
SUBSTITUTE SENATE BILL 5905

State of Washington

69th Legislature

2026 Regular Session

By Senate Ways & Means (originally sponsored by Senator Short)

READ FIRST TIME 02/04/26.

1 AN ACT Relating to membership in the public employees' retirement
2 system for port workers who participate in a federal railroad
3 retirement plan, a union-sponsored defined benefit retirement plan,
4 or another employer-funded private pension plan; amending RCW
5 41.40.023; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the department
8 of retirement systems and a port district employer made a mutual
9 mistake regarding the retirement system coverage of certain port
10 employees who are railroad workers participating in the federal
11 railroad retirement system. When the port district joined the public
12 employees' retirement system in September 2023, these employees were
13 inadvertently included in the definition of eligible employee for
14 purposes of membership in the public employees' retirement system
15 membership prior to the enactment of an explicit statutory exemption.

16 The legislature further finds that it has never been the
17 legislature's intent for an employee to be covered by more than one
18 public retirement plan for the same period of service, or for an
19 employer to be required to make retirement contributions to more than
20 one plan for the same employee and period of service.

1 The legislature intends to correct this mistake by clarifying
2 that employees who participate in any federal retirement system are
3 not eligible for, and are not required to participate in, the public
4 employees' retirement system for the same period of service.

5 The legislature further intends to resolve ambiguity in RCW
6 53.08.170 concerning a port district's authority to contribute to a
7 private pension plan. Consistent with longstanding practice, any
8 employee who has been, or is, covered by a private Taft-Hartley
9 defined benefit pension plan while employed by a port district on or
10 after January 1, 1965, is exempt from participation in the public
11 employees' retirement system.

12 **Sec. 2.** RCW 41.40.023 and 2024 c 247 s 1 are each amended to
13 read as follows:

14 Membership in the retirement system shall consist of all
15 regularly compensated employees and appointive and elective officials
16 of employers, as defined in this chapter, with the following
17 exceptions:

18 (1) Persons in ineligible positions;

19 (2) Employees of the legislature except the officers thereof
20 elected by the members of the senate and the house and legislative
21 committees, unless membership of such employees be authorized by the
22 said committee;

23 (3)(a) Persons holding elective offices or persons appointed
24 directly by the governor: PROVIDED, That such persons shall have the
25 option of applying for membership during such periods of employment:
26 AND PROVIDED FURTHER, That any persons holding or who have held
27 elective offices or persons appointed by the governor who are members
28 in the retirement system and who have, prior to becoming such
29 members, previously held an elective office, and did not at the start
30 of such initial or successive terms of office exercise their option
31 to become members, may apply for membership to be effective during
32 such term or terms of office, and shall be allowed to establish the
33 service credit applicable to such term or terms of office upon
34 payment of the employee contributions therefor by the employee with
35 interest as determined by the director and employer contributions
36 therefor by the employer or employee with interest as determined by
37 the director: AND PROVIDED FURTHER, That all contributions with
38 interest submitted by the employee under this subsection shall be
39 placed in the employee's individual account in the employee's savings

1 fund and be treated as any other contribution made by the employee,
2 with the exception that any contributions submitted by the employee
3 in payment of the employer's obligation, together with the interest
4 the director may apply to the employer's contribution, shall not be
5 considered part of the member's annuity for any purpose except
6 withdrawal of contributions;

7 (b) A member holding elective office who has elected to apply for
8 membership pursuant to (a) of this subsection and who later wishes to
9 be eligible for a retirement allowance shall have the option of
10 ending his or her membership in the retirement system. A member
11 wishing to end his or her membership under this subsection must file,
12 on a form supplied by the department, a statement indicating that the
13 member agrees to irrevocably abandon any claim for service for future
14 periods served as an elected official. A member who receives more
15 than fifteen thousand dollars per year in compensation for his or her
16 elective service, adjusted annually for inflation by the director, is
17 not eligible for the option provided by this subsection (3)(b);

18 (4) Employees holding membership in, or receiving pension
19 benefits under, any retirement plan operated wholly or in part by an
20 agency of the state or political subdivision thereof, or who are by
21 reason of their current employment contributing to or otherwise
22 establishing the right to receive benefits from any such retirement
23 plan except as follows:

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

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

31 (c) An employee shall not either before or after June 7, 1984, be
32 excluded from membership or denied service credit pursuant to this
33 subsection solely on account of: (i) Membership in the plan created
34 under chapter 2.14 RCW; or (ii) enrollment under the relief and
35 compensation provisions or the pension provisions of the volunteer
36 firefighters' relief and pension principal fund or the reserve
37 officers' relief and pension principal fund under chapter 41.24 RCW;

38 (d) Except as provided in RCW 41.40.109, on or after July 25,
39 1999, an employee shall not be excluded from membership or denied
40 service credit pursuant to this subsection solely on account of

1 participation in a defined contribution pension plan qualified under
2 section 401 of the internal revenue code;

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

10 (5) Patient and inmate help in state charitable, penal, and
11 correctional institutions;

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

13 (7) Persons employed by an institution of higher learning or
14 community college, primarily as an incident to and in furtherance of
15 their education or training, or the education or training of a
16 spouse;

17 (8) Employees of an institution of higher learning or community
18 college during the period of service necessary to establish
19 eligibility for membership in the retirement plans operated by such
20 institutions;

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

25 (10) Persons appointed after April 1, 1963, by the liquor and
26 cannabis board as contract liquor store managers;

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

31 (12) Retirement system retirees: PROVIDED, That following
32 reemployment in an eligible position, a retiree may elect to
33 prospectively become a member of the retirement system if otherwise
34 eligible;

35 (13) Persons employed by or appointed or elected as an official
36 of a first-class city that has its own retirement system: PROVIDED,
37 That any member elected or appointed to an elective office on or
38 after April 1, 1971, shall have the option of continuing as a member
39 of this system in lieu of becoming a member of the city system. A
40 member who elects to continue as a member of this system shall pay

1 the appropriate member contributions and the city shall pay the
2 employer contributions at the rates prescribed by this chapter. The
3 city shall also transfer to this system all of such member's
4 accumulated contributions together with such further amounts as
5 necessary to equal all employee and employer contributions which
6 would have been paid into this system on account of such service with
7 the city and thereupon the member shall be granted credit for all
8 such service. Any city that becomes an employer as defined in RCW
9 41.40.010(13) as the result of an individual's election under this
10 subsection shall not be required to have all employees covered for
11 retirement under the provisions of this chapter. Nothing in this
12 subsection shall prohibit a city of the first class with its own
13 retirement system from: (a) Transferring all of its current employees
14 to the retirement system established under this chapter, or (b)
15 allowing newly hired employees the option of continuing coverage
16 under the retirement system established by this chapter.

17 Notwithstanding any other provision of this chapter, persons
18 transferring from employment with a first-class city of over four
19 hundred thousand population that has its own retirement system to
20 employment with the state department of agriculture may elect to
21 remain within the retirement system of such city and the state shall
22 pay the employer contributions for such persons at like rates as
23 prescribed for employers of other members of such system;

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

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

33 (16) Employees who are citizens of the United States and who
34 reside and perform duties for an employer outside of the United
35 States: PROVIDED, That unless otherwise excluded under this chapter
36 or chapter 41.04 RCW, the employee may apply for membership (a)
37 within thirty days after employment in an eligible position and
38 membership service credit shall be granted from the first day of
39 membership service, and (b) after this thirty-day period, but
40 membership service credit shall be granted only if payment is made

1 for the noncredited membership service under RCW 41.50.165(2),
2 otherwise service shall be from the date of application;

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

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

18 (18) Persons serving as: (a) The chief administrative officer of
19 a public utility district as defined in RCW 54.16.100; (b) the chief
20 administrative officer of a port district formed under chapter 53.04
21 RCW; or (c) the chief administrative officer of a county who serves
22 at the pleasure of an appointing authority: PROVIDED, That such
23 persons shall have the option of applying for membership within
24 thirty days from the date of their appointment to such positions.
25 Persons serving in such positions as of July 25, 1999, shall continue
26 to be members in the retirement system unless they notify the
27 director in writing prior to December 31, 1999, of their desire to
28 withdraw from membership in the retirement system. A member who
29 withdraws from membership in the system under this section shall
30 receive a refund of the member's accumulated contributions upon
31 termination of employment or as otherwise consistent with the plan's
32 tax qualification status as defined in internal revenue code section
33 401.

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

39 (19) Persons enrolled in state-approved apprenticeship programs,
40 authorized under chapter 49.04 RCW, and who are employed by local

1 governments to earn hours to complete such apprenticeship programs,
2 if the employee is a member of a union-sponsored retirement plan and
3 is making contributions to such a retirement plan or if the employee
4 is a member of a Taft-Hartley retirement plan;

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

11 (21) Employees who are removed from membership under RCW
12 41.40.823 or 41.40.633;

13 (22) Persons employed as the state director of fire protection
14 under RCW 43.43.938 who were previously members of the law
15 enforcement officers' and firefighters' retirement system plan 2
16 under chapter 41.26 RCW may continue as a member of the law
17 enforcement officers' and firefighters' retirement system in lieu of
18 becoming a member of this system; (~~and~~)

19 (23) Persons hired on or after June 6, 2024, employed by a public
20 transportation benefit area as defined in RCW 36.57A.010 as part-time
21 bus drivers serving naval shipyards if the employee is simultaneously
22 employed on a full-time basis with an employer of the federal
23 government and is making contributions to the federal employees'
24 retirement system;

25 (24) Persons employed by a port district who are participants in
26 a federal railroad retirement plan under the federal railroad
27 retirement act. Persons described in this subsection are ineligible
28 for membership in the public employees' retirement system for any
29 period during which the port district is paying or has paid payroll
30 taxes toward the person's federal railroad retirement plan benefit;
31 and

32 (25) Persons employed by a port district who are participants in
33 a Taft-Hartley defined benefit retirement plan to which the port
34 district is required to make employer contributions under a
35 collective bargaining agreement. Pursuant to RCW 53.08.170, persons
36 described in this subsection are ineligible for membership in the
37 public employees' retirement system after January 1, 1965, for any

1 period in which the port district is making or has made employer
2 contributions to such a plan.

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