

ESSB 6503 - H AMD 1733

By Representative Ericks

ADOPTED AS AMENDED 4/02/2010

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

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

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

24
25 NEW SECTION. **Sec. 3.** (1)(a) The office of financial management
26 shall certify to each executive branch state agency and institution of
27 higher education the compensation reduction amount to be achieved by

1 that agency or institution. Each agency and institution shall achieve
2 compensation expenditure reductions as provided in the omnibus
3 appropriations act.

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

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

1 institution during the 2009-2011 fiscal biennium and implemented prior
2 to January 1, 2010, but not adjusted by other compensation reduction
3 plans adopted as a result of the enactment of chapter 564, Laws of
4 2009, or the enactment of other compensation cost reduction measures
5 applicable to the 2009-2011 fiscal biennium.

6 (d) The director of financial management shall review, approve,
7 and submit to the legislative fiscal committees those executive branch
8 state agencies and higher education institution plans that achieves
9 the cost reductions as provided in the omnibus appropriations act.
10 For those executive branch state agencies and institutions of higher
11 education that do not have an approved compensation and operations
12 reduction plan, the institution shall be closed on the dates specified
13 in subsection (2) of this section.

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

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

31 (2) Each state agency of the executive, legislative, and judicial
32 branch, and any institution that does not have an approved plan in
33 accordance with subsection (1) of this section shall be closed on the
34

1 following dates in addition to the legal holidays specified in RCW
2 1.16.050:

- 3 (a) Monday, July 12, 2010;
- 4 (b) Friday, August 6, 2010;
- 5 (c) Tuesday, September 7, 2010;
- 6 (d) Monday, October 11, 2010;
- 7 (e) Monday, December 27, 2010;
- 8 (f) Friday, January 28, 2011;
- 9 (g) Tuesday, February 22, 2011;
- 10 (h) Friday, March 11, 2011;
- 11 (i) Friday, April 22, 2011;
- 12 (j) Friday, June 10, 2011.

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

17 (4) The following activities of state agencies and institutions of
18 higher education are exempt from subsections (1) and (2) of this
19 section:

20 (a) Direct custody, supervision, and patient care in: (i)
21 Corrections; (ii) juvenile rehabilitation; (iii) institutional care of
22 veterans, or individuals with mental illness, and individuals with
23 developmental disabilities; (iv) state hospitals, the University of
24 Washington medical center, and Harborview medical center; (v) the
25 special commitment center; (vi) the school for the blind; (vii) the
26 state center for childhood deafness and hearing loss; and (viii) the
27 Washington youth academy;

28 (b) Direct protective services to children and other vulnerable
29 populations, child support enforcement, disability determination
30 services, complaint investigators, and residential care licensors and
31 surveyors in the department of social and health services and the
32 department of health;

33 (c) Washington state patrol investigative services and field
34 enforcement;

- 1 (d) Hazardous materials response or emergency response and
2 cleanup;
- 3 (e) Emergency public health and patient safety response and the
4 public health laboratory;
- 5 (f) Military operations and emergency management within the
6 military department;
- 7 (g) Firefighting;
- 8 (h) Enforcement officers in the department of fish and wildlife,
9 the liquor control board, the gambling commission, the department of
10 financial institutions, and the department of natural resources;
- 11 (i) State parks operated by the parks and recreation commission;
- 12 (j) In institutions of higher education, classroom instruction,
13 operations not funded from state funds or tuition, campus police and
14 security, emergency management and response, work performed by student
15 employees if the duties were not previously assigned to nonstudents
16 during the current or prior school year, and student health care;
- 17 (k) Operations of liquor control board business enterprises and
18 games conducted by the state lottery;
- 19 (l) Agricultural commodity commissions and boards, and
20 agricultural inspection programs operated by the department of
21 agriculture;
- 22 (m) The unemployment insurance program and reemployment services
23 of the employment security department;
- 24 (n) The workers' compensation program and workplace safety and
25 health compliance activities of the department of labor and
26 industries;
- 27 (o) The operation, maintenance, and construction of state ferries
28 and state highways;
- 29 (p) The department of revenue;
- 30 (q) Licensing service offices in the department of licensing that
31 are open no more than two days per week, and no licensing service
32 office closures may occur on Saturdays as a result of this section;
- 33 (r) The governor, lieutenant governor, legislative agencies, and
34 the office of financial management, during sessions of the legislature

1 under Article II, section 12 of the state Constitution and the twenty-
2 day veto period under Article IV, section 12 of the state
3 Constitution;

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

7 (t) The labor relations office of the office of financial
8 management through November 1, 2010; and

9 (u) The minimal use of state employees on the specified closure
10 dates as necessary to protect public assets and information technology
11 systems, and to maintain public safety.

12 (5)(a) The closure of an office of a state agency or institution
13 of higher education under this section shall result in the temporary
14 layoff of the employees of the agency or institution. The
15 compensation of the employees shall be reduced proportionately to the
16 duration of the temporary layoff. Temporary layoffs under this
17 section shall not affect the employees' vacation leave accrual,
18 seniority, health insurance, or sick leave credits. For the purposes
19 of chapter 430, Laws of 2009, the compensation reductions under this
20 section are deemed to be an integral part of an employer's expenditure
21 reduction efforts and shall not result in the loss of retirement
22 benefits in any state defined benefit retirement plan for an employee
23 whose period of average final compensation includes a portion of the
24 period from the effective date of this section through June 30, 2011.

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

33 (ii) If an employee with a monthly full-time equivalent salary of
34 two thousand five hundred dollars or less has no accrued vacation

1 leave, that employee may use shared leave, if approved by the agency
2 director, and if made available through donations under RCW 41.04.665
3 in lieu of temporary layoff during the closure.

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

9 (7) To the extent that the implementation of this section is
10 subject to collective bargaining under chapter 41.80 RCW, the
11 bargaining shall be conducted pursuant to section 4 of this act. To
12 the extent that the implementation of this section is subject to
13 collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64
14 RCW, the bargaining shall be conducted pursuant to these chapters.

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

20
21 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.80 RCW
22 to read as follows:

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

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

33 (b) For institutions of higher education that have elected to have
34 negotiations conducted by the governor or governor's designee in

1 accordance with RCW 41.80.010(4), and that do not have an approved
2 compensation reduction plan under section 3(1) of this act,
3 negotiations regarding impacts of the temporary layoffs under section
4 3(2) of this act shall be conducted between the governor or governor's
5 designee and one coalition of all of the exclusive bargaining
6 representatives subject to chapter 41.80 RCW;

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

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

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

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

23

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

26 Except as provided in section 3 of this act, all state elective and
27 appointive officers shall keep their offices open for the transaction
28 of business for a minimum of forty hours per week, except weeks that
29 include state legal holidays. Customary business hours must be posted
30 on the agency or office's web site and made known by other means
31 designed to provide the public with notice.

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

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

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

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

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

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

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

25 (b) "Basic salary" for plan 2 members, means salaries or wages
26 earned by a member during a payroll period for personal services,
27 including overtime payments, and shall include wages and salaries
28 deferred under provisions established pursuant to sections 403(b),
29 414(h), and 457 of the United States Internal Revenue Code, but shall
30 exclude lump sum payments for deferred annual sick leave, unused
31 accumulated vacation, unused accumulated annual leave, or any form of
32 severance pay. In any year in which a member serves in the
33 legislature the member shall have the option of having such member's
34 basic salary be the greater of:

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

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

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

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

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

19 (i) A natural born child;

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

22 (iii) A posthumous child;

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

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

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

34

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

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

4 (9) "Disability board" for plan 1 members means either the county
5 disability board or the city disability board established in RCW
6 41.26.110.

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

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

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

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

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

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

32 (i) The legislative authority of any city, town, county, or
33 district;

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

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

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

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

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

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

33 (16) "Firefighter" means:
34

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

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

7 (c) Supervisory firefighter personnel;

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

11 (e) The executive secretary of a labor guild, association or
12 organization (which is an employer under (~~RCW 41.26.030(14) as now or~~
13 ~~hereafter amended~~)) subsection (14) of this section), if such
14 individual has five years previous membership in a retirement system
15 established in chapter 41.16 or 41.18 RCW. The provisions of this
16 subsection (16)(e) shall not apply to plan 2 members;

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

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

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

27 (17) "General authority law enforcement agency" means any agency,
28 department, or division of a municipal corporation, political
29 subdivision, or other unit of local government of this state, and any
30 agency, department, or division of state government, having as its
31 primary function the detection and apprehension of persons committing
32 infractions or violating the traffic or criminal laws in general, but
33 not including the Washington state patrol. Such an agency,
34 department, or division is distinguished from a limited authority law

1 enforcement agency having as one of its functions the apprehension or
2 detection of persons committing infractions or violating the traffic
3 or criminal laws relating to limited subject areas, including but not
4 limited to, the state departments of natural resources and social and
5 health services, the state gambling commission, the state lottery
6 commission, the state parks and recreation commission, the state
7 utilities and transportation commission, the state liquor control
8 board, and the state department of corrections.

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

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

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

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

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

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

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

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

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

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

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

22 (i) The fees of the following:

23 (A) A physician or surgeon licensed under the provisions of
24 chapter 18.71 RCW;

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

27 (C) A chiropractor licensed under the provisions of chapter 18.25
28 RCW.

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

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

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

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

- 1 (C) X-ray, radium, and radioactive isotopes therapy;
- 2 (D) Anesthesia and oxygen;
- 3 (E) Rental of iron lung and other durable medical and surgical
4 equipment;
- 5 (F) Artificial limbs and eyes, and casts, splints, and trusses;
- 6 (G) Professional ambulance service when used to transport the
7 member to or from a hospital when injured by an accident or stricken
8 by a disease;
- 9 (H) Dental charges incurred by a member who sustains an accidental
10 injury to his or her teeth and who commences treatment by a legally
11 licensed dentist within ninety days after the accident;
- 12 (I) Nursing home confinement or hospital extended care facility;
- 13 (J) Physical therapy by a registered physical therapist;
- 14 (K) Blood transfusions, including the cost of blood and blood
15 plasma not replaced by voluntary donors;
- 16 (L) An optometrist licensed under the provisions of chapter 18.53
17 RCW.
- 18 (20) "Member" means any firefighter, law enforcement officer, or
19 other person as would apply under subsections (16) or (18) of this
20 section whose membership is transferred to the Washington law
21 enforcement officers' and firefighters' retirement system on or after
22 March 1, 1970, and every law enforcement officer and firefighter who
23 is employed in that capacity on or after such date.
- 24 (21) "Plan 1" means the law enforcement officers' and
25 firefighters' retirement system, plan 1 providing the benefits and
26 funding provisions covering persons who first became members of the
27 system prior to October 1, 1977.
- 28 (22) "Plan 2" means the law enforcement officers' and
29 firefighters' retirement system, plan 2 providing the benefits and
30 funding provisions covering persons who first became members of the
31 system on and after October 1, 1977.
- 32 (23) "Position" means the employment held at any particular time,
33 which may or may not be the same as civil service rank.
- 34

1 (24) "Regular interest" means such rate as the director may
2 determine.

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

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

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

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

25 (i) For members retiring after May 21, 1971 who were employed
26 under the coverage of a prior pension act before March 1, 1970,
27 "service" shall also include (A) such military service not exceeding
28 five years as was creditable to the member as of March 1, 1970, under
29 the member's particular prior pension act, and (B) such other periods
30 of service as were then creditable to a particular member under the
31 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
32 event shall credit be allowed for any service rendered prior to March
33 1, 1970, where the member at the time of rendition of such service was
34 employed in a position covered by a prior pension act, unless such

1 service, at the time credit is claimed therefor, is also creditable
2 under the provisions of such prior act.

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

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

15 Members of the retirement system who are elected or appointed to a
16 state elective position may elect to continue to be members of this
17 retirement system.

18 Service credit years of service shall be determined by dividing
19 the total number of service credit months of service by twelve. Any
20 fraction of a service credit year of service as so determined shall be
21 taken into account in the computation of such retirement allowance or
22 benefits.

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

32 (29) "Service credit month" means a full service credit month or
33 an accumulation of partial service credit months that are equal to
34 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
7 appointed 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
12 **Sec. 7.** RCW 41.32.010 and 2008 c 204 s 1 and 2008 c 175 s 1 are
13 each reenacted and amended to read as follows:

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

16 (1)(a) "Accumulated contributions" for plan 1 members, means the
17 sum of all regular annuity contributions and, except for the purpose
18 of withdrawal at the time of retirement, any amount paid under RCW
19 41.50.165(2) with regular interest thereon.

20 (b) "Accumulated contributions" for plan 2 members, means the sum
21 of all contributions standing to the credit of a member in the
22 member's individual account, including any amount paid under RCW
23 41.50.165(2), together with the regular interest thereon.

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

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

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

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

34

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

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

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

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

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

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

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

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

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

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

1 (B) If a leave of absence, without pay, is taken by a member for
2 the purpose of serving as a member of the state legislature, and such
3 member has served in the legislature five or more years, the salary
4 which would have been received for the position from which the leave
5 of absence was taken shall be considered as compensation earnable if
6 the employee's contribution thereon is paid by the employee. In
7 addition, where a member has been a member of the state legislature
8 for five or more years, earnable compensation for the member's two
9 highest compensated consecutive years of service shall include a sum
10 not to exceed thirty-six hundred dollars for each of such two
11 consecutive years, regardless of whether or not legislative service
12 was rendered during those two years.

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

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

31 (A) Remuneration for unused sick leave authorized under RCW
32 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

31 (c) In calculating earnable compensation under (a) or (b) of this
32 subsection, the department of retirement systems shall include any
33 compensation forgone by a member employed by a state agency or
34 institution during the 2009-2011 fiscal biennium as a result of

1 reduced work hours, mandatory or voluntary leave without pay, or
2 temporary layoffs if the reduced compensation is an integral part of
3 the employer's expenditure reduction efforts, as certified by the
4 employer.

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

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

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

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

15 (15) "Member" means any teacher included in the membership of the
16 retirement system who has not been removed from membership under RCW
17 41.32.878 or 41.32.768. Also, any other employee of the public
18 schools who, on July 1, 1947, had not elected to be exempt from
19 membership and who, prior to that date, had by an authorized payroll
20 deduction, contributed to the member reserve.

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

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

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

33 (19) "Prior service" means service rendered prior to the first
34 date of eligibility to membership in the retirement system for which

1 credit is allowable. The provisions of this subsection shall apply
2 only to plan 1 members.

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

6 (21) "Public school" means any institution or activity operated by
7 the state of Washington or any instrumentality or political
8 subdivision thereof employing teachers, except the University of
9 Washington and Washington State University.

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

14 (23) "Regular interest" means such rate as the director may
15 determine.

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

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

22 (25) "Retirement system" means the Washington state teachers'
23 retirement system.

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

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

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

32 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
33 state retirement system that covers teachers in public schools may be
34

1 applied solely for the purpose of determining eligibility to retire
2 under RCW 41.32.470.

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

6 (i) A member employed in an eligible position or as a substitute
7 shall receive one service credit month for each month of September
8 through August of the following year if he or she earns earnable
9 compensation for eight hundred ten or more hours during that period
10 and is employed during nine of those months, except that a member may
11 not receive credit for any period prior to the member's employment in
12 an eligible position except as provided in RCW 41.32.812 and
13 41.50.132((+)).

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

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

25 (B) If a member is employed in an eligible position or as a
26 substitute teacher for at least five months of a six-month period
27 between September through August of the following year and earns
28 earnable compensation for six hundred thirty or more hours within the
29 six-month period, he or she will receive a maximum of six service
30 credit months for the school year, which shall be recorded as one
31 service credit month for each month of the six-month period;

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

34

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

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

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

9 (iii) Any person who is a member of the teachers' retirement
10 system and who is elected or appointed to a state elective position
11 may continue to be a member of the retirement system and continue to
12 receive a service credit month for each of the months in a state
13 elective position by making the required member contributions.

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

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

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

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

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

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

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

33 (vi) As authorized in RCW 41.32.065, service earned in an out-of-
34 state retirement system that covers teachers in public schools may be

1 applied solely for the purpose of determining eligibility to retire
2 under RCW 41.32.470.

3 (vii) The department shall adopt rules implementing this
4 subsection.

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

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

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

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

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

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

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

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

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

1 (36) "Substitute teacher" means:

2 (a) A teacher who is hired by an employer to work as a temporary
3 teacher, except for teachers who are annual contract employees of an
4 employer and are guaranteed a minimum number of hours; or

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

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

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

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

20 (d) The elected position of the superintendent of public
21 instruction is an eligible position.

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

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

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

33 (41) "Index" means, for any calendar year, that year's annual
34 average consumer price index, Seattle, Washington area, for urban wage

1 earners and clerical workers, all items compiled by the bureau of
2 labor statistics, United States department of labor.

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

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

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

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

10 (46) "Annual increase" means, initially, fifty-nine cents per
11 month per year of service which amount shall be increased each July
12 1st by three percent, rounded to the nearest cent.

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

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

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

30

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

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

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

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

5 (3) "State treasurer" means the treasurer of the state of
6 Washington.

7 (4) "Employer" means the Washington state department of
8 corrections, the Washington state parks and recreation commission, the
9 Washington state gambling commission, the Washington state patrol, the
10 Washington state department of natural resources, and the Washington
11 state liquor control board; any county corrections department; or any
12 city corrections department not covered under chapter 41.28 RCW.

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

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

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

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

24 (d) Whose primary responsibility is to supervise members eligible
25 under this subsection.

26 (6)(a) "Compensation earnable" for members, means salaries or
27 wages earned by a member during a payroll period for personal
28 services, including overtime payments, and shall include wages and
29 salaries deferred under provisions established pursuant to sections
30 403(b), 414(h), and 457 of the United States internal revenue code,
31 but shall exclude nonmoney maintenance compensation and lump sum or
32 other payments for deferred annual sick leave, unused accumulated
33 vacation, unused accumulated annual leave, or any form of severance
34 pay.

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

4 (i) Retroactive payments to an individual by an employer on
5 reinstatement of the employee in a position, or payments by an
6 employer to an individual in lieu of reinstatement, which are awarded
7 or granted as the equivalent of the salary or wage which the
8 individual would have earned during a payroll period shall be
9 considered compensation earnable to the extent provided in this
10 subsection, and the individual shall receive the equivalent service
11 credit;

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

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

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

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

25 (iv) Compensation that a member would have received but for a
26 disability occurring in the line of duty only as authorized by RCW
27 41.37.060;

28 (v) Compensation that a member receives due to participation in
29 the leave sharing program only as authorized by RCW 41.04.650 through
30 41.04.670; and

31 (vi) Compensation that a member receives for being in standby
32 status. For the purposes of this section, a member is in standby
33 status when not being paid for time actually worked and the employer
34

1 requires the member to be prepared to report immediately for work, if
2 the need arises, although the need may not arise.

3 (7) "Service" means periods of employment by a member on or after
4 July 1, 2006, for one or more employers for which compensation
5 earnable is paid. Compensation earnable earned for ninety or more
6 hours in any calendar month shall constitute one service credit month.
7 Compensation earnable earned for at least seventy hours but less than
8 ninety hours in any calendar month shall constitute one-half service
9 credit month of service. Compensation earnable earned for less than
10 seventy hours in any calendar month shall constitute one-quarter
11 service credit month of service. Time spent in standby status,
12 whether compensated or not, is not service.

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

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

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

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

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

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

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

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

33 (13) "Accumulated contributions" means the sum of all
34 contributions standing to the credit of a member in the member's

1 individual account, including any amount paid under RCW 41.50.165(2),
2 together with the regular interest thereon.

3 (14)(a) "Average final compensation" means the member's average
4 compensation earnable of the highest consecutive sixty months of
5 service credit months prior to such member's retirement, termination,
6 or death. Periods constituting authorized leaves of absence may not
7 be used in the calculation of average final compensation except under
8 RCW 41.37.290.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33

34

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

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

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

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

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

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

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

33 (4) "Beneficiary" means any person in receipt of retirement
34 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
17 under 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
21 created 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

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

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

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

12 (18) "Retirement board" means the board provided for in this
13 chapter.

14 (19) "Retirement fund" means the Washington state patrol
15 retirement fund.

16 (20) "Retirement system" means the Washington state patrol
17 retirement system.

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

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

26 (22) "Service" shall mean services rendered to the state of
27 Washington or any political subdivisions thereof for which
28 compensation has been paid. Full time employment for seventy or more
29 hours in any given calendar month shall constitute one month of
30 service. An employee who is reinstated in accordance with RCW
31 43.43.110 shall suffer no loss of service for the period reinstated
32 subject to the contribution requirements of this chapter. Only months
33 of service shall be counted in the computation of any retirement
34 allowance or other benefit provided for herein. Years of service

1 shall be determined by dividing the total number of months of service
2 by twelve. Any fraction of a year of service as so determined shall
3 be taken into account in the computation of such retirement allowance
4 or benefit.

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

7 (24) "State treasurer" means the treasurer of the state of
8 Washington.

9 (~~(25)~~) Unless the context expressly indicates otherwise, words
10 importing the masculine gender shall be extended to include the
11 feminine gender and words importing the feminine gender shall be
12 extended to include the masculine gender.

13

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

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

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

21 (ii) The employee has been called to service in the uniformed
22 services;

23 (iii) A state of emergency has been declared anywhere within the
24 United States by the federal or any state government and the employee
25 has needed skills to assist in responding to the emergency or its
26 aftermath and volunteers his or her services to either a governmental
27 agency or to a nonprofit organization engaged in humanitarian relief
28 in the devastated area, and the governmental agency or nonprofit
29 organization accepts the employee's offer of volunteer services;

30 (~~(e)~~)

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

33 (v) During the 2009-2011 fiscal biennium only, the employee is

34

1 eligible to use leave in lieu of temporary layoff under section 3(5)
2 of this act;

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

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

8 (ii) Terminate state employment;

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

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

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

14 (ii) Annual leave and paid military leave allowed under RCW
15 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

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

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

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

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

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

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

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

34

1 (a) An employee who has an accrued annual leave balance of more
2 than ten days may request that the head of the agency for which the
3 employee works transfer a specified amount of annual leave to another
4 employee authorized to receive leave under subsection (1) of this
5 section. In no event may the employee request a transfer of an amount
6 of leave that would result in his or her annual leave account going
7 below ten days. For purposes of this subsection (3)(a), annual leave
8 does not accrue if the employee receives compensation in lieu of
9 accumulating a balance of annual leave.

10 (b) An employee may transfer a specified amount of sick leave to
11 an employee requesting shared leave only when the donating employee
12 retains a minimum of one hundred seventy-six hours of sick leave after
13 the transfer.

14 (c) An employee may transfer, under the provisions of this section
15 relating to the transfer of leave, all or part of his or her personal
16 holiday, as that term is defined under RCW 1.16.050, or as such
17 holidays are provided to employees by agreement with a school
18 district's board of directors if the leave transferred under this
19 subsection does not exceed the amount of time provided for personal
20 holidays under RCW 1.16.050.

21 (4) An employee of an institution of higher education under RCW
22 28B.10.016, school district, or educational service district who does
23 not accrue annual leave but does accrue sick leave and who has an
24 accrued sick leave balance of more than twenty-two days may request
25 that the head of the agency for which the employee works transfer a
26 specified amount of sick leave to another employee authorized to
27 receive leave under subsection (1) of this section. In no event may
28 such an employee request a transfer that would result in his or her
29 sick leave account going below twenty-two days. Transfers of sick
30 leave under this subsection are limited to transfers from employees
31 who do not accrue annual leave. Under this subsection, "sick leave"
32 also includes leave accrued pursuant to RCW 28A.400.300(2) or
33 28A.310.240(1) with compensation for illness, injury, and emergencies.

34

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

3 (6) Leave transferred under this section may be transferred from
4 employees of one agency to an employee of the same agency or, with the
5 approval of the heads of both agencies, to an employee of another
6 state agency. However, leave transferred to or from employees of
7 school districts or educational service districts is limited to
8 transfers to or from employees within the same employing district.

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

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

18 (b) In the case of leave transferred by an employee of one agency
19 to an employee of another agency, the agencies involved shall arrange
20 for the transfer of funds and credit for the appropriate value of
21 leave.

22 (i) Pursuant to rules adopted by the office of financial
23 management, funds shall not be transferred under this section if the
24 transfer would violate any constitutional or statutory restrictions on
25 the funds being transferred.

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

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

34

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

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

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

20
21 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
22 conflict with federal requirements that are a prescribed condition to
23 the allocation of federal funds to the state, the conflicting part of
24 this act is inoperative solely to the extent of the conflict and with
25 respect to the agencies directly affected, and this finding does not
26 affect the operation of the remainder of this act in its application
27 to the agencies concerned. Rules adopted under this act must meet
28 federal requirements that are a necessary condition to the receipt of
29 federal funds by the state.

30
31 NEW SECTION. **Sec. 12.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

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

5

6 Correct the title.

7

EFFECT: The underlying bill is amended to provide that alternate
higher education plans may provide for reductions to operations,
as well as compensation. Exemptions from agency closure
requirements are provided for functions of the Attorney General's
Office directly related to civil, criminal, or administrative
actions, the Office of Financial Management (OFM), during sessions
of the Legislature, and the Labor Relations Office of OFM through
November 1, 2010. In the event that general government state
agencies or do not have approved reduction plans, bargaining
between the governor and each exclusive bargaining representative,
rather than the Governor negotiating with a single coalition of
all of the exclusive bargaining representatives.

--- END ---