 ~~((8))~~ (9) The required contribution rate for members of the
36 public safety employees' retirement system plan 2 shall be set at fifty
37 percent of the cost of the retirement system.

1 **Sec. 18.** RCW 41.45.070 and 2004 c 242 s 41 are each amended to
2 read as follows:

3 (1) In addition to the basic employer contribution rate established
4 in RCW 41.45.060 (~~or 41.45.054~~), the department shall also charge
5 employers of public employees' retirement system, teachers' retirement
6 system, school employees' retirement system, public safety employees'
7 retirement system, or Washington state patrol retirement system members
8 an additional supplemental rate to pay for the cost of additional
9 benefits, if any, granted to members of those systems. (~~Except as~~
10 ~~provided in subsections (6) and (7) of this section,~~) The supplemental
11 contribution rates required by this section shall be calculated by the
12 state actuary and shall be charged regardless of language to the
13 contrary contained in the statute which authorizes additional benefits.

14 (2) In addition to the basic member, employer, and state
15 contribution rate established in RCW 41.45.0604 for the law enforcement
16 officers' and fire fighters' retirement system plan 2, the department
17 shall also establish supplemental rates to pay for the cost of
18 additional benefits, if any, granted to members of the law enforcement
19 officers' and fire fighters' retirement system plan 2. (~~Except as~~
20 ~~provided in subsection (6) of this section,~~) These supplemental rates
21 shall be calculated by the actuary retained by the law enforcement
22 officers' and fire fighters' board and the state actuary through the
23 process provided in RCW 41.26.720(1)(a) and the state treasurer shall
24 transfer the additional required contributions regardless of language
25 to the contrary contained in the statute which authorizes the
26 additional benefits.

27 (3) The supplemental rate charged under this section to fund
28 benefit increases provided to active members of the public employees'
29 retirement system plan 1, the teachers' retirement system plan 1, and
30 Washington state patrol retirement system, shall be calculated as the
31 level percentage of all members' pay needed to fund the cost of the
32 benefit not later than June 30, 2024.

33 (4) The supplemental rate charged under this section to fund
34 benefit increases provided to active and retired members of the public
35 employees' retirement system plan 2 and plan 3, the teachers'
36 retirement system plan 2 and plan 3, the public safety employees'
37 retirement system plan 2, or the school employees' retirement system

1 plan 2 and plan 3 shall be calculated as the level percentage of all
2 members' pay needed to fund the cost of the benefit, as calculated
3 under RCW 41.45.060, 41.45.061, or 41.45.067.

4 (5) The supplemental rate charged under this section to fund
5 postretirement adjustments which are provided on a nonautomatic basis
6 to current retirees shall be calculated as the percentage of pay needed
7 to fund the adjustments as they are paid to the retirees. The
8 supplemental rate charged under this section to fund automatic
9 postretirement adjustments for active or retired members of the public
10 employees' retirement system plan 1 and the teachers' retirement system
11 plan 1 shall be calculated as the level percentage of pay needed to
12 fund the cost of the automatic adjustments not later than June 30,
13 2024.

14 (6) A supplemental rate shall not be charged to pay for the cost of
15 (~~additional benefits granted to members pursuant to chapter 340, Laws~~
16 ~~of 1998.~~

17 ~~(7) A supplemental rate shall not be charged to pay for the cost of~~
18 ~~additional benefits granted to members pursuant to chapter 41.31A RCW;~~
19 ~~section 309, chapter 341, Laws of 1998; or section 701, chapter 341,~~
20 ~~Laws of 1998)) this act prior to July 1, 2007.~~

21 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 41.31.010 (Annual pension increases--Increased by gain-
24 sharing increase amount) and 1998 c 340 s 1;

25 (2) RCW 41.31.020 (Gain-sharing increase amount calculated) and
26 1998 c 340 s 2;

27 (3) RCW 41.31.030 (Contractual right to increase not granted) and
28 1998 c 340 s 3;

29 (4) RCW 41.31A.010 (Definitions) and 2000 c 247 s 407 & 1998 c 341
30 s 311;

31 (5) RCW 41.31A.020 (Extraordinary investment gain--Credited to
32 member accounts--Persons eligible--Calculation of amount--Contractual
33 right not granted) and 2003 c 294 s 4, 2000 c 247 s 408, & 1998 c 341
34 s 312;

35 (6) RCW 41.31A.030 (Retroactive extraordinary investment gain--
36 Credited to member accounts--Persons eligible--Calculation of amount--
37 Contractual right not granted) and 1998 c 341 s 313; and

1 (7) RCW 41.31A.040 (Retroactive extraordinary investment gain--
2 Credited to member accounts--Persons eligible--Calculation of amount--
3 Contractual right not granted) and 2000 c 247 s 409.

4 NEW SECTION. **Sec. 20.** The benefits provided under this act are
5 not provided to employees as a matter of contractual right prior to
6 July 1, 2007. The legislature retains the right to alter or abolish
7 these benefits at any time prior to July 1, 2007.

8 NEW SECTION. **Sec. 21.** If any part of this act is found to be in
9 conflict with a final determination by the federal internal revenue
10 service that is a prescribed condition to favorable tax treatment of
11 one or more of the retirement plans, the conflicting part of this act
12 is inoperative solely to the extent of the conflict and with respect to
13 the individual members directly affected. This finding does not affect
14 the operation of the remainder of this act in its application to the
15 members concerned. The legislature reserves the right to amend or
16 repeal this act in the future as may be required to comply with a final
17 federal determination that amendment or repeal is necessary to maintain
18 the favorable tax treatment of a plan.

19 NEW SECTION. **Sec. 22.** Except for section 7 of this act which
20 takes effect July 1, 2008, this act takes effect July 1, 2007.

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