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**SENATE BILL 5625**

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**State of Washington**                      **68th Legislature**                      **2023 Regular Session**

**By** Senators Lias, Warnick, Hunt, Kuderer, and C. Wilson

Read first time 01/30/23. Referred to Committee on Ways & Means.

1            AN ACT Relating to public employee retirees; amending RCW  
2 41.50.110, 41.40.660, and 41.26.030; and adding new sections to  
3 chapter 41.50 RCW.

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

5            NEW SECTION.    **Sec. 1.**    The office of the ombuds for retiree  
6 benefits for individuals covered by a system administered by the  
7 department of retirement systems is created. The ombuds shall be  
8 appointed by the governor and report directly to the director of the  
9 department. The office of the ombuds may be openly and competitively  
10 contracted by the governor in accordance with chapter 39.26 RCW.

11           NEW SECTION.    **Sec. 2.**    The person appointed ombuds shall hold  
12 office for a term of six years and shall continue to hold office  
13 until reappointed or until his or her successor is appointed. The  
14 governor may remove the ombuds only for neglect of duty, misconduct,  
15 or inability to perform duties. Any vacancy shall be filled by  
16 similar appointment for the remainder of the unexpired term.

17           NEW SECTION.    **Sec. 3.**    Any ombuds appointed under this chapter  
18 shall have training or experience, or both, in the following areas:

19            (1) The retirement systems administered by the department;

1 (2) Retiree health care administered by the employee and retiree  
2 benefits program within the health care authority;

3 (3) The Washington state legal system; and

4 (4) Dispute or problem resolution techniques, including  
5 investigation, mediation, and negotiation.

6 NEW SECTION. **Sec. 4.** During the first two years after the  
7 office of the ombuds is created, the staffing level shall be no more  
8 than four persons, including the ombuds and any administrative staff.  
9 Thereafter, the staffing levels shall be determined based upon the  
10 office of the ombuds's workload and whether any additional locations  
11 are needed.

12 NEW SECTION. **Sec. 5.** The office of the ombuds shall have the  
13 following powers and duties:

14 (1) To act as an advocate for retirees and members of department-  
15 administered retirement systems;

16 (2) To offer and provide information on the department  
17 administered retirement systems as appropriate to retirees and  
18 members;

19 (3) To identify, investigate, and facilitate resolution of  
20 complaints from members and retirees of department-administered  
21 retirement systems and health care;

22 (4) To maintain a statewide toll-free telephone number for the  
23 receipt of complaints and inquiries; and

24 (5) To refer complaints to the relevant department when  
25 appropriate.

26 NEW SECTION. **Sec. 6.** (1) The office of the ombuds shall develop  
27 referral procedures for complaints by members and retirees of  
28 department-administered retirement systems and retiree health care.  
29 The relevant agency shall act as quickly as possible on any complaint  
30 referred to them by the office of the ombuds and shall forward the  
31 office of the ombuds a summary of the results of the investigation  
32 and action proposed or taken.

33 (2) The relevant agency shall respond to any complaint against an  
34 employer referred to it by the office of the ombuds and shall forward  
35 the office of the ombuds a summary of the results of the  
36 investigation and action proposed or taken.

1        NEW SECTION.    **Sec. 7.**    (1) No ombuds is liable for good faith  
2 performance of responsibilities under this chapter.

3        (2) No discriminatory, disciplinary, or retaliatory action may be  
4 taken against any employee of the department of retirement systems  
5 for any communication made, or information given or disclosed, to  
6 assist the ombuds in carrying out its duties and responsibilities,  
7 unless the same was done maliciously. This subsection is not intended  
8 to infringe on the rights of the department of retirement systems to  
9 supervise, discipline, or terminate an employee for other reasons.

10       (3) All communications by the ombuds, if reasonably related to  
11 the requirements of his or her responsibilities under this chapter  
12 and done in good faith, are privileged and confidential, and this  
13 shall serve as a defense to any action in libel or slander.

14       (4) Representatives of the office of the ombuds are exempt from  
15 being required to testify as to any privileged or confidential  
16 matters except as the court may deem necessary to enforce this  
17 chapter.

18       NEW SECTION.    **Sec. 8.**    All records and files of the ombuds  
19 relating to any complaint or investigation made pursuant to carrying  
20 out its duties and the identities of complainants, witnesses,  
21 retirees, or members shall remain confidential unless disclosure is  
22 authorized by the complainant, retiree, or member or his or her  
23 guardian or legal representative. No disclosures may be made outside  
24 the office of the ombuds without the consent of any named witness or  
25 complainant unless the disclosure is made without the identity of any  
26 of these individuals being disclosed.

27       NEW SECTION.    **Sec. 9.**    The department must clearly provide a link  
28 to the ombuds program on the front page of their website.

29       NEW SECTION.    **Sec. 10.**    Funding for the office of the ombuds  
30 shall be paid through the department of retirement systems expense  
31 fund under RCW 41.50.110 and through the state health care authority  
32 administrative account under RCW 41.05.130.

33       NEW SECTION.    **Sec. 11.**    (1) The ombuds shall provide the  
34 governor, the select committee on pension policy, and the law  
35 enforcement officers' and firefighters' plan 2 retirement board with  
36 an annual report that includes the following:

1 (a) A description of the issues addressed during the past year  
2 and a very brief description of case scenarios in a form that does  
3 not compromise confidentiality;

4 (b) An accounting of the monitoring activities by the ombuds; and

5 (c) An identification of any deficiencies in the department of  
6 retirement systems and recommendations for remedial action in policy  
7 or practice.

8 (2) The first annual report is due on or before April 1, 2024.  
9 Subsequent reports are due on or before April 1st of each year.

10 NEW SECTION. **Sec. 12.** The ombuds shall have an assistant  
11 attorney general separate from the department assigned to them for  
12 legal advice.

13 NEW SECTION. **Sec. 13.** If an issue raised by a member or retiree  
14 is being investigated by the ombuds then the member or retiree's time  
15 to file a notice of appeal of the department's decision under chapter  
16 34.05 RCW regarding the issue being investigated by the ombuds must  
17 toll until the ombuds has issued their decision and the department  
18 has responded to that decision.

19 NEW SECTION. **Sec. 14.** (1) As used in chapters 41.26 and 41.37  
20 RCW, "in the line of duty" has the same meaning as "in the course of  
21 employment" as used in Title 51 RCW.

22 (2) Any application for disability retirement by a member of the  
23 law enforcement officers' and firefighters' retirement system plan 2  
24 that was denied by the department prior to the effective date of this  
25 section is subject to review by the department to determine if the  
26 disability was incurred in the line of duty.

27 (3) An occupational assessment shall be conducted by the  
28 department or the department of labor and industries in any case of  
29 disability where the member's disability is denied on the basis that  
30 the member is capable of employment.

31 **Sec. 15.** RCW 41.50.110 and 2015 3rd sp.s. c 4 s 951 are each  
32 amended to read as follows:

33 (1) Except as provided by RCW 41.50.255 and subsection (6) of  
34 this section, all expenses of the administration of the department,  
35 the expenses of administration of the retirement systems, and the  
36 expenses of the administration of the office of the state actuary

1 created in chapters 2.10, 2.12, 28B.10, 41.26, 41.32, 41.40, 41.34,  
2 41.35, 41.37, 43.43, and 44.44 RCW shall be paid from the department  
3 of retirement systems expense fund.

4 (2) In order to reimburse the department of retirement systems  
5 expense fund on an equitable basis the department shall ascertain and  
6 report to each employer, as defined in RCW 28B.10.400, 41.26.030,  
7 41.32.010, 41.35.010, 41.37.010, or 41.40.010, the sum necessary to  
8 defray its proportional share of the entire expense of the  
9 administration of the retirement system that the employer  
10 participates in during the ensuing biennium or fiscal year whichever  
11 may be required. Such sum is to be computed in an amount directly  
12 proportional to the estimated entire expense of the administration as  
13 the ratio of monthly salaries of the employer's members bears to the  
14 total salaries of all members in the entire system. It shall then be  
15 the duty of all such employers to include in their budgets or  
16 otherwise provide the amounts so required.

17 (3) The department shall compute and bill each employer, as  
18 defined in RCW 28B.10.400, 41.26.030, 41.32.010, 41.35.010,  
19 41.37.010, or 41.40.010, at the end of each month for the amount due  
20 for that month to the department of retirement systems expense fund  
21 and the same shall be paid as are its other obligations. Such  
22 computation as to each employer shall be made on a percentage rate of  
23 salary established by the department. However, the department may at  
24 its discretion establish a system of billing based upon calendar year  
25 quarters in which event the said billing shall be at the end of each  
26 such quarter.

27 (4) The director may adjust the expense fund contribution rate  
28 for each system at any time when necessary to reflect unanticipated  
29 costs or savings in administering the department.

30 (5) An employer who fails to submit timely and accurate reports  
31 to the department may be assessed an additional fee related to the  
32 increased costs incurred by the department in processing the  
33 deficient reports. Fees paid under this subsection shall be deposited  
34 in the retirement system expense fund.

35 (a) Every six months the department shall determine the amount of  
36 an employer's fee by reviewing the timeliness and accuracy of the  
37 reports submitted by the employer in the preceding six months. If  
38 those reports were not both timely and accurate the department may  
39 prospectively assess an additional fee under this subsection.

1 (b) An additional fee assessed by the department under this  
2 subsection shall not exceed fifty percent of the standard fee.

3 (c) The department shall adopt rules implementing this section.

4 (6) Expenses other than those under RCW 41.34.060(4) shall be  
5 paid pursuant to subsection (1) of this section.

6 (7) ~~((During the 2009-2011 and 2011-2013 fiscal biennia, the  
7 legislature may transfer from the department of retirement systems'  
8 expense fund to the state general fund such amounts as reflect the  
9 excess fund balance of the fund. During the 2015-2017 fiscal  
10 biennium, state contributions to the judicial retirement system may  
11 be made in part by appropriations from the department of retirement  
12 systems expense fund.))~~ The department's administrative fee and any  
13 employer charge for the unfunded liability in a plan shall not be  
14 considered in the calculation of employer contributions charged to a  
15 member as a requirement for the purchase of service credit.

16 NEW SECTION. **Sec. 16.** The deadline for a member or retiree to  
17 file a notice of appeal of a department's decision under chapter  
18 34.05 RCW must be no less than 90 days. If the department requests  
19 that a member or retiree provide additional information to support  
20 their claim for a benefit, then the member or retiree's time to file  
21 a notice of appeal of the department's decision under chapter 34.05  
22 RCW regarding the issue being investigated must be tolled no less  
23 than 90 days. A member or retiree can refile any claim that has been  
24 dismissed by the department prior to the effective date of this  
25 section for failing to file a timely notice of appeal after the  
26 department had requested the member or retiree provide additional  
27 information to support the member or retiree's claim.

28 **Sec. 17.** RCW 41.40.660 and 2020 c 161 s 6 are each amended to  
29 read as follows:

30 (1) Upon retirement for service as prescribed in RCW 41.40.630 or  
31 retirement for disability under RCW 41.40.670, a member shall elect  
32 to have the retirement allowance paid pursuant to one of the  
33 following options, calculated so as to be actuarially equivalent to  
34 each other.

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

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

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

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

29 (b) Written consent from a spouse or domestic partner is not  
30 required if a member who is married or a domestic partner selects a  
31 joint and survivor option under subsection (1) (b) of this section and  
32 names the member's spouse or domestic partner as the survivor  
33 beneficiary.

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

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

39 (ii) The spousal consent provisions of (a) of this subsection do  
40 not apply.

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

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

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

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

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

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

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

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

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

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

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

34 (ii) A member who entered into a postretirement marriage prior to  
35 the effective date of the rules adopted pursuant to this subsection  
36 and satisfies the conditions of (a)(i) of this subsection shall have  
37 one year to designate their spouse as a survivor beneficiary  
38 following the adoption of the rules.

39 (b) A retired member who elected to receive a reduced retirement  
40 allowance under this section and designated a nonspouse as survivor



1 beneficiary shall have the opportunity to remove the survivor  
2 designation and have their future benefit adjusted.

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

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

8 (a) A court-approved property settlement incident to a court  
9 decree of dissolution made before retirement to provide that benefits  
10 payable to a member who meets the length of service requirements of  
11 RCW 41.40.720 and the member's divorcing spouse be divided into two  
12 separate benefits payable over the life of each spouse.

13 The member shall have available the benefit options of subsection  
14 (1) of this section upon retirement, and if remarried at the time of  
15 retirement remains subject to the spousal consent requirements of  
16 subsection (2) of this section. Any reductions of the member's  
17 benefit subsequent to the division into two separate benefits shall  
18 be made solely to the separate benefit of the member.

19 The nonmember ex spouse shall be eligible to commence receiving  
20 their separate benefit upon reaching the age provided in RCW  
21 41.40.630(1) and after filing a written application with the  
22 department.

23 (b) A court-approved property settlement incident to a court  
24 decree of dissolution made after retirement may only divide the  
25 benefit into two separate benefits payable over the life of each  
26 spouse if the nonmember ex spouse was selected as a survivor  
27 beneficiary at retirement.

28 The retired member may later choose the survivor benefit options  
29 available in subsection (4) of this section. Any actuarial reductions  
30 subsequent to the division into two separate benefits shall be made  
31 solely to the separate benefit of the member.

32 Both the retired member and the nonmember divorced spouse shall  
33 be eligible to commence receiving their separate benefits upon filing  
34 a copy of the dissolution order with the department in accordance  
35 with RCW 41.50.670.

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

1 (6) Beginning on the date that the state receives a determination  
2 from the federal internal revenue service that this subsection (6)  
3 conforms with federal law, retirees have up to ninety calendar days  
4 after the receipt of their first retirement allowance to change their  
5 survivor election under subsections (1) and (2) of this section.  
6 Requests made after June 11, 2020, and prior to the date that the  
7 state receives a determination from the federal internal revenue  
8 service that this subsection (6) conforms with federal law shall be  
9 considered a timely request, but any benefit change shall be  
10 prospective only beginning on the date that the state receives  
11 federal approval. If a member changes the member's survivor election  
12 under this subsection the change is effective the first of the  
13 following month and is prospective only.

14 **Sec. 18.** RCW 41.26.030 and 2021 c 12 s 2 are each amended to  
15 read as follows:

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

18 (1) "Accumulated contributions" means the employee's  
19 contributions made by a member, including any amount paid under RCW  
20 41.50.165(2), plus accrued interest credited thereon.

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

26 (3) "Actuarial valuation" means a mathematical determination of  
27 the financial condition of a retirement plan. It includes the  
28 computation of the present monetary value of benefits payable to  
29 present members, and the present monetary value of future employer  
30 and employee contributions, giving effect to mortality among active  
31 and retired members and also to the rates of disability, retirement,  
32 withdrawal from service, salary and interest earned on investments.

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

38 (b) "Basic salary" for plan 2 members, means salaries or wages  
39 earned by a member during a payroll period for personal services,

1 including overtime and holiday payments, and shall include wages and  
2 salaries deferred under provisions established pursuant to sections  
3 403(b), 414(h), and 457 of the United States Internal Revenue Code,  
4 and shall include sick leave or vacation leave used by the member,  
5 but shall exclude lump sum payments for deferred annual sick leave,  
6 unused accumulated vacation, unused accumulated annual leave, or any  
7 form of severance pay. In any year in which a member serves in the  
8 legislature the member shall have the option of having such member's  
9 basic salary be the greater of:

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

12 (ii) Such member's actual basic salary received for  
13 nonlegislative public employment and legislative service combined.  
14 Any additional contributions to the retirement system required  
15 because basic salary under (b)(i) of this subsection is greater than  
16 basic salary under (b)(ii) of this subsection shall be paid by the  
17 member for both member and employer contributions.

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

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

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

28 (i) A natural born child;

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

31 (iii) A posthumous child;

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

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

36 (b) A person shall also be deemed to be a child up to and  
37 including the age of twenty years and eleven months while attending  
38 any high school, college, or vocational or other educational  
39 institution accredited, licensed, or approved by the state, in which  
40 it is located, including the summer vacation months and all other

1 normal and regular vacation periods at the particular educational  
2 institution after which the child returns to school.

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

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

6 (9) "Disability board" for plan 1 members means either the county  
7 disability board or the city disability board established in RCW  
8 41.26.110.

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

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

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

19 (13) "Employee" means any law enforcement officer or firefighter  
20 as defined in subsections (17) and (19) of this section.

21 (14)(a) "Employer" for plan 1 members, means the legislative  
22 authority of any city, town, county, district, or regional fire  
23 protection service authority or the elected officials of any  
24 municipal corporation that employs any law enforcement officer and/or  
25 firefighter, any authorized association of such municipalities, and,  
26 except for the purposes of RCW 41.26.150, any labor guild,  
27 association, or organization, which represents the firefighters or  
28 law enforcement officers of at least seven cities of over 20,000  
29 population and the membership of each local lodge or division of  
30 which is composed of at least sixty percent law enforcement officers  
31 or firefighters as defined in this chapter.

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

35 (i) The legislative authority of any city, town, county,  
36 district, public corporation, or regional fire protection service  
37 authority established under RCW 35.21.730 to provide emergency  
38 medical services as defined in RCW 18.73.030;

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

1 (iii) The governing body of any other general authority law  
2 enforcement agency;

3 (iv) A four-year institution of higher education having a fully  
4 operational fire department as of January 1, 1996; or

5 (v) The department of social and health services or the  
6 department of corrections when employing firefighters serving at a  
7 prison or civil commitment center on an island.

8 (c) Except as otherwise specifically provided in this chapter,  
9 "employer" does not include a government contractor. For purposes of  
10 this subsection, a "government contractor" is any entity, including a  
11 partnership, limited liability company, for-profit or nonprofit  
12 corporation, or person, that provides services pursuant to a contract  
13 with an "employer." The determination whether an employer-employee  
14 relationship has been established is not based on the relationship  
15 between a government contractor and an "employer," but is based  
16 solely on the relationship between a government contractor's employee  
17 and an "employer" under this chapter.

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

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

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

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

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

16 (iii) Any compensation forgone by a member employed by the state  
17 or a local government employer during the 2019-2021 and 2021-2023  
18 fiscal biennia as a result of reduced work hours, mandatory leave  
19 without pay, temporary layoffs, furloughs, reductions to current pay,  
20 or other similar measures resulting from the COVID-19 budgetary  
21 crisis, if the reduced compensation is an integral part of the  
22 employer's expenditure reduction efforts, as certified by the  
23 employer. Reductions to current pay shall not include elimination of  
24 previously agreed upon future salary increases.

25 (16) "Fire department" includes a fire station operated by the  
26 department of social and health services or the department of  
27 corrections when employing firefighters serving a prison or civil  
28 commitment center on an island.

29 (17) "Firefighter" means:

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

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

36 (c) Supervisory firefighter personnel;

37 (d) Any full time executive secretary of an association of fire  
38 protection districts authorized under RCW 52.12.031. The provisions  
39 of this subsection (17) (d) shall not apply to plan 2 members;

1 (e) The executive secretary of a labor guild, association or  
2 organization (which is an employer under subsection (14) of this  
3 section), if such individual has five years previous membership in a  
4 retirement system established in chapter 41.16 or 41.18 RCW. The  
5 provisions of this subsection (17)(e) shall not apply to plan 2  
6 members;

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

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

15 (h) Any person who is employed on a full-time, fully compensated  
16 basis by an employer as an emergency medical technician that meets  
17 the requirements of RCW 18.71.200 or 18.73.030(~~((12))~~) (13), and  
18 whose duties include providing emergency medical services as defined  
19 in RCW 18.73.030.

20 (18) "General authority law enforcement agency" means any agency,  
21 department, or division of a municipal corporation, political  
22 subdivision, or other unit of local government of this state, and any  
23 agency, department, or division of state government, having as its  
24 primary function the detection and apprehension of persons committing  
25 infractions or violating the traffic or criminal laws in general, but  
26 not including the Washington state patrol. Such an agency,  
27 department, or division is distinguished from a limited authority law  
28 enforcement agency having as one of its functions the apprehension or  
29 detection of persons committing infractions or violating the traffic  
30 or criminal laws relating to limited subject areas, including but not  
31 limited to, the state departments of natural resources and social and  
32 health services, the state gambling commission, the state lottery  
33 commission, the state parks and recreation commission, the state  
34 utilities and transportation commission, the state liquor and  
35 cannabis board, and the state department of corrections. A general  
36 authority law enforcement agency under this chapter does not include  
37 a government contractor.

38 (19) "Law enforcement officer" beginning January 1, 1994, means  
39 any person who is commissioned and employed by an employer on a full

1 time, fully compensated basis to enforce the criminal laws of the  
2 state of Washington generally, with the following qualifications:

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

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

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

19 (d) The term "law enforcement officer" also includes the  
20 executive secretary of a labor guild, association or organization  
21 (which is an employer under subsection (14) of this section) if that  
22 individual has five years previous membership in the retirement  
23 system established in chapter 41.20 RCW. The provisions of this  
24 subsection (19)(d) shall not apply to plan 2 members; and

25 (e) The term "law enforcement officer" also includes a person  
26 employed on or after January 1, 1993, as a public safety officer or  
27 director of public safety, so long as the job duties substantially  
28 involve only either police or fire duties, or both, and no other  
29 duties in a city or town with a population of less than ten thousand.  
30 The provisions of this subsection (19)(e) shall not apply to any  
31 public safety officer or director of public safety who is receiving a  
32 retirement allowance under this chapter as of May 12, 1993.

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

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

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



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

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

6 (i) The fees of the following:

7 (A) A physician or surgeon licensed under the provisions of  
8 chapter 18.71 RCW;

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

11 (C) A chiropractor licensed under the provisions of chapter 18.25  
12 RCW.

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

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

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

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

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

21 (D) Anesthesia and oxygen;

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

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

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

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

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

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

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

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

37 (21) "Member" means any firefighter, law enforcement officer, or  
38 other person as would apply under subsection (17) or (19) of this  
39 section whose membership is transferred to the Washington law  
40 enforcement officers' and firefighters' retirement system on or after

1 March 1, 1970, and every law enforcement officer and firefighter who  
2 is employed in that capacity on or after such date.

3 (22) "Plan 1" means the law enforcement officers' and  
4 firefighters' retirement system, plan 1 providing the benefits and  
5 funding provisions covering persons who first became members of the  
6 system prior to October 1, 1977.

7 (23) "Plan 2" means the law enforcement officers' and  
8 firefighters' retirement system, plan 2 providing the benefits and  
9 funding provisions covering persons who first became members of the  
10 system on and after October 1, 1977.

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

13 (25) "Regular interest" means such rate as the director may  
14 determine.

15 (26) "Retiree" for persons who establish membership in the  
16 retirement system on or after October 1, 1977, means any member in  
17 receipt of a retirement allowance or other benefit provided by this  
18 chapter resulting from service rendered to an employer by such  
19 member.

20 (27) "Retirement fund" means the "Washington law enforcement  
21 officers' and firefighters' retirement system fund" as provided for  
22 herein.

23 (28) "Retirement system" means the "Washington law enforcement  
24 officers' and firefighters' retirement system" provided herein.

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

38 (i) For members retiring after May 21, 1971 who were employed  
39 under the coverage of a prior pension act before March 1, 1970,  
40 "service" shall also include (A) such military service not exceeding

1 five years as was creditable to the member as of March 1, 1970, under  
2 the member's particular prior pension act, and (B) such other periods  
3 of service as were then creditable to a particular member under the  
4 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no  
5 event shall credit be allowed for any service rendered prior to March  
6 1, 1970, where the member at the time of rendition of such service  
7 was employed in a position covered by a prior pension act, unless  
8 such service, at the time credit is claimed therefor, is also  
9 creditable under the provisions of such prior act.

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

13 (iii) Reduction efforts such as furloughs, reduced work hours,  
14 mandatory leave without pay, temporary layoffs, or other similar  
15 situations as contemplated by subsection (15)(c)(iii) of this section  
16 do not result in a reduction in service credit that otherwise would  
17 have been earned for that month of work, and the member shall receive  
18 the full service credit for the hours that were scheduled to be  
19 worked before the reduction.

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

30 (ii) Members of the retirement system who are elected or  
31 appointed to a state elective position may elect to continue to be  
32 members of this retirement system.

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

38 (iv) If a member receives basic salary from two or more employers  
39 during any calendar month, the individual shall receive one service  
40 credit month's service credit during any calendar month in which

1 multiple service for ninety or more hours is rendered; or one-half  
2 service credit month's service credit during any calendar month in  
3 which multiple service for at least seventy hours but less than  
4 ninety hours is rendered; or one-quarter service credit month during  
5 any calendar month in which multiple service for less than seventy  
6 hours is rendered.

7 (v) Reduction efforts such as furloughs, reduced work hours,  
8 mandatory leave without pay, temporary layoffs, or other similar  
9 situations as contemplated by subsection (15)(c)(iii) of this section  
10 do not result in a reduction in service credit that otherwise would  
11 have been earned for that month of work, and the member shall receive  
12 the full service credit for the hours that were scheduled to be  
13 worked before the reduction.

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

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

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

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

24 (34) "Surviving spouse" means the surviving widow or widower of a  
25 member. "Surviving spouse" shall not include the divorced spouse of a  
26 member except as provided in RCW 41.26.162.

27 NEW SECTION. **Sec. 19.** Sections 1 through 14 and 16 of this act  
28 are each added to chapter 41.50 RCW.

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