

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2070

Chapter 5, Laws of 2011

62nd Legislature
2011 1st Special Session

PENSIONS--GOVERNMENT EMPLOYEES--AVERAGE SALARY DETERMINATION

EFFECTIVE DATE: 07/01/11

Passed by the House May 2, 2011
Yeas 90 Nays 4

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate May 9, 2011
Yeas 40 Nays 4

BRAD OWEN

President of the Senate

Approved May 31, 2011, 2:20 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2070** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

June 1, 2011

**Secretary of State
State of Washington**

HOUSE BILL 2070

Passed Legislature - 2011 1st Special Session

State of Washington 62nd Legislature 2011 Regular Session

By Representative Seaquist

Read first time 04/09/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to determining average salary for the pension
2 purposes of state and local government employees as certified by their
3 employer; amending RCW 41.26.030, 41.35.010, and 43.43.120; reenacting
4 and amending RCW 41.32.010, 41.37.010, and 41.40.010; providing an
5 effective date; and declaring an emergency.

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

7 **Sec. 1.** RCW 41.26.030 and 2010 2nd sp.s. c 1 s 903 are each
8 amended to read as follows:

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

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

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

1 (3) "Actuarial valuation" means a mathematical determination of the
2 financial condition of a retirement plan. It includes the computation
3 of the present monetary value of benefits payable to present members,
4 and the present monetary value of future employer and employee
5 contributions, giving effect to mortality among active and retired
6 members and also to the rates of disability, retirement, withdrawal
7 from service, salary and interest earned on investments.

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

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

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

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

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

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

37 (6)(a) "Child" or "children" means an unmarried person who is under

1 the age of eighteen or mentally or physically disabled as determined by
2 the department, except a person who is disabled and in the full time
3 care of a state institution, who is:

4 (i) A natural born child;

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

7 (iii) A posthumous child;

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

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

12 (b) A person shall also be deemed to be a child up to and including
13 the age of twenty years and eleven months while attending any high
14 school, college, or vocational or other educational institution
15 accredited, licensed, or approved by the state, in which it is located,
16 including the summer vacation months and all other normal and regular
17 vacation periods at the particular educational institution after which
18 the child returns to school.

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

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

22 (9) "Disability board" for plan 1 members means either the county
23 disability board or the city disability board established in RCW
24 41.26.110.

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

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

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

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

37 (14)(a) "Employer" for plan 1 members, means the legislative
38 authority of any city, town, county, or district or the elected

1 officials of any municipal corporation that employs any law enforcement
2 officer and/or firefighter, any authorized association of such
3 municipalities, and, except for the purposes of RCW 41.26.150, any
4 labor guild, association, or organization, which represents the
5 firefighters or law enforcement officers of at least seven cities of
6 over 20,000 population and the membership of each local lodge or
7 division of which is composed of at least sixty percent law enforcement
8 officers or firefighters as defined in this chapter.

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

12 (i) The legislative authority of any city, town, county, or
13 district;

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

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

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

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

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

1 (c) In calculating final average salary under (a) or (b) of this
2 subsection, the department of retirement systems shall include:

3 (i) Any compensation forgone by a member employed by a state agency
4 or institution during the 2009-2011 fiscal biennium as a result of
5 reduced work hours, mandatory or voluntary leave without pay, temporary
6 reduction in pay implemented prior to December 11, 2010, or temporary
7 layoffs if the reduced compensation is an integral part of the
8 employer's expenditure reduction efforts, as certified by the employer;
9 and

10 (ii) Any compensation forgone by a member employed by the state or
11 a local government employer during the 2011-2013 fiscal biennium as a
12 result of reduced work hours, mandatory leave without pay, temporary
13 layoffs, or reductions to current pay if the reduced compensation is an
14 integral part of the employer's expenditure reduction efforts, as
15 certified by the employer. Reductions to current pay shall not include
16 elimination of previously agreed upon future salary increases.

17 (16) "Firefighter" means:

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

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

24 (c) Supervisory firefighter personnel;

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

28 (e) The executive secretary of a labor guild, association or
29 organization (which is an employer under subsection (14) of this
30 section), if such individual has five years previous membership in a
31 retirement system established in chapter 41.16 or 41.18 RCW. The
32 provisions of this subsection (16)(e) shall not apply to plan 2
33 members;

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

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

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

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

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

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

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

36 (c) Only such full time commissioned law enforcement personnel as
37 have been appointed to offices, positions, or ranks in the police
38 department which have been specifically created or otherwise expressly

1 provided for and designated by city charter provision or by ordinance
2 enacted by the legislative body of the city shall be considered city
3 police officers;

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

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

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

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

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

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

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

31 (i) The fees of the following:

32 (A) A physician or surgeon licensed under the provisions of chapter
33 18.71 RCW;

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

36 (C) A chiropractor licensed under the provisions of chapter 18.25
37 RCW.

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

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

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

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

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

8 (D) Anesthesia and oxygen;

9 (E) Rental of iron lung and other durable medical and surgical
10 equipment;

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

12 (G) Professional ambulance service when used to transport the
13 member to or from a hospital when injured by an accident or stricken by
14 a disease;

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

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

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

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

22 (L) An optometrist licensed under the provisions of chapter 18.53
23 RCW.

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

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

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

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

3 (24) "Regular interest" means such rate as the director may
4 determine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **Sec. 2.** RCW 41.32.010 and 2010 2nd sp.s. c 1 s 904 are each
5 reenacted and amended to read as follows:

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

8 (1)(a) "Accumulated contributions" for plan 1 members, means the
9 sum of all regular annuity contributions and, except for the purpose of
10 withdrawal at the time of retirement, any amount paid under RCW
11 41.50.165(2) with regular interest thereon.

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

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

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

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

24 (5) "Annuity" means the moneys payable per year during life by
25 reason of accumulated contributions of a member.

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

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

35 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
36 in receipt of a retirement allowance or other benefit provided by this

1 chapter resulting from service rendered to an employer by another
2 person.

3 (8) "Contract" means any agreement for service and compensation
4 between a member and an employer.

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

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

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

12 (12) "Director" means the director of the department.

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

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

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

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

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

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

36 (B) If a leave of absence, without pay, is taken by a member for
37 the purpose of serving as a member of the state legislature, and such
38 member has served in the legislature five or more years, the salary

1 which would have been received for the position from which the leave of
2 absence was taken shall be considered as compensation earnable if the
3 employee's contribution thereon is paid by the employee. In addition,
4 where a member has been a member of the state legislature for five or
5 more years, earnable compensation for the member's two highest
6 compensated consecutive years of service shall include a sum not to
7 exceed thirty-six hundred dollars for each of such two consecutive
8 years, regardless of whether or not legislative service was rendered
9 during those two years.

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

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

28 (A) Remuneration for unused sick leave authorized under RCW
29 41.04.340, 28A.400.210, or 28A.310.490;

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

32 (b) "Earnable compensation" for plan 2 and plan 3 members, means
33 salaries or wages earned by a member during a payroll period for
34 personal services, including overtime payments, and shall include wages
35 and salaries deferred under provisions established pursuant to sections
36 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
37 shall exclude lump sum payments for deferred annual sick leave, unused

1 accumulated vacation, unused accumulated annual leave, or any form of
2 severance pay.

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

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

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

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

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

24 (c) In calculating earnable compensation under (a) or (b) of this
25 subsection, the department of retirement systems shall include:

26 (i) Any compensation forgone by a member employed by a state agency
27 or institution during the 2009-2011 fiscal biennium as a result of
28 reduced work hours, mandatory or voluntary leave without pay, temporary
29 reduction in pay implemented prior to December 11, 2010, or temporary
30 layoffs if the reduced compensation is an integral part of the
31 employer's expenditure reduction efforts, as certified by the employer;
32 and

33 (ii) Any compensation forgone by a member during the 2011-2013
34 fiscal biennium as a result of reduced work hours, mandatory leave
35 without pay, temporary layoffs, or reductions to current pay if the
36 reduced compensation is an integral part of the employer's expenditure
37 reduction efforts, as certified by the employer. Reductions to current

1 pay shall not include elimination of previously agreed upon future
2 salary reductions.

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

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

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

15 (d) The elected position of the superintendent of public
16 instruction is an eligible position.

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

22 (17) "Employer" means the state of Washington, the school district,
23 or any agency of the state of Washington by which the member is paid.

24 (18) "Fiscal year" means a year which begins July 1st and ends June
25 30th of the following year.

26 (19) "Former state fund" means the state retirement fund in
27 operation for teachers under chapter 187, Laws of 1923, as amended.

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

32 (21) "Index A" means the index for the year prior to the
33 determination of a postretirement adjustment.

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

35 (23) "Index year" means the earliest calendar year in which the
36 index is more than sixty percent of index A.

37 (24) "Local fund" means any of the local retirement funds for

1 teachers operated in any school district in accordance with the
2 provisions of chapter 163, Laws of 1917 as amended.

3 (25) "Member" means any teacher included in the membership of the
4 retirement system who has not been removed from membership under RCW
5 41.32.878 or 41.32.768. Also, any other employee of the public schools
6 who, on July 1, 1947, had not elected to be exempt from membership and
7 who, prior to that date, had by an authorized payroll deduction,
8 contributed to the member reserve.

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

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

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

20 (29) "Pension" means the moneys payable per year during life from
21 the pension reserve.

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

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

29 (32) "Plan 2" means the teachers' retirement system, plan 2
30 providing the benefits and funding provisions covering persons who
31 first became members of the system on and after October 1, 1977, and
32 prior to July 1, 1996.

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

37 (34) "Prior service" means service rendered prior to the first date

1 of eligibility to membership in the retirement system for which credit
2 is allowable. The provisions of this subsection shall apply only to
3 plan 1 members.

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

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

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

15 (38) "Regular interest" means such rate as the director may
16 determine.

17 (39) "Retiree" means any person who has begun accruing a retirement
18 allowance or other benefit provided by this chapter resulting from
19 service rendered to an employer while a member.

20 (40)(a) "Retirement allowance" for plan 1 members, means monthly
21 payments based on the sum of annuity and pension, or any optional
22 benefits payable in lieu thereof.

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

26 (41) "Retirement system" means the Washington state teachers'
27 retirement system.

28 (42) "Separation from service or employment" occurs when a person
29 has terminated all employment with an employer. Separation from
30 service or employment does not occur, and if claimed by an employer or
31 employee may be a violation of RCW 41.32.055, when an employee and
32 employer have a written or oral agreement to resume employment with the
33 same employer following termination. Mere expressions or inquiries
34 about postretirement employment by an employer or employee that do not
35 constitute a commitment to reemploy the employee after retirement are
36 not an agreement under this section.

37 (43)(a) "Service" for plan 1 members means the time during which a
38 member has been employed by an employer for compensation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (vi) As authorized in RCW 41.32.065, service earned in an out-of-
35 state retirement system that covers teachers in public schools may be
36 applied solely for the purpose of determining eligibility to retire
37 under RCW 41.32.470.

1 (vii) The department shall adopt rules implementing this
2 subsection.

3 (44) "Service credit month" means a full service credit month or an
4 accumulation of partial service credit months that are equal to one.

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

7 (46) "State actuary" or "actuary" means the person appointed
8 pursuant to RCW 44.44.010(2).

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

12 (48) "Substitute teacher" means:

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

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

19 (49) "Teacher" means any person qualified to teach who is engaged
20 by a public school in an instructional, administrative, or supervisory
21 capacity. The term includes state, educational service district, and
22 school district superintendents and their assistants and all employees
23 certificated by the superintendent of public instruction; and in
24 addition thereto any full time school doctor who is employed by a
25 public school and renders service of an instructional or educational
26 nature.

27 **Sec. 3.** RCW 41.35.010 and 2003 c 157 s 1 are each amended to read
28 as follows:

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

31 (1) "Retirement system" means the Washington school employees'
32 retirement system provided for in this chapter.

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

35 (3) "State treasurer" means the treasurer of the state of
36 Washington.

1 (4) "Employer," for plan 2 and plan 3 members, means a school
2 district or an educational service district.

3 (5) "Member" means any employee included in the membership of the
4 retirement system, as provided for in RCW 41.35.030.

5 (6)(a) "Compensation earnable" for plan 2 and plan 3 members, means
6 salaries or wages earned by a member during a payroll period for
7 personal services, including overtime payments, and shall include wages
8 and salaries deferred under provisions established pursuant to sections
9 403(b), 414(h), and 457 of the United States internal revenue code, but
10 shall exclude nonmoney maintenance compensation and lump sum or other
11 payments for deferred annual sick leave, unused accumulated vacation,
12 unused accumulated annual leave, or any form of severance pay.

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

16 (i) Retroactive payments to an individual by an employer on
17 reinstatement of the employee in a position, or payments by an employer
18 to an individual in lieu of reinstatement, which are awarded or granted
19 as the equivalent of the salary or wage which the individual would have
20 earned during a payroll period shall be considered compensation
21 earnable to the extent provided in this subsection, and the individual
22 shall receive the equivalent service credit;

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

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

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

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

36 (iv) Compensation that a member would have received but for a
37 disability occurring in the line of duty only as authorized by RCW
38 41.40.038;

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

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

9 (7) "Service" for plan 2 and plan 3 members means periods of
10 employment by a member in an eligible position or positions for one or
11 more employers for which compensation earnable is paid. Compensation
12 earnable earned for ninety or more hours in any calendar month shall
13 constitute one service credit month except as provided in RCW
14 41.35.180. Compensation earnable earned for at least seventy hours but
15 less than ninety hours in any calendar month shall constitute one-half
16 service credit month of service. Compensation earnable earned for less
17 than seventy hours in any calendar month shall constitute one-quarter
18 service credit month of service. Time spent in standby status, whether
19 compensated or not, is not service.

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

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

24 (b) A member shall receive a total of not more than twelve service
25 credit months of service for such calendar year. If an individual is
26 employed in an eligible position by one or more employers the
27 individual shall receive no more than one service credit month during
28 any calendar month in which multiple service for ninety or more hours
29 is rendered.

30 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
31 28A.400.300 is equal to two service credit months. Use of less than
32 forty-five days of sick leave is creditable as allowed under this
33 subsection as follows:

34 (i) Less than eleven days equals one-quarter service credit month;

35 (ii) Eleven or more days but less than twenty-two days equals one-
36 half service credit month;

37 (iii) Twenty-two days equals one service credit month;

1 (iv) More than twenty-two days but less than thirty-three days
2 equals one and one-quarter service credit month; and

3 (v) Thirty-three or more days but less than forty-five days equals
4 one and one-half service credit month.

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

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

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

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

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

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

20 (14)(a) "Average final compensation" for plan 2 and plan 3 members
21 means the member's average compensation earnable of the highest
22 consecutive sixty months of service credit months prior to such
23 member's retirement, termination, or death. Periods constituting
24 authorized leaves of absence may not be used in the calculation of
25 average final compensation except under RCW 41.40.710(2).

26 (b) In calculating average final compensation under (a) of this
27 subsection, the department of retirement systems shall include any
28 compensation forgone by a member during the 2011-2013 fiscal biennium
29 as a result of reduced work hours, mandatory leave without pay,
30 temporary layoffs, or reductions to current pay if the reduced
31 compensation is an integral part of the employer's expenditure
32 reduction efforts, as certified by the employer. Reductions to current
33 pay shall not include elimination of previously agreed upon future
34 salary reductions.

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

37 (16) "Annuity" means payments for life derived from accumulated

1 contributions of a member. All annuities shall be paid in monthly
2 installments.

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

6 (18) "Retirement allowance" for plan 2 and plan 3 members means
7 monthly payments to a retiree or beneficiary as provided in this
8 chapter.

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

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

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

19 (22) "Eligible position" means any position that, as defined by the
20 employer, normally requires five or more months of service a year for
21 which regular compensation for at least seventy hours is earned by the
22 occupant thereof. For purposes of this chapter an employer shall not
23 define "position" in such a manner that an employee's monthly work for
24 that employer is divided into more than one position.

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

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

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

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

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

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

3 (29) "Plan 2" means the Washington school employees' retirement
4 system plan 2 providing the benefits and funding provisions covering
5 persons who first became members of the public employees' retirement
6 system on and after October 1, 1977, and transferred to the Washington
7 school employees' retirement system under RCW 41.40.750.

8 (30) "Plan 3" means the Washington school employees' retirement
9 system plan 3 providing the benefits and funding provisions covering
10 persons who first became members of the system on and after September
11 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

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

16 (32) "Index A" means the index for the year prior to the
17 determination of a postretirement adjustment.

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

19 (34) "Adjustment ratio" means the value of index A divided by index
20 B.

21 (35) "Separation from service" occurs when a person has terminated
22 all employment with an employer.

23 (36) "Member account" or "member's account" for purposes of plan 3
24 means the sum of the contributions and earnings on behalf of the member
25 in the defined contribution portion of plan 3.

26 (37) "Classified employee" means an employee of a school district
27 or an educational service district who is not eligible for membership
28 in the teachers' retirement system established under chapter 41.32 RCW.

29 (38) "Substitute employee" means a classified employee who is
30 employed by an employer exclusively as a substitute for an absent
31 employee.

32 **Sec. 4.** RCW 41.37.010 and 2010 2nd sp.s. c 1 s 905 are each
33 reenacted and amended to read as follows:

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

36 (1) "Accumulated contributions" means the sum of all contributions

1 standing to the credit of a member in the member's individual account,
2 including any amount paid under RCW 41.50.165(2), together with the
3 regular interest thereon.

4 (2) "Actuarial equivalent" means a benefit of equal value when
5 computed upon the basis of such mortality and other tables as may be
6 adopted by the director.

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

9 (4) "Annuity" means payments for life derived from accumulated
10 contributions of a member. All annuities shall be paid in monthly
11 installments.

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

18 (b) In calculating average final compensation under (a) of this
19 subsection, the department of retirement systems shall include:

20 (i) Any compensation forgone by a member employed by a state agency
21 or institution during the 2009-2011 fiscal biennium as a result of
22 reduced work hours, mandatory or voluntary leave without pay, temporary
23 reduction in pay implemented prior to December 11, 2010, or temporary
24 layoffs if the reduced compensation is an integral part of the
25 employer's expenditure reduction efforts, as certified by the employer;
26 and

27 (ii) Any compensation forgone by a member employed by the state or
28 a local government employer during the 2011-2013 fiscal biennium as a
29 result of reduced work hours, mandatory leave without pay, temporary
30 layoffs, or reductions to current pay if the reduced compensation is an
31 integral part of the employer's expenditure reduction efforts, as
32 certified by the employer. Reductions to current pay shall not include
33 elimination of previously agreed upon future salary increases.

34 (6) "Beneficiary" means any person in receipt of a retirement
35 allowance or other benefit provided by this chapter resulting from
36 service rendered to an employer by another person.

37 (7)(a) "Compensation earnable" for members, means salaries or wages
38 earned by a member during a payroll period for personal services,

1 including overtime payments, and shall include wages and salaries
2 deferred under provisions established pursuant to sections 403(b),
3 414(h), and 457 of the United States internal revenue code, but shall
4 exclude nonmoney maintenance compensation and lump sum or other
5 payments for deferred annual sick leave, unused accumulated vacation,
6 unused accumulated annual leave, or any form of severance pay.

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

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

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

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

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

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

29 (iv) Compensation that a member would have received but for a
30 disability occurring in the line of duty only as authorized by RCW
31 41.37.060;

32 (v) Compensation that a member receives due to participation in the
33 leave sharing program only as authorized by RCW 41.04.650 through
34 41.04.670; and

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

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

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

5 (9) "Director" means the director of the department.

6 (10) "Eligible position" means any permanent, full-time position
7 included in subsection (19) of this section.

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

13 (12) "Employer" means the Washington state department of
14 corrections, the Washington state parks and recreation commission, the
15 Washington state gambling commission, the Washington state patrol, the
16 Washington state department of natural resources, and the Washington
17 state liquor control board; any county corrections department; or any
18 city corrections department not covered under chapter 41.28 RCW.

19 (13) "Final compensation" means the annual rate of compensation
20 earnable by a member at the time of termination of employment.

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

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

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

28 (17) "Ineligible position" means any position which does not
29 conform with the requirements set forth in subsection (10) of this
30 section.

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

34 (19) "Member" means any employee employed by an employer on a full-
35 time basis:

36 (a) Who is in a position that requires completion of a certified
37 criminal justice training course and is authorized by their employer to

1 arrest, conduct criminal investigations, enforce the criminal laws of
2 the state of Washington, and carry a firearm as part of the job;

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

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

8 (d) Whose primary responsibility is to supervise members eligible
9 under this subsection.

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

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

14 (22) "Plan" means the Washington public safety employees'
15 retirement system plan 2.

16 (23) "Regular interest" means such rate as the director may
17 determine.

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

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

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

25 (27) "Retirement system" means the Washington public safety
26 employees' retirement system provided for in this chapter.

27 (28) "Separation from service" occurs when a person has terminated
28 all employment with an employer.

29 (29) "Service" means periods of employment by a member on or after
30 July 1, 2006, for one or more employers for which compensation earnable
31 is paid. Compensation earnable earned for ninety or more hours in any
32 calendar month shall constitute one service credit month. Compensation
33 earnable earned for at least seventy hours but less than ninety hours
34 in any calendar month shall constitute one-half service credit month of
35 service. Compensation earnable earned for less than seventy hours in
36 any calendar month shall constitute one-quarter service credit month of
37 service. Time spent in standby status, whether compensated or not, is
38 not service.

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

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

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

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

13 (31) "Service credit year" means an accumulation of months of
14 service credit which is equal to one when divided by twelve.

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

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

20 (34) "State treasurer" means the treasurer of the state of
21 Washington.

22 **Sec. 5.** RCW 41.40.010 and 2010 2nd sp.s. c 1 s 906 are each
23 reenacted and amended to read as follows:

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

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

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

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

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

1 (5) "Annuity" means payments for life derived from accumulated
2 contributions of a member. All annuities shall be paid in monthly
3 installments.

4 (6)(a) "Average final compensation" for plan 1 members, means the
5 annual average of the greatest compensation earnable by a member during
6 any consecutive two year period of service credit months for which
7 service credit is allowed; or if the member has less than two years of
8 service credit months then the annual average compensation earnable
9 during the total years of service for which service credit is allowed.

10 (b) "Average final compensation" for plan 2 and plan 3 members,
11 means the member's average compensation earnable of the highest
12 consecutive sixty months of service credit months prior to such
13 member's retirement, termination, or death. Periods constituting
14 authorized leaves of absence may not be used in the calculation of
15 average final compensation except under RCW 41.40.710(2) or (c) of this
16 subsection.

17 (c) In calculating average final compensation under this subsection
18 for a member of plan 1, 2, or 3, the department of retirement systems
19 shall include:

20 (i) Any compensation forgone by the member during the 2009-2011
21 fiscal biennium as a result of reduced work hours, voluntary leave
22 without pay, temporary reduction in pay implemented prior to December
23 11, 2010, or temporary furloughs if the reduced compensation is an
24 integral part of the employer's expenditure reduction efforts, as
25 certified by the employer; and

26 (ii) Any compensation forgone by a member employed by the state or
27 a local government during the 2011-2013 fiscal biennium as a result of
28 reduced work hours, mandatory leave without pay, temporary layoffs, or
29 reductions to current pay if the reduced compensation is an integral
30 part of the employer's expenditure reduction efforts, as certified by
31 the employer. Reductions to current pay shall not include elimination
32 of previously agreed upon future salary increases.

33 (7)(a) "Beneficiary" for plan 1 members, means any person in
34 receipt of a retirement allowance, pension or other benefit provided by
35 this chapter.

36 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
37 in receipt of a retirement allowance or other benefit provided by this

1 chapter resulting from service rendered to an employer by another
2 person.

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

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

11 (A) Retroactive payments to an individual by an employer on
12 reinstatement of the employee in a position, or payments by an employer
13 to an individual in lieu of reinstatement in a position which are
14 awarded or granted as the equivalent of the salary or wage which the
15 individual would have earned during a payroll period shall be
16 considered compensation earnable and the individual shall receive the
17 equivalent service credit;

18 (B) If a leave of absence is taken by an individual for the purpose
19 of serving in the state legislature, the salary which would have been
20 received for the position from which the leave of absence was taken,
21 shall be considered as compensation earnable if the employee's
22 contribution is paid by the employee and the employer's contribution is
23 paid by the employer or employee;

24 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
25 72.09.240;

26 (D) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.40.038;

29 (E) Compensation that a member receives due to participation in the
30 leave sharing program only as authorized by RCW 41.04.650 through
31 41.04.670; and

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

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

1 (A) Remuneration for unused sick leave authorized under RCW
2 41.04.340, 28A.400.210, or 28A.310.490;

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

5 (b) "Compensation earnable" for plan 2 and plan 3 members, means
6 salaries or wages earned by a member during a payroll period for
7 personal services, including overtime payments, and shall include wages
8 and salaries deferred under provisions established pursuant to sections
9 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
10 shall exclude nonmoney maintenance compensation and lump sum or other
11 payments for deferred annual sick leave, unused accumulated vacation,
12 unused accumulated annual leave, or any form of severance pay.

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

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

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

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

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

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

36 (iv) Compensation that a member would have received but for a
37 disability occurring in the line of duty only as authorized by RCW
38 41.40.038;

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

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

9 (9) "Department" means the department of retirement systems created
10 in chapter 41.50 RCW.

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

12 (11) "Eligible position" means:

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

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

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

28 (13)(a) "Employer" for plan 1 members, means every branch,
29 department, agency, commission, board, and office of the state, any
30 political subdivision or association of political subdivisions of the
31 state admitted into the retirement system, and legal entities
32 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
33 term shall also include any labor guild, association, or organization
34 the membership of a local lodge or division of which is comprised of at
35 least forty percent employees of an employer (other than such labor
36 guild, association, or organization) within this chapter. The term may
37 also include any city of the first class that has its own retirement
38 system.

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

8 (14) "Final compensation" means the annual rate of compensation
9 earnable by a member at the time of termination of employment.

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

14 (16) "Index A" means the index for the year prior to the
15 determination of a postretirement adjustment.

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

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

19 (19) "Ineligible position" means any position which does not
20 conform with the requirements set forth in subsection (11) of this
21 section.

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

25 (21) "Member" means any employee included in the membership of the
26 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
27 does not prohibit a person otherwise eligible for membership in the
28 retirement system from establishing such membership effective when he
29 or she first entered an eligible position.

30 (22) "Member account" or "member's account" for purposes of plan 3
31 means the sum of the contributions and earnings on behalf of the member
32 in the defined contribution portion of plan 3.

33 (23) "Membership service" means:

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

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

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

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

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

19 (25) "Original member" of this retirement system means:

20 (a) Any person who became a member of the system prior to April 1,
21 1949;

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

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

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

34 (e) Any member who has restored all contributions that may have
35 been withdrawn as provided by RCW 41.40.150 and who on the effective
36 date of the individual's retirement becomes entitled to be credited
37 with ten years or more of membership service except that the provisions

1 relating to the minimum amount of retirement allowance for the member
2 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
3 apply to the member;

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

13 (26) "Pension" means payments for life derived from contributions
14 made by the employer. All pensions shall be paid in monthly
15 installments.

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

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

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

- 25 (a) First become a member on or after:
 - 26 (i) March 1, 2002, and are employed by a state agency or institute
 - 27 of higher education and who did not choose to enter plan 2; or
 - 28 (ii) September 1, 2002, and are employed by other than a state
 - 29 agency or institute of higher education and who did not choose to enter
 - 30 plan 2; or
- 31 (b) Transferred to plan 3 under RCW 41.40.795.

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

34 (31) "Regular interest" means such rate as the director may
35 determine.

36 (32) "Retiree" means any person who has begun accruing a retirement
37 allowance or other benefit provided by this chapter resulting from
38 service rendered to an employer while a member.

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

3 (34) "Retirement allowance" means the sum of the annuity and the
4 pension.

5 (35) "Retirement system" means the public employees' retirement
6 system provided for in this chapter.

7 (36) "Separation from service" occurs when a person has terminated
8 all employment with an employer. Separation from service or employment
9 does not occur, and if claimed by an employer or employee may be a
10 violation of RCW 41.40.055, when an employee and employer have a
11 written or oral agreement to resume employment with the same employer
12 following termination. Mere expressions or inquiries about
13 postretirement employment by an employer or employee that do not
14 constitute a commitment to reemploy the employee after retirement are
15 not an agreement under this subsection.

16 (37)(a) "Service" for plan 1 members, except as provided in RCW
17 41.40.088, means periods of employment in an eligible position or
18 positions for one or more employers rendered to any employer for which
19 compensation is paid, and includes time spent in office as an elected
20 or appointed official of an employer. Compensation earnable earned in
21 full time work for seventy hours or more in any given calendar month
22 shall constitute one service credit month except as provided in RCW
23 41.40.088. Compensation earnable earned for less than seventy hours in
24 any calendar month shall constitute one-quarter service credit month of
25 service except as provided in RCW 41.40.088. Only service credit
26 months and one-quarter service credit months shall be counted in the
27 computation of any retirement allowance or other benefit provided for
28 in this chapter. Any fraction of a year of service shall be taken into
29 account in the computation of such retirement allowance or benefits.
30 Time spent in standby status, whether compensated or not, is not
31 service.

32 (i) Service by a state employee officially assigned by the state on
33 a temporary basis to assist another public agency, shall be considered
34 as service as a state employee: PROVIDED, That service to any other
35 public agency shall not be considered service as a state employee if
36 such service has been used to establish benefits in any other public
37 retirement system.

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

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

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

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

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

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

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

32 (i) Service in any state elective position shall be deemed to be
33 full time service, except that persons serving in state elective
34 positions who are members of the Washington school employees'
35 retirement system, teachers' retirement system, public safety
36 employees' retirement system, or law enforcement officers' and
37 firefighters' retirement system at the time of election or appointment
38 to such position may elect to continue membership in the Washington

1 school employees' retirement system, teachers' retirement system,
2 public safety employees' retirement system, or law enforcement
3 officers' and firefighters' retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Sec. 6.** RCW 43.43.120 and 2010 2nd sp.s. c 1 s 907 are each
2 amended to read as follows:

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

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

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

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

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

24 (c) In calculating average final salary under (a) or (b) of this
25 subsection, the department of retirement systems shall include:

26 (i) Any compensation forgone by the member during the 2009-2011
27 fiscal biennium as a result of reduced work hours, mandatory or
28 voluntary leave without pay, temporary reduction in pay implemented
29 prior to December 11, 2010, or temporary layoffs if the reduced
30 compensation is an integral part of the employer's expenditure
31 reduction efforts, as certified by the chief; and

32 (ii) Any compensation forgone by a member during the 2011-2013
33 fiscal biennium as a result of reduced work hours, mandatory leave
34 without pay, temporary layoffs, or reductions to current pay if the
35 reduced compensation is an integral part of the employer's expenditure
36 reduction efforts, as certified by the chief. Reductions to current
37 pay shall not include elimination of previously agreed upon future
38 salary reductions.

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

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

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

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

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

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

24 (9) "Director" means the director of the department of retirement
25 systems.

26 (10) "Domestic partners" means two adults who have registered as
27 domestic partners under RCW 26.60.040.

28 (11) "Employee" means any commissioned employee of the Washington
29 state patrol.

30 (12) "Insurance commissioner" means the insurance commissioner of
31 the state of Washington.

32 (13) "Lieutenant governor" means the lieutenant governor of the
33 state of Washington.

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

36 (15) "Plan 2" means the Washington state patrol retirement system
37 plan 2, providing the benefits and funding provisions covering

1 commissioned employees who first become members of the system on or
2 after January 1, 2003.

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

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

10 (18) "Retirement board" means the board provided for in this
11 chapter.

12 (19) "Retirement fund" means the Washington state patrol retirement
13 fund.

14 (20) "Retirement system" means the Washington state patrol
15 retirement system.

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

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

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

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

1 (24) "State treasurer" means the treasurer of the state of
2 Washington.

3 Unless the context expressly indicates otherwise, words importing
4 the masculine gender shall be extended to include the feminine gender
5 and words importing the feminine gender shall be extended to include
6 the masculine gender.

7 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 July 1, 2011.

Passed by the House May 2, 2011.
Passed by the Senate May 9, 2011.
Approved by the Governor May 31, 2011.
Filed in Office of Secretary of State June 1, 2011.