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HOUSE BILL 1294

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives Locke, Mielke, Orr, Heavey, Scott, Quall, Chappell, R. Fisher, R. Meyers, Ludwig, R. Johnson, Wood, Grant, Riley, King, Mastin, Forner, Franklin, Karahalios, Jacobsen, Zellinsky, Romero, Johanson, Morris, Flemming, Leonard, Brown, Finkbeiner, Holm, Eide, G. Cole, Ogden, Jones, Wang, Sheldon, Bray, G. Fisher, Long, Dellwo, Roland, Tate, Springer, Thibaudeau, L. Johnson, J. Kohl, Veloria, Dunshee, Basich, Campbell, Kessler, H. Myers, Vance, Brough, Dorn, Hansen, Schmidt, Cooke, Casada, Edmondson, Carlson and Brumsickle

Read first time 01/22/93. Referred to Committee on Appropriations.

1 AN ACT Relating to the law enforcement officers' and fire fighters'  
2 retirement system; and amending RCW 41.26.430, 41.26.470, and  
3 41.26.510.

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

5 **Sec. 1.** RCW 41.26.430 and 1991 c 343 s 18 are each amended to read  
6 as follows:

7 (~~((1) NORMAL RETIREMENT.))~~ Any member with at least five service  
8 credit years of service who has attained at least age (~~(fifty-eight))~~  
9 fifty shall be eligible to retire and to receive a retirement allowance  
10 computed according to the provisions of RCW 41.26.420.

11 (~~((2) EARLY RETIREMENT. Any member who has completed at least  
12 twenty service credit years of service and has attained age fifty shall  
13 be eligible to retire and to receive a retirement allowance computed  
14 according to the provisions of RCW 41.26.420, except that a member  
15 retiring pursuant to this subsection shall have the retirement  
16 allowance actuarially reduced to reflect the difference in the number  
17 of years between age at retirement and the attainment of age fifty-  
18 eight.))~~)

1       **Sec. 2.** RCW 41.26.470 and 1990 c 249 s 19 are each amended to read  
2 as follows:

3       (1) A member of the retirement system who becomes totally  
4 incapacitated for continued employment by an employer as determined by  
5 the director shall be eligible to receive an allowance under the  
6 provisions of RCW 41.26.410 through 41.26.550. Such member shall  
7 receive a monthly disability allowance computed as provided for in RCW  
8 41.26.420 and shall have such allowance actuarially reduced to reflect  
9 the difference in the number of years between age at disability and the  
10 attainment of age (~~(fifty-eight)~~) fifty.

11       (2) Any member who receives an allowance under the provisions of  
12 this section shall be subject to such comprehensive medical  
13 examinations as required by the department. If such medical  
14 examinations reveal that such a member has recovered from the  
15 incapacitating disability and the member is no longer entitled to  
16 benefits under Title 51 RCW, the retirement allowance shall be canceled  
17 and the member shall be restored to duty in the same civil service  
18 rank, if any, held by the member at the time of retirement or, if  
19 unable to perform the duties of the rank, then, at the member's  
20 request, in such other like or lesser rank as may be or become open and  
21 available, the duties of which the member is then able to perform. In  
22 no event shall a member previously drawing a disability allowance be  
23 returned or be restored to duty at a salary or rate of pay less than  
24 the current salary attached to the rank or position held by the member  
25 at the date of the retirement for disability. If the department  
26 determines that the member is able to return to service, the member is  
27 entitled to notice and a hearing. Both the notice and the hearing  
28 shall comply with the requirements of chapter 34.05 RCW, the  
29 Administrative Procedure Act.

30       (3) Those members subject to this chapter who became disabled in  
31 the line of duty on or after July 23, 1989, and who receive benefits  
32 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW  
33 41.04.535 shall receive or continue to receive service credit subject  
34 to the following:

35       (a) No member may receive more than one month's service credit in  
36 a calendar month.

37       (b) No service credit under this section may be allowed after a  
38 member separates or is separated without leave of absence.

1 (c) Employer contributions shall be paid by the employer at the  
2 rate in effect for the period of the service credited.

3 (d) Employee contributions shall be collected by the employer and  
4 paid to the department at the rate in effect for the period of service  
5 credited.

6 (e) State contributions shall be as provided in RCW 41.26.450.

7 (f) Contributions shall be based on the regular compensation which  
8 the member would have received had the disability not occurred.

9 (g) The service and compensation credit under this section shall be  
10 granted for a period not to exceed six consecutive months.

11 (h) Should the legislature revoke the service credit authorized  
12 under this section or repeal this section, no affected employee is  
13 entitled to receive the credit as a matter of contractual right.

14 (4)(a) If the recipient of a monthly retirement allowance under  
15 this section dies before the total of the retirement allowance paid to  
16 the recipient equals the amount of the accumulated contributions at the  
17 date of retirement, then the balance shall be paid to such person or  
18 persons having an insurable interest in his or her life as the  
19 recipient has nominated by written designation duly executed and filed  
20 with the director, or, if there is no such designated person or persons  
21 still living at the time of the recipient's death, then to the  
22 surviving spouse, or, if there is neither such designated person or  
23 persons still living at the time of his or her death nor a surviving  
24 spouse, then to his or her legal representative.

25 (b) If a recipient of a monthly retirement allowance under this  
26 section died before April 27, 1989, and before the total of the  
27 retirement allowance paid to the recipient equaled the amount of his or  
28 her accumulated contributions at the date of retirement, then the  
29 department shall pay the balance of the accumulated contributions to  
30 the member's surviving spouse or, if there is no surviving spouse, then  
31 in equal shares to the member's children. If there is no surviving  
32 spouse or children, the department shall retain the contributions.

33 **Sec. 3.** RCW 41.26.510 and 1991 c 365 s 31 are each amended to read  
34 as follows:

35 (1) If a member or a vested member who has not completed at least  
36 ten years of service dies, the amount of the accumulated contributions  
37 standing to such member's credit in the retirement system at the time  
38 of such member's death, less any amount identified as owing to an

1 obligee upon withdrawal of accumulated contributions pursuant to a  
2 court order filed under RCW 41.50.670, shall be paid to such person or  
3 persons having an insurable interest in such member's life as the  
4 member shall have nominated by written designation duly executed and  
5 filed with the department. If there be no such designated person or  
6 persons still living at the time of the member's death, such member's  
7 accumulated contributions standing to such member's credit in the  
8 retirement system, less any amount identified as owing to an obligee  
9 upon withdrawal of accumulated contributions pursuant to a court order  
10 filed under RCW 41.50.670, shall be paid to the member's surviving  
11 spouse as if in fact such spouse had been nominated by written  
12 designation, or if there be no such surviving spouse, then to such  
13 member's legal representatives.

14 (2) If a member who is eligible for retirement or a member who has  
15 completed at least ten years of service dies, the surviving spouse or  
16 eligible child or children shall elect to receive either:

17 (a) A retirement allowance computed as provided for in RCW  
18 41.26.430(1), actuarially reduced by the amount of any lump sum benefit  
19 identified as owing to an obligee upon withdrawal of accumulated  
20 contributions pursuant to a court order filed under RCW 41.50.670 and  
21 actuarially adjusted to reflect a joint and one hundred percent  
22 survivor option under RCW 41.26.460 and if the member was not eligible  
23 for ((normal)) retirement at the date of death a further reduction ((as  
24 described in RCW 41.26.430(2))) to reflect the difference in the number  
25 of years between age fifty and the member's age at the time of death;  
26 if a surviving spouse who is receiving a retirement allowance dies  
27 leaving a child or children of the member under the age of majority,  
28 then such child or children shall continue to receive an allowance in  
29 an amount equal to that which was being received by the surviving  
30 spouse, share and share alike, until such child or children reach the  
31 age of majority; if there is no surviving spouse eligible to receive an  
32 allowance at the time of the member's death, such member's child or  
33 children under the age of majority shall receive an allowance share and  
34 share alike calculated as herein provided making the assumption that  
35 the ages of the spouse and member were equal at the time of the  
36 member's death; or

37 (b) The member's accumulated contributions, less any amount  
38 identified as owing to an obligee upon withdrawal of accumulated  
39 contributions pursuant to a court order filed under RCW 41.50.670.

1 (3) If a member who is eligible for retirement or a member who has  
2 completed at least ten years of service dies after October 1, 1977, and  
3 is not survived by a spouse or an eligible child, then the accumulated  
4 contributions standing to the member's credit, less any amount  
5 identified as owing to an obligee upon withdrawal of accumulated  
6 contributions pursuant to a court order filed under RCW 41.50.670,  
7 shall be paid:

8 (a) To a person or persons, having an insurable interest in the  
9 member's life, as the member shall have nominated by written  
10 designation duly executed and filed with the department; or

11 (b) If there is no such designated person or persons still living  
12 at the time of the member's death, then to the member's legal  
13 representatives.

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