
HOUSE BILL 1616

State of Washington

61st Legislature

2009 Regular Session

By Representative Simpson

1 AN ACT Relating to the state pension benefits of certain domestic
2 partners; and amending RCW 41.05.080, 41.05.195, 41.26.030, 41.26.048,
3 41.26.460, 41.26.470, 41.26.510, and 41.26.520.

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

5 **Sec. 1.** RCW 41.05.080 and 2007 c 114 s 6 are each amended to read
6 as follows:

7 (1) Under the qualifications, terms, conditions, and benefits set
8 by the board:

9 (a) Retired or disabled state employees, retired or disabled school
10 employees, retired or disabled employees of county, municipal, or other
11 political subdivisions, or retired or disabled employees of tribal
12 governments covered by this chapter may continue their participation in
13 insurance plans and contracts after retirement or disablement;

14 (b) Separated employees may continue their participation in
15 insurance plans and contracts if participation is selected immediately
16 upon separation from employment;

17 (c) Surviving spouses, domestic partners as defined in RCW
18 26.60.020, and dependent children of emergency service personnel killed
19 in the line of duty may participate in insurance plans and contracts.

1 (2) Rates charged surviving spouses and domestic partners as
2 defined in RCW 26.60.020 of emergency service personnel killed in the
3 line of duty, retired or disabled employees, separated employees,
4 spouses, or dependent children who are not eligible for parts A and B
5 of medicare shall be based on the experience of the community rated
6 risk pool established under RCW 41.05.022.

7 (3) Rates charged to surviving spouses and domestic partners as
8 defined in RCW 26.60.020 of emergency service personnel killed in the
9 line of duty, retired or disabled employees, separated employees,
10 spouses, or children who are eligible for parts A and B of medicare
11 shall be calculated from a separate experience risk pool comprised only
12 of individuals eligible for parts A and B of medicare; however, the
13 premiums charged to medicare-eligible retirees and disabled employees
14 shall be reduced by the amount of the subsidy provided under RCW
15 41.05.085.

16 (4) Surviving spouses, domestic partners as defined in RCW
17 26.60.020, and dependent children of emergency service personnel killed
18 in the line of duty and retired or disabled and separated employees
19 shall be responsible for payment of premium rates developed by the
20 authority which shall include the cost to the authority of providing
21 insurance coverage including any amounts necessary for reserves and
22 administration in accordance with this chapter. These self pay rates
23 will be established based on a separate rate for the employee, the
24 spouse, and the children.

25 (5) The term "retired state employees" for the purpose of this
26 section shall include but not be limited to members of the legislature
27 whether voluntarily or involuntarily leaving state office.

28 **Sec. 2.** RCW 41.05.195 and 2007 c 114 s 7 are each amended to read
29 as follows:

30 Notwithstanding any other provisions of this chapter or rules or
31 procedures adopted by the authority, the authority shall make available
32 to retired or disabled employees who are enrolled in parts A and B of
33 medicare one or more medicare supplemental insurance policies that
34 conform to the requirements of chapter 48.66 RCW. The policies shall
35 be chosen in consultation with the public employees' benefits board.
36 These policies shall be made available to retired or disabled state
37 employees; retired or disabled school district employees; retired

1 employees of county, municipal, or other political subdivisions or
2 retired employees of tribal governments eligible for coverage available
3 under the authority; or surviving spouses or domestic partners as
4 defined in RCW 26.60.020 of emergency service personnel killed in the
5 line of duty.

6 **Sec. 3.** RCW 41.26.030 and 2005 c 459 s 1 are each amended to read
7 as follows:

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

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

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

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

25 (i) The legislative authority of any city, town, county, or
26 district;

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

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

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

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

36 (a) No person who is serving in a position that is basically

1 clerical or secretarial in nature, and who is not commissioned shall be
2 considered a law enforcement officer;

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

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

15 (d) The term "law enforcement officer" also includes the executive
16 secretary of a labor guild, association or organization (which is an
17 employer under RCW 41.26.030(2)) if that individual has five years
18 previous membership in the retirement system established in chapter
19 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
20 plan 2 members; and

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

29 (4) "Firefighter" means:

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

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

36 (c) Supervisory firefighter personnel;

37 (d) Any full time executive secretary of an association of fire

1 protection districts authorized under RCW 52.12.031. The provisions of
2 this subsection (4)(d) shall not apply to plan 2 members;

3 (e) The executive secretary of a labor guild, association or
4 organization (which is an employer under RCW 41.26.030(2) as now or
5 hereafter amended), if such individual has five years previous
6 membership in a retirement system established in chapter 41.16 or 41.18
7 RCW. The provisions of this subsection (4)(e) shall not apply to plan
8 2 members;

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

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

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

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

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

24 (7)(a) "Child" or "children" means an unmarried person who is under
25 the age of eighteen or mentally or physically (~~handicapped~~) disabled
26 as determined by the department, except a (~~handicapped~~) person who is
27 disabled and in the full time care of a state institution, who is:

28 (i) A natural born child;

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

31 (iii) A posthumous child;

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

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

36 (b) A person shall also be deemed to be a child up to and including
37 the age of twenty years and eleven months while attending any high
38 school, college, or vocational or other educational institution

1 accredited, licensed, or approved by the state, in which it is located,
2 including the summer vacation months and all other normal and regular
3 vacation periods at the particular educational institution after which
4 the child returns to school.

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

11 (9) "Retirement fund" means the "Washington law enforcement
12 officers' and firefighters' retirement system fund" as provided for
13 herein.

14 (10) "Employee" means any law enforcement officer or firefighter as
15 defined in subsections (3) and (4) of this section.

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

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

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

37 (b) "Final average salary" for plan 2 members, means the monthly
38 average of the member's basic salary for the highest consecutive sixty

1 service credit months of service prior to such member's retirement,
2 termination, or death. Periods constituting authorized unpaid leaves
3 of absence may not be used in the calculation of final average salary.

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

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

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

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

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

1 (i) For members retiring after May 21, 1971 who were employed under
2 the coverage of a prior pension act before March 1, 1970, "service"
3 shall also include (A) such military service not exceeding five years
4 as was creditable to the member as of March 1, 1970, under the member's
5 particular prior pension act, and (B) such other periods of service as
6 were then creditable to a particular member under the provisions of RCW
7 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
8 be allowed for any service rendered prior to March 1, 1970, where the
9 member at the time of rendition of such service was employed in a
10 position covered by a prior pension act, unless such service, at the
11 time credit is claimed therefor, is also creditable under the
12 provisions of such prior act.

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

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

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

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

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

1 is rendered; or one-quarter service credit month during any calendar
2 month in which multiple service for less than seventy hours is
3 rendered.

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

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

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

19 (18) "Disability board" for plan 1 members means either the county
20 disability board or the city disability board established in RCW
21 41.26.110.

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

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

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

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

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

37 (i) Board and room not to exceed semiprivate room rate unless

1 private room is required by the attending physician due to the
2 condition of the patient.

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

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

8 (i) The fees of the following:

9 (A) A physician or surgeon licensed under the provisions of chapter
10 18.71 RCW;

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

13 (C) A chiropractor licensed under the provisions of chapter 18.25
14 RCW.

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

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

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

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

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

22 (D) Anesthesia and oxygen;

23 (E) Rental of iron lung and other durable medical and surgical
24 equipment;

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

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

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

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

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

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

36 (L) An optometrist licensed under the provisions of chapter 18.53
37 RCW.

- 1 (23) "Regular interest" means such rate as the director may
2 determine.
- 3 (24) "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 (25) "Director" means the director of the department.
- 8 (26) "State actuary" or "actuary" means the person appointed
9 pursuant to RCW 44.44.010(2).
- 10 (27) "State elective position" means any position held by any
11 person elected or appointed to statewide office or elected or appointed
12 as a member of the legislature.
- 13 (28) "Plan 1" means the law enforcement officers' and firefighters'
14 retirement system, plan 1 providing the benefits and funding provisions
15 covering persons who first became members of the system prior to
16 October 1, 1977.
- 17 (29) "Plan 2" means the law enforcement officers' and firefighters'
18 retirement system, plan 2 providing the benefits and funding provisions
19 covering persons who first became members of the system on and after
20 October 1, 1977.
- 21 (30) "Service credit year" means an accumulation of months of
22 service credit which is equal to one when divided by twelve.
- 23 (31) "Service credit month" means a full service credit month or an
24 accumulation of partial service credit months that are equal to one.
- 25 (32) "General authority law enforcement agency" means any agency,
26 department, or division of a municipal corporation, political
27 subdivision, or other unit of local government of this state, and any
28 agency, department, or division of state government, having as its
29 primary function the detection and apprehension of persons committing
30 infractions or violating the traffic or criminal laws in general, but
31 not including the Washington state patrol. Such an agency, department,
32 or division is distinguished from a limited authority law enforcement
33 agency having as one of its functions the apprehension or detection of
34 persons committing infractions or violating the traffic or criminal
35 laws relating to limited subject areas, including but not limited to,
36 the state departments of natural resources and social and health
37 services, the state gambling commission, the state lottery commission,

1 the state parks and recreation commission, the state utilities and
2 transportation commission, the state liquor control board, and the
3 state department of corrections.

4 (33) "Domestic partners" means two adults who meet the requirements
5 for a valid state registered domestic partnership as established by RCW
6 26.60.020.

7 **Sec. 4.** RCW 41.26.048 and 2007 c 487 s 2 are each amended to read
8 as follows:

9 (1) A one hundred fifty thousand dollar death benefit shall be paid
10 to the member's estate, or such person or persons, trust or
11 organization as the member shall have nominated by written designation
12 duly executed and filed with the department. If there be no such
13 designated person or persons still living at the time of the member's
14 death, such member's death benefit shall be paid to the member's
15 surviving spouse or domestic partner as if in fact such spouse or
16 domestic partner had been nominated by written designation, or if there
17 be no such surviving spouse or domestic partner, then to such member's
18 legal representatives.

19 (2) The benefit under this section shall be paid only when death
20 occurs: (a) As a result of injuries sustained in the course of
21 employment; or (b) as a result of an occupational disease or infection
22 that arises naturally and proximately out of employment covered under
23 this chapter. The determination of eligibility for the benefit shall
24 be made consistent with Title 51 RCW by the department of labor and
25 industries. The department of labor and industries shall notify the
26 department of retirement systems by order under RCW 51.52.050.

27 **Sec. 5.** RCW 41.26.460 and 2003 c 294 s 3 are each amended to read
28 as follows:

29 (1) Upon retirement for service as prescribed in RCW 41.26.430 or
30 disability retirement under RCW 41.26.470, a member shall elect to have
31 the retirement allowance paid pursuant to the following options,
32 calculated so as to be actuarially equivalent to each other.

33 (a) Standard allowance. A member electing this option shall
34 receive a retirement allowance payable throughout such member's life.
35 However, if the retiree dies before the total of the retirement
36 allowance paid to such retiree equals the amount of such retiree's

1 accumulated contributions at the time of retirement, then the balance
2 shall be paid to the member's estate, or such person or persons, trust,
3 or organization as the retiree shall have nominated by written
4 designation duly executed and filed with the department; or if there be
5 no such designated person or persons still living at the time of the
6 retiree's death, then to the surviving spouse or domestic partner; or
7 if there be neither such designated person or persons still living at
8 the time of death nor a surviving spouse or domestic partner, then to
9 the retiree's legal representative.

10 (b) The department shall adopt rules that allow a member to select
11 a retirement option that pays the member a reduced retirement allowance
12 and upon death, such portion of the member's reduced retirement
13 allowance as the department by rule designates shall be continued
14 throughout the life of and paid to a designated person. Such person
15 shall be nominated by the member by written designation duly executed
16 and filed with the department at the time of retirement. The options
17 adopted by the department shall include, but are not limited to, a
18 joint and one hundred percent survivor option and a joint and fifty
19 percent survivor option.

20 (2)(a) A member, if married or a domestic partner, must provide the
21 written consent of his or her spouse or domestic partner to the option
22 selected under this section, except as provided in (b) of this
23 subsection. If a member is married or a domestic partner and both the
24 member and member's spouse or domestic partner do not give written
25 consent to an option under this section, the department will pay the
26 member a joint and fifty percent survivor benefit and record the
27 member's spouse or domestic partner as the beneficiary. Such benefit
28 shall be calculated to be actuarially equivalent to the benefit options
29 available under subsection (1) of this section unless spousal or
30 domestic partner consent is not required as provided in (b) of this
31 subsection.

32 (b) If a copy of a dissolution order designating a survivor
33 beneficiary under RCW 41.50.790 has been filed with the department at
34 least thirty days prior to a member's retirement:

35 (i) The department shall honor the designation as if made by the
36 member under subsection (1) of this section; and

37 (ii) The spousal or domestic partner consent provisions of (a) of
38 this subsection do not apply.

1 (3)(a) Any member who retired before January 1, 1996, and who
2 elected to receive a reduced retirement allowance under subsection
3 (1)(b) or (2) of this section is entitled to receive a retirement
4 allowance adjusted in accordance with (b) of this subsection, if they
5 meet the following conditions:

6 (i) The retiree's designated beneficiary predeceases or has
7 predeceased the retiree; and

8 (ii) The retiree provides to the department proper proof of the
9 designated beneficiary's death.

10 (b) The retirement allowance payable to the retiree, as of July 1,
11 1998, or the date of the designated beneficiary's death, whichever
12 comes last, shall be increased by the percentage derived in (c) of this
13 subsection.

14 (c) The percentage increase shall be derived by the following:

15 (i) One hundred percent multiplied by the result of (c)(ii) of this
16 subsection converted to a percent;

17 (ii) Subtract one from the reciprocal of the appropriate joint and
18 survivor option factor;

19 (iii) The joint and survivor option factor shall be from the table
20 in effect as of July 1, 1998.

21 (d) The adjustment under (b) of this subsection shall accrue from
22 the beginning of the month following the date of the designated
23 beneficiary's death or from July 1, 1998, whichever comes last.

24 (4) No later than July 1, 2001, the department shall adopt rules
25 that allow a member additional actuarially equivalent survivor benefit
26 options, and shall include, but are not limited to:

27 (a)(i) A retired member who retired without designating a survivor
28 beneficiary shall have the opportunity to designate their spouse or
29 domestic partner from a postretirement marriage or domestic partnership
30 as a survivor during a one-year period beginning one year after the
31 date of the postretirement marriage or domestic partnership provided
32 the retirement allowance payable to the retiree is not subject to
33 periodic payments pursuant to a property division obligation as
34 provided for in RCW 41.50.670.

35 (ii) A member who entered into a postretirement marriage or
36 domestic partnership prior to the effective date of the rules adopted
37 pursuant to this subsection and satisfies the conditions of (a)(i) of

1 this subsection shall have one year to designate their spouse or
2 domestic partner as a survivor beneficiary following the adoption of
3 the rules.

4 (b) A retired member who elected to receive a reduced retirement
5 allowance under this section and designated a nonspouse or a person not
6 their domestic partner as survivor beneficiary shall have the
7 opportunity to remove the survivor designation and have their future
8 benefit adjusted.

9 (c) The department may make an additional charge, if necessary, to
10 ensure that the benefits provided under this subsection remain
11 actuarially equivalent.

12 (5) No later than July 1, 2003, the department shall adopt rules to
13 permit:

14 (a) A court-approved property settlement incident to a court decree
15 of dissolution made before retirement to provide that benefits payable
16 to a member who meets the length of service requirements of RCW
17 41.26.530(1) and the member's divorcing spouse or domestic partner be
18 divided into two separate benefits payable over the life of each spouse
19 or domestic partner.

20 The member shall have available the benefit options of subsection
21 (1) of this section upon retirement, and if remarried or in a domestic
22 partnership at the time of retirement remains subject to the spousal or
23 domestic partner consent requirements of subsection (2) of this
24 section. Any reductions of the member's benefit subsequent to the
25 division into two separate benefits shall be made solely to the
26 separate benefit of the member.

27 The nonmember ex spouse or former domestic partner shall be
28 eligible to commence receiving their separate benefit upon reaching the
29 ages provided in RCW 41.26.430(1) and after filing a written
30 application with the department.

31 (b) A court-approved property settlement incident to a court decree
32 of dissolution made after retirement may only divide the benefit into
33 two separate benefits payable over the life of each spouse or domestic
34 partner if the nonmember ex spouse or former domestic partner was
35 selected as a survivor beneficiary at retirement.

36 The retired member may later choose the survivor benefit options
37 available in subsection (4) of this section. Any actuarial reductions

1 subsequent to the division into two separate benefits shall be made
2 solely to the separate benefit of the member.

3 Both the retired member and the nonmember divorced spouse or
4 domestic partner shall be eligible to commence receiving their separate
5 benefits upon filing a copy of the dissolution order with the
6 department in accordance with RCW 41.50.670.

7 (c) The department may make an additional charge or adjustment if
8 necessary to ensure that the separate benefits provided under this
9 subsection are actuarially equivalent to the benefits payable prior to
10 the decree of dissolution.

11 **Sec. 6.** RCW 41.26.470 and 2006 c 39 s 1 are each amended to read
12 as follows:

13 (1) A member of the retirement system who becomes totally
14 incapacitated for continued employment by an employer as determined by
15 the director shall be eligible to receive an allowance under the
16 provisions of RCW 41.26.410 through 41.26.550. Such member shall
17 receive a monthly disability allowance computed as provided for in RCW
18 41.26.420 and shall have such allowance actuarially reduced to reflect
19 the difference in the number of years between age at disability and the
20 attainment of age fifty-three, except under subsection (7) of this
21 section.

22 (2) Any member who receives an allowance under the provisions of
23 this section shall be subject to such comprehensive medical
24 examinations as required by the department. If such medical
25 examinations reveal that such a member has recovered from the
26 incapacitating disability and the member is no longer entitled to
27 benefits under Title 51 RCW, the retirement allowance shall be canceled
28 and the member shall be restored to duty in the same civil service
29 rank, if any, held by the member at the time of retirement or, if
30 unable to perform the duties of the rank, then, at the member's
31 request, in such other like or lesser rank as may be or become open and
32 available, the duties of which the member is then able to perform. In
33 no event shall a member previously drawing a disability allowance be
34 returned or be restored to duty at a salary or rate of pay less than
35 the current salary attached to the rank or position held by the member
36 at the date of the retirement for disability. If the department
37 determines that the member is able to return to service, the member is

1 entitled to notice and a hearing. Both the notice and the hearing
2 shall comply with the requirements of chapter 34.05 RCW, the
3 Administrative Procedure Act.

4 (3) Those members subject to this chapter who became disabled in
5 the line of duty on or after July 23, 1989, and who receive benefits
6 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW
7 41.04.535 shall receive or continue to receive service credit subject
8 to the following:

9 (a) No member may receive more than one month's service credit in
10 a calendar month.

11 (b) No service credit under this section may be allowed after a
12 member separates or is separated without leave of absence.

13 (c) Employer contributions shall be paid by the employer at the
14 rate in effect for the period of the service credited.

15 (d) Employee contributions shall be collected by the employer and
16 paid to the department at the rate in effect for the period of service
17 credited.

18 (e) State contributions shall be as provided in RCW 41.45.060 and
19 41.45.067.

20 (f) Contributions shall be based on the regular compensation which
21 the member would have received had the disability not occurred.

22 (g) The service and compensation credit under this section shall be
23 granted for a period not to exceed six consecutive months.

24 (h) Should the legislature revoke the service credit authorized
25 under this section or repeal this section, no affected employee is
26 entitled to receive the credit as a matter of contractual right.

27 (4)(a) If the recipient of a monthly retirement allowance under
28 this section dies before the total of the retirement allowance paid to
29 the recipient equals the amount of the accumulated contributions at the
30 date of retirement, then the balance shall be paid to the member's
31 estate, or such person or persons, trust, or organization as the
32 recipient has nominated by written designation duly executed and filed
33 with the director, or, if there is no such designated person or persons
34 still living at the time of the recipient's death, then to the
35 surviving spouse or domestic partner, or, if there is neither such
36 designated person or persons still living at the time of his or her
37 death nor a surviving spouse or domestic partner, then to his or her
38 legal representative.

1 (b) If a recipient of a monthly retirement allowance under this
2 section died before April 27, 1989, and before the total of the
3 retirement allowance paid to the recipient equaled the amount of his or
4 her accumulated contributions at the date of retirement, then the
5 department shall pay the balance of the accumulated contributions to
6 the member's surviving spouse or, if there is no surviving spouse, then
7 in equal shares to the member's children. If there is no surviving
8 spouse or children, the department shall retain the contributions.

9 (5) Should the disability retirement allowance of any disability
10 beneficiary be canceled for any cause other than reentrance into
11 service or retirement for service, he or she shall be paid the excess,
12 if any, of the accumulated contributions at the time of retirement over
13 all payments made on his or her behalf under this chapter.

14 (6) A member who becomes disabled in the line of duty, and who
15 ceases to be an employee of an employer except by service or disability
16 retirement, may request a refund of one hundred fifty percent of the
17 member's accumulated contributions. Any accumulated contributions
18 attributable to restorations made under RCW 41.50.165(2) shall be
19 refunded at one hundred percent. A person in receipt of this benefit
20 is a retiree.

21 (7) A member who becomes disabled in the line of duty shall be
22 entitled to receive a minimum retirement allowance equal to ten percent
23 of such member's final average salary. The member shall additionally
24 receive a retirement allowance equal to two percent of such member's
25 average final salary for each year of service beyond five.

26 (8) A member who is totally disabled in the line of duty is
27 entitled to receive a retirement allowance equal to seventy percent of
28 the member's final average salary. The allowance provided under this
29 subsection shall be offset by:

30 (a) Temporary disability wage-replacement benefits or permanent
31 total disability benefits provided to the member under Title 51 RCW;
32 and

33 (b) Federal social security disability benefits, if any;
34 so that such an allowance does not result in the member receiving
35 combined benefits that exceed one hundred percent of the member's final
36 average salary. However, the offsets shall not in any case reduce the
37 allowance provided under this subsection below the member's accrued
38 retirement allowance.

1 A member is considered totally disabled if he or she is unable to
2 perform any substantial gainful activity due to a physical or mental
3 condition that may be expected to result in death or that has lasted or
4 is expected to last at least twelve months. Substantial gainful
5 activity is defined as average earnings in excess of eight hundred
6 sixty dollars a month in 2006 adjusted annually as determined by the
7 director based on federal social security disability standards. The
8 department may require a person in receipt of an allowance under this
9 subsection to provide any financial records that are necessary to
10 determine continued eligibility for such an allowance. A person in
11 receipt of an allowance under this subsection whose earnings exceed the
12 threshold for substantial gainful activity shall have their benefit
13 converted to a line-of-duty disability retirement allowance as provided
14 in subsection (7) of this section.

15 Any person in receipt of an allowance under the provisions of this
16 section is subject to comprehensive medical examinations as may be
17 required by the department under subsection (2) of this section in
18 order to determine continued eligibility for such an allowance.

19 **Sec. 7.** RCW 41.26.510 and 2006 c 345 s 1 are each amended to read
20 as follows:

21 (1) Except as provided in RCW 11.07.010, if a member or a vested
22 member who has not completed at least ten years of service dies, the
23 amount of the accumulated contributions standing to such member's
24 credit in the retirement system at the time of such member's death,
25 less any amount identified as owing to an obligee upon withdrawal of
26 accumulated contributions pursuant to a court order filed under RCW
27 41.50.670, shall be paid to the member's estate, or such person or
28 persons, trust, or organization as the member shall have nominated by
29 written designation duly executed and filed with the department. If
30 there be no such designated person or persons still living at the time
31 of the member's death, such member's accumulated contributions standing
32 to such member's credit in the retirement system, less any amount
33 identified as owing to an obligee upon withdrawal of accumulated
34 contributions pursuant to a court order filed under RCW 41.50.670,
35 shall be paid to the member's surviving spouse or domestic partner as
36 if in fact such spouse or domestic partner had been nominated by

1 written designation, or if there be no such surviving spouse or
2 domestic partner, then to such member's legal representatives.

3 (2) If a member who is eligible for retirement or a member who has
4 completed at least ten years of service dies, the surviving spouse,
5 domestic partner, or eligible child or children shall elect to receive
6 either:

7 (a) A retirement allowance computed as provided for in RCW
8 41.26.430, actuarially reduced by the amount of any lump sum benefit
9 identified as owing to an obligee upon withdrawal of accumulated
10 contributions pursuant to a court order filed under RCW 41.50.670 and
11 actuarially adjusted to reflect a joint and one hundred percent
12 survivor option under RCW 41.26.460 and if the member was not eligible
13 for normal retirement at the date of death a further reduction as
14 described in RCW 41.26.430; if a surviving spouse or domestic partner
15 who is receiving a retirement allowance dies leaving a child or
16 children of the member under the age of majority, then such child or
17 children shall continue to receive an allowance in an amount equal to
18 that which was being received by the surviving spouse or domestic
19 partner, share and share alike, until such child or children reach the
20 age of majority; if there is no surviving spouse or domestic partner
21 eligible to receive an allowance at the time of the member's death,
22 such member's child or children under the age of majority shall receive
23 an allowance share and share alike calculated as herein provided making
24 the assumption that the ages of the spouse or domestic partner and
25 member were equal at the time of the member's death; or

26 (b)(i) The member's accumulated contributions, less any amount
27 identified as owing to an obligee upon withdrawal of accumulated
28 contributions pursuant to a court order filed under RCW 41.50.670; or

29 (ii) If the member dies on or after July 25, 1993, one hundred
30 fifty percent of the member's accumulated contributions, less any
31 amount identified as owing to an obligee upon withdrawal of accumulated
32 contributions pursuant to a court order filed under RCW 41.50.670. Any
33 accumulated contributions attributable to restorations made under RCW
34 41.50.165(2) shall be refunded at one hundred percent.

35 (3) If a member who is eligible for retirement or a member who has
36 completed at least ten years of service dies after October 1, 1977, and
37 is not survived by a spouse, domestic partner, or an eligible child,
38 then the accumulated contributions standing to the member's credit,

1 less any amount identified as owing to an obligee upon withdrawal of
2 accumulated contributions pursuant to a court order filed under RCW
3 41.50.670, shall be paid:

4 (a) To an estate, a person or persons, trust, or organization as
5 the member shall have nominated by written designation duly executed
6 and filed with the department; or

7 (b) If there is no such designated person or persons still living
8 at the time of the member's death, then to the member's legal
9 representatives.

10 (4) The retirement allowance of a member who is killed in the
11 course of employment, as determined by the director of the department
12 of labor and industries, is not subject to an actuarial reduction. The
13 member's retirement allowance is computed under RCW 41.26.420.

14 (5) The retirement allowance paid to the spouse or domestic partner
15 and dependent children of a member who is killed in the course of
16 employment, as set forth in RCW 41.05.011(14), shall include
17 reimbursement for any payments of premium rates to the Washington state
18 health care authority pursuant to RCW 41.05.080.

19 **Sec. 8.** RCW 41.26.520 and 2005 c 64 s 9 are each amended to read
20 as follows:

21 (1) A member who is on a paid leave of absence authorized by a
22 member's employer shall continue to receive service credit as provided
23 for under the provisions of RCW 41.26.410 through 41.26.550.

24 (2) A member who receives compensation from an employer while on an
25 authorized leave of absence to serve as an elected official of a labor
26 organization, and whose employer is reimbursed by the labor
27 organization for the compensation paid to the member during the period
28 of absence, may also be considered to be on a paid leave of absence.
29 This subsection shall only apply if the member's leave of absence is
30 authorized by a collective bargaining agreement that provides that the
31 member retains seniority rights with the employer during the period of
32 leave. The basic salary reported for a member who establishes service
33 credit under this subsection may not be greater than the salary paid to
34 the highest paid job class covered by the collective bargaining
35 agreement.

36 (3) Except as specified in subsection (7) of this section, a member
37 shall be eligible to receive a maximum of two years service credit

1 during a member's entire working career for those periods when a member
2 is on an unpaid leave of absence authorized by an employer. Such
3 credit may be obtained only if the member makes the employer, member,
4 and state contributions plus interest as determined by the department
5 for the period of the authorized leave of absence within five years of
6 resumption of service or prior to retirement whichever comes sooner.

7 (4) A law enforcement member may be authorized by an employer to
8 work part time and to go on a part-time leave of absence. During a
9 part-time leave of absence a member is prohibited from any other
10 employment with their employer. A member is eligible to receive credit
11 for any portion of service credit not earned during a month of part-
12 time leave of absence if the member makes the employer, member, and
13 state contributions, plus interest, as determined by the department for
14 the period of the authorized leave within five years of resumption of
15 full-time service or prior to retirement whichever comes sooner. Any
16 service credit purchased for a part-time leave of absence is included
17 in the two-year maximum provided in subsection (3) of this section.

18 (5) If a member fails to meet the time limitations of subsection
19 (3) or (4) of this section, the member may receive a maximum of two
20 years of service credit during a member's working career for those
21 periods when a member is on unpaid leave of absence authorized by an
22 employer. This may be done by paying the amount required under RCW
23 41.50.165(2) prior to retirement.

24 (6) For the purpose of subsection (3) or (4) of this section the
25 contribution shall not include the contribution for the unfunded
26 supplemental present value as required by RCW 41.45.060, 41.45.061, and
27 41.45.067. The contributions required shall be based on the average of
28 the member's basic salary at both the time the authorized leave of
29 absence was granted and the time the member resumed employment.

30 (7) A member who leaves the employ of an employer to enter the
31 uniformed services of the United States shall be entitled to retirement
32 system service credit for up to five years of military service. This
33 subsection shall be administered in a manner consistent with the
34 requirements of the federal uniformed services employment and
35 reemployment rights act.

36 (a) The member qualifies for service credit under this subsection
37 if:

1 (i) Within ninety days of the member's honorable discharge from the
2 uniformed services of the United States, the member applies for
3 reemployment with the employer who employed the member immediately
4 prior to the member entering the uniformed services; and

5 (ii) The member makes the employee contributions required under RCW
6 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of
7 service or prior to retirement, whichever comes sooner; or

8 (iii) Prior to retirement and not within ninety days of the
9 member's honorable discharge or five years of resumption of service the
10 member pays the amount required under RCW 41.50.165(2).

11 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
12 or (e)(iii) of this subsection, the department shall establish the
13 member's service credit and shall bill the employer and the state for
14 their respective contributions required under RCW 41.26.450 for the
15 period of military service, plus interest as determined by the
16 department.

17 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
18 of this subsection shall be based on the compensation the member would
19 have earned if not on leave, or if that cannot be estimated with
20 reasonable certainty, the compensation reported for the member in the
21 year prior to when the member went on military leave.

22 (d) The surviving spouse, domestic partner, or eligible child or
23 children of a member who left the employ of an employer to enter the
24 uniformed services of the United States and died while serving in the
25 uniformed services may, on behalf of the deceased member, apply for
26 retirement system service credit under this subsection up to the date
27 of the member's death in the uniformed services. The department shall
28 establish the deceased member's service credit if the surviving spouse
29 or eligible child or children:

30 (i) Provides to the director proof of the member's death while
31 serving in the uniformed services;

32 (ii) Provides to the director proof of the member's honorable
33 service in the uniformed services prior to the date of death; and

34 (iii) Pays the employee contributions required under chapter 41.45
35 RCW within five years of the date of death or prior to the distribution
36 of any benefit, whichever comes first.

37 (e) A member who leaves the employ of an employer to enter the
38 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in
2 the uniformed services is entitled to retirement system service credit
3 under this subsection up to the date of discharge from the uniformed
4 services if:

5 (i) The member obtains a determination from the director that he or
6 she is totally incapacitated for continued employment due to conditions
7 or events that occurred while serving in the uniformed services;

8 (ii) The member provides to the director proof of honorable
9 discharge from the uniformed services; and

10 (iii) The member pays the employee contributions required under
11 chapter 41.45 RCW within five years of the director's determination of
12 total disability or prior to the distribution of any benefit, whichever
13 comes first.

14 (8) A member receiving benefits under Title 51 RCW who is not
15 receiving benefits under this chapter shall be deemed to be on unpaid,
16 authorized leave of absence.

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