

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 2391**

Chapter 491, Laws of 2007

60th Legislature  
2007 Regular Session

GAIN-SHARING--ALTERNATE PENSION BENEFITS

EFFECTIVE DATE: 07/22/07 - Except sections 1, 3, and 7, which become effective 07/01/07.

Passed by the House April 21, 2007  
Yeas 52 Nays 45

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate April 22, 2007  
Yeas 26 Nays 21

BRAD OWEN

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**President of the Senate**

Approved May 15, 2007, 2:29 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2391** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

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**Chief Clerk**

FILED

May 16, 2007

**Secretary of State  
State of Washington**

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**ENGROSSED HOUSE BILL 2391**

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Passed Legislature - 2007 Regular Session

**State of Washington                      60th Legislature                      2007 Regular Session**

**By** Representatives Fromhold, Conway and Moeller

Read first time 03/19/2007. Referred to Committee on Appropriations.

1            AN ACT Relating to retirement system gain-sharing and alternate  
2 benefits; amending RCW 41.31A.020, 41.32.765, 41.32.835, 41.32.875,  
3 41.35.420, 41.35.610, 41.35.680, 41.40.630, 41.40.820, and 41.45.070;  
4 adding a new section to chapter 41.32 RCW; adding a new section to  
5 chapter 41.40 RCW; creating new sections; repealing RCW 41.31.010,  
6 41.31.020, 41.31.030, 41.31A.010, 41.31A.020, 41.31A.030, and  
7 41.31A.040; providing effective dates; and declaring an emergency.

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

9            **Sec. 1.** RCW 41.31A.020 and 2003 c 294 s 4 are each amended to read  
10 as follows:

11            (1) On January 1, 2004, and on January 1st of even-numbered years  
12 thereafter, the member account of a person meeting the requirements of  
13 this section shall be credited by the extraordinary investment gain  
14 amount.

15            (2) The following persons, hired prior to July 1, 2007, shall be  
16 eligible for the benefit provided in subsection (1) of this section:

17            (a) Any member of the teachers' retirement system plan 3, the  
18 Washington school employees' retirement system plan 3, or the public  
19 employees' retirement system plan 3 who earned service credit during

1 the twelve-month period from September 1st to August 31st immediately  
2 preceding the distribution and had a balance of at least one thousand  
3 dollars in their member account on August 31st of the year immediately  
4 preceding the distribution; or

5 (b) Any person in receipt of a benefit pursuant to RCW 41.32.875,  
6 41.35.680, or 41.40.820; or

7 (c) Any person who is a retiree pursuant to RCW 41.34.020(8) and  
8 who:

9 (i) Completed ten service credit years; or

10 (ii) Completed five service credit years, including twelve service  
11 months after attaining age fifty-four; or

12 (d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and  
13 who has completed five service credit years by July 1, 1996, under plan  
14 2 and who transferred to plan 3 under RCW 41.32.817; or

15 (e) Any classified employee who is a retiree pursuant to RCW  
16 41.34.020(8) and who has completed five service credit years by  
17 September 1, 2000, and who transferred to plan 3 under RCW 41.35.510;  
18 or

19 (f) Any public employee who is a retiree pursuant to RCW  
20 41.34.020(8) and who has completed five service credit years by March  
21 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

22 (g) Any person who had a balance of at least one thousand dollars  
23 in their member account on August 31st of the year immediately  
24 preceding the distribution and who:

25 (i) Completed ten service credit years; or

26 (ii) Completed five service credit years, including twelve service  
27 months after attaining age fifty-four; or

28 (h) Any teacher who had a balance of at least one thousand dollars  
29 in their member account on August 31st of the year immediately  
30 preceding the distribution and who has completed five service credit  
31 years by July 1, 1996, under plan 2 and who transferred to plan 3 under  
32 RCW 41.32.817; or

33 (i) Any classified employee who had a balance of at least one  
34 thousand dollars in their member account on August 31st of the year  
35 immediately preceding the distribution and who has completed five  
36 service credit years by September 1, 2000, and who transferred to plan  
37 3 under RCW 41.35.510; or

1 (j) Any public employee who had a balance of at least one thousand  
2 dollars in their member account on August 31st of the year immediately  
3 preceding the distribution and who has completed five service credit  
4 years by March 1, 2002, and who transferred to plan 3 under RCW  
5 41.40.795.

6 (3) The extraordinary investment gain amount shall be calculated as  
7 follows:

8 (a) One-half of the sum of the value of the net assets held in  
9 trust for pension benefits in the teachers' retirement system combined  
10 plan 2 and 3 fund, the Washington school employees' retirement system  
11 combined plan 2 and 3 fund, and the public employees' retirement system  
12 combined plan 2 and 3 fund at the close of the previous state fiscal  
13 year not including the amount attributable to member accounts;

14 (b) Multiplied by the amount which the compound average of  
15 investment returns on those assets over the previous four state fiscal  
16 years exceeds ten percent;

17 (c) Multiplied by the proportion of:

18 (i) The sum of the service credit on August 31st of the previous  
19 year of all persons eligible for the benefit provided in subsection (1)  
20 of this section; to

21 (ii) The sum of the service credit on August 31st of the previous  
22 year of:

23 (A) All persons eligible for the benefit provided in subsection (1)  
24 of this section;

25 (B) Any person who earned service credit in the teachers'  
26 retirement system plan 2, the Washington school employees' retirement  
27 system plan 2, or the public employees' retirement system plan 2 during  
28 the twelve-month period from September 1st to August 31st immediately  
29 preceding the distribution;

30 (C) Any person in receipt of a benefit pursuant to RCW 41.32.765,  
31 41.35.420, or 41.40.630; and

32 (D) Any person with five or more years of service in the teachers'  
33 retirement system plan 2, the Washington school employees' retirement  
34 system plan 2, or the public employees' retirement system plan 2;

35 (d) Divided proportionally among persons eligible for the benefit  
36 provided in subsection (1) of this section on the basis of their  
37 service credit total on August 31st of the previous year.

1 (4) The legislature reserves the right to amend or repeal this  
2 section in the future and no member or beneficiary has a contractual  
3 right to receive this distribution not granted prior to that time.

4 **Sec. 2.** RCW 41.32.765 and 2000 c 247 s 902 are each amended to  
5 read as follows:

6 (1) NORMAL RETIREMENT. Any member with at least five service  
7 credit years of service who has attained at least age sixty-five shall  
8 be eligible to retire and to receive a retirement allowance computed  
9 according to the provisions of RCW 41.32.760.

10 (2) EARLY RETIREMENT. Any member who has completed at least twenty  
11 service credit years of service who has attained at least age fifty-  
12 five shall be eligible to retire and to receive a retirement allowance  
13 computed according to the provisions of RCW 41.32.760, except that a  
14 member retiring pursuant to this subsection shall have the retirement  
15 allowance actuarially reduced to reflect the difference in the number  
16 of years between age at retirement and the attainment of age sixty-  
17 five.

18 (3) ALTERNATE EARLY RETIREMENT.

19 (a) Any member who has completed at least thirty service credit  
20 years and has attained age fifty-five shall be eligible to retire and  
21 to receive a retirement allowance computed according to the provisions  
22 of RCW 41.32.760, except that a member retiring pursuant to this  
23 subsection shall have the retirement allowance reduced by three percent  
24 per year to reflect the difference in the number of years between age  
25 at retirement and the attainment of age sixty-five.

26 (b) On or after September 1, 2008, any member who has completed at  
27 least thirty service credit years and has attained age fifty-five shall  
28 be eligible to retire and to receive a retirement allowance computed  
29 according to the provisions of RCW 41.32.760, except that a member  
30 retiring pursuant to this subsection shall have the retirement  
31 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>

1	<u>57</u>	<u>14%</u>
2	<u>58</u>	<u>11%</u>
3	<u>59</u>	<u>8%</u>
4	<u>60</u>	<u>5%</u>
5	<u>61</u>	<u>2%</u>
6	<u>62</u>	<u>0%</u>
7	<u>63</u>	<u>0%</u>
8	<u>64</u>	<u>0%</u>

9       Any member who retires under the provisions of this subsection is  
10 ineligible for the postretirement employment provisions of RCW  
11 41.32.802(2) until the retired member has reached sixty-five years of  
12 age. For purposes of this subsection, employment with an employer also  
13 includes any personal service contract, service by an employer as a  
14 temporary or project employee, or any other similar compensated  
15 relationship with any employer included under the provisions of RCW  
16 41.32.800(1).

17       The subsidized reductions for alternate early retirement in this  
18 subsection as set forth in section 2, chapter . . . (this act), Laws of  
19 2007 were intended by the legislature as replacement benefits for gain-  
20 sharing. Until there is legal certainty with respect to the repeal of  
21 chapter 41.31A RCW, the right to retire under this subsection is  
22 noncontractual, and the legislature reserves the right to amend or  
23 repeal this subsection. Legal certainty includes, but is not limited  
24 to, the expiration of any: Applicable limitations on actions; and  
25 periods of time for seeking appellate review, up to and including  
26 reconsideration by the Washington supreme court and the supreme court  
27 of the United States. Until that time, eligible members may still  
28 retire under this subsection, and upon receipt of the first installment  
29 of a retirement allowance computed under this subsection, the resulting  
30 benefit becomes contractual for the recipient. If the repeal of  
31 chapter 41.31A RCW is held to be invalid in a final determination of a  
32 court of law, and the court orders reinstatement of gain-sharing or  
33 other alternate benefits as a remedy, then retirement benefits for any  
34 member who has completed at least thirty service credit years and has  
35 attained age fifty-five but has not yet received the first installment  
36 of a retirement allowance under this subsection shall be computed using  
37 the reductions in (a) of this subsection.

1       **Sec. 3.** RCW 41.32.835 and 1995 c 239 s 105 are each amended to  
2 read as follows:

3       (1) All teachers who first become employed by an employer in an  
4 eligible position on or after July 1, ((1996, shall be members of plan  
5 3)) 2007, shall have a period of ninety days to make an irrevocable  
6 choice to become a member of plan 2 or plan 3. At the end of ninety  
7 days, if the member has not made a choice to become a member of plan 2,  
8 he or she becomes a member of plan 3.

9       (2) For administrative efficiency, until a member elects to become  
10 a member of plan 3, or becomes a member of plan 3 by default under  
11 subsection (1) of this section, the member shall be reported to the  
12 department in plan 2, with member and employer contributions. Upon  
13 becoming a member of plan 3 by election or by default, all service  
14 credit shall be transferred to the member's plan 3 defined benefit, and  
15 all employee accumulated contributions shall be transferred to the  
16 member's plan 3 defined contribution account.

17       (3) The plan choice provision as set forth in section 3, chapter .  
18 . . (this act), Laws of 2007 was intended by the legislature as a  
19 replacement benefit for gain-sharing. Until there is legal certainty  
20 with respect to the repeal of chapter 41.31A RCW, the right to plan  
21 choice under this section is noncontractual, and the legislature  
22 reserves the right to amend or repeal this section. Legal certainty  
23 includes, but is not limited to, the expiration of any: Applicable  
24 limitations on actions; and periods of time for seeking appellate  
25 review, up to and including reconsideration by the Washington supreme  
26 court and the supreme court of the United States. Until that time, all  
27 teachers who first become employed by an employer in an eligible  
28 position on or after July 1, 2007, may choose either plan 2 or plan 3  
29 under this section. If the repeal of chapter 41.31A RCW is held to be  
30 invalid in a final determination of a court of law, and the court  
31 orders reinstatement of gain-sharing or other alternate benefits as a  
32 remedy, then all teachers who first become employed by an employer in  
33 an eligible position on or after the date of such reinstatement shall  
34 be members of plan 3.

35       **Sec. 4.** RCW 41.32.875 and 2006 c 33 s 1 are each amended to read  
36 as follows:

1 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
2 and who has:

3 (a) Completed ten service credit years; or

4 (b) Completed five service credit years, including twelve service  
5 credit months after attaining age forty-four; or

6 (c) Completed five service credit years by July 1, 1996, under plan  
7 2 and who transferred to plan 3 under RCW 41.32.817;  
8 shall be eligible to retire and to receive a retirement allowance  
9 computed according to the provisions of RCW 41.32.840.

10 (2) EARLY RETIREMENT. Any member who has attained at least age  
11 fifty-five and has completed at least ten years of service shall be  
12 eligible to retire and to receive a retirement allowance computed  
13 according to the provisions of RCW 41.32.840, except that a member  
14 retiring pursuant to this subsection shall have the retirement  
15 allowance actuarially reduced to reflect the difference in the number  
16 of years between age at retirement and the attainment of age sixty-  
17 five.

18 (3) ALTERNATE EARLY RETIREMENT.

19 (a) Any member who has completed at least thirty service credit  
20 years and has attained age fifty-five shall be eligible to retire and  
21 to receive a retirement allowance computed according to the provisions  
22 of RCW 41.32.840, except that a member retiring pursuant to this  
23 subsection shall have the retirement allowance reduced by three percent  
24 per year to reflect the difference in the number of years between age  
25 at retirement and the attainment of age sixty-five.

26 (b) On or after September 1, 2008, any member who has completed at  
27 least thirty service credit years and has attained age fifty-five shall  
28 be eligible to retire and to receive a retirement allowance computed  
29 according to the provisions of RCW 41.32.840, except that a member  
30 retiring pursuant to this subsection shall have the retirement  
31 allowance reduced as follows:

	<u>Retirement</u>	<u>Percent</u>
	<u>Age</u>	<u>Reduction</u>
32		
33		
34	<u>55</u>	<u>20%</u>
35	<u>56</u>	<u>17%</u>
36	<u>57</u>	<u>14%</u>



1	<u>58</u>	<u>11%</u>
2	<u>59</u>	<u>8%</u>
3	<u>60</u>	<u>5%</u>
4	<u>61</u>	<u>2%</u>
5	<u>62</u>	<u>0%</u>
6	<u>63</u>	<u>0%</u>
7	<u>64</u>	<u>0%</u>

8 Any member who retires under the provisions of this subsection is  
9 ineligible for the postretirement employment provisions of RCW  
10 41.32.862(2) until the retired member has reached sixty-five years of  
11 age. For purposes of this subsection, employment with an employer also  
12 includes any personal service contract, service by an employer as a  
13 temporary or project employee, or any other similar compensated  
14 relationship with any employer included under the provisions of RCW  
15 41.32.860(1).

16 The subsidized reductions for alternate early retirement in this  
17 subsection as set forth in section 4, chapter . . . (this act), Laws of  
18 2007 were intended by the legislature as replacement benefits for gain-  
19 sharing. Until there is legal certainty with respect to the repeal of  
20 chapter 41.31A RCW, the right to retire under this subsection is  
21 noncontractual, and the legislature reserves the right to amend or  
22 repeal this subsection. Legal certainty includes, but is not limited  
23 to, the expiration of any: Applicable limitations on actions; and  
24 periods of time for seeking appellate review, up to and including  
25 reconsideration by the Washington supreme court and the supreme court  
26 of the United States. Until that time, eligible members may still  
27 retire under this subsection, and upon receipt of the first installment  
28 of a retirement allowance computed under this subsection, the resulting  
29 benefit becomes contractual for the recipient. If the repeal of  
30 chapter 41.31A RCW is held to be invalid in a final determination of a  
31 court of law, and the court orders reinstatement of gain-sharing or  
32 other alternate benefits as a remedy, then retirement benefits for any  
33 member who has completed at least thirty service credit years and has  
34 attained age fifty-five but has not yet received the first installment  
35 of a retirement allowance under this subsection shall be computed using  
36 the reductions in (a) of this subsection.

1           NEW SECTION.   **Sec. 5.** A new section is added to chapter 41.32 RCW  
2 under the subchapter heading "plan 1" to read as follows:

3           (1) Beginning July 1, 2009, the annual increase amount as defined  
4 in RCW 41.32.010(46) shall be increased by an amount equal to \$0.40 per  
5 month per year of service minus the 2008 gain-sharing increase amount  
6 under RCW 41.31.010 as it exists on the effective date of this section.  
7 This adjustment shall not decrease the annual increase amount, and is  
8 not to exceed \$0.20 per month per year of service. The legislature  
9 reserves the right to amend or repeal this section in the future and no  
10 member or beneficiary has the contractual right to receive this  
11 adjustment to the annual increase amount not granted prior to that  
12 time.

13           (2) The adjustment to the annual increase amount as set forth in  
14 section 5, chapter . . . (this act), Laws of 2007 was intended by the  
15 legislature as a replacement benefit for gain-sharing. If the repeal  
16 of chapter 41.31 RCW is held to be invalid in a final determination of  
17 a court of law, and the court orders reinstatement of gain-sharing or  
18 other alternate benefits as a remedy, then this adjustment to the  
19 annual increase amount shall not be included in future annual increase  
20 amounts paid on or after the date of such reinstatement.

21           **Sec. 6.** RCW 41.35.420 and 2000 c 247 s 905 are each amended to  
22 read as follows:

23           (1) NORMAL RETIREMENT. Any member with at least five service  
24 credit years who has attained at least age sixty-five shall be eligible  
25 to retire and to receive a retirement allowance computed according to  
26 the provisions of RCW 41.35.400.

27           (2) EARLY RETIREMENT. Any member who has completed at least twenty  
28 service credit years and has attained age fifty-five shall be eligible  
29 to retire and to receive a retirement allowance computed according to  
30 the provisions of RCW 41.35.400, except that a member retiring pursuant  
31 to this subsection shall have the retirement allowance actuarially  
32 reduced to reflect the difference in the number of years between age at  
33 retirement and the attainment of age sixty-five.

34           (3) ALTERNATE EARLY RETIREMENT.

35           (a) Any member who has completed at least thirty service credit  
36 years and has attained age fifty-five shall be eligible to retire and  
37 to receive a retirement allowance computed according to the provisions

1 of RCW 41.35.400, except that a member retiring pursuant to this  
2 subsection shall have the retirement allowance reduced by three percent  
3 per year to reflect the difference in the number of years between age  
4 at retirement and the attainment of age sixty-five.

5 (b) On or after September 1, 2008, any member who has completed at  
6 least thirty service credit years and has attained age fifty-five shall  
7 be eligible to retire and to receive a retirement allowance computed  
8 according to the provisions of RCW 41.35.400, except that a member  
9 retiring pursuant to this subsection shall have the retirement  
10 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

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23 Any member who retires under the provisions of this subsection is  
24 ineligible for the postretirement employment provisions of RCW  
25 41.35.060(2) until the retired member has reached sixty-five years of  
26 age. For purposes of this subsection, employment with an employer also  
27 includes any personal service contract, service by an employer as a  
28 temporary or project employee, or any other similar compensated  
29 relationship with any employer included under the provisions of RCW  
30 41.35.230(1).

31 The subsidized reductions for alternate early retirement in this  
32 subsection as set forth in section 6, chapter . . . (this act), Laws of  
33 2007 were intended by the legislature as replacement benefits for gain-  
34 sharing. Until there is legal certainty with respect to the repeal of  
35 chapter 41.31A RCW, the right to retire under this subsection is  
36 noncontractual, and the legislature reserves the right to amend or

1 repeal this subsection. Legal certainty includes, but is not limited  
2 to, the expiration of any: Applicable limitations on actions; and  
3 periods of time for seeking appellate review, up to and including  
4 reconsideration by the Washington supreme court and the supreme court  
5 of the United States. Until that time, eligible members may still  
6 retire under this subsection, and upon receipt of the first installment  
7 of a retirement allowance computed under this subsection, the resulting  
8 benefit becomes contractual for the recipient. If the repeal of  
9 chapter 41.31A RCW is held to be invalid in a final determination of a  
10 court of law, and the court orders reinstatement of gain-sharing or  
11 other alternate benefits as a remedy, then retirement benefits for any  
12 member who has completed at least thirty service credit years and has  
13 attained age fifty-five but has not yet received the first installment  
14 of a retirement allowance under this subsection shall be computed using  
15 the reductions in (a) of this subsection.

16 **Sec. 7.** RCW 41.35.610 and 1998 c 341 s 202 are each amended to  
17 read as follows:

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

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

32 (3) The plan choice provision as set forth in section 7, chapter .  
33 . (this act), Laws of 2007 was intended by the legislature as a  
34 replacement benefit for gain-sharing. Until there is legal certainty  
35 with respect to the repeal of chapter 41.31A RCW, the right to plan  
36 choice under this section is noncontractual, and the legislature  
37 reserves the right to amend or repeal this section. Legal certainty

1 includes, but is not limited to, the expiration of any: Applicable  
2 limitations on actions; and periods of time for seeking appellate  
3 review, up to and including reconsideration by the Washington supreme  
4 court and the supreme court of the United States. Until that time, all  
5 classified employees who first become employed by an employer in an  
6 eligible position on or after July 1, 2007, may choose either plan 2 or  
7 plan 3 under this section. If the repeal of chapter 41.31A RCW is held  
8 to be invalid in a final determination of a court of law, and the court  
9 orders reinstatement of gain-sharing or other alternate benefits as a  
10 remedy, then all classified employees who first become employed by an  
11 employer in an eligible position on or after the date of such  
12 reinstatement shall be members of plan 3.

13 **Sec. 8.** RCW 41.35.680 and 2006 c 33 s 2 are each amended to read  
14 as follows:

15 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
16 and who has:

17 (a) Completed ten service credit years; or

18 (b) Completed five service credit years, including twelve service  
19 credit months after attaining age forty-four; or

20 (c) Completed five service credit years by September 1, 2000, under  
21 the public employees' retirement system plan 2 and who transferred to  
22 plan 3 under RCW 41.35.510;

23 shall be eligible to retire and to receive a retirement allowance  
24 computed according to the provisions of RCW 41.35.620.

25 (2) EARLY RETIREMENT. Any member who has attained at least age  
26 fifty-five and has completed at least ten years of service shall be  
27 eligible to retire and to receive a retirement allowance computed  
28 according to the provisions of RCW 41.35.620, except that a member  
29 retiring pursuant to this subsection shall have the retirement  
30 allowance actuarially reduced to reflect the difference in the number  
31 of years between age at retirement and the attainment of age sixty-  
32 five.

33 (3) ALTERNATE EARLY RETIREMENT.

34 (a) Any member who has completed at least thirty service credit  
35 years and has attained age fifty-five shall be eligible to retire and  
36 to receive a retirement allowance computed according to the provisions  
37 of RCW 41.35.620, except that a member retiring pursuant to this

1 subsection shall have the retirement allowance reduced by three percent  
2 per year to reflect the difference in the number of years between age  
3 at retirement and the attainment of age sixty-five.

4 (b) On or after September 1, 2008, any member who has completed at  
5 least thirty service credit years and has attained age fifty-five shall  
6 be eligible to retire and to receive a retirement allowance computed  
7 according to the provisions of RCW 41.35.620, except that a member  
8 retiring pursuant to this subsection shall have the retirement  
9 allowance reduced as follows:

	<u>Retirement</u>	<u>Percent</u>
	<u>Age</u>	<u>Reduction</u>
10		
11		
12	<u>55</u>	<u>20%</u>
13	<u>56</u>	<u>17%</u>
14	<u>57</u>	<u>14%</u>
15	<u>58</u>	<u>11%</u>
16	<u>59</u>	<u>8%</u>
17	<u>60</u>	<u>5%</u>
18	<u>61</u>	<u>2%</u>
19	<u>62</u>	<u>0%</u>
20	<u>63</u>	<u>0%</u>
21	<u>64</u>	<u>0%</u>

22 Any member who retires under the provisions of this subsection is  
23 ineligible for the postretirement employment provisions of RCW  
24 41.35.060(2) until the retired member has reached sixty-five years of  
25 age. For purposes of this subsection, employment with an employer also  
26 includes any personal service contract, service by an employer as a  
27 temporary or project employee, or any other similar compensated  
28 relationship with any employer included under the provisions of RCW  
29 41.35.230(1).

30 The subsidized reductions for alternate early retirement in this  
31 subsection as set forth in section 8, chapter . . . (this act), Laws of  
32 2007 were intended by the legislature as replacement benefits for gain-  
33 sharing. Until there is legal certainty with respect to the repeal of  
34 chapter 41.31A RCW, the right to retire under this subsection is  
35 noncontractual, and the legislature reserves the right to amend or  
36 repeal this subsection. Legal certainty includes, but is not limited

1 to, the expiration of any: Applicable limitations on actions; and  
2 periods of time for seeking appellate review, up to and including  
3 reconsideration by the Washington supreme court and the supreme court  
4 of the United States. Until that time, eligible members may still  
5 retire under this subsection, and upon receipt of the first installment  
6 of a retirement allowance computed under this subsection, the resulting  
7 benefit becomes contractual for the recipient. If the repeal of  
8 chapter 41.31A RCW is held to be invalid in a final determination of a  
9 court of law, and the court orders reinstatement of gain-sharing or  
10 other alternate benefits as a remedy, then retirement benefits for any  
11 member who has completed at least thirty service credit years and has  
12 attained age fifty-five but has not yet received the first installment  
13 of a retirement allowance under this subsection shall be computed using  
14 the reductions in (a) of this subsection.

15 **Sec. 9.** RCW 41.40.630 and 2000 c 247 s 901 are each amended to  
16 read as follows:

17 (1) NORMAL RETIREMENT. Any member with at least five service  
18 credit years who has attained at least age sixty-five shall be eligible  
19 to retire and to receive a retirement allowance computed according to  
20 the provisions of RCW 41.40.620.

21 (2) EARLY RETIREMENT. Any member who has completed at least twenty  
22 service credit years and has attained age fifty-five shall be eligible  
23 to retire and to receive a retirement allowance computed according to  
24 the provisions of RCW 41.40.620, except that a member retiring pursuant  
25 to this subsection shall have the retirement allowance actuarially  
26 reduced to reflect the difference in the number of years between age at  
27 retirement and the attainment of age sixty-five.

28 (3) ALTERNATE EARLY RETIREMENT.

29 (a) Any member who has completed at least thirty service credit  
30 years and has attained age fifty-five shall be eligible to retire and  
31 to receive a retirement allowance computed according to the provisions  
32 of RCW 41.40.620, except that a member retiring pursuant to this  
33 subsection shall have the retirement allowance reduced by three percent  
34 per year to reflect the difference in the number of years between age  
35 at retirement and the attainment of age sixty-five.

36 (b) On or after July 1, 2008, any member who has completed at least  
37 thirty service credit years and has attained age fifty-five shall be

1 eligible to retire and to receive a retirement allowance computed  
2 according to the provisions of RCW 41.40.620, except that a member  
3 retiring pursuant to this subsection shall have the retirement  
4 allowance reduced as follows:

	<u>Retirement</u>	<u>Percent</u>
	<u>Age</u>	<u>Reduction</u>
5		
6		
7	<u>55</u>	<u>20%</u>
8	<u>56</u>	<u>17%</u>
9	<u>57</u>	<u>14%</u>
10	<u>58</u>	<u>11%</u>
11	<u>59</u>	<u>8%</u>
12	<u>60</u>	<u>5%</u>
13	<u>61</u>	<u>2%</u>
14	<u>62</u>	<u>0%</u>
15	<u>63</u>	<u>0%</u>
16	<u>64</u>	<u>0%</u>

17 Any member who retires under the provisions of this subsection is  
18 ineligible for the postretirement employment provisions of RCW  
19 41.40.037(2)(d) until the retired member has reached sixty-five years  
20 of age. For purposes of this subsection, employment with an employer  
21 also includes any personal service contract, service by an employer as  
22 a temporary or project employee, or any other similar compensated  
23 relationship with any employer included under the provisions of RCW  
24 41.40.690(1).

25 The subsidized reductions for alternate early retirement in this  
26 subsection as set forth in section 9, chapter . . . (this act), Laws of  
27 2007 were intended by the legislature as replacement benefits for gain-  
28 sharing. Until there is legal certainty with respect to the repeal of  
29 chapter 41.31A RCW, the right to retire under this subsection is  
30 noncontractual, and the legislature reserves the right to amend or  
31 repeal this subsection. Legal certainty includes, but is not limited  
32 to, the expiration of any: Applicable limitations on actions; and  
33 periods of time for seeking appellate review, up to and including  
34 reconsideration by the Washington supreme court and the supreme court  
35 of the United States. Until that time, eligible members may still  
36 retire under this subsection, and upon receipt of the first installment



1 of a retirement allowance computed under this subsection, the resulting  
2 benefit becomes contractual for the recipient. If the repeal of  
3 chapter 41.31A RCW is held to be invalid in a final determination of a  
4 court of law, and the court orders reinstatement of gain-sharing or  
5 other alternate benefits as a remedy, then retirement benefits for any  
6 member who has completed at least thirty service credit years and has  
7 attained age fifty-five but has not yet received the first installment  
8 of a retirement allowance under this subsection shall be computed using  
9 the reductions in (a) of this subsection.

10 **Sec. 10.** RCW 41.40.820 and 2006 c 33 s 3 are each amended to read  
11 as follows:

12 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
13 and who has:

14 (a) Completed ten service credit years; or

15 (b) Completed five service credit years, including twelve service  
16 credit months after attaining age forty-four; or

17 (c) Completed five service credit years by the transfer payment  
18 date specified in RCW 41.40.795, under the public employees' retirement  
19 system plan 2 and who transferred to plan 3 under RCW 41.40.795;  
20 shall be eligible to retire and to receive a retirement allowance  
21 computed according to the provisions of RCW 41.40.790.

22 (2) EARLY RETIREMENT. Any member who has attained at least age  
23 fifty-five and has completed at least ten years of service shall be  
24 eligible to retire and to receive a retirement allowance computed  
25 according to the provisions of RCW 41.40.790, except that a member  
26 retiring pursuant to this subsection shall have the retirement  
27 allowance actuarially reduced to reflect the difference in the number  
28 of years between age at retirement and the attainment of age sixty-  
29 five.

30 (3) ALTERNATE EARLY RETIREMENT.

31 (a) Any member who has completed at least thirty service credit  
32 years and has attained age fifty-five shall be eligible to retire and  
33 to receive a retirement allowance computed according to the provisions  
34 of RCW 41.40.790, except that a member retiring pursuant to this  
35 subsection shall have the retirement allowance reduced by three percent  
36 per year to reflect the difference in the number of years between age  
37 at retirement and the attainment of age sixty-five.

1 (b) On or after July 1, 2008, any member who has completed at least  
2 thirty service credit years and has attained age fifty-five shall be  
3 eligible to retire and to receive a retirement allowance computed  
4 according to the provisions of RCW 41.40.790, except that a member  
5 retiring pursuant to this subsection shall have the retirement  
6 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

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19 Any member who retires under the provisions of this subsection is  
20 ineligible for the postretirement employment provisions of RCW  
21 41.40.037(2)(d) until the retired member has reached sixty-five years  
22 of age. For purposes of this subsection, employment with an employer  
23 also includes any personal service contract, service by an employer as  
24 a temporary or project employee, or any other similar compensated  
25 relationship with any employer included under the provisions of RCW  
26 41.40.850(1).

27 The subsidized reductions for alternate early retirement in this  
28 subsection as set forth in section 10, chapter . . . (this act), Laws  
29 of 2007 were intended by the legislature as replacement benefits for  
30 gain-sharing. Until there is legal certainty with respect to the  
31 repeal of chapter 41.31A RCW, the right to retire under this subsection  
32 is noncontractual, and the legislature reserves the right to amend or  
33 repeal this subsection. Legal certainty includes, but is not limited  
34 to, the expiration of any: Applicable limitations on actions; and  
35 periods of time for seeking appellate review, up to and including  
36 reconsideration by the Washington supreme court and the supreme court

1 of the United States. Until that time, eligible members may still  
2 retire under this subsection, and upon receipt of the first installment  
3 of a retirement allowance computed under this subsection, the resulting  
4 benefit becomes contractual for the recipient. If the repeal of  
5 chapter 41.31A RCW is held to be invalid in a final determination of a  
6 court of law, and the court orders reinstatement of gain-sharing or  
7 other alternate benefits as a remedy, then retirement benefits for any  
8 member who has completed at least thirty service credit years and has  
9 attained age fifty-five but has not yet received the first installment  
10 of a retirement allowance under this subsection shall be computed using  
11 the reductions in (a) of this subsection.

12 NEW SECTION. Sec. 11. A new section is added to chapter 41.40 RCW  
13 under the subchapter heading "plan 1" to read as follows:

14 (1) Beginning July 1, 2009, the annual increase amount as defined  
15 in RCW 41.40.010(41) shall be increased by an amount equal to \$0.40 per  
16 month per year of service minus the 2008 gain-sharing increase amount  
17 under RCW 41.31.010 as it exists on the effective date of this section.  
18 This adjustment shall not decrease the annual increase amount, and is  
19 not to exceed \$0.20 per month per year of service. The legislature  
20 reserves the right to amend or repeal this section in the future and no  
21 member or beneficiary has the contractual right to receive this  
22 adjustment to the annual increase amount not granted prior to that  
23 time.

24 (2) The adjustment to the annual increase amount as set forth in  
25 section 11, chapter . . . (this act), Laws of 2007 was intended by the  
26 legislature as a replacement benefit for gain-sharing. If the repeal  
27 of chapter 41.31 RCW is held to be invalid in a final determination of  
28 a court of law, and the court orders reinstatement of gain-sharing or  
29 other alternate benefits as a remedy, then this adjustment to the  
30 annual increase amount shall not be included in future annual increase  
31 amounts paid on or after the date of such reinstatement.

32 **Sec. 12.** RCW 41.45.070 and 2006 c 94 s 3 are each amended to read  
33 as follows:

34 (1) In addition to the basic employer contribution rate established  
35 in RCW 41.45.060 or 41.45.054, the department shall also charge  
36 employers of public employees' retirement system, teachers' retirement

1 system, school employees' retirement system, public safety employees'  
2 retirement system, or Washington state patrol retirement system members  
3 an additional supplemental rate to pay for the cost of additional  
4 benefits, if any, granted to members of those systems. Except as  
5 provided in subsections (6) (~~and~~), (7), and (9) of this section, the  
6 supplemental contribution rates required by this section shall be  
7 calculated by the state actuary and shall be charged regardless of  
8 language to the contrary contained in the statute which authorizes  
9 additional benefits.

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

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

29 (4) The supplemental rate charged under this section to fund  
30 benefit increases provided to active and retired members of the public  
31 employees' retirement system plan 2 and plan 3, the teachers'  
32 retirement system plan 2 and plan 3, the public safety employees'  
33 retirement system plan 2, or the school employees' retirement system  
34 plan 2 and plan 3 shall be calculated as the level percentage of all  
35 members' pay needed to fund the cost of the benefit, as calculated  
36 under RCW 41.45.060, 41.45.061, or 41.45.067.

37 (5) The supplemental rate charged under this section to fund  
38 postretirement adjustments which are provided on a nonautomatic basis

1 to current retirees shall be calculated as the percentage of pay needed  
2 to fund the adjustments as they are paid to the retirees. The  
3 supplemental rate charged under this section to fund automatic  
4 postretirement adjustments for active or retired members of the public  
5 employees' retirement system plan 1 and the teachers' retirement system  
6 plan 1 shall be calculated as the level percentage of pay needed to  
7 fund the cost of the automatic adjustments not later than June 30,  
8 2024.

9 (6) A supplemental rate shall not be charged to pay for the cost of  
10 additional benefits granted to members pursuant to chapter 340, Laws of  
11 1998.

12 (7) A supplemental rate shall not be charged to pay for the cost of  
13 additional benefits granted to members pursuant to chapter 41.31A RCW;  
14 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,  
15 Laws of 1998.

16 (8) A supplemental rate shall not be charged to pay for the cost of  
17 additional benefits granted to members and survivors pursuant to  
18 chapter 94, Laws of 2006.

19 (9) A supplemental rate shall not be charged to pay for the cost of  
20 the additional benefits granted to members of the teachers' retirement  
21 system and the school employees' retirement system plans 2 and 3 in  
22 sections 2, 4, 6, and 8 of this act until September 1, 2008. A  
23 supplemental rate shall not be charged to pay for the cost of the  
24 additional benefits granted to members of the public employees'  
25 retirement system plans 2 and 3 under sections 9 and 10 of this act  
26 until July 1, 2008.

27 NEW SECTION. Sec. 13. The following acts or parts of acts are  
28 each repealed, effective January 2, 2008:

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

31 (2) RCW 41.31.020 (Gain-sharing increase amount calculated) and  
32 1998 c 340 s 2;

33 (3) RCW 41.31.030 (Contractual right to increase not granted) and  
34 1998 c 340 s 3;

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

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

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

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

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

22 NEW SECTION. **Sec. 15.** The new benefits provided pursuant to  
23 sections 2(3)(b), 4(3)(b), 6(3)(b), and 8(3)(b) of this act are not  
24 provided to employees as a matter of contractual right prior to  
25 September 1, 2008, and will not become a contractual right thereafter  
26 if the repeal of chapter 41.31A RCW is held to be invalid in a final  
27 determination of a court of law. The legislature retains the right to  
28 alter or abolish these benefits at any time prior to September 1, 2008.

29 NEW SECTION. **Sec. 16.** The new benefits provided pursuant to  
30 sections 9(3)(b) and 10(3)(b) of this act are not provided to employees  
31 as a matter of contractual right prior to July 1, 2008, and will not  
32 become a contractual right thereafter if the repeal of chapter 41.31A  
33 RCW is held to be invalid in a final determination of a court of law.  
34 The legislature retains the right to alter or abolish these benefits at  
35 any time prior to July 1, 2008.

1        NEW SECTION.    **Sec. 17.** Any action brought under this act must be  
2 commenced within three years after the effective date of this section.

3        NEW SECTION.    **Sec. 18.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7        NEW SECTION.    **Sec. 19.** Sections 1, 3, and 7 of this act are  
8 necessary for the immediate preservation of the public peace, health,  
9 or safety, or support of the state government and its existing public  
10 institutions, and take effect July 1, 2007.

    Passed by the House April 21, 2007.

    Passed by the Senate April 22, 2007.

    Approved by the Governor May 15, 2007.

    Filed in Office of Secretary of State May 16, 2007.