

**ESSB 6503 - H AMD 1733**

By Representative Ericks

ADOPTED AND ENGROSSED 4/2/10

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature declares that unprecedented  
4 revenue shortfalls necessitate immediate action to reduce expenditures  
5 during the 2009-2011 fiscal biennium. From the effective date of this  
6 section, it is the intent of the legislature that state agencies of the  
7 legislative branch, judicial branch, and executive branch including  
8 institutions of higher education, shall achieve a reduction in  
9 government operating expenses as provided in this act. It is the  
10 legislature's intent that, to the extent that the reductions in  
11 expenditures reduce compensation costs, agencies and institutions shall  
12 strive to preserve family wage jobs by reducing the impact of temporary  
13 layoffs on lower-wage jobs.

14 NEW SECTION. **Sec. 2.** State agencies and institutions shall  
15 achieve reductions in compensation expenditures for employees employed  
16 by general government state agencies in Washington management services,  
17 or exempt positions as managers, as defined in RCW 41.06.022, as  
18 provided in the omnibus appropriations act. These reductions shall be  
19 sufficient to attain a savings of \$10 million general fund--state for  
20 fiscal year 2011. Savings in other funds and accounts shall be  
21 achieved as provided in the omnibus appropriations act.

22 NEW SECTION. **Sec. 3.** (1)(a) The office of financial management  
23 shall certify to each executive branch state agency and institution of  
24 higher education the compensation reduction amount to be achieved by  
25 that agency or institution. Each agency and institution shall achieve  
26 compensation expenditure reductions as provided in the omnibus  
27 appropriations act.

1 (b) Each executive branch state agency other than institutions of  
2 higher education may submit to the office of financial management a  
3 compensation reduction plan to achieve the cost reductions as provided  
4 in the omnibus appropriations act. The compensation reduction plan of  
5 each executive branch agency may include, but is not limited to,  
6 employee leave without pay, including additional mandatory and  
7 voluntary temporary layoffs, reductions in the agency workforce,  
8 compensation reductions, and reduced work hours, as well as voluntary  
9 retirement, separation, and other incentive programs authorized by  
10 section 912, chapter 564, Laws of 2009. The amount of compensation  
11 cost reductions to be achieved by each agency shall be adjusted to  
12 reflect voluntary and mandatory temporary layoffs at the agency during  
13 the 2009-2011 fiscal biennium and implemented prior to January 1, 2010,  
14 but not adjusted by other compensation reduction plans adopted as a  
15 result of the enactment of chapter 564, Laws of 2009, or the enactment  
16 of other compensation cost reduction measures applicable to the 2009-  
17 2011 fiscal biennium.

18 (c) Each institution of higher education must submit to the office  
19 of financial management a compensation and operations reduction plan to  
20 achieve at least the cost reductions as provided in the omnibus  
21 appropriations act. For purposes of the reduction plan, the state  
22 board of community and technical colleges shall submit a single plan on  
23 behalf of all community and technical colleges. The reduction plan of  
24 each institution may include, but is not limited to, employee leave  
25 without pay, including mandatory and voluntary temporary layoffs,  
26 reductions in the institution workforce, compensation reductions, and  
27 reduced work hours, as well as voluntary retirement, separation,  
28 incentive programs authorized by section 912, chapter 564, Laws of  
29 2009, as well as other reductions to the cost of operations. The  
30 amount of cost reductions to be achieved by each institution shall be  
31 adjusted to reflect voluntary and mandatory temporary layoffs at the  
32 institution during the 2009-2011 fiscal biennium and implemented prior  
33 to January 1, 2010, but not adjusted by other compensation reduction  
34 plans adopted as a result of the enactment of chapter 564, Laws of  
35 2009, or the enactment of other compensation cost reduction measures  
36 applicable to the 2009-2011 fiscal biennium.

37 (d) The director of financial management shall review, approve, and  
38 submit to the legislative fiscal committees those executive branch

1 state agencies and higher education institution plans that achieves the  
2 cost reductions as provided in the omnibus appropriations act. For  
3 those executive branch state agencies and institutions of higher  
4 education that do not have an approved compensation and operations  
5 reduction plan, the institution shall be closed on the dates specified  
6 in subsection (2) of this section.

7 (e) For each agency of the legislative branch, the chief clerk of  
8 the house of representatives and the secretary of the senate shall  
9 review and approve a plan of employee mandatory and voluntary leave for  
10 the 2009-2011 fiscal biennium that achieves the cost reductions as  
11 provided in the omnibus appropriations act. The amount of compensation  
12 cost reductions to be achieved shall be adjusted, if necessary, to  
13 reflect voluntary and mandatory temporary layoffs at the agencies  
14 during the 2009-2011 fiscal biennium and implemented prior to January  
15 1, 2010.

16 (f) For each agency of the judicial branch, the supreme court shall  
17 review and approve a plan of employee mandatory and voluntary leave for  
18 the 2009-2011 fiscal biennium that achieve the cost reductions as  
19 provided in the omnibus appropriations act. The amount of compensation  
20 cost reductions to be achieved shall be adjusted, if necessary, to  
21 reflect voluntary and mandatory temporary layoffs at the agencies  
22 during the 2009-2011 fiscal biennium and implemented prior to January  
23 1, 2010.

24 (2) Each state agency of the executive, legislative, and judicial  
25 branch, and any institution that does not have an approved plan in  
26 accordance with subsection (1) of this section shall be closed on the  
27 following dates in addition to the legal holidays specified in RCW  
28 1.16.050:

- 29 (a) Monday, July 12, 2010;
- 30 (b) Friday, August 6, 2010;
- 31 (c) Tuesday, September 7, 2010;
- 32 (d) Monday, October 11, 2010;
- 33 (e) Monday, December 27, 2010;
- 34 (f) Friday, January 28, 2011;
- 35 (g) Tuesday, February 22, 2011;
- 36 (h) Friday, March 11, 2011;
- 37 (i) Friday, April 22, 2011;
- 38 (j) Friday, June 10, 2011.

1 (3) If the closure of state agencies or institutions under  
2 subsection (2) of this section prevents the performance of any action,  
3 the action shall be considered timely if performed on the next business  
4 day.

5 (4) The following activities of state agencies and institutions of  
6 higher education are exempt from subsections (1) and (2) of this  
7 section:

8 (a) Direct custody, supervision, and patient care in: (i)  
9 Corrections; (ii) juvenile rehabilitation; (iii) institutional care of  
10 veterans, or individuals with mental illness, and individuals with  
11 developmental disabilities; (iv) state hospitals, the University of  
12 Washington medical center, and Harborview medical center; (v) the  
13 special commitment center; (vi) the school for the blind; (vii) the  
14 state center for childhood deafness and hearing loss; and (viii) the  
15 Washington youth academy;

16 (b) Direct protective services to children and other vulnerable  
17 populations, child support enforcement, disability determination  
18 services, complaint investigators, and residential care licensors and  
19 surveyors in the department of social and health services and the  
20 department of health;

21 (c) Washington state patrol investigative services and field  
22 enforcement;

23 (d) Hazardous materials response or emergency response and cleanup;

24 (e) Emergency public health and patient safety response and the  
25 public health laboratory;

26 (f) Military operations and emergency management within the  
27 military department;

28 (g) Firefighting;

29 (h) Enforcement officers in the department of fish and wildlife,  
30 the liquor control board, the gambling commission, the department of  
31 financial institutions, and the department of natural resources;

32 (i) State parks operated by the parks and recreation commission;

33 (j) In institutions of higher education, classroom instruction,  
34 operations not funded from state funds or tuition, campus police and  
35 security, emergency management and response, work performed by student  
36 employees if the duties were not previously assigned to nonstudents  
37 during the current or prior school year, and student health care;

1 (k) Operations of liquor control board business enterprises and  
2 games conducted by the state lottery;

3 (l) Agricultural commodity commissions and boards, and agricultural  
4 inspection programs operated by the department of agriculture;

5 (m) The unemployment insurance program and reemployment services of  
6 the employment security department;

7 (n) The workers' compensation program and workplace safety and  
8 health compliance activities of the department of labor and industries;

9 (o) The operation, maintenance, and construction of state ferries  
10 and state highways;

11 (p) The department of revenue;

12 (q) Licensing service offices in the department of licensing that  
13 are open no more than two days per week, and no licensing service  
14 office closures may occur on Saturdays as a result of this section;

15 (r) The governor, lieutenant governor, legislative agencies, and  
16 the office of financial management, during sessions of the legislature  
17 under Article II, section 12 of the state Constitution and the twenty-  
18 day veto period under Article IV, section 12 of the state Constitution;

19 (s) The office of the attorney general, except for management and  
20 administrative functions not directly related to civil, criminal, or  
21 administrative actions;

22 (t) The labor relations office of the office of financial  
23 management through November 1, 2010;

24 (u) The minimal use of state employees on the specified closure  
25 dates as necessary to protect public assets and information technology  
26 systems, and to maintain public safety; and

27 (v) The operations of the office of the insurance commissioner that  
28 are funded by industry regulatory fees.

29 (5)(a) The closure of an office of a state agency or institution of  
30 higher education under this section shall result in the temporary  
31 layoff of the employees of the agency or institution. The compensation  
32 of the employees shall be reduced proportionately to the duration of  
33 the temporary layoff. Temporary layoffs under this section shall not  
34 affect the employees' vacation leave accrual, seniority, health  
35 insurance, or sick leave credits. For the purposes of chapter 430,  
36 Laws of 2009, the compensation reductions under this section are deemed  
37 to be an integral part of an employer's expenditure reduction efforts  
38 and shall not result in the loss of retirement benefits in any state

1 defined benefit retirement plan for an employee whose period of average  
2 final compensation includes a portion of the period from the effective  
3 date of this section through June 30, 2011.

4 (b)(i) During the closure of an office or institution under this  
5 section, any employee with a monthly full-time equivalent salary of two  
6 thousand five hundred dollars or less may, at the employee's option,  
7 use accrued vacation leave in lieu of temporary layoff during the  
8 closure. Solely for this purpose, and during the 2009-2011 fiscal  
9 biennium only, the department of personnel shall adopt rules to permit  
10 employees with less than six months of continuous state employment to  
11 use accrued vacation leave.

12 (ii) If an employee with a monthly full-time equivalent salary of  
13 two thousand five hundred dollars or less has no accrued vacation  
14 leave, that employee may use shared leave, if approved by the agency  
15 director, and if made available through donations under RCW 41.04.665  
16 in lieu of temporary layoff during the closure.

17 (6) Except as provided in subsection (4) of this section, for  
18 employees not scheduled to work on a day specified in subsection (2) of  
19 this section, the employing agency must designate an alternative day  
20 during that month on which the employee is scheduled to work that the  
21 employee will take temporary leave without pay.

22 (7) To the extent that the implementation of this section is  
23 subject to collective bargaining under chapter 41.80 RCW, the  
24 bargaining shall be conducted pursuant to section 4 of this act. To  
25 the extent that the implementation of this section is subject to  
26 collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64  
27 RCW, the bargaining shall be conducted pursuant to these chapters.

28 (8) For all or a portion of the employees of an agency of the  
29 executive branch, the office of financial management may approve the  
30 substitution of temporary layoffs on an alternative date during that  
31 month for any date specified in subsection (2) of this section as  
32 necessary for the critical work of any agency.

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.80 RCW  
34 to read as follows:

35 (1) To the extent that the implementation of section 3 of this act  
36 is subject to collective bargaining:

1 (a) For institutions of higher education that have elected to have  
2 negotiations conducted by the governor or governor's designee in  
3 accordance with RCW 41.80.010(4), and that have an approved  
4 compensation reduction plan under section 3(1) of this act,  
5 negotiations regarding impacts of the compensation reduction plan shall  
6 be conducted between the governor or governor's designee and a  
7 coalition at each college, college district, or university of all of  
8 the exclusive bargaining representatives subject to chapter 41.80 RCW;

9 (b) For institutions of higher education that have elected to have  
10 negotiations conducted by the governor or governor's designee in  
11 accordance with RCW 41.80.010(4), and that do not have an approved  
12 compensation reduction plan under section 3(1) of this act,  
13 negotiations regarding impacts of the temporary layoffs under section  
14 3(2) of this act shall be conducted between the governor or governor's  
15 designee and one coalition of all of the exclusive bargaining  
16 representatives subject to chapter 41.80 RCW;

17 (c) For institutions of higher education that have not elected to  
18 have negotiations conducted by the governor or governor's designee  
19 under RCW 41.80.010(4), negotiations regarding impacts of section 3 of  
20 this act shall be conducted between each institution of higher  
21 education and the exclusive bargaining representatives;

22 (d) For agencies that have an approved compensation reduction plan  
23 under section 3(1) of this act, negotiations regarding impacts of the  
24 compensation reduction plan shall be conducted between the governor or  
25 governor's designee and a coalition at each agency of all of the  
26 exclusive bargaining representatives subject to chapter 41.80 RCW; and

27 (e) For agencies that do not have an approved compensation  
28 reduction plan under section 3(1) of this act, negotiations regarding  
29 impacts of the temporary layoffs under section 3(2) of this act shall  
30 be conducted between the governor or governor's designee and the  
31 exclusive bargaining representatives subject to chapter 41.80 RCW.

32 (2) This section expires June 30, 2011.

33 **Sec. 5.** RCW 42.04.060 and 2009 c 428 s 1 are each amended to read  
34 as follows:

35 Except as provided in section 3 of this act, all state elective and  
36 appointive officers shall keep their offices open for the transaction  
37 of business for a minimum of forty hours per week, except weeks that

1 include state legal holidays. Customary business hours must be posted  
2 on the agency or office's web site and made known by other means  
3 designed to provide the public with notice.

4 ~~((This section shall not apply to the courts of record of this  
5 state or to their officers nor to the office of the attorney general  
6 and the lieutenant governor.))~~

7 **Sec. 6.** RCW 41.26.030 and 2009 c 523 s 3 are each reenacted and  
8 amended to read as follows:

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

11 (1) "Accumulated contributions" means the employee's contributions  
12 made by a member, including any amount paid under RCW 41.50.165(2),  
13 plus accrued interest credited thereon.

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

19 (3) "Actuarial valuation" means a mathematical determination of the  
20 financial condition of a retirement plan. It includes the computation  
21 of the present monetary value of benefits payable to present members,  
22 and the present monetary value of future employer and employee  
23 contributions, giving effect to mortality among active and retired  
24 members and also to the rates of disability, retirement, withdrawal  
25 from service, salary and interest earned on investments.

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

31 (b) "Basic salary" for plan 2 members, means salaries or wages  
32 earned by a member during a payroll period for personal services,  
33 including overtime payments, and shall include wages and salaries  
34 deferred under provisions established pursuant to sections 403(b),  
35 414(h), and 457 of the United States Internal Revenue Code, but shall  
36 exclude lump sum payments for deferred annual sick leave, unused  
37 accumulated vacation, unused accumulated annual leave, or any form of



1 severance pay. In any year in which a member serves in the legislature  
2 the member shall have the option of having such member's basic salary  
3 be the greater of:

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

6 (ii) Such member's actual basic salary received for nonlegislative  
7 public employment and legislative service combined. Any additional  
8 contributions to the retirement system required because basic salary  
9 under (b)(i) of this subsection is greater than basic salary under  
10 (b)(ii) of this subsection shall be paid by the member for both member  
11 and employer contributions.

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

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

18 (6)(a) "Child" or "children" means an unmarried person who is under  
19 the age of eighteen or mentally or physically disabled as determined by  
20 the department, except a person who is disabled and in the full time  
21 care of a state institution, who is:

22 (i) A natural born child;

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

25 (iii) A posthumous child;

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

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

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

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

1 (8) "Director" means the director of the department.

2 (9) "Disability board" for plan 1 members means either the county  
3 disability board or the city disability board established in RCW  
4 41.26.110.

5 (10) "Disability leave" means the period of six months or any  
6 portion thereof during which a member is on leave at an allowance equal  
7 to the member's full salary prior to the commencement of disability  
8 retirement. The definition contained in this subsection shall apply  
9 only to plan 1 members.

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

13 (12) "Domestic partners" means two adults who have registered as  
14 domestic partners under RCW 26.60.020.

15 (13) "Employee" means any law enforcement officer or firefighter as  
16 defined in subsections (16) and (18) of this section.

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

27 (b) "Employer" for plan 2 members, means the following entities to  
28 the extent that the entity employs any law enforcement officer and/or  
29 firefighter:

30 (i) The legislative authority of any city, town, county, or  
31 district;

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

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

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

37 (15)(a) "Final average salary" for plan 1 members, means (i) for a  
38 member holding the same position or rank for a minimum of twelve months

1 preceding the date of retirement, the basic salary attached to such  
2 same position or rank at time of retirement; (ii) for any other member,  
3 including a civil service member who has not served a minimum of twelve  
4 months in the same position or rank preceding the date of retirement,  
5 the average of the greatest basic salaries payable to such member  
6 during any consecutive twenty-four month period within such member's  
7 last ten years of service for which service credit is allowed, computed  
8 by dividing the total basic salaries payable to such member during the  
9 selected twenty-four month period by twenty-four; (iii) in the case of  
10 disability of any member, the basic salary payable to such member at  
11 the time of disability retirement; (iv) in the case of a member who  
12 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to  
13 such member at the time of vesting.

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

19 (c) In calculating final average salary under (a) or (b) of this  
20 subsection, the department of retirement systems shall include any  
21 compensation forgone by a member employed by a state agency or  
22 institution during the 2009-2011 fiscal biennium as a result of reduced  
23 work hours, mandatory or voluntary leave without pay, or temporary  
24 layoffs if the reduced compensation is an integral part of the  
25 employer's expenditure reduction efforts, as certified by the employer.

26 (16) "Firefighter" means:

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

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

33 (c) Supervisory firefighter personnel;

34 (d) Any full time executive secretary of an association of fire  
35 protection districts authorized under RCW 52.12.031. The provisions of  
36 this subsection (16)(d) shall not apply to plan 2 members;

37 (e) The executive secretary of a labor guild, association or  
38 organization (which is an employer under ~~((RCW 41.26.030(14) as now or~~

1 ~~hereafter—amended~~) subsection (14) of this section), if such  
2 individual has five years previous membership in a retirement system  
3 established in chapter 41.16 or 41.18 RCW. The provisions of this  
4 subsection (16)(e) shall not apply to plan 2 members;

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

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

13 (h) Any person who is employed on a full-time, fully compensated  
14 basis by an employer as an emergency medical technician.

15 (17) "General authority law enforcement agency" means any agency,  
16 department, or division of a municipal corporation, political  
17 subdivision, or other unit of local government of this state, and any  
18 agency, department, or division of state government, having as its  
19 primary function the detection and apprehension of persons committing  
20 infractions or violating the traffic or criminal laws in general, but  
21 not including the Washington state patrol. Such an agency, department,  
22 or division is distinguished from a limited authority law enforcement  
23 agency having as one of its functions the apprehension or detection of  
24 persons committing infractions or violating the traffic or criminal  
25 laws relating to limited subject areas, including but not limited to,  
26 the state departments of natural resources and social and health  
27 services, the state gambling commission, the state lottery commission,  
28 the state parks and recreation commission, the state utilities and  
29 transportation commission, the state liquor control board, and the  
30 state department of corrections.

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

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

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

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

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

19 (e) The term "law enforcement officer" also includes a person  
20 employed on or after January 1, 1993, as a public safety officer or  
21 director of public safety, so long as the job duties substantially  
22 involve only either police or fire duties, or both, and no other duties  
23 in a city or town with a population of less than ten thousand. The  
24 provisions of this subsection (18)(e) shall not apply to any public  
25 safety officer or director of public safety who is receiving a  
26 retirement allowance under this chapter as of May 12, 1993.

27 (19) "Medical services" for plan 1 members, shall include the  
28 following as minimum services to be provided. Reasonable charges for  
29 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

37 (b) Other medical expenses: The following charges are considered

1 "other medical expenses", provided that they have not been considered  
2 as "hospital expenses".

3 (i) The fees of the following:

4 (A) A physician or surgeon licensed under the provisions of chapter  
5 18.71 RCW;

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

8 (C) A chiropractor licensed under the provisions of chapter 18.25  
9 RCW.

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

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

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

15 (B) Diagnostic X-ray and laboratory examinations;

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

17 (D) Anesthesia and oxygen;

18 (E) Rental of iron lung and other durable medical and surgical  
19 equipment;

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

21 (G) Professional ambulance service when used to transport the  
22 member to or from a hospital when injured by an accident or stricken by  
23 a disease;

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

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

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

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

31 (L) An optometrist licensed under the provisions of chapter 18.53  
32 RCW.

33 (20) "Member" means any firefighter, law enforcement officer, or  
34 other person as would apply under subsections (16) or (18) of this  
35 section whose membership is transferred to the Washington law  
36 enforcement officers' and firefighters' retirement system on or after  
37 March 1, 1970, and every law enforcement officer and firefighter who is  
38 employed in that capacity on or after such date.

1 (21) "Plan 1" means the law enforcement officers' and firefighters'  
2 retirement system, plan 1 providing the benefits and funding provisions  
3 covering persons who first became members of the system prior to  
4 October 1, 1977.

5 (22) "Plan 2" means the law enforcement officers' and firefighters'  
6 retirement system, plan 2 providing the benefits and funding provisions  
7 covering persons who first became members of the system on and after  
8 October 1, 1977.

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

11 (24) "Regular interest" means such rate as the director may  
12 determine.

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

17 (26) "Retirement fund" means the "Washington law enforcement  
18 officers' and firefighters' retirement system fund" as provided for  
19 herein.

20 (27) "Retirement system" means the "Washington law enforcement  
21 officers' and firefighters' retirement system" provided herein.

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

34 (i) For members retiring after May 21, 1971 who were employed under  
35 the coverage of a prior pension act before March 1, 1970, "service"  
36 shall also include (A) such military service not exceeding five years  
37 as was creditable to the member as of March 1, 1970, under the member's  
38 particular prior pension act, and (B) such other periods of service as

1 were then creditable to a particular member under the provisions of RCW  
2 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit  
3 be allowed for any service rendered prior to March 1, 1970, where the  
4 member at the time of rendition of such service was employed in a  
5 position covered by a prior pension act, unless such service, at the  
6 time credit is claimed therefor, is also creditable under the  
7 provisions of such prior act.

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

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

20 Members of the retirement system who are elected or appointed to a  
21 state elective position may elect to continue to be members of this  
22 retirement system.

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

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

37 (29) "Service credit month" means a full service credit month or an  
38 accumulation of partial service credit months that are equal to one.



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

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

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

8 (33) "Surviving spouse" means the surviving widow or widower of a  
9 member. "Surviving spouse" shall not include the divorced spouse of a  
10 member except as provided in RCW 41.26.162.

11 **Sec. 7.** RCW 41.32.010 and 2008 c 204 s 1 and 2008 c 175 s 1 are  
12 each reenacted and amended to read as follows:

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

15 (1)(a) "Accumulated contributions" for plan 1 members, means the  
16 sum of all regular annuity contributions and, except for the purpose of  
17 withdrawal at the time of retirement, any amount paid under RCW  
18 41.50.165(2) with regular interest thereon.

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

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

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

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

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

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

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

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

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

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

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

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

16 (ii) For an employee member of the retirement system teaching in an  
17 extended school year program, two consecutive extended school years, as  
18 defined by the employer school district, may be used as the annual  
19 period for determining earnable compensation in lieu of the two fiscal  
20 years.

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

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

31 (B) If a leave of absence, without pay, is taken by a member for  
32 the purpose of serving as a member of the state legislature, and such  
33 member has served in the legislature five or more years, the salary  
34 which would have been received for the position from which the leave of  
35 absence was taken shall be considered as compensation earnable if the  
36 employee's contribution thereon is paid by the employee. In addition,  
37 where a member has been a member of the state legislature for five or  
38 more years, earnable compensation for the member's two highest

1 compensated consecutive years of service shall include a sum not to  
2 exceed thirty-six hundred dollars for each of such two consecutive  
3 years, regardless of whether or not legislative service was rendered  
4 during those two years.

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

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

23 (A) Remuneration for unused sick leave authorized under RCW  
24 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

19 (c) In calculating earnable compensation under (a) or (b) of this  
20 subsection, the department of retirement systems shall include any  
21 compensation forgone by a member employed by a state agency or  
22 institution during the 2009-2011 fiscal biennium as a result of reduced  
23 work hours, mandatory or voluntary leave without pay, or temporary  
24 layoffs if the reduced compensation is an integral part of the  
25 employer's expenditure reduction efforts, as certified by the employer.

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

28 (12) "Fiscal year" means a year which begins July 1st and ends June  
29 30th of the following year.

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

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

35 (15) "Member" means any teacher included in the membership of the  
36 retirement system who has not been removed from membership under RCW  
37 41.32.878 or 41.32.768. Also, any other employee of the public schools

1 who, on July 1, 1947, had not elected to be exempt from membership and  
2 who, prior to that date, had by an authorized payroll deduction,  
3 contributed to the member reserve.

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

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

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

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

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

23 (21) "Public school" means any institution or activity operated by  
24 the state of Washington or any instrumentality or political subdivision  
25 thereof employing teachers, except the University of Washington and  
26 Washington State University.

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

31 (23) "Regular interest" means such rate as the director may  
32 determine.

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

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

1 (25) "Retirement system" means the Washington state teachers'  
2 retirement system.

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

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

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

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

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

18 (i) A member employed in an eligible position or as a substitute  
19 shall receive one service credit month for each month of September  
20 through August of the following year if he or she earns earnable  
21 compensation for eight hundred ten or more hours during that period and  
22 is employed during nine of those months, except that a member may not  
23 receive credit for any period prior to the member's employment in an  
24 eligible position except as provided in RCW 41.32.812 and  
25 41.50.132((+))\_.

26 (ii) Any other member employed in an eligible position or as a  
27 substitute who earns earnable compensation during the period from  
28 September through August shall receive service credit according to one  
29 of the following methods, whichever provides the most service credit to  
30 the member:

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

37 (B) If a member is employed in an eligible position or as a  
38 substitute teacher for at least five months of a six-month period

1 between September through August of the following year and earns  
2 earnable compensation for six hundred thirty or more hours within the  
3 six-month period, he or she will receive a maximum of six service  
4 credit months for the school year, which shall be recorded as one  
5 service credit month for each month of the six-month period;

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

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

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

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

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

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

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

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

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

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

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

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

1 (vi) 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 (vii) 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 cents per month  
6 per year of service which amount shall be increased each July 1st by  
7 three percent, rounded to the nearest cent.

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

11 (48) "Separation from service or employment" occurs when a person  
12 has terminated all employment with an employer. Separation from  
13 service or employment does not occur, and if claimed by an employer or  
14 employee may be a violation of RCW 41.32.055, when an employee and  
15 employer have a written or oral agreement to resume employment with the  
16 same employer following termination. Mere expressions or inquiries  
17 about postretirement employment by an employer or employee that do not  
18 constitute a commitment to reemploy the employee after retirement are  
19 not an agreement under this section.

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

25 **Sec. 8.** RCW 41.37.010 and 2007 c 492 s 11 and 2007 c 294 s 1 are  
26 each reenacted and amended to read as follows:

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

29 (1) "Retirement system" means the Washington public safety  
30 employees' retirement system provided for in this chapter.

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

33 (3) "State treasurer" means the treasurer of the state of  
34 Washington.

35 (4) "Employer" means the Washington state department of  
36 corrections, the Washington state parks and recreation commission, the  
37 Washington state gambling commission, the Washington state patrol, the

1 Washington state department of natural resources, and the Washington  
2 state liquor control board; any county corrections department; or any  
3 city corrections department not covered under chapter 41.28 RCW.

4 (5) "Member" means any employee employed by an employer on a full-  
5 time basis:

6 (a) Who is in a position that requires completion of a certified  
7 criminal justice training course and is authorized by their employer to  
8 arrest, conduct criminal investigations, enforce the criminal laws of  
9 the state of Washington, and carry a firearm as part of the job;

10 (b) Whose primary responsibility is to ensure the custody and  
11 security of incarcerated or probationary individuals as a corrections  
12 officer, probation officer, or jailer;

13 (c) Who is a limited authority Washington peace officer, as defined  
14 in RCW 10.93.020, for an employer; or

15 (d) Whose primary responsibility is to supervise members eligible  
16 under this subsection.

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

25 (b) "Compensation earnable" for members also includes the following  
26 actual or imputed payments, which are not paid for personal services:

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

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

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

1 (B) Such member's actual compensation earnable received for  
2 nonlegislative public employment and legislative service combined. Any  
3 additional contributions to the retirement system required because  
4 compensation earnable under (b)(ii)(A) of this subsection is greater  
5 than compensation earnable under (b)(ii)(B) of this subsection shall be  
6 paid by the member for both member and employer contributions;

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

9 (iv) Compensation that a member would have received but for a  
10 disability occurring in the line of duty only as authorized by RCW  
11 41.37.060;

12 (v) Compensation that a member receives due to participation in the  
13 leave sharing program only as authorized by RCW 41.04.650 through  
14 41.04.670; and

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

20 (7) "Service" means periods of employment by a member on or after  
21 July 1, 2006, for one or more employers for which compensation earnable  
22 is paid. Compensation earnable earned for ninety or more hours in any  
23 calendar month shall constitute one service credit month. Compensation  
24 earnable earned for at least seventy hours but less than ninety hours  
25 in any calendar month shall constitute one-half service credit month of  
26 service. Compensation earnable earned for less than seventy hours in  
27 any calendar month shall constitute one-quarter service credit month of  
28 service. Time spent in standby status, whether compensated or not, is  
29 not service.

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

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

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

1 any calendar month in which multiple service for ninety or more hours  
2 is rendered.

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

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

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

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

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

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

17 (14)(a) "Average final compensation" means the member's average  
18 compensation earnable of the highest consecutive sixty months of  
19 service credit months prior to such member's retirement, termination,  
20 or death. Periods constituting authorized leaves of absence may not be  
21 used in the calculation of average final compensation except under RCW  
22 41.37.290.

23 (b) In calculating average final compensation under (a) of this  
24 subsection, the department of retirement systems shall include any  
25 compensation forgone by a member employed by a state agency or  
26 institution during the 2009-2011 fiscal biennium as a result of reduced  
27 work hours, mandatory or voluntary leave without pay, or temporary  
28 layoffs if the reduced compensation is an integral part of the  
29 employer's expenditure reduction efforts, as certified by the employer.

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

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

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

1 (18) "Retirement allowance" means monthly payments to a retiree or  
2 beneficiary as provided in this chapter.

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

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

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

13 (22) "Eligible position" means any permanent, full-time position  
14 included in subsection (5) of this section.

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

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

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

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

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

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

30 (29) "Plan" means the Washington public safety employees'  
31 retirement system plan 2.

32 (30) "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 (31) "Index A" means the index for the year prior to the  
37 determination of a postretirement adjustment.

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

1 (33) "Adjustment ratio" means the value of index A divided by index  
2 B.

3 (34) "Separation from service" occurs when a person has terminated  
4 all employment with an employer.

5 **Sec. 9.** RCW 43.43.120 and 2009 c 549 s 5124 and 2009 c 522 s 1 are  
6 each reenacted and amended to read as follows:

7 As used in ((~~RCW 43.43.120~~)) this section and RCW 43.43.130 through  
8 43.43.320, unless a different meaning is plainly required by the  
9 context:

10 (1) "Actuarial equivalent" shall mean a benefit of equal value when  
11 computed upon the basis of such mortality table as may be adopted and  
12 such interest rate as may be determined by the director.

13 (2) "Annual increase" means as of July 1, 1999, seventy-seven cents  
14 per month per year of service which amount shall be increased each  
15 subsequent July 1st by three percent, rounded to the nearest cent.

16 (3)(a) "Average final salary," for members commissioned prior to  
17 January 1, 2003, shall mean the average monthly salary received by a  
18 member during the member's last two years of service or any consecutive  
19 two-year period of service, whichever is the greater, as an employee of  
20 the Washington state patrol; or if the member has less than two years  
21 of service, then the average monthly salary received by the member  
22 during the member's total years of service.

23 (b) "Average final salary," for members commissioned on or after  
24 January 1, 2003, shall mean the average monthly salary received by a  
25 member for the highest consecutive sixty service credit months; or if  
26 the member has less than sixty months of service, then the average  
27 monthly salary received by the member during the member's total months  
28 of service.

29 (c) In calculating average final salary under (a) or (b) of this  
30 subsection, the department of retirement systems shall include any  
31 compensation forgone by the member during the 2009-2011 fiscal biennium  
32 as a result of reduced work hours, mandatory or voluntary leave without  
33 pay, or temporary layoffs if the reduced compensation is an integral  
34 part of the employer's expenditure reduction efforts, as certified by  
35 the chief.

36 (4) "Beneficiary" means any person in receipt of retirement  
37 allowance or any other benefit allowed by this chapter.

1 (5)(a) "Cadet," for a person who became a member of the retirement  
2 system after June 12, 1980, is a person who has passed the Washington  
3 state patrol's entry-level oral, written, physical performance, and  
4 background examinations and is, thereby, appointed by the chief as a  
5 candidate to be a commissioned officer of the Washington state patrol.

6 (b) "Cadet," for a person who became a member of the retirement  
7 system before June 12, 1980, is a trooper cadet, patrol cadet, or  
8 employee of like classification, employed for the express purpose of  
9 receiving the on-the-job training required for attendance at the state  
10 patrol academy and for becoming a commissioned trooper. "Like  
11 classification" includes: Radio operators or dispatchers; persons  
12 providing security for the governor or legislature; patrol officers;  
13 drivers' license examiners; weighmasters; vehicle safety inspectors;  
14 central wireless operators; and warehouse workers.

15 (6) "Contributions" means the deduction from the compensation of  
16 each member in accordance with the contribution rates established under  
17 chapter 41.45 RCW.

18 (7) "Current service" shall mean all service as a member rendered  
19 on or after August 1, 1947.

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

22 (9) "Director" means the director of the department of retirement  
23 systems.

24 (10) "Domestic partners" means two adults who have registered as  
25 domestic partners under RCW ((~~26.60.020~~)) 26.60.040.

26 (11) "Employee" means any commissioned employee of the Washington  
27 state patrol.

28 (12) "Insurance commissioner" means the insurance commissioner of  
29 the state of Washington.

30 (13) "Lieutenant governor" means the lieutenant governor of the  
31 state of Washington.

32 (14) "Member" means any person included in the membership of the  
33 retirement fund.

34 (15) "Plan 2" means the Washington state patrol retirement system  
35 plan 2, providing the benefits and funding provisions covering  
36 commissioned employees who first become members of the system on or  
37 after January 1, 2003.



1 (16) "Prior service" shall mean all services rendered by a member  
2 to the state of Washington, or any of its political subdivisions prior  
3 to August 1, 1947, unless such service has been credited in another  
4 public retirement or pension system operating in the state of  
5 Washington.

6 (17) "Regular interest" means interest compounded annually at such  
7 rates as may be determined by the director.

8 (18) "Retirement board" means the board provided for in this  
9 chapter.

10 (19) "Retirement fund" means the Washington state patrol retirement  
11 fund.

12 (20) "Retirement system" means the Washington state patrol  
13 retirement system.

14 (21)(a) "Salary," for members commissioned prior to July 1, 2001,  
15 shall exclude any overtime earnings related to RCW 47.46.040, or any  
16 voluntary overtime, earned on or after July 1, 2001.

17 (b) "Salary," for members commissioned on or after July 1, 2001,  
18 shall exclude any overtime earnings related to RCW 47.46.040 or any  
19 voluntary overtime, lump sum payments for deferred annual sick leave,  
20 unused accumulated vacation, unused accumulated annual leave, holiday  
21 pay, or any form of severance pay.

22 (22) "Service" shall mean services rendered to the state of  
23 Washington or any political subdivisions thereof for which compensation  
24 has been paid. Full time employment for seventy or more hours in any  
25 given calendar month shall constitute one month of service. An  
26 employee who is reinstated in accordance with RCW 43.43.110 shall  
27 suffer no loss of service for the period reinstated subject to the  
28 contribution requirements of this chapter. Only months of service  
29 shall be counted in the computation of any retirement allowance or  
30 other benefit provided for herein. Years of service shall be  
31 determined by dividing the total number of months of service by twelve.  
32 Any fraction of a year of service as so determined shall be taken into  
33 account in the computation of such retirement allowance or benefit.

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

36 (24) "State treasurer" means the treasurer of the state of  
37 Washington.

1 ((+25)) Unless the context expressly indicates otherwise, words  
2 importing the masculine gender shall be extended to include the  
3 feminine gender and words importing the feminine gender shall be  
4 extended to include the masculine gender.

5 **Sec. 10.** RCW 41.04.665 and 2008 c 36 s 3 are each amended to read  
6 as follows:

7 (1) An agency head may permit an employee to receive leave under  
8 this section if:

9 (a)(i) The employee suffers from, or has a relative or household  
10 member suffering from, an illness, injury, impairment, or physical or  
11 mental condition which is of an extraordinary or severe nature;

12 (ii) The employee has been called to service in the uniformed  
13 services;

14 (iii) A state of emergency has been declared anywhere within the  
15 United States by the federal or any state government and the employee  
16 has needed skills to assist in responding to the emergency or its  
17 aftermath and volunteers his or her services to either a governmental  
18 agency or to a nonprofit organization engaged in humanitarian relief in  
19 the devastated area, and the governmental agency or nonprofit  
20 organization accepts the employee's offer of volunteer services; ((or))

21 (iv) The employee is a victim of domestic violence, sexual assault,  
22 or stalking; or

23 (v) During the 2009-2011 fiscal biennium only, the employee is  
24 eligible to use leave in lieu of temporary layoff under section 3(5) of  
25 this act;

26 (b) The illness, injury, impairment, condition, call to service,  
27 emergency volunteer service, or consequence of domestic violence,  
28 sexual assault, temporary layoff under section 3(5) of this act, or  
29 stalking has caused, or is likely to cause, the employee to:

30 (i) Go on leave without pay status; or

31 (ii) Terminate state employment;

32 (c) The employee's absence and the use of shared leave are  
33 justified;

34 (d) The employee has depleted or will shortly deplete his or her:

35 (i) Annual leave and sick leave reserves if he or she qualifies  
36 under (a)(i) of this subsection;

1 (ii) Annual leave and paid military leave allowed under RCW  
2 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

3 (iii) Annual leave if he or she qualifies under (a)(iii) (~~(iv)~~),  
4 (iv), or (v) of this subsection;

5 (e) The employee has abided by agency rules regarding:

6 (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of  
7 this subsection; or

8 (ii) Military leave if he or she qualifies under (a)(ii) of this  
9 subsection; and

10 (f) The employee has diligently pursued and been found to be  
11 ineligible for benefits under chapter 51.32 RCW if he or she qualifies  
12 under (a)(i) of this subsection.

13 (2) The agency head shall determine the amount of leave, if any,  
14 which an employee may receive under this section. However, an employee  
15 shall not receive a total of more than two hundred sixty-one days of  
16 leave, except that shared leave received under the uniformed service  
17 shared leave pool in RCW 41.04.685 is not included in this total.

18 (3) An employee may transfer annual leave, sick leave, and his or  
19 her personal holiday, as follows:

20 (a) An employee who has an accrued annual leave balance of more  
21 than ten days may request that the head of the agency for which the  
22 employee works transfer a specified amount of annual leave to another  
23 employee authorized to receive leave under subsection (1) of this  
24 section. In no event may the employee request a transfer of an amount  
25 of leave that would result in his or her annual leave account going  
26 below ten days. For purposes of this subsection (3)(a), annual leave  
27 does not accrue if the employee receives compensation in lieu of  
28 accumulating a balance of annual leave.

29 (b) An employee may transfer a specified amount of sick leave to an  
30 employee requesting shared leave only when the donating employee  
31 retains a minimum of one hundred seventy-six hours of sick leave after  
32 the transfer.

33 (c) An employee may transfer, under the provisions of this section  
34 relating to the transfer of leave, all or part of his or her personal  
35 holiday, as that term is defined under RCW 1.16.050, or as such  
36 holidays are provided to employees by agreement with a school  
37 district's board of directors if the leave transferred under this

1 subsection does not exceed the amount of time provided for personal  
2 holidays under RCW 1.16.050.

3 (4) An employee of an institution of higher education under RCW  
4 28B.10.016, school district, or educational service district who does  
5 not accrue annual leave but does accrue sick leave and who has an  
6 accrued sick leave balance of more than twenty-two days may request  
7 that the head of the agency for which the employee works transfer a  
8 specified amount of sick leave to another employee authorized to  
9 receive leave under subsection (1) of this section. In no event may  
10 such an employee request a transfer that would result in his or her  
11 sick leave account going below twenty-two days. Transfers of sick  
12 leave under this subsection are limited to transfers from employees who  
13 do not accrue annual leave. Under this subsection, "sick leave" also  
14 includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1)  
15 with compensation for illness, injury, and emergencies.

16 (5) Transfers of leave made by an agency head under subsections (3)  
17 and (4) of this section shall not exceed the requested amount.

18 (6) Leave transferred under this section may be transferred from  
19 employees of one agency to an employee of the same agency or, with the  
20 approval of the heads of both agencies, to an employee of another state  
21 agency. However, leave transferred to or from employees of school  
22 districts or educational service districts is limited to transfers to  
23 or from employees within the same employing district.

24 (7) While an employee is on leave transferred under this section,  
25 he or she shall continue to be classified as a state employee and shall  
26 receive the same treatment in respect to salary, wages, and employee  
27 benefits as the employee would normally receive if using accrued annual  
28 leave or sick leave.

29 (a) All salary and wage payments made to employees while on leave  
30 transferred under this section shall be made by the agency employing  
31 the person receiving the leave. The value of leave transferred shall  
32 be based upon the leave value of the person receiving the leave.

33 (b) In the case of leave transferred by an employee of one agency  
34 to an employee of another agency, the agencies involved shall arrange  
35 for the transfer of funds and credit for the appropriate value of  
36 leave.

37 (i) Pursuant to rules adopted by the office of financial

1 management, funds shall not be transferred under this section if the  
2 transfer would violate any constitutional or statutory restrictions on  
3 the funds being transferred.

4 (ii) The office of financial management may adjust the  
5 appropriation authority of an agency receiving funds under this section  
6 only if and to the extent that the agency's existing appropriation  
7 authority would prevent it from expending the funds received.

8 (iii) Where any questions arise in the transfer of funds or the  
9 adjustment of appropriation authority, the director of financial  
10 management shall determine the appropriate transfer or adjustment.

11 (8) Leave transferred under this section shall not be used in any  
12 calculation to determine an agency's allocation of full time equivalent  
13 staff positions.

14 (9) The value of any leave transferred under this section which  
15 remains unused shall be returned at its original value to the employee  
16 or employees who transferred the leave when the agency head finds that  
17 the leave is no longer needed or will not be needed at a future time in  
18 connection with the illness or injury for which the leave was  
19 transferred or for any other qualifying condition. Before the agency  
20 head makes a determination to return unused leave in connection with an  
21 illness or injury, or any other qualifying condition, he or she must  
22 receive from the affected employee a statement from the employee's  
23 doctor verifying that the illness or injury is resolved. To the extent  
24 administratively feasible, the value of unused leave which was  
25 transferred by more than one employee shall be returned on a pro rata  
26 basis.

27 (10) An employee who uses leave that is transferred to him or her  
28 under this section may not be required to repay the value of the leave  
29 that he or she used.

30 NEW SECTION. **Sec. 11.** If any part of this act is found to be in  
31 conflict with federal requirements that are a prescribed condition to  
32 the allocation of federal funds to the state, the conflicting part of  
33 this act is inoperative solely to the extent of the conflict and with  
34 respect to the agencies directly affected, and this finding does not  
35 affect the operation of the remainder of this act in its application to  
36 the agencies concerned. Rules adopted under this act must meet federal

1 requirements that are a necessary condition to the receipt of federal  
2 funds by the state.

3 NEW SECTION. **Sec. 12.** 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. 13.** This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of the  
9 state government and its existing public institutions, and takes effect  
10 immediately."

**ESSB 6503** - H AMD

By Representative Ericks

**ADOPTED 4/2/10**

11 On page 1, line 1 of the title, after "agencies;" strike the  
12 remainder of the title and insert "amending RCW 42.04.060 and  
13 41.04.665; reenacting and amending RCW 41.26.030, 41.32.010, 41.37.010,  
14 and 43.43.120; adding a new section to chapter 41.80 RCW; creating new  
15 sections; providing an expiration date; and declaring an emergency."

--- END ---