
SENATE BILL 6005

State of Washington

64th Legislature

2015 Regular Session

By Senator Braun

Read first time 02/16/15. Referred to Committee on Ways & Means.

1 AN ACT Relating to establishing the state average annual wage as
2 the maximum compensation to be used for calculating state retirement
3 benefits; and amending RCW 28B.10.410, 41.32.010, 41.32.035,
4 41.35.010, 41.35.430, 41.37.010, 41.37.220, 41.40.010, and 41.40.048.

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

6 **Sec. 1.** RCW 28B.10.410 and 2012 c 229 s 514 are each amended to
7 read as follows:

8 (1) The boards of regents of the state universities, the boards
9 of trustees of the regional universities and of The Evergreen State
10 College, the student achievement council, or the state board for
11 community and technical colleges shall pay not more than one-half of
12 the annual premium of any annuity or retirement income plan
13 established under the provisions of RCW 28B.10.400. Such contribution
14 shall not exceed ten percent of the salary of the faculty member or
15 other employee on whose behalf the contribution is made. This
16 contribution may be in addition to federal social security tax
17 contributions made by the boards, if any.

18 (2) For persons first employed after December 31, 2015, annual
19 contributions by the boards of regents of the state universities, the
20 boards of trustees of the regional universities and of The Evergreen
21 State College, the student achievement council, or the state board

1 for community and technical colleges shall not exceed ten percent of
2 the state average annual wage for the prior calendar year as
3 determined pursuant to RCW 50.04.355.

4 **Sec. 2.** RCW 41.32.010 and 2012 c 236 s 3 are each amended to
5 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
10 of 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
14 member's individual account, including any amount paid under RCW
15 41.50.165(2), 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
20 index B.

21 (4) "Annual increase" means, initially, fifty-nine cents per
22 month per year of service which amount shall be increased each July
23 1st by 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). For persons who first
32 become members after December 31, 2015, the average final
33 compensation calculation may not exceed the state average annual wage
34 for the prior calendar year as determined pursuant to RCW 50.04.355.
35 The department shall inform members and employers of the annual
36 changes to the state average wage limit.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (B) If a leave of absence, without pay, is taken by a member for
39 the purpose of serving as a member of the state legislature, and such
40 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
2 of absence was taken shall be considered as compensation earnable if
3 the employee's contribution thereon is paid by the employee. In
4 addition, where a member has been a member of the state legislature
5 for five or more years, earnable compensation for the member's two
6 highest compensated consecutive years of service shall include a sum
7 not to exceed thirty-six hundred dollars for each of such two
8 consecutive years, regardless of whether or not legislative service
9 was rendered 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
13 of less than one year in all of the years used to determine the
14 earnable compensation used for computing benefits due under RCW
15 41.32.497, 41.32.498, and 41.32.520, the member may elect to have
16 earnable compensation defined as provided in RCW 41.32.345. For the
17 purposes of this subsection, the term "instructional position" means
18 a position in which more than seventy-five percent of the member's
19 time is spent as a classroom instructor (including office hours), a
20 librarian, a psychologist, a social worker, a nurse, a physical
21 therapist, an occupational therapist, a speech language pathologist
22 or audiologist, or a counselor. Earnable compensation shall be so
23 defined only for the purpose of the calculation of retirement
24 benefits and only as necessary to insure that members who receive
25 fractional service credit under RCW 41.32.270 receive benefits
26 proportional to those received by members who have received full-time
27 service credit.

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

29 (A) Remuneration for unused sick leave authorized under RCW
30 41.04.340, 28A.400.210, or 28A.310.490;

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

33 (b) "Earnable compensation" for plan 2 and plan 3 members, means
34 salaries or wages earned by a member during a payroll period for
35 personal services, including overtime payments, and shall include
36 wages and salaries deferred under provisions established pursuant to
37 sections 403(b), 414(h), and 457 of the United States Internal
38 Revenue Code, but shall exclude lump sum payments for deferred annual
39 sick leave, unused accumulated vacation, unused accumulated annual
40 leave, or any form of severance pay. For persons who first become

1 members after December 31, 2015, the maximum annual earnable
2 compensation for which member and employer contribution rates
3 established under chapter 41.45 RCW shall be applied shall be the
4 state average annual wage for the prior calendar year as determined
5 pursuant to RCW 50.04.355. The department shall inform members and
6 employers of the annual changes to the state average wage limit.

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

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

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

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

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

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

31 (i) Any compensation forgone by a member employed by a state
32 agency or institution during the 2009-2011 fiscal biennium as a
33 result of reduced work hours, mandatory or voluntary leave without
34 pay, temporary reduction in pay implemented prior to December 11,
35 2010, or temporary layoffs if the reduced compensation is an integral
36 part of the employer's expenditure reduction efforts, as certified by
37 the employer; and

38 (ii) Any compensation forgone by a member during the 2011-2013
39 fiscal biennium as a result of reduced work hours, mandatory leave
40 without pay, temporary layoffs, or reductions to current pay if the

1 reduced compensation is an integral part of the employer's
2 expenditure reduction efforts, as certified by the employer.
3 Reductions to current pay shall not include elimination of previously
4 agreed upon future salary reductions.

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

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

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

17 (d) The elected position of the superintendent of public
18 instruction is an eligible position.

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

24 (17) "Employer" means the state of Washington, the school
25 district, or any agency of the state of Washington by which the
26 member is paid. Except as otherwise specifically provided in this
27 chapter, "employer" does not include a government contractor. For
28 purposes of this subsection, a "government contractor" is any entity,
29 including a partnership, limited liability company, for-profit or
30 nonprofit corporation, or person, that provides services pursuant to
31 a contract with an employer. The determination whether an employer-
32 employee relationship has been established is not based on the
33 relationship between a government contractor and an employer, but is
34 based solely on the relationship between a government contractor's
35 employee and an employer under this chapter.

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

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

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

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

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

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

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

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

19 (26) "Member account" or "member's account" for purposes of plan
20 3 means the sum of the contributions and earnings on behalf of the
21 member in the defined contribution portion of plan 3.

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

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

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

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

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

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

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

9 (34) "Prior service" means service rendered prior to the first
10 date of eligibility to membership in the retirement system for which
11 credit is allowable. The provisions of this subsection shall apply
12 only to plan 1 members.

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

16 (36) "Public school" means any institution or activity operated
17 by the state of Washington or any instrumentality or political
18 subdivision thereof employing teachers, except the University of
19 Washington and Washington State University.

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

24 (38) "Regular interest" means such rate as the director may
25 determine.

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

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

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

35 (41) "Retirement system" means the Washington state teachers'
36 retirement system.

37 (42) "Separation from service or employment" occurs when a person
38 has terminated all employment with an employer. Separation from
39 service or employment does not occur, and if claimed by an employer
40 or employee may be a violation of RCW 41.32.055, when an employee and

1 employer have a written or oral agreement to resume employment with
2 the same employer following termination. Mere expressions or
3 inquiries about postretirement employment by an employer or employee
4 that do not constitute a commitment to reemploy the employee after
5 retirement are not an agreement under this section.

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

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

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

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

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

21 (i) A member employed in an eligible position or as a substitute
22 shall receive one service credit month for each month of September
23 through August of the following year if he or she earns earnable
24 compensation for eight hundred ten or more hours during that period
25 and is employed during nine of those months, except that a member may
26 not receive credit for any period prior to the member's employment in
27 an eligible position except as provided in RCW 41.32.812 and
28 41.50.132.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (vii) The department shall adopt rules implementing this
8 subsection.

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

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

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

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

19 (48) "Substitute teacher" means:

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

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

26 (49) "Teacher" means any person qualified to teach who is engaged
27 by a public school in an instructional, administrative, or
28 supervisory capacity. The term includes state, educational service
29 district, and school district superintendents and their assistants
30 and all employees certificated by the superintendent of public
31 instruction; and in addition thereto any full time school doctor who
32 is employed by a public school and renders service of an
33 instructional or educational nature.

34 **Sec. 3.** RCW 41.32.035 and 1990 c 274 s 8 are each amended to
35 read as follows:

36 The amount paid by each employer shall be computed by applying
37 the rates established under chapter 41.45 RCW to the total earnable
38 compensation of the employer's members as shown on the current
39 payrolls of the employer. For persons who first become members after

1 December 31, 2015, the maximum annual earnable compensation for which
2 member and employer contribution rates established under chapter
3 41.45 RCW shall be applied shall be the state average annual wage for
4 the prior calendar year as determined pursuant to RCW 50.04.355. The
5 department shall inform members and employers of the annual changes
6 to the state average wage limit. The employer's contribution shall be
7 paid at the end of each month in the amount due for that month,
8 except as provided in RCW 41.32.013.

9 **Sec. 4.** RCW 41.35.010 and 2012 c 236 s 4 are each amended to
10 read as follows:

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

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

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

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

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

25 (5)(a) "Average final compensation" for plan 2 and plan 3 members
26 means the member's average compensation earnable of the highest
27 consecutive sixty months of service credit months prior to such
28 member's retirement, termination, or death. Periods constituting
29 authorized leaves of absence may not be used in the calculation of
30 average final compensation except under RCW 41.40.710(2). For persons
31 who become members after December 31, 2015, the annual average final
32 compensation may not exceed the state average annual wage for the
33 prior calendar year as determined pursuant to RCW 50.04.355. The
34 department shall inform members and employers of the annual changes
35 to the state average wage limit.

36 (b) In calculating average final compensation under (a) of this
37 subsection, the department of retirement systems shall include any
38 compensation forgone by a member during the 2011-2013 fiscal biennium
39 as a result of reduced work hours, mandatory leave without pay,

1 temporary layoffs, or reductions to current pay if the reduced
2 compensation is an integral part of the employer's expenditure
3 reduction efforts, as certified by the employer. Reductions to
4 current pay shall not include elimination of previously agreed upon
5 future salary reductions.

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

10 (7) "Classified employee" means an employee of a school district
11 or an educational service district who is not eligible for membership
12 in the teachers' retirement system established under chapter 41.32
13 RCW.

14 (8)(a) "Compensation earnable" for plan 2 and plan 3 members,
15 means salaries or wages earned by a member during a payroll period
16 for personal services, including overtime payments, and shall include
17 wages and salaries deferred under provisions established pursuant to
18 sections 403(b), 414(h), and 457 of the United States internal
19 revenue code, but shall exclude nonmoney maintenance compensation and
20 lump sum or other payments for deferred annual sick leave, unused
21 accumulated vacation, unused accumulated annual leave, or any form of
22 severance pay. For persons who first become members after December
23 31, 2015, the maximum annual compensation earnable for which member
24 and employer contribution rates established under chapter 41.45 RCW
25 shall be applied shall be the state average annual wage for the prior
26 calendar year as determined pursuant to RCW 50.04.355. The department
27 shall inform members and employers of the annual changes to the state
28 average wage limit.

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

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

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

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

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

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

15 (iv) Compensation that a member would have received but for a
16 disability occurring in the line of duty only as authorized by RCW
17 41.40.038;

18 (v) Compensation that a member receives due to participation in
19 the leave sharing program only as authorized by RCW 41.04.650 through
20 41.04.670; and

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

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

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

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

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

1 (13) "Employer," for plan 2 and plan 3 members, means a school
2 district or an educational service district. Except as otherwise
3 specifically provided in this chapter, "employer" does not include a
4 government contractor. For purposes of this subsection, a "government
5 contractor" is any entity, including a partnership, limited liability
6 company, for-profit or nonprofit corporation, or person, that
7 provides services pursuant to a contract with an employer. The
8 determination whether an employer-employee relationship has been
9 established is not based on the relationship between a government
10 contractor and an employer, but is based solely on the relationship
11 between a government contractor's employee and an employer under this
12 chapter.

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

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

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

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

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

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

28 (20) "Member" means any employee included in the membership of
29 the retirement system, as provided for in RCW 41.35.030.

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

33 (22) "Membership service" means all service rendered as a member.

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

37 (24) "Plan 2" means the Washington school employees' retirement
38 system plan 2 providing the benefits and funding provisions covering
39 persons who first became members of the public employees' retirement

1 system on and after October 1, 1977, and transferred to the
2 Washington school employees' retirement system under RCW 41.40.750.

3 (25) "Plan 3" means the Washington school employees' retirement
4 system plan 3 providing the benefits and funding provisions covering
5 persons who first became members of the system on and after September
6 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

7 (26) "Regular interest" means such rate as the director may
8 determine.

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

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

14 (29) "Retirement allowance" for plan 2 and plan 3 members means
15 monthly payments to a retiree or beneficiary as provided in this
16 chapter.

17 (30) "Retirement system" means the Washington school employees'
18 retirement system provided for in this chapter.

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

21 (32) "Service" for plan 2 and plan 3 members means periods of
22 employment by a member in an eligible position or positions for one
23 or more employers for which compensation earnable is paid.
24 Compensation earnable earned for ninety or more hours in any calendar
25 month shall constitute one service credit month except as provided in
26 RCW 41.35.180. Compensation earnable earned for at least seventy
27 hours but less than ninety hours in any calendar month shall
28 constitute one-half service credit month of service. Compensation
29 earnable earned for less than seventy hours in any calendar month
30 shall constitute one-quarter service credit month of service. Time
31 spent in standby status, whether compensated or not, is not service.

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

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

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

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

3 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
4 28A.400.300 is equal to two service credit months. Use of less than
5 forty-five days of sick leave is creditable as allowed under this
6 subsection as follows:

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

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

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

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

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

16 (33) "Service credit month" means a month or an accumulation of
17 months of service credit which is equal to one.

18 (34) "Service credit year" means an accumulation of months of
19 service credit which is equal to one when divided by twelve.

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

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

25 (37) "State treasurer" means the treasurer of the state of
26 Washington.

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

30 **Sec. 5.** RCW 41.35.430 and 1998 c 341 s 104 are each amended to
31 read as follows:

32 The required contribution rates to the retirement system for both
33 members and employers shall be established by the director from time
34 to time as may be necessary upon the advice of the state actuary. The
35 state actuary shall use the aggregate actuarial cost method to
36 calculate contribution rates. The employer contribution rate
37 calculated under this section shall be used only for the purpose of
38 determining the amount of employer contributions to be deposited in

1 the plan 2 fund from the total employer contributions collected under
2 RCW 41.35.090.

3 Contribution rates required to fund the costs of the retirement
4 system shall always be equal for members and employers, except as
5 herein provided. Any adjustments in contribution rates required from
6 time to time for future costs shall likewise be shared equally by the
7 members and employers.

8 Any increase in the contribution rate required as the result of a
9 failure of an employer to make any contribution required by this
10 section shall be borne in full by the employer not making the
11 contribution.

12 The director shall notify all employers of any pending adjustment
13 in the required contribution rate and such increase shall be
14 announced at least thirty days prior to the effective date of the
15 change.

16 Members contributions required by this section shall be deducted
17 from the members compensation earnable each payroll period. For
18 persons who first become members after December 31, 2015, the maximum
19 annual compensation earnable for which employer and member
20 contribution rates established under chapter 41.45 RCW shall be
21 applied shall be the state average annual wage for the prior calendar
22 year as determined pursuant to RCW 50.04.355. The department shall
23 inform members and employers of the annual changes to the state
24 average wage limit. The members contribution and the employers
25 contribution shall be remitted directly to the department within
26 fifteen days following the end of the calendar month during which the
27 payroll period ends.

28 **Sec. 6.** RCW 41.37.010 and 2012 c 236 s 5 are each amended to
29 read as follows:

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

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

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

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

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

6 (5)(a) "Average final compensation" means the member's average
7 compensation earnable of the highest consecutive sixty months of
8 service credit months prior to such member's retirement, termination,
9 or death. Periods constituting authorized leaves of absence may not
10 be used in the calculation of average final compensation except under
11 RCW 41.37.290. For persons who first become members after December
12 31, 2015, the average final compensation calculation may not exceed
13 the state average annual wage for the prior calendar year as
14 determined pursuant to RCW 50.04.355. The department shall inform
15 members and employers of the annual changes to the state average wage
16 limit.

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

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

26 (ii) Any compensation forgone by a member employed by the state
27 or a local government employer during the 2011-2013 fiscal biennium
28 as a result of reduced work hours, mandatory leave without pay,
29 temporary layoffs, or reductions to current pay if the reduced
30 compensation is an integral part of the employer's expenditure
31 reduction efforts, as certified by the employer. Reductions to
32 current pay shall not include elimination of previously agreed upon
33 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
38 wages earned by a member during a payroll period for personal
39 services, including overtime payments, and shall include wages and
40 salaries deferred under provisions established pursuant to sections

1 403(b), 414(h), and 457 of the United States internal revenue code,
2 but shall exclude nonmoney maintenance compensation and lump sum or
3 other payments for deferred annual sick leave, unused accumulated
4 vacation, unused accumulated annual leave, or any form of severance
5 pay. For persons who first become members after December 31, 2015,
6 the maximum annual compensation earnable for which member and
7 employer contribution rates established under chapter 41.45 RCW shall
8 be applied shall be the state average annual wage for the prior
9 calendar year as determined pursuant to RCW 50.04.355. The department
10 shall inform members and employers of the annual changes to the state
11 average wage limit.

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

15 (i) Retroactive payments to an individual by an employer on
16 reinstatement of the employee in a position, or payments by an
17 employer to an individual in lieu of reinstatement, which are awarded
18 or granted as the equivalent of the salary or wage which the
19 individual would have earned during a payroll period shall be
20 considered compensation earnable to the extent provided in this
21 subsection, and the individual shall receive the equivalent service
22 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.
30 Any additional contributions to the retirement system required
31 because compensation earnable under (b)(ii)(A) of this subsection is
32 greater than compensation earnable under (b)(ii)(B) of this
33 subsection shall be paid by the member for both member and employer
34 contributions;

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

37 (iv) Compensation that a member would have received but for a
38 disability occurring in the line of duty only as authorized by RCW
39 41.37.060;

1 (v) Compensation that a member receives due to participation in
2 the 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 (8) "Department" means the department of retirement systems
10 created in chapter 41.50 RCW.

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

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

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

19 (12) "Employer" means the Washington state department of
20 corrections, the Washington state parks and recreation commission,
21 the Washington state gambling commission, the Washington state
22 patrol, the Washington state department of natural resources, and the
23 Washington state liquor control board; any county corrections
24 department; any city corrections department not covered under chapter
25 41.28 RCW; and any public corrections entity created under RCW
26 39.34.030 by counties, cities not covered under chapter 41.28 RCW, or
27 both. Except as otherwise specifically provided in this chapter,
28 "employer" does not include a government contractor. For purposes of
29 this subsection, a "government contractor" is any entity, including a
30 partnership, limited liability company, for-profit or nonprofit
31 corporation, or person, that provides services pursuant to a contract
32 with an employer. The determination whether an employer-employee
33 relationship has been established is not based on the relationship
34 between a government contractor and an employer, but is based solely
35 on the relationship between a government contractor's employee and an
36 employer under this chapter.

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

39 (14) "Index" means, for any calendar year, that year's annual
40 average consumer price index, Seattle, Washington area, for urban

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 **Sec. 7.** RCW 41.37.220 and 2004 c 242 s 28 are each amended to
37 read as follows:

38 The required contribution rates to the retirement system for both
39 members and employers shall be established by the director from time

1 to time as may be necessary upon the advice of the state actuary. The
2 state actuary shall use the aggregate actuarial cost method to
3 calculate contribution rates. The employer contribution rate
4 calculated under this section shall be used only for the purpose of
5 determining the amount of employer contributions to be deposited in
6 the plan 2 fund from the total employer contributions collected under
7 RCW 41.37.080.

8 Contribution rates required to fund the costs of the retirement
9 system shall always be equal for members and employers, except under
10 this section. Any adjustments in contribution rates required from
11 time to time for future costs shall likewise be shared equally by the
12 members and employers.

13 For persons who first become members after December 31, 2015, the
14 maximum annual compensation earnable for which member and employer
15 contribution rates established under chapter 41.45 RCW shall be
16 applied shall be the state average annual wage for the prior calendar
17 year as determined pursuant to RCW 50.04.355. The department shall
18 inform members and employers of the annual changes to the state
19 average wage limit.

20 Any increase in the contribution rate required as the result of a
21 failure of an employer to make any contribution required by this
22 section shall be borne in full by the employer not making the
23 contribution.

24 The director shall notify all employers of any pending adjustment
25 in the required contribution rate and the increase shall be announced
26 at least thirty days prior to the effective date of the change.

27 A member's contributions required by this section shall be
28 deducted from the member's compensation earnable each payroll period.
29 The member's contribution and the employer's contribution shall be
30 remitted directly to the department within fifteen days following the
31 end of the calendar month during which the payroll period ends.

32 **Sec. 8.** RCW 41.40.010 and 2012 c 236 s 6 are each amended to
33 read as follows:

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

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

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

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

6 (4) "Annual increase" means, initially, fifty-nine cents per
7 month per year of service which amount shall be increased each July
8 1st by three percent, rounded to the nearest cent.

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

12 (6)(a) "Average final compensation" for plan 1 members, means the
13 annual average of the greatest compensation earnable by a member
14 during any consecutive two year period of service credit months for
15 which service credit is allowed; or if the member has less than two
16 years of service credit months then the annual average compensation
17 earnable during the total years of service for which service credit
18 is allowed.

19 (b) "Average final compensation" for plan 2 and plan 3 members,
20 means the member's average compensation earnable of the highest
21 consecutive sixty months of service credit months prior to such
22 member's retirement, termination, or death. Periods constituting
23 authorized leaves of absence may not be used in the calculation of
24 average final compensation except under RCW 41.40.710(2) or (c) of
25 this subsection. For persons who first become members after December
26 31, 2015, the average final compensation calculation may not exceed
27 the state average annual wage for the prior calendar year as
28 determined pursuant to RCW 50.04.355. The department shall inform
29 members and employers of the annual changes to the state average wage
30 limit.

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

34 (i) Any compensation forgone by the member during the 2009-2011
35 fiscal biennium as a result of reduced work hours, voluntary leave
36 without pay, temporary reduction in pay implemented prior to December
37 11, 2010, or temporary furloughs if the reduced compensation is an
38 integral part of the employer's expenditure reduction efforts, as
39 certified by the employer; and

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

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

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

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

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

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

31 (B) If a leave of absence is taken by an individual for the
32 purpose of serving in the state legislature, the salary which would
33 have been received for the position from which the leave of absence
34 was taken, shall be considered as compensation earnable if the
35 employee's contribution is paid by the employee and the employer's
36 contribution is paid by the employer or employee;

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

1 (D) Compensation that a member would have received but for a
2 disability occurring in the line of duty only as authorized by RCW
3 41.40.038;

4 (E) Compensation that a member receives due to participation in
5 the leave sharing program only as authorized by RCW 41.04.650 through
6 41.04.670; and

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

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

13 (A) Remuneration for unused sick leave authorized under RCW
14 41.04.340, 28A.400.210, or 28A.310.490;

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

17 (b) "Compensation earnable" for plan 2 and plan 3 members, means
18 salaries or wages earned by a member during a payroll period for
19 personal services, including overtime payments, and shall include
20 wages and salaries deferred under provisions established pursuant to
21 sections 403(b), 414(h), and 457 of the United States Internal
22 Revenue Code, but shall exclude nonmoney maintenance compensation and
23 lump sum or other payments for deferred annual sick leave, unused
24 accumulated vacation, unused accumulated annual leave, or any form of
25 severance pay. For persons who first become members after December
26 31, 2015, the maximum annual compensation earnable for which member
27 and employer contribution rates established under chapter 41.45 RCW
28 shall be applied shall be the state average annual wage for the prior
29 calendar year as determined pursuant to RCW 50.04.355. The department
30 shall inform members and employers of the annual changes to the state
31 average wage limit.

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

35 (i) Retroactive payments to an individual by an employer on
36 reinstatement of the employee in a position, or payments by an
37 employer to an individual in lieu of reinstatement in a position
38 which are awarded or granted as the equivalent of the salary or wage
39 which the individual would have earned during a payroll period shall

1 be considered compensation earnable to the extent provided above, and
2 the individual shall receive the equivalent service credit;

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

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

8 (B) Such member's actual compensation earnable received for
9 nonlegislative public employment and legislative service combined.
10 Any additional contributions to the retirement system required
11 because compensation earnable under (b)(ii)(A) of this subsection is
12 greater than compensation earnable under (b)(ii)(B) of this
13 subsection shall be paid by the member for both member and employer
14 contributions;

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

17 (iv) Compensation that a member would have received but for a
18 disability occurring in the line of duty only as authorized by RCW
19 41.40.038;

20 (v) Compensation that a member receives due to participation in
21 the leave sharing program only as authorized by RCW 41.04.650 through
22 41.04.670; and

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

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

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

31 (11) "Eligible position" means:

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

38 (b) Any position occupied by an elected official or person
39 appointed directly by the governor, or appointed by the chief justice

1 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
2 compensation is paid.

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

8 (13)(a) "Employer" for plan 1 members, means every branch,
9 department, agency, commission, board, and office of the state, any
10 political subdivision or association of political subdivisions of the
11 state admitted into the retirement system, and legal entities
12 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and
13 the term shall also include any labor guild, association, or
14 organization the membership of a local lodge or division of which is
15 comprised of at least forty percent employees of an employer (other
16 than such labor guild, association, or organization) within this
17 chapter. The term may also include any city of the first class that
18 has its own retirement system.

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

27 (c) Except as otherwise specifically provided in this chapter,
28 "employer" does not include a government contractor. For purposes of
29 this subsection, a "government contractor" is any entity, including a
30 partnership, limited liability company, for-profit or nonprofit
31 corporation, or person, that provides services pursuant to a contract
32 with an "employer." The determination whether an employer-employee
33 relationship has been established is not based on the relationship
34 between a government contractor and an "employer," but is based
35 solely on the relationship between a government contractor's employee
36 and an "employer" under this chapter.

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

39 (15) "Index" means, for any calendar year, that year's annual
40 average consumer price index, Seattle, Washington area, for urban

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

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

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

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

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

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

14 (21) "Member" means any employee included in the membership of
15 the retirement system, as provided for in RCW 41.40.023. RCW
16 41.26.045 does not prohibit a person otherwise eligible for
17 membership in the retirement system from establishing such membership
18 effective when he or she first entered an eligible position.

19 (22) "Member account" or "member's account" for purposes of plan
20 3 means the sum of the contributions and earnings on behalf of the
21 member in the defined contribution portion of plan 3.

22 (23) "Membership service" means:

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

24 (b) All service after October 1, 1947, to any employer prior to
25 the time of its admission into the retirement system for which member
26 and employer contributions, plus interest as required by RCW
27 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

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

37 (d) Service not to exceed six consecutive months of probationary
38 service, rendered after October 1, 1947, and before April 1, 1949,
39 and prior to becoming a member, in the case of any member, upon
40 payment in full by such member of five percent of such member's

1 salary during said period of probationary service, except that the
2 amount of the employer's contribution shall be calculated by the
3 director based on the first month's compensation earnable as a
4 member.

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

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

8 (a) Any person who became a member of the system prior to April
9 1, 1949;

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

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

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

22 (e) Any member who has restored all contributions that may have
23 been withdrawn as provided by RCW 41.40.150 and who on the effective
24 date of the individual's retirement becomes entitled to be credited
25 with ten years or more of membership service except that the
26 provisions relating to the minimum amount of retirement allowance for
27 the member upon retirement at age seventy as found in RCW
28 41.40.190(4) shall not apply to the member;

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

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

1 (27) "Plan 1" means the public employees' retirement system, plan
2 1 providing the benefits and funding provisions covering persons who
3 first became members of the system prior to October 1, 1977.

4 (28) "Plan 2" means the public employees' retirement system, plan
5 2 providing the benefits and funding provisions covering persons who
6 first became members of the system on and after October 1, 1977, and
7 are not included in plan 3.

8 (29) "Plan 3" means the public employees' retirement system, plan
9 3 providing the benefits and funding provisions covering persons who:

10 (a) First become a member on or after:

11 (i) March 1, 2002, and are employed by a state agency or
12 institute of higher education and who did not choose to enter plan 2;
13 or

14 (ii) September 1, 2002, and are employed by other than a state
15 agency or institute of higher education and who did not choose to
16 enter plan 2; or

17 (b) Transferred to plan 3 under RCW 41.40.795.

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

20 (31) "Regular interest" means such rate as the director may
21 determine.

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

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

27 (34) "Retirement allowance" means the sum of the annuity and the
28 pension.

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

31 (36) "Separation from service" occurs when a person has
32 terminated all employment with an employer. Separation from service
33 or employment does not occur, and if claimed by an employer or
34 employee may be a violation of RCW 41.40.055, when an employee and
35 employer have a written or oral agreement to resume employment with
36 the same employer following termination. Mere expressions or
37 inquiries about postretirement employment by an employer or employee
38 that do not constitute a commitment to reemploy the employee after
39 retirement are not an agreement under this subsection.

1 (37)(a) "Service" for plan 1 members, except as provided in RCW
2 41.40.088, means periods of employment in an eligible position or
3 positions for one or more employers rendered to any employer for
4 which compensation is paid, and includes time spent in office as an
5 elected or appointed official of an employer. Compensation earnable
6 earned in full time work for seventy hours or more in any given
7 calendar month shall constitute one service credit month except as
8 provided in RCW 41.40.088. Compensation earnable earned for less than
9 seventy hours in any calendar month shall constitute one-quarter
10 service credit month of service except as provided in RCW 41.40.088.
11 Only service credit months and one-quarter service credit months
12 shall be counted in the computation of any retirement allowance or
13 other benefit provided for in this chapter. Any fraction of a year of
14 service shall be taken into account in the computation of such
15 retirement allowance or benefits. Time spent in standby status,
16 whether compensated or not, is not service.

17 (i) Service by a state employee officially assigned by the state
18 on a temporary basis to assist another public agency, shall be
19 considered as service as a state employee: PROVIDED, That service to
20 any other public agency shall not be considered service as a state
21 employee if such service has been used to establish benefits in any
22 other public retirement system.

23 (ii) An individual shall receive no more than a total of twelve
24 service credit months of service during any calendar year. If an
25 individual is employed in an eligible position by one or more
26 employers the individual shall receive no more than one service
27 credit month during any calendar month in which multiple service for
28 seventy or more hours is rendered.

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

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

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

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

1 (b) "Service" for plan 2 and plan 3 members, means periods of
2 employment by a member in an eligible position or positions for one
3 or more employers for which compensation earnable is paid.
4 Compensation earnable earned for ninety or more hours in any calendar
5 month shall constitute one service credit month except as provided in
6 RCW 41.40.088. Compensation earnable earned for at least seventy
7 hours but less than ninety hours in any calendar month shall
8 constitute one-half service credit month of service. Compensation
9 earnable earned for less than seventy hours in any calendar month
10 shall constitute one-quarter service credit month of service. Time
11 spent in standby status, whether compensated or not, is not service.

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

14 (i) Service in any state elective position shall be deemed to be
15 full time service, except that persons serving in state elective
16 positions who are members of the Washington school employees'
17 retirement system, teachers' retirement system, public safety
18 employees' retirement system, or law enforcement officers' and
19 firefighters' retirement system at the time of election or
20 appointment to such position may elect to continue membership in the
21 Washington school employees' retirement system, teachers' retirement
22 system, public safety employees' retirement system, or law
23 enforcement officers' and firefighters' retirement system.

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

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

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

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

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

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

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

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

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

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

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

15 (42) "State treasurer" means the treasurer of the state of
16 Washington.

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

20 **Sec. 9.** RCW 41.40.048 and 1989 c 273 s 23 are each amended to
21 read as follows:

22 (1) The director shall report to each employer the contribution
23 rates required for the ensuing biennium or fiscal year, whichever is
24 applicable.

25 (2) Beginning September 1, 1990, the amount to be collected as
26 the employer's contribution shall be computed by applying the
27 applicable rates established in chapter 41.45 RCW to the total
28 compensation earnable of employer's members as shown on the current
29 payrolls of the said employer. For persons who first become members
30 after December 31, 2015, the maximum annual compensation earnable for
31 which member and employer contribution rates established under
32 chapter 41.45 RCW shall be applied shall be the state average annual
33 wage for the prior calendar year as determined pursuant to RCW
34 50.04.355. The department shall inform members and employers of the
35 annual changes to the state average wage limit. In addition, the
36 director shall determine and collect the additional employer
37 contribution rate necessary to fund the benefits granted officials
38 holding office pursuant to Articles II and III of the Constitution of
39 the state of Washington and RCW 48.02.010. Each said employer shall

1 compute at the end of each month the amount due for that month and
2 the same shall be paid as are its other obligations. Effective
3 January 1, 1987, however, no contributions are required for any
4 calendar month in which the member is not granted service credit.

5 (3) In the event of failure, for any reason, of an employer other
6 than a political subdivision of the state to have remitted amounts
7 due for membership service of any of the employer's members rendered
8 during a prior biennium, the director shall bill such employer for
9 such employer's contribution together with such charges as the
10 director deems appropriate in accordance with RCW 41.50.120. Such
11 billing shall be paid by the employer as, and the same shall be, a
12 proper charge against any moneys available or appropriated to such
13 employer for payment of current biennial payrolls.

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