
SUBSTITUTE SENATE BILL 5538

State of Washington

68th Legislature

2023 Regular Session

By Senate Ways & Means (originally sponsored by Senators Cleveland, Dhingra, and C. Wilson)

READ FIRST TIME 02/15/23.

1 AN ACT Relating to postretirement employment in nursing positions
2 for a state agency; amending RCW 41.37.050 and 41.40.037; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 41.37.050 and 2011 1st sp.s. c 47 s 17 are each
6 amended to read as follows:

7 (1)(a) If a retiree enters employment in an eligible position
8 with an employer as defined in this chapter sooner than one calendar
9 month after his or her accrual date, the retiree's monthly retirement
10 allowance will be reduced by five and one-half percent for every
11 eight hours worked during that month. This reduction will be applied
12 each month until the retiree remains absent from employment with an
13 employer for one full calendar month.

14 (b) If a retiree enters employment in an eligible position with
15 an employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner
16 than one calendar month after his or her accrual date, the retiree's
17 monthly retirement allowance will be reduced by five and one-half
18 percent for every eight hours worked during that month. This
19 reduction will be applied each month until the retiree remains absent
20 from employment with an employer for one full calendar month.

1 (c) The benefit reduction provided in (a) and (b) of this
2 subsection will accrue for a maximum of one hundred sixty hours per
3 month. Any benefit reduction over one hundred percent will be applied
4 to the benefit the retiree is eligible to receive in subsequent
5 months.

6 (2)(a) A retiree who has satisfied the break in employment
7 requirement of subsection (1) of this section may work up to eight
8 hundred sixty-seven hours per calendar year in an eligible position
9 as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a law
10 enforcement officer or firefighter as defined in RCW 41.26.030, or in
11 a position covered by annuity and retirement income plans offered by
12 institutions of higher education pursuant to RCW 28B.10.400, without
13 suspension of his or her benefit.

14 (b) Between the effective date of this section and July 1, 2026,
15 a retiree who has satisfied the break in employment requirement of
16 subsection (1) of this section, and who enters service in a
17 nonadministrative position as a licensed nurse for a state agency,
18 shall continue to receive pension payments while engaged in such
19 service, until the retiree has rendered service for more than 1,040
20 hours in a calendar year.

21 (3) If the retiree opts to reestablish membership under this
22 chapter, he or she terminates his or her retirement status and
23 becomes a member. Retirement benefits shall not accrue during the
24 period of membership and the individual shall make contributions and
25 receive membership credit. Such a member shall have the right to
26 again retire if eligible in accordance with this chapter. However, if
27 the right to retire is exercised to become effective before the
28 member has rendered two uninterrupted years of service, the
29 retirement formula and survivor options the member had at the time of
30 the member's previous retirement shall be reinstated.

31 (4) The department shall collect and provide the state actuary
32 with information relevant to the use of this section for the select
33 committee on pension policy.

34 **Sec. 2.** RCW 41.40.037 and 2022 c 110 s 5 are each amended to
35 read as follows:

36 (1)(a) If a retiree enters employment with an employer sooner
37 than one calendar month after his or her accrual date, the retiree's
38 monthly retirement allowance will be reduced by five and one-half
39 percent for every eight hours worked during that month. This

1 reduction will be applied each month until the retiree remains absent
2 from employment with an employer for one full calendar month.

3 (b) The benefit reduction provided in (a) of this subsection will
4 accrue for a maximum of one hundred sixty hours per month. Any
5 benefit reduction over one hundred percent will be applied to the
6 benefit the retiree is eligible to receive in subsequent months.

7 (2)(a) A retiree from plan 1, plan 2, or plan 3 who has satisfied
8 the break in employment requirement of subsection (1) of this section
9 may work up to eight hundred sixty-seven hours per calendar year in
10 an eligible position, as defined in RCW 41.32.010, 41.35.010,
11 41.37.010, or 41.40.010, or as a firefighter or law enforcement
12 officer, as defined in RCW 41.26.030, or in a position covered by
13 annuity and retirement income plans offered by institutions of higher
14 education pursuant to RCW 28B.10.400, without suspension of his or
15 her benefit.

16 (b) Between March 23, 2022, and July 1, 2025, a retiree,
17 including a retiree who has retired under the alternate early
18 retirement provisions of RCW 41.40.630(3)(b) or 41.40.820(3)(b), who
19 reenters employment more than 100 days after his or her accrual date,
20 and who enters service in a school district in a nonadministrative
21 position shall continue to receive pension payments while engaged in
22 such service, until the retiree has rendered service for more than
23 1,040 hours in a calendar year.

24 (c) Between the effective date of this section and July 1, 2026,
25 a retiree, including a retiree who has retired under the alternate
26 early retirement provisions of RCW 41.40.630(3)(b) or
27 41.40.820(3)(b), and who enters service in a nonadministrative
28 position as a licensed nurse for a state agency, shall continue to
29 receive pension payments while engaged in such service, until the
30 retiree has rendered service for more than 1,040 hours in a calendar
31 year.

32 (3) If the retiree opts to reestablish membership under RCW
33 41.40.023(12), he or she terminates his or her retirement status and
34 becomes a member. Retirement benefits shall not accrue during the
35 period of membership and the individual shall make contributions and
36 receive membership credit. Such a member shall have the right to
37 again retire if eligible in accordance with RCW 41.40.180. However,
38 if the right to retire is exercised to become effective before the
39 member has rendered two uninterrupted years of service, the

1 retirement formula and survivor options the member had at the time of
2 the member's previous retirement shall be reinstated.

3 (4) The department shall collect and provide the state actuary
4 with information relevant to the use of this section for the select
5 committee on pension policy.

6 (5) The legislature reserves the right to amend or repeal this
7 section in the future and no member or beneficiary has a contractual
8 right to be employed for more than five months in a calendar year
9 without a reduction of his or her pension.

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

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