CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2202

Chapter 309, Laws of 2017

65th Legislature 2017 Regular Session

EMERGENCY MEDICAL TECHNICIANS--LEOFF PLAN 2 MEMBERSHIP

EFFECTIVE DATE: 7/23/2017

Passed by the House April 18, 2017 CERTIFICATE Yeas 96 Nays 0 I, Bernard Dean, Chief Clerk of the House of Representatives of the FRANK CHOPP State of Washington, do hereby Speaker of the House of Representatives certify that the attached is SUBSTITUTE HOUSE BILL 2202 as passed by House of Representatives and the Senate on the dates hereon Passed by the Senate April 20, 2017 set forth. Yeas 47 Nays 1 BERNARD DEAN CYRUS HABIB Chief Clerk President of the Senate Approved May 16, 2017 10:47 AM FILED May 16, 2017

JAY INSLEE

Governor of the State of Washington

Secretary of State

State of Washington

SUBSTITUTE HOUSE BILL 2202

Passed Legislature - 2017 Regular Session

State of Washington 65th Legislature 2017 Regular Session

By House Appropriations (originally sponsored by Representatives Manweller and Ormsby)

READ FIRST TIME 04/17/17.

- 1 AN ACT Relating to the eligibility of emergency medical 2 technicians for membership in the law enforcement officers' and
- 3 firefighters' retirement system plan 2; amending RCW 41.26.030; and
- 4 adding new sections to chapter 41.26 RCW.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 6 **Sec. 1.** RCW 41.26.030 and 2012 c 236 s 2 are each amended to 7 read as follows:
- 8 As used in this chapter, unless a different meaning is plainly 9 required by the context:
- 10 (1) "Accumulated contributions" means the employee's 11 contributions made by a member, including any amount paid under RCW 12 41.50.165(2), plus accrued interest credited thereon.
- 13 (2) "Actuarial reserve" means a method of financing a pension or 14 retirement plan wherein reserves are accumulated as the liabilities 15 for benefit payments are incurred in order that sufficient funds will 16 be available on the date of retirement of each member to pay the 17 member's future benefits during the period of retirement.
- 18 (3) "Actuarial valuation" means a mathematical determination of 19 the financial condition of a retirement plan. It includes the 20 computation of the present monetary value of benefits payable to 21 present members, and the present monetary value of future employer

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- and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.
- (4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.
- (b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:
- (i) The basic salary the member would have received had such member not served in the legislature; or
- (ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.
 - (5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.
 - (b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.
- (6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:
 - (i) A natural born child;
- 38 (ii) A stepchild where that relationship was in existence prior 39 to the date benefits are payable under this chapter;
- 40 (iii) A posthumous child;

- 1 (iv) A child legally adopted or made a legal ward of a member 2 prior to the date benefits are payable under this chapter; or
- 3 (v) An illegitimate child legitimized prior to the date any 4 benefits are payable under this chapter.
- 5 (b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending 7 any high school, college, or vocational or other educational 8 institution accredited, licensed, or approved by the state, in which 9 it is located, including the summer vacation months and all other 10 normal and regular vacation periods at the particular educational institution after which the child returns to school.
- 12 (7) "Department" means the department of retirement systems 13 created in chapter 41.50 RCW.
 - (8) "Director" means the director of the department.

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- 15 (9) "Disability board" for plan 1 members means either the county 16 disability board or the city disability board established in RCW 17 41.26.110.
 - (10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.
- 23 (11) "Disability retirement" for plan 1 members, means the period 24 following termination of a member's disability leave, during which 25 the member is in receipt of a disability retirement allowance.
- 26 (12) "Domestic partners" means two adults who have registered as 27 domestic partners under RCW 26.60.020.
 - (13) "Employee" means any law enforcement officer or firefighter as defined in subsections (16) and (18) of this section.
 - (14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

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- 1 (b) "Employer" for plan 2 members, means the following entities 2 to the extent that the entity employs any law enforcement officer 3 and/or firefighter:
 - (i) The legislative authority of any city, town, county, $((\Theta r))$ district, or public corporation established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;
 - (ii) The elected officials of any municipal corporation;

- 8 (iii) The governing body of any other general authority law 9 enforcement agency; or
 - (iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.
 - (c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.
 - (15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.
 - (b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized

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- unpaid leaves of absence may not be used in the calculation of final average salary.
 - (c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:
 - (i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and
 - (ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.
 - (16) "Firefighter" means:

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- (a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;
- (b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;
 - (c) Supervisory firefighter personnel;
- (d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (16)(d) shall not apply to plan 2 members;
- (e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (16)(e) shall not apply to plan 2 members;
- (f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

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

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- (h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician that meets the requirements of RCW 18.71.200 or 18.73.030(12), and whose duties include providing emergency medical services as defined in RCW 18.73.030.
- (17) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but including the Washington state patrol. Such department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor ((control)) and cannabis board, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.
 - (18) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:
 - (a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;
 - (b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070

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1 except a private secretary will be considered law enforcement 2 officers;

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- (c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;
- (d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (18)(d) shall not apply to plan 2 members; and
- (e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (18)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.
- 23 (19) "Medical services" for plan 1 members, shall include the 24 following as minimum services to be provided. Reasonable charges for 25 these services shall be paid in accordance with RCW 41.26.150.
 - (a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for
- (i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.
- 31 (ii) Necessary hospital services, other than board and room, 32 furnished by the hospital.
- 33 (b) Other medical expenses: The following charges are considered 34 "other medical expenses", provided that they have not been considered 35 as "hospital expenses".
 - (i) The fees of the following:
- 37 (A) A physician or surgeon licensed under the provisions of 38 chapter 18.71 RCW;
- 39 (B) An osteopathic physician and surgeon licensed under the 40 provisions of chapter 18.57 RCW;

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- 1 (C) A chiropractor licensed under the provisions of chapter 18.25 2 RCW.
- 3 (ii) The charges of a registered graduate nurse other than a 4 nurse who ordinarily resides in the member's home, or is a member of 5 the family of either the member or the member's spouse.
- 6 (iii) The charges for the following medical services and 7 supplies:
 - (A) Drugs and medicines upon a physician's prescription;
- 9 (B) Diagnostic X-ray and laboratory examinations;
 - (C) X-ray, radium, and radioactive isotopes therapy;
 - (D) Anesthesia and oxygen;

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- 12 (E) Rental of iron lung and other durable medical and surgical and equipment;
 - (F) Artificial limbs and eyes, and casts, splints, and trusses;
- 15 (G) Professional ambulance service when used to transport the 16 member to or from a hospital when injured by an accident or stricken 17 by a disease;
 - (H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;
 - (I) Nursing home confinement or hospital extended care facility;
- 22 (J) Physical therapy by a registered physical therapist;
- 23 (K) Blood transfusions, including the cost of blood and blood 24 plasma not replaced by voluntary donors;
- 25 (L) An optometrist licensed under the provisions of chapter 18.53 26 RCW.
 - (20) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsections (16) or (18) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.
- 1" enforcement 33 (21)"Plan means the law officers' and firefighters' retirement system, plan 1 providing the benefits and 34 35 funding provisions covering persons who first became members of the 36 system prior to October 1, 1977.
- 37 (22) "Plan 2" means the law enforcement officers' and 38 firefighters' retirement system, plan 2 providing the benefits and 39 funding provisions covering persons who first became members of the 40 system on and after October 1, 1977.

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- 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 9 member.
- 10 (26) "Retirement fund" means the "Washington law enforcement 11 officers' and firefighters' retirement system fund" as provided for 12 herein.
- 13 (27) "Retirement system" means the "Washington law enforcement 14 officers' and firefighters' retirement system" provided herein.

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- (28)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.
- (i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

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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 3 month during which the member rendered such dual service.

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

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

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

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

- 30 (29) "Service credit month" means a full service credit month or 31 an accumulation of partial service credit months that are equal to 32 one.
 - (30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.
- 35 (31) "State actuary" or "actuary" means the person appointed gursuant to RCW 44.44.010(2).
- 37 (32) "State elective position" means any position held by any 38 person elected or appointed to statewide office or elected or 39 appointed 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.
 - NEW SECTION. Sec. 2. A new section is added to chapter 41.26 RCW under subchapter heading "plan 2" to read as follows:
 - (1) A member who provided service as an emergency medical technician to an employer may establish credit for such service rendered on or after July 24, 2005, and prior to the effective date of this section, unless that service is already credited. Upon receipt of a written request, the department of retirement systems must notify the member of the cost to establish credit for all or part of such service.
 - (a) Before July 1, 2018, a member not enrolled in the public employees' retirement system for service between July 24, 2005, and the effective date of this section may elect to establish credit in plan 2 under this section. Such election must be filed in writing with the department of retirement systems by June 30, 2018. The elected period must be in contiguous monthly increments beginning with the oldest service.
 - (i) To establish service under this section, except as provided in section 3 of this act, the member must pay the employee contributions he or she would have paid if he or she had been participating in the retirement system at the time of the service:
 - (A) No later than five years from the effective date of the election made under this section; and
 - (B) Prior to retirement.

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- 27 (ii) Upon full payment of employee contributions for the elected 28 period of service the department of retirement systems must:
 - (A) Credit the member with the service; and
- (B) Bill the employer for the employer contributions it would have paid if such member had been participating in the retirement system at the time of such service. The amount billed to the employer by the department of retirement systems must be reduced by the amount of any employer contributions to an employee's retirement account prior to January 1, 2016, not to exceed three percent of the member's basic salary from July 1, 2005, through December 31, 2015.
- 37 (iii) The employer shall pay the required amount prior to July 1, 38 2028.

1 (b)(i) A member of the public employees' retirement system who is 2 eligible for membership in the law enforcement officers' and 3 firefighters' retirement system plan 2 under this section may:

- (A) Make an election in writing to the department of retirement systems by January 1, 2018, to remain a member of the public employees' retirement system and not participate in the law enforcement officers' and firefighters' retirement system plan 2;
- (B) Leave any service credit earned as a member of the public employees' retirement system in the public employees' retirement system, and have service rendered on or after January 1, 2018, as an emergency medical technician in the law enforcement officers' and firefighters' retirement system plan 2, becoming a dual member under the provisions of chapter 41.54 RCW; or
- (C) Before July 1, 2018, elect to transfer service credit previously earned as an emergency medical technician to the law enforcement officers' and firefighters' retirement system plan 2 as defined in RCW 41.26.030. Such election must be filed in writing with the department of retirement systems by June 30, 2018.
- (I) A member who elects to transfer service credit under this subsection (1)(b) shall pay, for the applicable period of service, the difference between the contributions the employee paid to the public employees' retirement system plan and the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and firefighters' retirement system plan 2, plus interest on this difference as determined by the director.
- (II) The payment under (a) of this subsection must be made no later than five years from the effective date of the election and must be made prior to retirement, except as provided under section 3 of this act.
- (2) Upon transfer or establishment of service credit, contributions, and interest under this section, the employee is permanently excluded from membership in the public employees' retirement system for all service transfers related to their time served as an emergency medical technician under the public employees' retirement system.
- (3) Employers shall provide the department of retirement systems with a list of former employees who were employed as emergency medical technicians on or after July 24, 2005, and who are eligible to establish credit for service under this section. The list must

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- 1 include a former employee's name, last known address, and period of
- 2 employment. The department of retirement systems must notify former
- 3 employees of the process and cost to establish credit for service
- 4 under this section.
- 5 <u>NEW SECTION.</u> **Sec. 3.** A new section is added to chapter 41.26 6 RCW under subchapter heading "plan 2" to read as follows:
- 7 If a member who elected to transfer pursuant to section 2 of this
- 8 act dies or retires for disability prior to five years from their
- 9 election date, the member's benefit is calculated as follows:
- 10 (1) All of the applicable service credit, accumulated 11 contributions, and interest is transferred to or established in the
- 12 law enforcement officers' and firefighters' retirement system plan 2
- 13 and used in the calculation of a benefit.
- 14 (2) If a member's obligation under section 2 of this act has not
- 15 been paid in full at the time of death or disability retirement, the
- 16 member, or in the case of death the surviving spouse or eligible
- 17 minor children, have the following options:
- 18 (a) Pay the bill in full;
- 19 (b) If a continuing monthly benefit is chosen, have the benefit
- 20 actuarially reduced to reflect the amount of the unpaid obligation
- 21 under section 2 of this act; or
- (c) Continue to make payment against the obligation under section
- 23 2 of this act, provided that payment in full is made no later than
- 24 five years from the member's original election date.

Passed by the House April 18, 2017.
Passed by the Senate April 20, 2017.
Approved by the Governor May 16, 2017.

Filed in Office of Secretary of State May 16, 2017.

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