

CERTIFICATION OF ENROLLMENT

SENATE BILL 5881

Chapter 247, Laws of 2024

68th Legislature
2024 Regular Session

CERTAIN PART-TIME BUS DRIVERS—EXCLUSION FROM PUBLIC EMPLOYEES'
RETIREMENT SYSTEM

EFFECTIVE DATE: June 6, 2024

Passed by the Senate February 7, 2024
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Passed by the House February 29, 2024
Yeas 96 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved March 25, 2024 2:12 PM

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 **SENATE BILL 5881** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

March 26, 2024

**Secretary of State
State of Washington**

SENATE BILL 5881

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senators MacEwen, Conway, and Robinson; by request of Select Committee on Pension Policy

Prefiled 12/19/23. Read first time 01/08/24. Referred to Committee on Ways & Means.

1 AN ACT Relating to membership in the public employees' retirement
2 system for certain part-time bus drivers employed full-time by the
3 federal government; and amending RCW 41.40.023.

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

5 **Sec. 1.** RCW 41.40.023 and 2010 c 80 s 1 are each amended to read
6 as follows:

7 Membership in the retirement system shall consist of all
8 regularly compensated employees and appointive and elective officials
9 of employers, as defined in this chapter, with the following
10 exceptions:

11 (1) Persons in ineligible positions;

12 (2) Employees of the legislature except the officers thereof
13 elected by the members of the senate and the house and legislative
14 committees, unless membership of such employees be authorized by the
15 said committee;

16 (3)(a) Persons holding elective offices or persons appointed
17 directly by the governor: PROVIDED, That such persons shall have the
18 option of applying for membership during such periods of employment:
19 AND PROVIDED FURTHER, That any persons holding or who have held
20 elective offices or persons appointed by the governor who are members
21 in the retirement system and who have, prior to becoming such

1 members, previously held an elective office, and did not at the start
2 of such initial or successive terms of office exercise their option
3 to become members, may apply for membership to be effective during
4 such term or terms of office, and shall be allowed to establish the
5 service credit applicable to such term or terms of office upon
6 payment of the employee contributions therefor by the employee with
7 interest as determined by the director and employer contributions
8 therefor by the employer or employee with interest as determined by
9 the director: AND PROVIDED FURTHER, That all contributions with
10 interest submitted by the employee under this subsection shall be
11 placed in the employee's individual account in the employee's savings
12 fund and be treated as any other contribution made by the employee,
13 with the exception that any contributions submitted by the employee
14 in payment of the employer's obligation, together with the interest
15 the director may apply to the employer's contribution, shall not be
16 considered part of the member's annuity for any purpose except
17 withdrawal of contributions;

18 (b) A member holding elective office who has elected to apply for
19 membership pursuant to (a) of this subsection and who later wishes to
20 be eligible for a retirement allowance shall have the option of
21 ending his or her membership in the retirement system. A member
22 wishing to end his or her membership under this subsection must file,
23 on a form supplied by the department, a statement indicating that the
24 member agrees to irrevocably abandon any claim for service for future
25 periods served as an elected official. A member who receives more
26 than fifteen thousand dollars per year in compensation for his or her
27 elective service, adjusted annually for inflation by the director, is
28 not eligible for the option provided by this subsection (3)(b);

29 (4) Employees holding membership in, or receiving pension
30 benefits under, any retirement plan operated wholly or in part by an
31 agency of the state or political subdivision thereof, or who are by
32 reason of their current employment contributing to or otherwise
33 establishing the right to receive benefits from any such retirement
34 plan except as follows:

35 (a) In any case where the retirement system has in existence an
36 agreement with another retirement system in connection with exchange
37 of service credit or an agreement whereby members can retain service
38 credit in more than one system, such an employee shall be allowed
39 membership rights should the agreement so provide;

1 (b) An employee shall be allowed membership if otherwise eligible
2 while receiving survivor's benefits;

3 (c) An employee shall not either before or after June 7, 1984, be
4 excluded from membership or denied service credit pursuant to this
5 subsection solely on account of: (i) Membership in the plan created
6 under chapter 2.14 RCW; or (ii) enrollment under the relief and
7 compensation provisions or the pension provisions of the volunteer
8 firefighters' (~~(and reserve officers')~~) relief and pension
9 (~~(principal)~~) principal fund or the reserve officers' relief and
10 pension principal fund under chapter 41.24 RCW;

11 (d) Except as provided in RCW 41.40.109, on or after July 25,
12 1999, an employee shall not be excluded from membership or denied
13 service credit pursuant to this subsection solely on account of
14 participation in a defined contribution pension plan qualified under
15 section 401 of the internal revenue code;

16 (e) Employees who have been reported in the retirement system
17 prior to July 25, 1999, and who participated during the same period
18 of time in a defined contribution pension plan qualified under
19 section 401 of the internal revenue code and operated wholly or in
20 part by the employer, shall not be excluded from previous retirement
21 system membership and service credit on account of such
22 participation;

23 (5) Patient and inmate help in state charitable, penal, and
24 correctional institutions;

25 (6) "Members" of a state veterans' home or state soldiers' home;

26 (7) Persons employed by an institution of higher learning or
27 community college, primarily as an incident to and in furtherance of
28 their education or training, or the education or training of a
29 spouse;

30 (8) Employees of an institution of higher learning or community
31 college during the period of service necessary to establish
32 eligibility for membership in the retirement plans operated by such
33 institutions;

34 (9) Persons rendering professional services to an employer on a
35 fee, retainer, or contract basis or when the income from these
36 services is less than fifty percent of the gross income received from
37 the person's practice of a profession;

38 (10) Persons appointed after April 1, 1963, by the liquor
39 (~~control~~) and cannabis board as contract liquor store managers;

1 (11) Employees of a labor guild, association, or organization:
2 PROVIDED, That elective officials and employees of a labor guild,
3 association, or organization which qualifies as an employer within
4 this chapter shall have the option of applying for membership;

5 (12) Retirement system retirees: PROVIDED, That following
6 reemployment in an eligible position, a retiree may elect to
7 prospectively become a member of the retirement system if otherwise
8 eligible;

9 (13) Persons employed by or appointed or elected as an official
10 of a first-class city that has its own retirement system: PROVIDED,
11 That any member elected or appointed to an elective office on or
12 after April 1, 1971, shall have the option of continuing as a member
13 of this system in lieu of becoming a member of the city system. A
14 member who elects to continue as a member of this system shall pay
15 the appropriate member contributions and the city shall pay the
16 employer contributions at the rates prescribed by this chapter. The
17 city shall also transfer to this system all of such member's
18 accumulated contributions together with such further amounts as
19 necessary to equal all employee and employer contributions which
20 would have been paid into this system on account of such service with
21 the city and thereupon the member shall be granted credit for all
22 such service. Any city that becomes an employer as defined in RCW
23 41.40.010(13) as the result of an individual's election under this
24 subsection shall not be required to have all employees covered for
25 retirement under the provisions of this chapter. Nothing in this
26 subsection shall prohibit a city of the first class with its own
27 retirement system from: (a) Transferring all of its current employees
28 to the retirement system established under this chapter, or (b)
29 allowing newly hired employees the option of continuing coverage
30 under the retirement system established by this chapter.

31 Notwithstanding any other provision of this chapter, persons
32 transferring from employment with a first-class city of over four
33 hundred thousand population that has its own retirement system to
34 employment with the state department of agriculture may elect to
35 remain within the retirement system of such city and the state shall
36 pay the employer contributions for such persons at like rates as
37 prescribed for employers of other members of such system;

38 (14) Employees who (a) are not citizens of the United States, (b)
39 do not reside in the United States, and (c) perform duties outside of
40 the United States;

1 (15) Employees who (a) are not citizens of the United States, (b)
2 are not covered by chapter 41.48 RCW, (c) are not excluded from
3 membership under this chapter or chapter 41.04 RCW, (d) are residents
4 of this state, and (e) make an irrevocable election to be excluded
5 from membership, in writing, which is submitted to the director
6 within thirty days after employment in an eligible position;

7 (16) Employees who are citizens of the United States and who
8 reside and perform duties for an employer outside of the United
9 States: PROVIDED, That unless otherwise excluded under this chapter
10 or chapter 41.04 RCW, the employee may apply for membership (a)
11 within thirty days after employment in an eligible position and
12 membership service credit shall be granted from the first day of
13 membership service, and (b) after this thirty-day period, but
14 membership service credit shall be granted only if payment is made
15 for the noncredited membership service under RCW 41.50.165(2),
16 otherwise service shall be from the date of application;

17 (17) The city manager or chief administrative officer of a city
18 or town, other than a retiree, who serves at the pleasure of an
19 appointing authority: PROVIDED, That such persons shall have the
20 option of applying for membership within thirty days from date of
21 their appointment to such positions. Persons serving in such
22 positions as of April 4, 1986, shall continue to be members in the
23 retirement system unless they notify the director in writing prior to
24 December 31, 1986, of their desire to withdraw from membership in the
25 retirement system. A member who withdraws from membership in the
26 system under this section shall receive a refund of the member's
27 accumulated contributions.

28 Persons serving in such positions who have not opted for
29 membership within the specified thirty days, may do so by paying the
30 amount required under RCW 41.50.165(2) for the period from the date
31 of their appointment to the date of acceptance into membership;

32 (18) Persons serving as: (a) The chief administrative officer of
33 a public utility district as defined in RCW 54.16.100; (b) the chief
34 administrative officer of a port district formed under chapter 53.04
35 RCW; or (c) the chief administrative officer of a county who serves
36 at the pleasure of an appointing authority: PROVIDED, That such
37 persons shall have the option of applying for membership within
38 thirty days from the date of their appointment to such positions.
39 Persons serving in such positions as of July 25, 1999, shall continue
40 to be members in the retirement system unless they notify the

1 director in writing prior to December 31, 1999, of their desire to
2 withdraw from membership in the retirement system. A member who
3 withdraws from membership in the system under this section shall
4 receive a refund of the member's accumulated contributions upon
5 termination of employment or as otherwise consistent with the plan's
6 tax qualification status as defined in internal revenue code section
7 401.

8 Persons serving in such positions who have not opted for
9 membership within the specified thirty days, may do so at a later
10 date by paying the amount required under RCW 41.50.165(2) for the
11 period from the date of their appointment to the date of acceptance
12 into membership;

13 (19) Persons enrolled in state-approved apprenticeship programs,
14 authorized under chapter 49.04 RCW, and who are employed by local
15 governments to earn hours to complete such apprenticeship programs,
16 if the employee is a member of a union-sponsored retirement plan and
17 is making contributions to such a retirement plan or if the employee
18 is a member of a Taft-Hartley retirement plan;

19 (20) Beginning on July 22, 2001, persons employed exclusively as
20 trainers or trainees in resident apprentice training programs
21 operated by housing authorities authorized under chapter 35.82 RCW,
22 (a) if the trainer or trainee is a member of a union-sponsored
23 retirement plan and is making contributions to such a retirement plan
24 or (b) if the employee is a member of a Taft-Hartley retirement plan;

25 (21) Employees who are removed from membership under RCW
26 41.40.823 or 41.40.633; (~~and~~)

27 (22) Persons employed as the state director of fire protection
28 under RCW 43.43.938 who were previously members of the law
29 enforcement officers' and firefighters' retirement system plan 2
30 under chapter 41.26 RCW may continue as a member of the law
31 enforcement officers' and firefighters' retirement system in lieu of
32 becoming a member of this system; and

33 (23) Persons hired on or after the effective date of this section
34 employed by a public transportation benefit area as defined in RCW
35 36.57A.010 as part-time bus drivers serving naval shipyards if the
36 employee is simultaneously employed on a full-time basis with an
37 employer of the federal government and is making contributions to the
38 federal employees' retirement system.

Passed by the Senate February 7, 2024.

Passed by the House February 29, 2024.

Approved by the Governor March 25, 2024.
Filed in Office of Secretary of State March 26, 2024.

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