

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5538**

Chapter 99, Laws of 2023

68th Legislature  
2023 Regular Session

POSTRETIREMENT EMPLOYMENT—NURSING POSITIONS

EFFECTIVE DATE: April 14, 2023

Passed by the Senate March 6, 2023  
Yeas 41 Nays 7

DENNY HECK

**President of the Senate**

Passed by the House April 5, 2023  
Yeas 87 Nays 11

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Approved April 14, 2023 10:18 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5538** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

**Secretary**

FILED

April 14, 2023

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5538**

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Passed Legislature - 2023 Regular Session

**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.

Passed by the Senate March 6, 2023.

Passed by the House April 5, 2023.

Approved by the Governor April 14, 2023.

Filed in Office of Secretary of State April 14, 2023.

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