

2 SSB 6166 - S AMD 401
3 By Senator Brown

4 ADOPTED 05/16/01

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. Sec. 1. LEGISLATIVE FINDINGS AND DECLARATION. Plan
8 1 of the Washington law enforcement officers' and fire fighters'
9 retirement system (LEOFF plan 1) has been closed to new members for
10 nearly a quarter of a century. During that time, LEOFF plan 1 has
11 achieved full funding and has assets which exceed all projected future
12 liabilities and has a surplus approaching one billion dollars. In
13 recognition of the contributions of working fire fighters and police
14 officers to LEOFF plan 1, it is the purpose of this chapter, in part,
15 to provide for an enhanced retirement benefit to LEOFF plan 1 members.

16 LEOFF plan 1 also provides substantial postretirement health and
17 long-term care benefits. The financial burden of this benefit, which
18 is an integral part of LEOFF plan 1, falls exclusively on the cities,
19 counties, and fire districts that employed the retired fire fighters
20 and police officers. In recognition of the fiscal burdens facing these
21 political subdivisions, it is appropriate to provide an additional
22 source of funding to ensure the integrity of the benefit without
23 undermining the financial stability of the employing governments.

24 The supreme court of the state of Washington, in the 1956 decision
25 *Bakenhus v. City of Seattle*, established that the fire fighters and
26 police officers, active and retired, have a constitutionally protected
27 contractual right to a secure retirement benefit, funded on a sound
28 actuarial basis. The legislature recognizes that the state of
29 Washington is the ultimate guarantor of the LEOFF plan 1 retirement
30 benefits. While members have a constitutionally protected right to the
31 pension benefits that are provided as part of their contract of
32 employment, there is no such right in surplus assets which are
33 unnecessary to the actuarial soundness of the retirement plan.

34 The state retains the inherent power to terminate a retirement plan
35 and, upon the dedication of sufficient resources to ensure the

1 actuarial soundness of the benefits promised, is entitled to a
2 reversion of the surplus assets upon termination of the plan.

3 The legislature has determined that, in order to accomplish the
4 foregoing goals and objectives, it is in the best interest of the
5 members and beneficiaries of LEOFF plan 1 that the plan be terminated
6 and that a restated retirement plan with enhanced benefits be created.
7 It is further determined to be in the best interest of the health,
8 safety, and welfare of the citizens of the state that surplus assets
9 remaining after adequate actuarial provision for the obligated
10 retirement benefits revert to the state and be allocated for the
11 purposes outlined in this chapter.

12 It is the intent of the legislature that the LEOFF plan 1
13 termination be performed in accordance with the applicable provisions
14 of the federal internal revenue code and in recognition of the contract
15 rights of the members and beneficiaries of the plan to an actuarially
16 sound retirement program.

17 The legislature reserves the right to make such amendments and
18 modifications as may be necessary in the future to accomplish the goals
19 of this section, without any diminution of the rights and benefits of
20 the LEOFF plan 1 members, retirees, and surviving spouses, as they
21 existed prior to July 1, 2001.

22 NEW SECTION. **Sec. 2.** TERMINATION OF LEOFF PLAN 1. Plan 1 of the
23 Washington law enforcement officers' and fire fighters' retirement
24 system (LEOFF plan 1) is hereby terminated. During the transition
25 between the termination of LEOFF plan 1 and the establishment of the
26 restated law enforcement officers' and fire fighters' retirement
27 system, all LEOFF plan 1 benefits, as they existed prior to July 1,
28 2001, shall continue without interruption.

29 NEW SECTION. **Sec. 3.** RESTATED LAW ENFORCEMENT OFFICERS' AND FIRE
30 FIGHTERS' RETIREMENT SYSTEM ESTABLISHED. The restated law enforcement
31 officers' and fire fighters' retirement system is hereby established as
32 provided in this chapter. The restated law enforcement officers' and
33 fire fighters' retirement system established by this chapter may also
34 be referred to by statute and rule as the law enforcement officers' and
35 fire fighters' retirement system plan 1.

1 NEW SECTION. **Sec. 4.** RESTATED LAW ENFORCEMENT OFFICERS' AND FIRE
2 FIGHTERS' DEFINED BENEFIT RETIREMENT FUND ESTABLISHED. (1) The
3 restated law enforcement officers' and fire fighters' defined benefit
4 retirement fund is created in the custody of the state treasurer. The
5 fund shall consist of assets transferred from the Washington law
6 enforcement officers' and fire fighters' system plan 1 retirement fund,
7 investment earnings, and other amounts deposited to the fund. The
8 state treasurer shall transfer to the restated defined benefit
9 retirement fund an amount equal to the actuarial present value of the
10 fully projected liabilities of plan 1 of the Washington law enforcement
11 officers' and fire fighters' retirement system based on the actuarial
12 valuation for calendar year 2000, adjusted to the transfer date, and
13 the long-term economic assumptions in effect on July 1, 2001, under
14 chapter 41.45 RCW. For purposes of funding the plan 1 lump-sum defined
15 benefit created in section 6 of this act, the state treasurer shall
16 also transfer an amount to the restated defined benefit retirement fund
17 equal to twelve percent of the assets in the Washington law enforcement
18 officers' and fire fighters' system plan 1 retirement fund in excess of
19 the actuarial present value of the fully projected liabilities of plan
20 1, as calculated under this subsection.

21 (2) The pension funding council shall conduct an independent audit
22 of the calculation of the present value amount determined by the state
23 actuary. The transfer of these assets to the restated defined benefit
24 retirement fund shall occur as soon as practical after July 1, 2001.
25 The remaining assets in the law enforcement officers' and fire
26 fighters' system plan 1 retirement fund shall be invested in the same
27 manner as the restated defined benefit retirement fund until the
28 transfers occur under sections 5 and 8 of this act.

29 (3) Expenditures from the restated law enforcement officers' and
30 fire fighters' defined benefit retirement fund may be used only for the
31 purposes of this chapter. Only the director of retirement systems or
32 the director's designee may authorize expenditures from the fund. No
33 appropriation is required for expenditures.

34 NEW SECTION. **Sec. 5.** STATE SURPLUS ASSETS RESERVE FUND
35 ESTABLISHED. (1) The state surplus assets reserve fund is created in
36 the state treasury. By June 1, 2002, the state surplus assets reserve
37 fund shall receive all assets of the Washington law enforcement
38 officers' and fire fighters' system plan 1 retirement fund remaining

1 after (a) the distributions to the restated law enforcement officers'
2 and fire fighters' defined benefit retirement fund required by section
3 4 of this act; and (b) the distribution to the law enforcement
4 officers' and fire fighters' medical benefits risk pool under section
5 8 of this act and chapter 41.--- RCW (sections 301 through 310 of this
6 act).

7 (2) Sufficient assets shall be maintained in the state surplus
8 assets reserve fund at all times to ensure the actuarial soundness of
9 the defined benefits of the restated law enforcement officers' and fire
10 fighters' defined benefit retirement plan without the necessity of
11 further employee or employer contributions. Any actuarial shortfall in
12 the defined benefit plan shall be offset first from the assets of the
13 state surplus assets reserve fund. The state investment board shall
14 develop an investment policy, taking into account the purposes of the
15 reserve fund and the preservation of capital, for the purpose of
16 accomplishing the objective of this section.

17 (3) The office of the state actuary shall perform an annual
18 actuarial valuation of the restated law enforcement officers' and fire
19 fighters' defined benefit plan to determine its continued actuarial
20 soundness. Such sums shall be transferred by the legislature from the
21 state surplus assets reserve fund as may be necessary from time to time
22 to maintain the actuarial soundness of the defined benefit plan.

23 (4) The remaining assets of the reserve fund shall be retained as
24 a budget reserve subject to the actuarial needs of the restated law
25 enforcement officers' and fire fighters' defined benefit plan. No
26 appropriation shall be made from the reserve fund for any fiscal year
27 unless the office of the state actuary has certified that the restated
28 law enforcement officers' and fire fighters' defined benefit plan
29 remains fully funded on a sound actuarial basis. No appropriation
30 shall be made from the reserve fund that would reduce the fund balance
31 below two hundred twenty million dollars unless the state actuary has
32 certified that the defined benefit plan assets are greater than one
33 hundred twenty-five percent of the present value of the fully projected
34 liabilities of the defined benefit plan.

35 NEW SECTION. **Sec. 6.** LUMP-SUM DEFINED BENEFIT. (1) The amount
36 equal to twelve percent of the excess assets of the Washington law
37 enforcement officers' and fire fighters' system plan 1 retirement fund
38 transferred to the restated defined benefit retirement fund by section

1 4 of this act shall fund the plan 1 lump-sum defined benefit created by
2 this section.

3 (2) Law enforcement officers' and fire fighters' plan 1 active
4 members, term-vested members, retirees, and spousal survivors eligible
5 for benefits under sections 226, 227, and 228 of this act shall be
6 eligible to receive the plan 1 lump-sum defined benefit pursuant to the
7 conditions established in this section. All assets identified in
8 subsection (1) of this section shall be allocated to the eligible
9 recipients of the plan 1 lump-sum defined benefit. The allocation to
10 each eligible recipient shall be based on the number of months of
11 service credit earned under chapter 41.26 RCW through June 30, 2000, in
12 proportion to the total months of such service credit earned by all
13 eligible recipients. The allocations for eligible recipients who are
14 spousal survivors shall be based on the number of months of such
15 service credit earned by the deceased member. This allocation shall
16 occur on the date of the transfer of assets to the restated defined
17 benefit retirement fund in section 4 of this act.

18 (3) If a member is active or term-vested, interest as determined by
19 the director shall accumulate from the date the lump-sum defined
20 benefit is allocated until distribution to the participant upon
21 retirement from service or for disability. For the purposes of this
22 section, a term-vested member is a member who has rendered five years
23 of service, has not withdrawn his or her member contributions, and who
24 has not applied for retirement.

25 (4) The lump-sum defined benefit shall be paid to a retiree or
26 eligible spousal survivor upon application to the department; however
27 no interest shall accumulate on the benefits allocated to retirees or
28 spousal survivors.

29 (5) If a member dies before distribution of the lump-sum benefit
30 created in this section occurs, the distribution shall be made
31 according to the member's designation in section 216 of this act.

32 (6) The lump-sum benefit created in this section is subject to the
33 provisions of section 209 of this act.

34 (7) If this section is held to be invalid, by section 503 of this
35 act or otherwise, recipients of the lump-sum benefit provided by this
36 section shall no longer be entitled to this benefit and shall be
37 required to return any funds received according to the provisions of
38 RCW 41.50.135, 41.50.136, 41.50.137, and 41.50.138.

1 NEW SECTION. **Sec. 7.** INVESTMENT OF FUNDS. (1) The state
2 investment board has the full power to invest, reinvest, manage,
3 contract, sell, or exchange investment money in (a) the restated law
4 enforcement officers' and fire fighters' defined benefit retirement
5 fund, (b) the law enforcement officers' and fire fighters' medical
6 benefits risk pool account, and (c) the state surplus assets reserve
7 fund. All investment and operating costs of the state investment board
8 and the state treasurer associated with these funds shall be paid under
9 RCW 43.08.190, 43.33A.160, 43.79A.040, and 43.84.160. With the
10 exception of these expenses, the earnings from the investment of the
11 funds shall be retained by the funds.

12 (2) All investments made by the state investment board shall be
13 made with the exercise of that degree of judgment and care under RCW
14 43.33A.140 and the investment policy established by the state
15 investment board.

16 (3) As deemed appropriate by the state investment board, money in
17 the funds may be commingled for investment with other funds under the
18 investment authority of the board.

19 NEW SECTION. **Sec. 8.** TRANSFER TO LEOFF MEDICAL BENEFITS RISK
20 POOL. By June 1, 2002, the state treasurer shall transfer from the
21 Washington law enforcement officers' and fire fighters' system plan 1
22 retirement fund to the law enforcement officers' and fire fighters'
23 medical benefits risk pool account under chapter 41.--- RCW (sections
24 301 through 310 of this act) an amount equal to the transfer to the
25 restated law enforcement officers' and fire fighters' defined benefit
26 fund made for purposes of funding the plan 1 lump-sum defined benefit
27 required by section 6 of this act. The distribution shall be for the
28 exclusive purposes of chapter 41.--- RCW (sections 301 through 310 of
29 this act).

30 NEW SECTION. **Sec. 9.** STATUTE OF LIMITATIONS. Any claim filed
31 challenging the validity of sections 1 through 8 of this act not filed
32 before July 1, 2002, is forever barred, if not already barred by an
33 otherwise applicable statute of limitations. By December 31, 2001, the
34 department of retirement systems shall send notification of the
35 provisions of sections 1 through 9 of this act, by first class mail, to
36 the last known address of each plan 1 active member, retiree, and
37 spousal survivor.

PART I

AMENDMENTS TO CHAPTER 41.26 RCW

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2
3 **Sec. 101.** RCW 41.26.010 and 1969 ex.s. c 209 s 1 are each amended
4 to read as follows:

5 This chapter shall be known and cited as the "Washington Law
6 Enforcement Officers' and Fire Fighters' Retirement System--Plan 2
7 Act".

8 **Sec. 102.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are
9 each reenacted and amended to read as follows:

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

12 (1) "Retirement system" means the "Washington law enforcement
13 officers' and fire fighters' retirement system plan 2" provided herein.

14 ~~((a)) "Employer" for plan 1 members, means the legislative
15 authority of any city, town, county, or district or the elected
16 officials of any municipal corporation that employs any law enforcement
17 officer and/or fire fighter, any authorized association of such
18 municipalities, and, except for the purposes of RCW 41.26.150, any
19 labor guild, association, or organization, which represents the fire
20 fighters or law enforcement officers of at least seven cities of over
21 20,000 population and the membership of each local lodge or division of
22 which is composed of at least sixty percent law enforcement officers or
23 fire fighters as defined in this chapter.~~

24 ~~((b))~~ "Employer" ~~((for plan 2 members,))~~ means the following
25 entities to the extent that the entity employs any law enforcement
26 officer and/or fire fighter:

27 ~~((i))~~ (a) The legislative authority of any city, town, county, or
28 district;

29 ~~((ii))~~ (b) The elected officials of any municipal corporation;

30 ~~((iii))~~ (c) The governing body of any other general authority law
31 enforcement agency; or

32 ~~((iv))~~ (d) A four-year institution of higher education having a
33 fully operational fire department as of January 1, 1996.

34 (3) "Law enforcement officer" beginning January 1, 1994, means any
35 person who is commissioned and employed by an employer on a full time,
36 fully compensated basis to enforce the criminal laws of the state of
37 Washington generally, with the following qualifications:

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

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

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

16 ~~(d) ((The term "law enforcement officer" also includes the
17 executive secretary of a labor guild, association or organization
18 (which is an employer under RCW 41.26.030(2)) if that individual has
19 five years previous membership in the retirement system established in
20 chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not
21 apply to plan 2 members; and~~

22 ~~(e))~~ The term "law enforcement officer" also includes a person
23 employed on or after January 1, 1993, as a public safety officer or
24 director of public safety, so long as the job duties substantially
25 involve only either police or fire duties, or both, and no other duties
26 in a city or town with a population of less than ten thousand. The
27 provisions of this subsection (3)((~~e~~)) (d) shall not apply to any
28 public safety officer or director of public safety who is receiving a
29 retirement allowance under this chapter as of May 12, 1993.

30 (4) "Fire fighter" means:

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

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

37 (c) Supervisory fire fighter personnel; and

1 ~~(d) ((Any full time executive secretary of an association of fire~~
2 ~~protection districts authorized under RCW 52.12.031. The provisions of~~
3 ~~this subsection (4)(d) shall not apply to plan 2 members;~~

4 ~~(e) The executive secretary of a labor guild, association or~~
5 ~~organization (which is an employer under RCW 41.26.030(2) as now or~~
6 ~~hereafter amended), if such individual has five years previous~~
7 ~~membership in a retirement system established in chapter 41.16 or 41.18~~
8 ~~RCW. The provisions of this subsection (4)(e) shall not apply to plan~~
9 ~~2 members;~~

10 ~~(f)) Any person who is serving on a full time, fully compensated~~
11 ~~basis for an employer, as a fire dispatcher, in a department in which,~~
12 ~~on March 1, 1970, a dispatcher was required to have passed a civil~~
13 ~~service examination for fire fighter((; and~~

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

18 (5) "Department" means the department of retirement systems created
19 in chapter 41.50 RCW.

20 (6) "Surviving spouse" means the surviving widow or widower of a
21 member. (~~"Surviving spouse" shall not include the divorced spouse of~~
22 ~~a member except as provided in RCW 41.26.162.))~~

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

27 (i) A natural born child;

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

30 (iii) A posthumous child;

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

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

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

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

3 (8) "Member" means any fire fighter, law enforcement officer, or
4 other person as would apply under subsection((s)) (3) or (4) of this
5 section ((whose membership is transferred to the Washington law
6 enforcement officers' and fire fighters' retirement system on or after
7 March 1, 1970, and every law enforcement officer and fire fighter)) who
8 is employed in that capacity on or after ((such date)) October 1, 1977.

9 (9) "Retirement fund" means the "Washington law enforcement
10 officers' and fire fighters' ((retirement)) system plan 2 retirement
11 fund" as provided for ((herein)) in RCW 41.50.075.

12 (10) "Employee" means any law enforcement officer or fire fighter
13 as defined in subsections (3) and (4) of this section.

14 (11)((a) "Beneficiary" for plan 1 members, means any person in
15 receipt of a retirement allowance, disability allowance, death benefit,
16 or any other benefit described herein.

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

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

36 (b)) "Final average salary" ((for plan 2 members,)) means the
37 monthly average of the member's basic salary for the highest
38 consecutive sixty service credit months of service prior to such
39 member's retirement, termination, or death. Periods constituting

1 authorized unpaid leaves of absence may not be used in the calculation
2 of final average salary.

3 ~~(13)((a) "Basic salary" for plan 1 members, means the basic~~
4 ~~monthly rate of salary or wages, including longevity pay but not~~
5 ~~including overtime earnings or special salary or wages, upon which~~
6 ~~pension or retirement benefits will be computed and upon which employer~~
7 ~~contributions and salary deductions will be based.~~

8 ~~(b)) "Basic salary" ((for plan 2 members,))~~ means salaries or
9 wages earned by a member during a payroll period for personal services,
10 including overtime payments, and shall include wages and salaries
11 deferred under provisions established pursuant to sections 403(b),
12 414(h), and 457 of the United States Internal Revenue Code, but shall
13 exclude lump sum payments for deferred annual sick leave, unused
14 accumulated vacation, unused accumulated annual leave, or any form of
15 severance pay. In any year in which a member serves in the legislature
16 the member shall have the option of having such member's basic salary
17 be the greater of:

18 ~~((i)) (a)~~ The basic salary the member would have received had
19 such member not served in the legislature; or

20 ~~((ii)) (b)~~ Such member's actual basic salary received for
21 nonlegislative public employment and legislative service combined. Any
22 additional contributions to the retirement system required because
23 basic salary under ~~((b)(i)) (a)~~ of this subsection is greater than
24 basic salary under (b)~~((ii))~~ of this subsection shall be paid by the
25 member for both member and employer contributions.

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

1 ~~(i) For members retiring after May 21, 1971 who were employed under~~
2 ~~the coverage of a prior pension act before March 1, 1970, "service"~~
3 ~~shall also include (A) such military service not exceeding five years~~
4 ~~as was creditable to the member as of March 1, 1970, under the member's~~
5 ~~particular prior pension act, and (B) such other periods of service as~~
6 ~~were then creditable to a particular member under the provisions of RCW~~
7 ~~41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit~~
8 ~~be allowed for any service rendered prior to March 1, 1970, where the~~
9 ~~member at the time of rendition of such service was employed in a~~
10 ~~position covered by a prior pension act, unless such service, at the~~
11 ~~time credit is claimed therefor, is also creditable under the~~
12 ~~provisions of such prior act.~~

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

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

25 Members of the retirement system who are elected or appointed to a
26 state elective position may elect to continue to be members of this
27 retirement system.

28 Service credit years of service shall be determined by dividing the
29 total number of service credit months of service by twelve. Any
30 fraction of a service credit year of service as so determined shall be
31 taken into account in the computation of such retirement allowance or
32 benefits.

33 If a member receives basic salary from two or more employers during
34 any calendar month, the individual shall receive one service credit
35 month's service credit during any calendar month in which multiple
36 service for ninety or more hours is rendered; or one-half service
37 credit month's service credit during any calendar month in which
38 multiple service for at least seventy hours but less than ninety hours
39 is rendered; or one-quarter service credit month during any calendar

1 month in which multiple service for less than seventy hours is
2 rendered.

3 (15) "Accumulated contributions" means the employee's contributions
4 made by a member, including any amount paid under RCW 41.50.165(2),
5 plus accrued interest credited thereon.

6 (16) "Actuarial reserve" means a method of financing a pension or
7 retirement plan wherein reserves are accumulated as the liabilities for
8 benefit payments are incurred in order that sufficient funds will be
9 available on the date of retirement of each member to pay the member's
10 future benefits during the period of retirement.

11 (17) "Actuarial valuation" means a mathematical determination of
12 the financial condition of a retirement plan. It includes the
13 computation of the present monetary value of benefits payable to
14 present members, and the present monetary value of future employer and
15 employee contributions, giving effect to mortality among active and
16 retired members and also to the rates of disability, retirement,
17 withdrawal from service, salary and interest earned on investments.

18 ~~(18) ("Disability board" for plan 1 members means either the~~
19 ~~county disability board or the city disability board established in RCW~~
20 ~~41.26.110.~~

21 ~~(19) "Disability leave" means the period of six months or any~~
22 ~~portion thereof during which a member is on leave at an allowance equal~~
23 ~~to the member's full salary prior to the commencement of disability~~
24 ~~retirement. The definition contained in this subsection shall apply~~
25 ~~only to plan 1 members.~~

26 ~~(20) "Disability retirement" for plan 1 members, means the period~~
27 ~~following termination of a member's disability leave, during which the~~
28 ~~member is in receipt of a disability retirement allowance.~~

29 ~~(21)) "Position" means the employment held at any particular time,~~
30 ~~which may or may not be the same as civil service rank.~~

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

34 ~~(a) Hospital expenses: These are the charges made by a hospital,~~
35 ~~in its own behalf, for~~

36 ~~(i) Board and room not to exceed semiprivate room rate unless~~
37 ~~private room is required by the attending physician due to the~~
38 ~~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 chapter~~
8 ~~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 nurse~~
14 ~~who ordinarily resides in the member's home, or is a member of the~~
15 ~~family of either the member or the member's spouse.~~

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

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

18 ~~(B) Diagnostic x ray and laboratory examinations;~~

19 ~~(C) X ray, radium, and radioactive isotopes therapy;~~

20 ~~(D) Anesthesia and oxygen;~~

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

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

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

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

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

31 ~~(J) Physical therapy by a registered physical therapist;~~

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

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

36 ~~(23)) (19) "Regular interest" means such rate as the director may~~
37 ~~determine.~~

38 ~~((24)) (20) "Retiree" ((for persons who establish membership in~~
39 ~~the retirement system on or after October 1, 1977,)) means any member~~

1 in receipt of a retirement allowance or other benefit provided by this
2 chapter resulting from service rendered to an employer by such member.

3 ~~((+25+))~~ (21) "Director" means the director of the department.

4 ~~((+26+))~~ (22) "State actuary" or "actuary" means the person
5 appointed pursuant to RCW 44.44.010(2).

6 ~~((+27+))~~ (23) "State elective position" means any position held by
7 any person elected or appointed to statewide office or elected or
8 appointed as a member of the legislature.

9 ~~((+28+))~~ (24) "Plan 1" means the law enforcement officers' and fire
10 fighters' retirement system, plan 1 providing the benefits and funding
11 provisions covering persons who first became members of the system
12 prior to October 1, 1977, which plan was terminated effective July 1,
13 2001, and members transferred to the retirement system established by
14 chapter 41.26A RCW.

15 ~~((+29+))~~ (25) "Plan 2" means the law enforcement officers' and fire
16 fighters' retirement system, plan 2 providing the benefits and funding
17 provisions covering persons who first became members of the system on
18 and after October 1, 1977.

19 ~~((+30+))~~ (26) "Service credit year" means an accumulation of months
20 of service credit which is equal to one when divided by twelve.

21 ~~((+31+))~~ (27) "Service credit month" means a full service credit
22 month or an accumulation of partial service credit months that are
23 equal to one.

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

1 **Sec. 103.** RCW 41.26.040 and 1991 c 35 s 15 are each amended to
2 read as follows:

3 The Washington law enforcement officers' and fire fighters'
4 retirement system plan 2 is hereby created for fire fighters and law
5 enforcement officers.

6 (1) (~~Notwithstanding RCW 41.26.030(8),~~) All fire fighters and law
7 enforcement officers employed as such on or after (~~March 1, 1970~~)
8 October 1, 1977, on a full time fully compensated basis in this state
9 shall be members of the retirement system established by this chapter
10 with respect to all periods of service as such, to the exclusion of any
11 pension system existing under any prior act.

12 (2) (~~Any employee serving as a law enforcement officer or fire
13 fighter on March 1, 1970, who is then making retirement contributions
14 under any prior act shall have his membership transferred to the system
15 established by this chapter as of such date. Upon retirement for
16 service or for disability, or death, of any such employee, his
17 retirement benefits earned under this chapter shall be computed and
18 paid. In addition, his benefits under the prior retirement act to
19 which he was making contributions at the time of this transfer shall be
20 computed as if he had not transferred. For the purpose of such
21 computations, the employee's creditability of service and eligibility
22 for service or disability retirement and survivor and all other
23 benefits shall continue to be as provided in such prior retirement act,
24 as if transfer of membership had not occurred. The excess, if any, of
25 the benefits so computed, giving full value to survivor benefits, over
26 the benefits payable under this chapter shall be paid whether or not
27 the employee has made application under the prior act. If the
28 employee's prior retirement system was the Washington public employees'
29 retirement system, payment of such excess shall be made by that system;
30 if the employee's prior retirement system was the statewide city
31 employees' retirement system, payment of such excess shall be made by
32 the employer which was the member's employer when his transfer of
33 membership occurred: PROVIDED, That any death in line of duty lump sum
34 benefit payment shall continue to be the obligation of that system as
35 provided in RCW 41.44.210; in the case of all other prior retirement
36 systems, payment of such excess shall be made by the employer which was
37 the member's employer when his transfer of membership occurred.~~)

38 (3)) All funds held by any firemen's or policemen's relief and
39 pension fund shall remain in that fund for the purpose of paying the

1 obligations of the fund. The municipality shall continue to levy the
2 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be
3 used for the purpose of paying the benefits provided in chapters 41.16
4 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to
5 be paid from whatever financial sources the city has been using for
6 this purpose.

7 **Sec. 104.** RCW 41.26.061 and 1997 c 103 s 1 are each amended to
8 read as follows:

9 A member shall not receive a disability retirement benefit under
10 RCW ((~~41.26.120, 41.26.125, 41.26.130, or~~) 41.26.470) if the disability
11 is the result of criminal conduct by the member committed after April
12 21, 1997.

13 **PART II**

14 **CHAPTER 41.26A RCW: RESTATED LEOFF RETIREMENT SYSTEM**

15 NEW SECTION. **Sec. 201.** APPLICATION OF CHAPTER. This chapter
16 applies to members of the restated law enforcement officers' and fire
17 fighters' retirement system. Membership in the system is limited to
18 those persons who were members of plan 1 of the law enforcement
19 officers' and fire fighters' retirement system under chapter 41.26 RCW
20 prior to July 1, 2001.

21 NEW SECTION. **Sec. 202.** DEFINITIONS. The definitions in this
22 section apply throughout this chapter unless the context clearly
23 requires otherwise.

24 (1) "Retirement system" means the restated law enforcement
25 officers' and fire fighters' retirement system.

26 (2) "Employer" means the legislative authority of any city, town,
27 county, or district or the elected officials of any municipal
28 corporation that employs any law enforcement officer and/or fire
29 fighter, any authorized association of such municipalities, and, except
30 for the purposes of section 225 of this act, any labor guild,
31 association, or organization, which represents the fire fighters or law
32 enforcement officers of at least seven cities of over twenty thousand
33 population and the membership of each local lodge or division of which
34 is composed of at least sixty percent law enforcement officers or fire
35 fighters as defined in this chapter.

1 (3) "Law enforcement officer" beginning January 1, 1994, means any
2 person who is commissioned and employed by an employer on a full-time,
3 fully compensated basis to enforce the criminal laws of the state of
4 Washington generally, with the following qualifications:

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

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

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

20 (d) The term "law enforcement officer" also includes the executive
21 secretary of a labor guild, association, or organization (which is an
22 employer under this section) if that individual has five years previous
23 membership in the retirement system established in chapter 41.20 RCW;
24 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 duties
29 in a city or town with a population of less than ten thousand. The
30 provisions of this subsection (3)(e) shall not apply to any public
31 safety officer or director of public safety who is receiving a
32 retirement allowance under this chapter as of May 12, 1993.

33 (4) "Fire fighter" means:

34 (a) Any person who is serving on a full-time, fully compensated
35 basis as a member of a fire department of an employer and who is
36 serving in a position which requires passing a civil service
37 examination for fire fighter, and who is actively employed as such;

38 (b) Anyone who is actively employed as a full-time fire fighter
39 where the fire department does not have a civil service examination;

1 (c) Supervisory fire fighter personnel;

2 (d) Any full-time executive secretary of an association of fire
3 protection districts authorized under RCW 52.12.031;

4 (e) The executive secretary of a labor guild, association, or
5 organization (which is an employer under this section), if such
6 individual has five years previous membership in a retirement system
7 established in chapter 41.16 or 41.18 RCW;

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

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

16 (5) "Department" means the department of retirement systems created
17 in chapter 41.50 RCW.

18 (6) "Surviving spouse" means the surviving widow or widower of a
19 member. "Surviving spouse" shall not include the divorced spouse of a
20 member except as provided in section 228 of this act.

21 (7)(a) "Child" or "children" means an unmarried person who is under
22 the age of eighteen or mentally or physically handicapped as determined
23 by the department, except a handicapped person in the full-time care of
24 a state institution, who is:

25 (i) A natural born child;

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

28 (iii) A posthumous child;

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

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

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

1 (8) "Member" means any fire fighter, law enforcement officer, or
2 other person as would apply under subsection (3) or (4) of this section
3 whose membership is transferred to the Washington law enforcement
4 officers' and fire fighters' retirement system on or after March 1,
5 1970, and every law enforcement officer and fire fighter who is
6 employed in that capacity on or after such date.

7 (9) "Retirement fund" means the restated law enforcement officers'
8 and fire fighters' defined benefit retirement fund.

9 (10) "Employee" means any law enforcement officer or fire fighter
10 as defined in subsections (3) and (4) of this section.

11 (11) "Beneficiary" means any person in receipt of a retirement
12 allowance, disability allowance, death benefit, or any other benefit
13 described herein.

14 (12) "Final average salary" means (a) for a member holding the same
15 position or rank for a minimum of twelve months preceding the date of
16 retirement, the basic salary attached to such same position or rank at
17 time of retirement; (b) for any other member, including a civil service
18 member who has not served a minimum of twelve months in the same
19 position or rank preceding the date of retirement, the average of the
20 greatest basic salaries payable to such member during any consecutive
21 twenty-four month period within such member's last ten years of service
22 for which service credit is allowed, computed by dividing the total
23 basic salaries payable to such member during the selected twenty-four
24 month period by twenty-four; (c) in the case of disability of any
25 member, the basic salary payable to such member at the time of
26 disability retirement; (d) in the case of a member who hereafter vests
27 pursuant to section 216 of this act, the basic salary payable to such
28 member at the time of vesting.

29 (13) "Basic salary" means the basic monthly rate of salary or
30 wages, including longevity pay but not including overtime earnings or
31 special salary or wages, upon which pension or retirement benefits will
32 be computed and upon which employer contributions and salary deductions
33 will be based.

34 (14) "Service" means all periods of employment for an employer as
35 a fire fighter or law enforcement officer, for which compensation is
36 paid, together with periods of suspension not exceeding thirty days in
37 duration. For the purposes of this chapter service also includes
38 service in the armed forces of the United States as provided in section
39 230 of this act. Credit shall be allowed for all service credit months

1 of service rendered by a member from and after the member's initial
2 commencement of employment as a fire fighter or law enforcement
3 officer, during which the member worked for seventy or more hours, or
4 was on disability leave or disability retirement. Only service credit
5 months of service shall be counted in the computation of any retirement
6 allowance or other benefit provided for in this chapter.

7 (a) For members retiring after May 21, 1971, who were employed
8 under the coverage of a prior pension act before March 1, 1970,
9 "service" also includes (i) such military service not exceeding five
10 years as was creditable to the member as of March 1, 1970, under the
11 member's particular prior pension act, and (ii) such other periods of
12 service as were then creditable to a particular member under the
13 provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no
14 event shall credit be allowed for any service rendered prior to March
15 1, 1970, where the member at the time of rendition of such service was
16 employed in a position covered by a prior pension act, unless such
17 service, at the time credit is claimed therefor, is also creditable
18 under the provisions of such prior act.

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

22 (15) "Accumulated contributions" means the employee's contributions
23 made by a member, including any amount paid under RCW 41.50.165(2),
24 plus accrued interest credited thereon.

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

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

37 (18) "Disability board" means either the county disability board or
38 the city disability board established in section 218 of this act.

1 (19) "Disability leave" means the period of six months or any
2 portion thereof during which a member is on leave at an allowance equal
3 to the member's full salary prior to the commencement of disability
4 retirement.

5 (20) "Disability retirement" means the period following termination
6 of a member's disability leave, during which the member is in receipt
7 of a disability retirement allowance.

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

10 (22) "Medical services" include the following as minimum services
11 to be provided. Reasonable charges for these services shall be paid in
12 accordance with section 225 of this act.

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

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

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

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

23 (i) The fees of the following:

24 (A) A physician or surgeon licensed under the provisions of chapter
25 18.71 RCW;

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

28 (C) A chiropractor licensed under the provisions of chapter 18.25
29 RCW.

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

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

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

35 (B) Diagnostic x-ray and laboratory examinations;

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

37 (D) Anesthesia and oxygen;

38 (E) Rental of iron lung and other durable medical and surgical
39 equipment;

1 (F) Artificial limbs and eyes, and casts, splints, and trusses;
2 (G) Professional ambulance service when used to transport the
3 member to or from a hospital when injured by an accident or stricken by
4 a disease;

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

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

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

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

12 (L) An optometrist licensed under the provisions of chapter 18.53
13 RCW.

14 (23) "Regular interest" means such rate as the director may
15 determine.

16 (24) "Director" means the director of the department.

17 (25) "State actuary" or "actuary" means the person appointed
18 pursuant to RCW 44.44.010(2).

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

22 (27) "Service credit year" means an accumulation of months of
23 service credit which is equal to one when divided by twelve.

24 (28) "Service credit month" means a full service credit month or an
25 accumulation of partial service credit months that are equal to one.

26 (29) "General authority law enforcement agency" means any agency,
27 department, or division of a municipal corporation, political
28 subdivision, or other unit of local government of this state, and any
29 agency, department, or division of state government, having as its
30 primary function the detection and apprehension of persons committing
31 infractions or violating the traffic or criminal laws in general, but
32 not including the Washington state patrol. Such an agency, department,
33 or division is distinguished from a limited authority law enforcement
34 agency having as one of its functions the apprehension or detection of
35 persons committing infractions or violating the traffic or criminal
36 laws relating to limited subject areas, including but not limited to,
37 the state departments of natural resources, fish and wildlife, and
38 social and health services, the state gambling commission, the state
39 lottery commission, the state parks and recreation commission, the

1 state utilities and transportation commission, the state liquor control
2 board, and the state department of corrections.

3 NEW SECTION. **Sec. 203.** SYSTEM CREATED--MEMBERSHIP--FUNDS. The
4 restated law enforcement officers' and fire fighters' retirement system
5 is hereby created for fire fighters and law enforcement officers.

6 (1) Notwithstanding section 202(8) of this act, all fire fighters
7 and law enforcement officers employed as such on or after March 1,
8 1970, on a full-time fully compensated basis in this state shall be
9 members of the retirement system established by this chapter with
10 respect to all periods of service as such, to the exclusion of any
11 pension system existing under any prior act.

12 (2) Any employee serving as a law enforcement officer or fire
13 fighter on March 1, 1970, who is then making retirement contributions
14 under any prior act shall have his or her membership transferred to the
15 system established by this chapter as of such date. Upon retirement
16 for service or for disability, or death, of any such employee, his or
17 her retirement benefits earned under this chapter shall be computed and
18 paid. In addition, his or her benefits under the prior retirement act
19 to which he or she was making contributions at the time of this
20 transfer shall be computed as if he or she had not transferred. For
21 the purpose of such computations, the employee's creditability of
22 service and eligibility for service or disability retirement and
23 survivor and all other benefits shall continue to be as provided in
24 such prior retirement act, as if transfer of membership had not
25 occurred. The excess, if any, of the benefits so computed, giving full
26 value to survivor benefits, over the benefits payable under this
27 chapter shall be paid whether or not the employee has made application
28 under the prior act. If the employee's prior retirement system was the
29 Washington public employees' retirement system, payment of such excess
30 shall be made by that system; if the employee's prior retirement system
31 was the statewide city employees' retirement system, payment of such
32 excess shall be made by the employer which was the member's employer
33 when his or her transfer of membership occurred: PROVIDED, That any
34 death in line of duty lump sum benefit payment shall continue to be the
35 obligation of that system as provided in RCW 41.44.210; in the case of
36 all other prior retirement systems, payment of such excess shall be
37 made by the employer which was the member's employer when his or her
38 transfer of membership occurred.

1 (3) All funds held by any firemen's or policemen's relief and
2 pension fund shall remain in that fund for the purpose of paying the
3 obligations of the fund. The municipality shall continue to levy the
4 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be
5 used for the purpose of paying the benefits provided in chapters 41.16
6 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to
7 be paid from whatever financial sources the city has been using for
8 this purpose.

9 NEW SECTION. **Sec. 204.** "MINIMUM MEDICAL AND HEALTH STANDARDS"
10 DEFINED. The term "minimum medical and health standards" means minimum
11 medical and health standards adopted by the department under this
12 chapter.

13 NEW SECTION. **Sec. 205.** MINIMUM MEDICAL AND HEALTH STANDARDS.
14 Notwithstanding any other provision of law after February 19, 1974, no
15 law enforcement officer or fire fighter, may become eligible for
16 coverage in the pension system established by this chapter until the
17 individual has met and has been certified as having met minimum medical
18 and health standards: PROVIDED, That an elected sheriff or an
19 appointed chief of police or fire chief, shall not be required to meet
20 the age standard: PROVIDED FURTHER, That in cities and towns having
21 not more than two law enforcement officers and/or not more than two
22 fire fighters and if one or more of such persons do not meet the
23 minimum medical and health standards as required by the provisions of
24 this chapter, then such person or persons may join any other pension
25 system that the city has available for its other employees: AND
26 PROVIDED FURTHER, That for one year after February 19, 1974, any such
27 medical or health standard now existing or hereinafter adopted, insofar
28 as it establishes a maximum age beyond which an applicant is to be
29 deemed ineligible for coverage, shall be waived as to any applicant for
30 employment or reemployment who is otherwise eligible except for his or
31 her age, who has been a member of any one or more of the retirement
32 systems created by chapter 41.20 RCW and who has restored all
33 contributions which he or she has previously withdrawn from any such
34 system or systems.

35 NEW SECTION. **Sec. 206.** MINIMUM MEDICAL AND HEALTH
36 STANDARDS--BOARD TO ADOPT--PUBLICATION AND DISTRIBUTION--EMPLOYER

1 CERTIFICATION PROCEDURES. The department shall adopt minimum medical
2 and health standards for membership coverage into the retirement
3 system. In adopting such standards the department shall consider
4 existing standards recommended by the international association of
5 chiefs of police and the international association of fire fighters,
6 and shall adopt equal or higher standards, together with appropriate
7 standards and procedures to ensure uniform compliance with this
8 chapter. The standards when adopted shall be published and distributed
9 to each employer, and each employer shall adopt certification
10 procedures and such other procedures as are required to ensure that no
11 law enforcement officer or fire fighter receives membership coverage
12 unless and until he or she has actually met minimum medical and health
13 standards: PROVIDED, That an elected sheriff or an appointed chief of
14 police, fire chief, or director of public safety shall not be required
15 to meet the age standard. The department may amend the minimum medical
16 and health standards as experience indicates, even if the standards as
17 so amended are lower or less rigid than those recommended by the
18 international associations mentioned above. The cost of the medical
19 examination contemplated by this section is to be paid by the employer.

20 NEW SECTION. **Sec. 207.** MINIMUM MEDICAL AND HEALTH
21 STANDARDS--EXEMPTIONS--EMPLOYER MAY ADOPT HIGHER STANDARDS. Nothing in
22 sections 204 through 206 of this act shall apply to any fire fighters
23 or law enforcement officers who are employed as such on or before
24 August 1, 1971, as long as they continue in such employment; nor to
25 promotional appointments after becoming a member in the police or fire
26 department of any employer nor to the reemployment of a law enforcement
27 officer or fire fighter by the same or a different employer within six
28 months after the termination of his or her employment, nor to the
29 reinstatement of a law enforcement officer or fire fighter who has been
30 on military or disability leave, disability retirement status, or leave
31 of absence status. Nothing in this chapter shall be deemed to prevent
32 any employer from adopting higher medical and health standards than
33 those which are adopted by the department.

34 NEW SECTION. **Sec. 208.** SPECIAL DEATH BENEFIT--DEATH IN THE COURSE
35 OF EMPLOYMENT. (1) A one hundred fifty thousand dollar death benefit
36 shall be paid to the member's estate, or such person or persons, trust
37 or organization as the member shall have nominated by written

1 designation duly executed and filed with the department. If there be
2 no such designated person or persons still living at the time of the
3 member's death, such member's death benefit shall be paid to the
4 member's surviving spouse as if in fact such spouse had been nominated
5 by written designation, or if there be no such surviving spouse, then
6 to such member's legal representatives.

7 (2) The benefit under this section shall be paid only where death
8 occurs as a result of injuries sustained in the course of employment.
9 The determination of eligibility for the benefit shall be made
10 consistent with Title 51 RCW by the department of labor and industries.
11 The department of labor and industries shall notify the department of
12 retirement systems by order under RCW 51.52.050.

13 NEW SECTION. **Sec. 209.** EXEMPTION FROM JUDICIAL PROCESS,
14 TAXES--EXCEPTIONS--DEDUCTION FOR INSURANCE UPON REQUEST. (1) Subject
15 to subsections (2) and (3) of this section, the right of a person to a
16 retirement allowance, disability allowance, or death benefit, to the
17 return of accumulated contributions, the retirement, disability, or
18 death allowance itself, any optional benefit, any other right accrued
19 or accruing to any person under the provisions of this chapter, and the
20 moneys in the fund created under this chapter, are hereby exempt from
21 any state, county, municipal, or other local tax and shall not be
22 subject to execution, garnishment, attachment, the operation of
23 bankruptcy or insolvency laws, or any other process of law whatsoever,
24 and shall be unassignable.

25 (2) On the written request of any person eligible to receive
26 benefits under this section, the department may deduct from such
27 payments the premiums for life, health, or other insurance. The
28 request on behalf of any child or children shall be made by the legal
29 guardian of such child or children. The department may provide for
30 such persons one or more plans of group insurance, through contracts
31 with regularly constituted insurance carriers or health care service
32 contractors.

33 (3) Subsection (1) of this section shall not prohibit the
34 department from complying with (a) a wage assignment order for child
35 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
36 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
37 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
38 benefits assignment order issued by the department, (e) a court order

1 directing the department to pay benefits directly to an obligee under
2 a dissolution order as defined in RCW 41.50.500(3) which fully complies
3 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
4 order expressly authorized by federal law.

5 NEW SECTION. **Sec. 210.** NO BOND REQUIRED ON APPEAL TO COURT. No
6 bond of any kind shall be required of a claimant appealing to the
7 superior court, the court of appeals, or the supreme court from a
8 decision of the director affecting such claimant's right to retirement
9 or disability benefits.

10 NEW SECTION. **Sec. 211.** BENEFIT CALCULATION--LIMITATION. (1) The
11 annual compensation taken into account in calculating retiree benefits
12 under this system shall not exceed the limits imposed by section
13 401(a)(17) of the federal internal revenue code for qualified trusts.
14 (2) The department shall adopt rules as necessary to implement this
15 section.

16 NEW SECTION. **Sec. 212.** ESTABLISHING, RESTORING SERVICE CREDIT.
17 Notwithstanding any provision to the contrary, persons who fail to:
18 (1) Establish allowable membership service not previously credited;
19 (2) Restore all or a part of that previously credited membership
20 service represented by withdrawn contributions; or
21 (3) Restore service credit represented by a lump sum payment in
22 lieu of benefits, before the deadline established by statute, may do so
23 under the conditions set forth in RCW 41.50.165.

24 NEW SECTION. **Sec. 213.** DISABILITY RETIREMENT--CRIMINAL CONDUCT.
25 A member shall not receive a disability retirement benefit under
26 sections 220 through 222 of this act if the disability is the result of
27 criminal conduct by the member committed after April 21, 1997.

28 NEW SECTION. **Sec. 214.** FALSIFICATION--PENALTY. Any employer,
29 member, or beneficiary who knowingly makes false statements or
30 falsifies or permits to be falsified any record or records of the
31 retirement system in an attempt to defraud the retirement system, is
32 guilty of a felony.

1 NEW SECTION. **Sec. 215.** FUNDING TOTAL LIABILITY OF SYSTEM. No
2 employer or member contribution is required. The total liability of
3 the retirement system is funded as provided in sections 4 and 5 of this
4 act.

5 NEW SECTION. **Sec. 216.** RETIREMENT FOR SERVICE. Retirement of a
6 member for service shall be made by the department as follows:

7 (1) Any member having five or more service credit years of service
8 and having attained the age of fifty years shall be eligible for a
9 service retirement allowance and shall be retired upon the member's
10 written request effective the first day following the date upon which
11 the member is separated from service.

12 (2) Any member having five or more service credit years of service,
13 who terminates his or her employment with any employer, may leave his
14 or her contributions in the fund. Any employee who so elects, upon
15 attaining age fifty, shall be eligible to apply for and receive a
16 service retirement allowance based on his or her years of service,
17 commencing on the first day following his or her attainment of age
18 fifty.

19 (3) Any member selecting optional vesting under subsection (2) of
20 this section with less than twenty service credit years of service
21 shall not be covered by the provisions of section 225 of this act, and
22 the member's survivors shall not be entitled to the benefits of section
23 226 of this act unless his or her death occurs after he or she has
24 attained the age of fifty years. Those members selecting this optional
25 vesting with twenty or more years service shall not be covered by the
26 provisions of section 225 of this act until the attainment of the age
27 of fifty years. A member selecting this optional vesting, with less
28 than twenty service credit years of service credit, who dies prior to
29 attaining the age of fifty years, shall have paid from the restated law
30 enforcement officers' and fire fighters' defined benefit retirement
31 fund, to such member's surviving spouse, if any, otherwise to such
32 beneficiary as the member shall have designated in writing, or if no
33 such designation has been made, to the personal representative of his
34 or her estate, a lump sum which is equal to the amount of such member's
35 accumulated contributions plus accrued interest. If the vested member
36 has twenty or more service credit years of service credit the surviving
37 spouse or children shall then become eligible for the benefits of
38 section 226 of this act regardless of the member's age at the time of

1 his or her death, to the exclusion of the lump sum amount provided by
2 this subsection.

3 (4) Any member who has attained the age of sixty years shall be
4 retired on the first day of the calendar month next succeeding that in
5 which said member shall have attained the age of sixty and may not
6 thereafter be employed as a law enforcement officer or fire fighter:
7 PROVIDED, That for any member who is elected or appointed to the office
8 of sheriff, chief of police, or fire chief, his or her election or
9 appointment shall be considered as a waiver of the age sixty provision
10 for retirement and nonemployment for whatever number of years remain in
11 his or her present term of office and any succeeding periods for which
12 he or she may be so elected or appointed. The provisions of this
13 subsection shall not apply to any member who is employed as a law
14 enforcement officer or fire fighter on March 1, 1970.

15 NEW SECTION. **Sec. 217.** ALLOWANCE ON RETIREMENT FOR SERVICE. A
16 member upon retirement for service shall receive a monthly retirement
17 allowance computed according to his or her completed creditable service
18 credit years of service as follows: Five years but under ten years,
19 one-twelfth of one percent of his or her final average salary for each
20 month of service; ten years but under twenty years, one-twelfth of one
21 and one-half percent of his or her final average salary for each month
22 of service; and twenty years and over one-twelfth of two percent of his
23 or her final average salary for each month of service: PROVIDED, That
24 the recipient of a retirement allowance who shall return to service as
25 a law enforcement officer or fire fighter shall be considered to have
26 terminated his or her retirement status and he or she shall immediately
27 become a member of the retirement system with the status of membership
28 he or she had as of the date of retirement. Retirement benefits shall
29 be suspended during the period of his or her return to service and he
30 or she shall make contributions and receive service credit. Such a
31 member shall have the right to again retire at any time and his or her
32 retirement allowance shall be recomputed, and paid, based upon
33 additional service rendered and any change in final average salary:
34 PROVIDED FURTHER, That no retirement allowance paid pursuant to this
35 section shall exceed sixty percent of final average salary, except as
36 such allowance may be increased by virtue of section 238 of this act.

1 NEW SECTION. **Sec. 218.** CITY AND COUNTY DISABILITY BOARDS

2 AUTHORIZED. (1) All claims for disability shall be acted upon and
3 either approved or disapproved by either type of disability board
4 created under this section.

5 (a) Each city having a population of twenty thousand or more shall
6 establish a disability board having jurisdiction over all members
7 employed by the cities and composed of the following five members: Two
8 members of the city legislative body to be appointed by the mayor, one
9 active or retired fire fighter to be elected by the fire fighters
10 employed by or retired from the city, one active or retired law
11 enforcement officer to be elected by the law enforcement officers
12 employed by or retired from the city, and one member from the public at
13 large who resides within the city to be appointed by the other four
14 members designated in this subsection. Retired members who are subject
15 to the jurisdiction of the board have both the right to elect and the
16 right to be elected under this section. Each of the elected members
17 shall serve a two-year term. The members appointed pursuant to this
18 subsection shall serve for two-year terms: PROVIDED, That cities of
19 the first class only, shall retain existing firemen's pension boards
20 established pursuant to RCW 41.16.020 and existing boards of trustees
21 of the relief and pension fund of the police department as established
22 pursuant to RCW 41.20.010 which such boards shall have authority to act
23 upon and approve or disapprove claims for disability by fire fighters
24 or law enforcement officers as provided under this chapter. No
25 disability boards shall be established under the authority of this
26 subsection (1)(a) after December 31, 2001.

27 (b) Each county shall establish a disability board having
28 jurisdiction over all members residing in the county and not employed
29 by a city in which a disability board is established. The county
30 disability board so created shall be composed of five members to be
31 chosen as follows: One member of the legislative body of the county to
32 be appointed by the county legislative body, one member of a city or
33 town legislative body located within the county which does not contain
34 a city disability board established pursuant to (a) of this subsection
35 to be chosen by a majority of the mayors of such cities and towns
36 within the county which does not contain a city disability board, one
37 fire fighter or retired fire fighter to be elected by the fire fighters
38 employed or retired in the county who are not employed by or retired
39 from a city in which a disability board is established, one law

1 enforcement officer or retired law enforcement officer to be elected by
2 the law enforcement officers employed in or retired from the county who
3 are not employed by or retired from a city in which a disability board
4 is established, and one member from the public at large who resides
5 within the county but does not reside within a city in which a city
6 disability board is established, to be appointed by the other four
7 members designated in this subsection. However, in counties with a
8 population less than sixty thousand, the member of the disability board
9 appointed by a majority of the mayors of the cities and towns within
10 the county that do not contain a city disability board must be a
11 resident of one of the cities and towns but need not be a member of a
12 city or town legislative body. Retired members who are subject to the
13 jurisdiction of the board have both the right to elect and the right to
14 be elected under this section. All members appointed or elected
15 pursuant to this subsection shall serve for two-year terms.

16 (2) The members of both the county and city disability boards shall
17 not receive compensation for their service upon the boards but the
18 members shall be reimbursed by their respective county or city for all
19 expenses incidental to such service as to the amount authorized by law.

20 (3) The disability boards authorized for establishment by this
21 section shall perform all functions, exercise all powers, and make all
22 such determinations as specified in this chapter.

23 NEW SECTION. **Sec. 219.** DIRECTOR TO ADOPT RULES GOVERNING
24 DISABILITY BOARDS. (1) The director shall adopt rules, in accordance
25 with chapter 34.05 RCW, under which each disability board shall execute
26 its disability retirement duties under this chapter. The rules shall
27 include, but not be limited to, the following:

28 (a) Standards governing the type and manner of presentation of
29 medical, employability, and other evidence before disability boards;
30 and

31 (b) Standards governing the necessity and frequency of medical and
32 employability reexaminations of persons receiving disability benefits.

33 (2) If the director determines that an order or determination of a
34 disability board was not processed in accordance with the rules
35 established under this section, the director may remand the order or
36 determination for further proceedings consistent with the rules.

1 NEW SECTION. **Sec. 220.** RETIREMENT FOR DISABILITY INCURRED IN THE
2 LINE OF DUTY. Any member, regardless of age or years of service, may
3 be retired by the disability board, subject to approval by the
4 director, for any disability incurred in the line of duty which has
5 been continuous since his or her discontinuance of service and which
6 renders the member unable to continue service. No disability
7 retirement allowance shall be paid until the expiration of a period of
8 six months after the discontinuance of service during which period the
9 member, if found to be physically or mentally unfit for duty by the
10 disability board following receipt of his or her application for
11 disability retirement, shall be granted a disability leave by the
12 disability board and shall receive an allowance equal to the full
13 monthly salary and shall continue to receive all other benefits
14 provided to active employees from the employer for such period.
15 However, if, at any time during the initial six-month period, the
16 disability board finds the beneficiary is no longer disabled, the
17 disability leave allowance shall be canceled and the member shall be
18 restored to duty in the same rank or position, if any, held by the
19 beneficiary at the time the member became disabled. Applications for
20 disability retirement shall be processed in accordance with the
21 following procedures:

22 (1) Any member who believes he or she is or is believed to be
23 physically or mentally disabled shall be examined by such medical
24 authority as the disability board shall employ, upon application of the
25 member, or a person acting in his or her behalf, stating that the
26 member is disabled, either physically or mentally: PROVIDED, That no
27 such application shall be considered unless the member or someone in
28 his or her behalf, in case of the incapacity of a member, shall have
29 filed the application within a period of one year from and after the
30 discontinuance of service of the member.

31 (2) If the examination shows, to the satisfaction of the disability
32 board, that the member is physically or mentally disabled from the
33 further performance of duty, that such disability was incurred in the
34 line of duty, and that such disability has been continuous from the
35 discontinuance of service, the disability board shall enter its written
36 decision and order, accompanied by appropriate findings of fact and by
37 conclusions evidencing compliance with this chapter, granting the
38 member a disability retirement allowance; otherwise, if the member is
39 not found by the disability board to be so disabled, the application

1 shall be denied pursuant to a similar written decision and order,
2 subject to appeal to the director in accordance with section 235 of
3 this act: PROVIDED, That in any order granting a duty disability
4 retirement allowance, the disability board shall make a finding that
5 the disability was incurred in line of duty.

6 (3) Every order of a disability board granting a duty disability
7 retirement allowance shall immediately be reviewed by the director
8 except the finding that the disability was incurred in the line of
9 duty. The director may affirm the decision of the disability board or
10 remand the case for further proceedings, or the director may reverse
11 the decision of the disability board if the director finds the
12 disability board's findings, inferences, conclusions, or decisions are:

- 13 (a) In violation of constitutional provisions;
- 14 (b) In excess of the statutory authority or jurisdiction of the
15 disability board;
- 16 (c) Made upon unlawful procedure;
- 17 (d) Affected by other error of law;
- 18 (e) Clearly erroneous in view of the entire record as submitted and
19 the public policy contained in this chapter; or
- 20 (f) Arbitrary or capricious.

21 (4) Every member who can establish, to the disability board, that
22 he or she is physically or mentally disabled from the further
23 performance of duty, that such disability was incurred in the line of
24 duty, and that such disability will be in existence for a period of at
25 least six months may waive the six-month period of disability leave and
26 be immediately granted a duty disability retirement allowance, subject
27 to the approval of the director as provided in subsection (3) of this
28 section.

29 NEW SECTION. **Sec. 221.** RETIREMENT FOR DISABILITY NOT INCURRED IN
30 THE LINE OF DUTY. Any member, regardless of age or years of service,
31 may be retired by the disability board, subject to approval by the
32 director as provided in this section, for any disability not incurred
33 in the line of duty which has been continuous since discontinuance of
34 service and which renders the member unable to continue service. No
35 disability retirement allowance may be paid until the expiration of a
36 period of six months after the discontinuance of service during which
37 period the member, if found to be physically or mentally unfit for duty
38 by the disability board following receipt of the member's application

1 for disability retirement, shall be granted a disability leave by the
2 disability board and shall receive an allowance equal to the member's
3 full monthly salary and shall continue to receive all other benefits
4 provided to active employees from the member's employer for the period.
5 However, if, at any time during the initial six-month period, the
6 disability board finds the beneficiary is no longer disabled, the
7 disability leave allowance shall be canceled and the member shall be
8 restored to duty in the same rank or position, if any, held by the
9 member at the time the member became disabled. Applications for
10 disability retirement shall be processed in accordance with the
11 following procedures:

12 (1) Any member who believes he or she is, or is believed to be,
13 physically or mentally disabled shall be examined by such medical
14 authority as the disability board shall employ, upon application of the
15 member, or a person acting in the member's behalf, stating that the
16 member is disabled, either physically or mentally: PROVIDED, That no
17 such application shall be considered unless the member or someone
18 acting in the member's behalf, in case of the incapacity of a member,
19 has filed the application within a period of one year from and after
20 the discontinuance of service of the member.

21 (2) If the examination shows, to the satisfaction of the disability
22 board, that the member is physically or mentally disabled from the
23 further performance of duty, that such disability was not incurred in
24 the line of duty, and that such disability had been continuous from the
25 discontinuance of service, the disability board shall enter its written
26 decision and order, accompanied by appropriate findings of fact and by
27 conclusions evidencing compliance with this chapter, granting the
28 member a disability retirement allowance. Otherwise, if the member is
29 not found by the disability board to be so disabled, the application
30 shall be denied pursuant to a similar written decision and order,
31 subject to appeal to the director in accordance with section 235 of
32 this act: PROVIDED, That in any order granting a nonduty disability
33 retirement allowance, the disability board shall make a finding that
34 the disability was not incurred in the line of duty.

35 (3) Every order of a disability board granting a nonduty disability
36 retirement allowance shall immediately be reviewed by the director
37 except the finding that the disability was not incurred in the line of
38 duty. The director may affirm the decision of the disability board or
39 remand the case for further proceedings, or the director may reverse

1 the decision of the disability board if the director finds the
2 disability board's findings, inferences, conclusions, or decisions are:

- 3 (a) In violation of constitutional provisions;
- 4 (b) In excess of the statutory authority or jurisdiction of the
5 disability board;
- 6 (c) Made upon unlawful procedure;
- 7 (d) Affected by other error of law;
- 8 (e) Clearly erroneous in view of the entire record as submitted and
9 the public policy contained in this chapter; or
- 10 (f) Arbitrary or capricious.

11 (4) Every member who can establish to the disability board that the
12 member is physically or mentally disabled from the further performance
13 of duty, that such disability was not incurred in the line of duty, and
14 that such disability will be in existence for a period of at least six
15 months, may waive the six-month period of disability leave and be
16 immediately granted a nonduty disability retirement allowance, subject
17 to the approval of the director as provided in subsection (3) of this
18 section.

19 NEW SECTION. **Sec. 222.** ALLOWANCE ON RETIREMENT FOR DISABILITY.

20 (1) Upon retirement for disability a member shall be entitled to
21 receive a monthly retirement allowance computed as follows: (a) A
22 basic amount of fifty percent of final average salary at time of
23 disability retirement, and (b) an additional five percent of final
24 average salary for each child as defined in section 202(7) of this act,
25 (c) the combined total of (a) and (b) of this subsection shall not
26 exceed a maximum of sixty percent of final average salary.

27 (2) A disabled member shall begin receiving the disability
28 retirement allowance as of the expiration of his or her six-month
29 period of disability leave or, if his or her application was filed
30 after the sixth month of discontinuance of service but prior to the
31 one-year time limit, the member's disability retirement allowance shall
32 be retroactive to the end of the sixth month.

33 (3) Benefits under this section will be payable until the member
34 recovers from the disability or dies. If at the time that the
35 disability ceases the member is over the age of fifty, he or she shall
36 then receive either disability retirement allowance or retirement for
37 service allowance, whichever is greater.

1 (4) Benefits under this section for a disability that is incurred
2 while in other employment will be reduced by any amount the member
3 receives or is entitled to receive from workers' compensation, social
4 security, group insurance, other pension plan, or any other similar
5 source provided by another employer on account of the same disability.

6 (5) A member retired for disability shall be subject to periodic
7 examinations by a physician approved by the disability board prior to
8 attainment of age fifty, pursuant to rules adopted by the director
9 under section 219 of this act. Examinations of members who retired for
10 disability prior to July 26, 1981, shall not exceed two medical
11 examinations per year.

12 NEW SECTION. **Sec. 223.** CESSATION OF DISABILITY--DETERMINATION.

13 (1) A disabled member who believes that his or her disability has
14 ceased in accordance with section 222(3) of this act may make
15 application to the disability board which originally found the member
16 to be disabled, for a determination that the disability has ceased.

17 (2) Every order of a disability board determining that a member's
18 disability has ceased pursuant to section 222(3) of this act shall
19 immediately be reviewed by the director. The director may affirm the
20 decision of the disability board or remand the case for further
21 proceedings if the director finds the disability board's findings,
22 inferences, conclusions, or decisions are:

23 (a) In violation of constitutional provisions;

24 (b) In excess of the statutory authority or jurisdiction of the
25 disability board;

26 (c) Made upon unlawful procedure;

27 (d) Affected by other error of law;

28 (e) Clearly erroneous in view of the entire record as submitted and
29 the public policy contained in this chapter; or

30 (f) Arbitrary or capricious.

31 (3) Determinations of whether a disability has ceased under section
32 222(3) of this act and this section shall be made in accordance with
33 the same procedures and standards governing other cancellations of
34 disability retirement.

35 NEW SECTION. **Sec. 224.** REEXAMINATIONS OF DISABILITY
36 BENEFICIARIES--REENTRY--APPEAL. (1) Upon the basis of reexaminations
37 of members on disability retirement as provided in section 222 of this

1 act, the disability board shall determine whether such disability
2 beneficiary is still unable to perform his or her duties either
3 physically or mentally for service in the department where he or she
4 was employed.

5 (2) If the disability board determines that the beneficiary is not
6 so incapacitated the retirement allowance shall be canceled and the
7 member shall be restored to duty in the same civil service rank, if
8 any, held by the beneficiary at the time of his or her retirement or if
9 unable to perform the duties of that rank, then, at his or her request,
10 in such other like or lesser rank as may be or become open and
11 available, the duties of which he or she is then able to perform. In
12 no event, shall a beneficiary previously drawing a disability allowance
13 be returned or be restored to duty at a salary or rate of pay less than
14 the current salary attached to the rank or position held by the
15 beneficiary at the date of retirement for disability. If the
16 disability board determines that the beneficiary is able to return to
17 service he or she shall be entitled to notice and a hearing, both the
18 notice and the hearing shall comply with the requirements of chapter
19 34.05 RCW.

20 (3) Should a disability beneficiary reenter service and be eligible
21 for membership in the retirement system, the retirement allowance shall
22 be canceled and he or she shall immediately become a member of the
23 retirement system.

24 (4) Should any disability beneficiary under age fifty refuse to
25 submit to examination, the retirement allowance shall be discontinued
26 until withdrawal of such refusal, and should such refusal continue for
27 one year or more, the retirement allowance shall be canceled.

28 (5) Should the disability retirement allowance of any disability
29 beneficiary be canceled for any cause other than reentrance into
30 service or retirement for service, he or she shall be paid the excess,
31 if any, of the accumulated contributions at the time of retirement over
32 all payments made on his or her behalf under this chapter.

33 (6) Any person feeling aggrieved by an order of a disability board
34 determining that a beneficiary's disability has not ceased, pursuant to
35 section 222(3) of this act has the right to appeal the order or
36 determination to the director. The director shall have no jurisdiction
37 to entertain the appeal unless a notice of appeal is filed with the
38 director within thirty days following the rendition of the order by the
39 disability board. A copy of the notice of appeal shall be served upon

1 the director and the applicable disability board and, within ninety
2 days thereof, the disability board shall certify its decision and order
3 which shall include findings of fact and conclusions of law, together
4 with a transcript of all proceedings in connection therewith, to the
5 director for review. Upon review of the record, the director may
6 affirm the order of the disability board or may remand the case for
7 further proceedings if the director finds that the disability board's
8 findings, inferences, conclusions, or decisions are:

9 (a) In violation of constitutional provisions;

10 (b) In excess of the statutory authority or jurisdiction of the
11 disability board;

12 (c) Made upon unlawful procedure;

13 (d) Affected by other error of law;

14 (e) Clearly erroneous in view of the entire record as submitted and
15 the public policy contained in this chapter; or

16 (f) Arbitrary or capricious.

17 NEW SECTION. **Sec. 225.** SICKNESS OR DISABILITY BENEFITS--MEDICAL
18 SERVICES. (1) Whenever any active member, or any member hereafter
19 retired, on account of service, sickness, or disability, not caused or
20 brought on by dissipation or abuse, of which the disability board shall
21 be judge, is confined in any hospital or in home, and whether or not so
22 confined, requires medical services, the employer shall pay for the
23 active or retired member the necessary medical services not payable
24 from some other source as provided for in subsection (2) of this
25 section. In the case of active or retired fire fighters the employer
26 may make the payments provided for in this section from the firemen's
27 pension fund established pursuant to RCW 41.16.050 where the fund had
28 been established prior to March 1, 1970. If this pension fund is
29 depleted, the employer shall have the obligation to pay all benefits
30 payable under chapters 41.16 and 41.18 RCW.

31 (a) The disability board in all cases may have the active or
32 retired member suffering from such sickness or disability examined at
33 any time by a licensed physician or physicians, to be appointed by the
34 disability board, for the purpose of ascertaining the nature and extent
35 of the sickness or disability, the physician or physicians to report to
36 the disability board the result of the examination within three days
37 thereafter. Any active or retired member who refuses to submit to such

1 examination or examinations shall forfeit all rights to benefits under
2 this section for the period of the refusal.

3 (b) The disability board shall designate the medical services
4 available to any sick or disabled member.

5 (2) The medical services payable under this section will be reduced
6 by any amount received or eligible to be received by the member under
7 workers' compensation, social security including the changes
8 incorporated under Public Law 89-97, insurance provided by another
9 employer, other pension plan, or any other similar source. Failure to
10 apply for coverage if otherwise eligible under the provisions of Public
11 Law 89-97 shall not be deemed a refusal of payment of benefits thereby
12 enabling collection of charges under the provisions of this chapter.

13 (3) Upon making the payments provided for in subsection (1) of this
14 section, the employer shall be subrogated to all rights of the member
15 against any third party who may be held liable for the member's
16 injuries or for payment of the cost of medical services in connection
17 with a member's sickness or disability to the extent necessary to
18 recover the amount of payments made by the employer.

19 (4) Any employer under this chapter, either singly, or jointly with
20 any other such employer or employers through an association thereof as
21 provided for in chapter 48.21 RCW, may provide for all or part of one
22 or more plans of group hospitalization and medical aid insurance to
23 cover any of its employees who are members of the restated law
24 enforcement officers' and fire fighters' retirement system, and/or
25 retired former employees who were, before retirement, members of the
26 retirement system, through contracts with regularly constituted
27 insurance carriers, with health maintenance organizations as defined in
28 chapter 48.46 RCW, or with health care service contractors as defined
29 in chapter 48.44 RCW. Benefits payable under the plan or plans shall
30 be deemed to be amounts received or eligible to be received by the
31 active or retired member under subsection (2) of this section.

32 (5) Any employer, jointly with any other employer or employers of
33 the state, may participate in the medical benefits risk pool
34 established under chapter 41.--- RCW (sections 301 through 310 of this
35 act).

36 (6) Any employer under this chapter may, at its discretion, elect
37 to reimburse a retired former employee under this chapter for premiums
38 the retired former employee has paid for medical insurance that

1 supplements medicare, including premiums the retired former employee
2 has paid for medicare part B coverage.

3 NEW SECTION. **Sec. 226.** DEATH BENEFITS--DUTY CONNECTED. (1) In
4 the event of the duty connected death of any member who is in active
5 service, or who has vested under section 216 of this act with twenty or
6 more service credit years of service, or who is on duty connected
7 disability leave or retired for duty connected disability, the
8 surviving spouse shall become entitled to receive a monthly allowance
9 equal to fifty percent of the final average salary at the date of death
10 if active, or the amount of retirement allowance the vested member
11 would have received at age fifty, or the amount of the retirement
12 allowance such retired member was receiving at the time of death if
13 retired for duty connected disability. The amount of this allowance
14 will be increased five percent of final average salary for each child
15 as defined in section 202(7) of this act, subject to a maximum combined
16 allowance of sixty percent of final average salary: PROVIDED, That if
17 the child or children is or are in the care of a legal guardian,
18 payment of the increase attributable to each child will be made to the
19 child's legal guardian or, in the absence of a legal guardian and if
20 the member has created a trust for the benefit of the child or
21 children, payment of the increase attributable to each child will be
22 made to the trust.

23 (2) If at the time of the duty connected death of a vested member
24 with twenty or more service credit years of service as provided in
25 subsection (1) of this section or a member retired for duty connected
26 disability, the surviving spouse has not been lawfully married to such
27 member for one year prior to retirement or separation from service if
28 a vested member, the surviving spouse shall not be eligible to receive
29 the benefits under this section: PROVIDED, That if a member dies as a
30 result of a disability incurred in the line of duty, then if he or she
31 was married at the time he or she was disabled, the surviving spouse
32 shall be eligible to receive the benefits under this section.

33 (3) If there be no surviving spouse eligible to receive benefits at
34 the time of such member's duty connected death, then the child or
35 children of such member shall receive a monthly allowance equal to
36 thirty percent of final average salary for one child and an additional
37 ten percent for each additional child subject to a maximum combined
38 payment, under this subsection, of sixty percent of final average

1 salary. When there cease to be any eligible children as defined in
2 section 202(7) of this act, there shall be paid to the legal heirs of
3 the member the excess, if any, of accumulated contributions of the
4 member at the time of death over all payments made to survivors on his
5 or her behalf under this chapter: PROVIDED, That payments under this
6 subsection to children shall be prorated equally among the children, if
7 more than one. If the member has created a trust for the benefit of
8 the child or children, the payment shall be made to the trust.

9 (4) In the event that there is no surviving spouse eligible to
10 receive benefits under this section, and that there be no child or
11 children eligible to receive benefits under this section, then the
12 accumulated contributions shall be paid to the estate of the member.

13 (5) If a surviving spouse receiving benefits under the provisions
14 of this section thereafter dies and there are children as defined in
15 section 202(7) of this act, payment to the spouse shall cease and the
16 child or children shall receive the benefits as provided in subsection
17 (3) of this section.

18 (6) The payment provided by this section shall become due the day
19 following the date of death and payments shall be retroactive to that
20 date.

21 NEW SECTION. **Sec. 227.** DEATH BENEFITS--NONDUTY CONNECTED. (1) In
22 the event of the nonduty connected death of any member who is in active
23 service, or who has vested under section 216 of this act with twenty or
24 more service credit years of service, or who is on disability leave or
25 retired, whether for nonduty connected disability or service, the
26 surviving spouse shall become entitled to receive a monthly allowance
27 equal to fifty percent of the final average salary at the date of death
28 if active, or the amount of retirement allowance the vested member
29 would have received at age fifty, or the amount of the retirement
30 allowance such retired member was receiving at the time of death if
31 retired for service or nonduty connected disability. The amount of
32 this allowance will be increased five percent of final average salary
33 for each child as defined in section 202(7) of this act, subject to a
34 maximum combined allowance of sixty percent of final average salary:
35 PROVIDED, That if the child or children is or are in the care of a
36 legal guardian, payment of the increase attributable to each child will
37 be made to the child's legal guardian or, in the absence of a legal
38 guardian and if the member has created a trust for the benefit of the

1 child or children, payment of the increase attributable to each child
2 will be made to the trust.

3 (2) If at the time of the death of a vested member with twenty or
4 more service credit years of service as provided in subsection (1) of
5 this section or a member retired for service or disability, the
6 surviving spouse has not been lawfully married to such member for one
7 year prior to retirement or separation from service if a vested member,
8 the surviving spouse shall not be eligible to receive the benefits
9 under this section.

10 (3) If there be no surviving spouse eligible to receive benefits at
11 the time of such member's death, then the child or children of such
12 member shall receive a monthly allowance equal to thirty percent of
13 final average salary for one child and an additional ten percent for
14 each additional child subject to a maximum combined payment, under this
15 subsection, of sixty percent of final average salary. When there cease
16 to be any eligible children as defined in section 202(7) of this act,
17 there shall be paid to the legal heirs of the member the excess, if
18 any, of accumulated contributions of the member at the time of death
19 over all payments made to survivors on his or her behalf under this
20 chapter: PROVIDED, That payments under this subsection to children
21 shall be prorated equally among the children, if more than one. If the
22 member has created a trust for the benefit of the child or children,
23 the payment shall be made to the trust.

24 (4) In the event that there is no surviving spouse eligible to
25 receive benefits under this section, and that there be no child or
26 children eligible to receive benefits under this section, then the
27 accumulated contributions shall be paid to the estate of the member.

28 (5) If a surviving spouse receiving benefits under the provisions
29 of this section thereafter dies and there are children as defined in
30 section 202(7) of this act, payment to the spouse shall cease and the
31 child or children shall receive the benefits as provided in subsection
32 (3) of this section.

33 (6) The payment provided by this section shall become due the day
34 following the date of death and payments shall be retroactive to that
35 date.

36 NEW SECTION. **Sec. 228.** EX SPOUSE QUALIFYING AS SURVIVING SPOUSE--
37 WHEN. (1) An ex spouse of a retiree shall qualify as surviving spouse
38 under section 226 of this act if the ex spouse:

1 (a) Has been provided benefits under any currently effective court
2 decree of dissolution or legal separation or in any court order or
3 court-approved property settlement agreement incident to any court
4 decree of dissolution or legal separation entered after the member's
5 retirement and prior to December 31, 1979; and

6 (b) Was married to the retiree for at least thirty years, including
7 at least twenty years prior to the member's retirement or separation
8 from service if a vested member.

9 (2) If two or more persons are eligible for a surviving spouse
10 benefit under this subsection, benefits shall be divided between the
11 surviving spouses based on the percentage of total service credit the
12 member accrued during each marriage.

13 (3) This section shall apply retroactively.

14 NEW SECTION. Sec. 229. REFUND OF CONTRIBUTIONS ON DISCONTINUANCE
15 OF SERVICE--REENTRY. (1) Should service of a member be discontinued
16 except by death, disability, or retirement, the member shall, upon
17 application therefor, be paid the accumulated contributions within
18 sixty days after the day of application and the rights to all benefits
19 as a member shall cease: PROVIDED, That any member with at least five
20 years' service may elect the provisions of section 216(2) of this act.

21 (2) Any member whose contributions have been paid in accordance
22 with subsection (1) of this section and who reenters the service of an
23 employer shall upon the restoration of withdrawn contributions, which
24 restoration must be completed within a total period of five years of
25 service following resumption of employment, then receive credit toward
26 retirement for the period of previous service which these contributions
27 are to cover.

28 (3) If the member fails to meet the time limitations of subsection
29 (2) of this section, the member may make the payment required under RCW
30 41.50.165(2) prior to retirement. The member shall then receive credit
31 toward retirement for the period of previous service that the withdrawn
32 contributions cover.

33 NEW SECTION. Sec. 230. CREDIT FOR MILITARY SERVICE. Each person
34 affected by this chapter who at the time of entering the armed services
35 was a member of this system or plan 1 under chapter 41.26 RCW, and has
36 honorably served in the armed services of the United States, shall have
37 added to the period of service as computed under this chapter, the

1 period of service in the armed forces: PROVIDED, That such credited
2 service shall not exceed five years.

3 NEW SECTION. **Sec. 231.** CREDIT FOR SERVICE UNDER PRIOR PENSION
4 SYSTEM--RESTORATION OF WITHDRAWN CONTRIBUTIONS. If a member of this
5 retirement system served as a law enforcement officer or fire fighter
6 under a prior pension system and that service is not creditable to this
7 retirement system because the member withdrew his or her contributions
8 plus accrued interest from the prior pension system, the member's prior
9 service as a law enforcement officer shall be credited to this
10 retirement system if the member pays to the retirement system the
11 amount under RCW 41.50.165(2) prior to retirement.

12 NEW SECTION. **Sec. 232.** CREDIT FOR SERVICE UNDER PRIOR PENSION
13 SYSTEM--SERVICE NOT COVERED UNDER PRIOR SYSTEM. If a member's prior
14 service as a law enforcement officer or fire fighter under a prior
15 pension system is not creditable because, although employed in a
16 position covered by a prior pension act, the member had not yet become
17 a member of the pension system governed by the act, the member's prior
18 service as a law enforcement officer or fire fighter shall be
19 creditable if the member pays to the plan the amount set forth under
20 RCW 41.50.165(2) prior to retirement.

21 NEW SECTION. **Sec. 233.** TRANSFER OF SERVICE CREDIT FROM OTHER
22 RETIREMENT SYSTEM--IRREVOCABLE ELECTION ALLOWED. Any member of the
23 teachers' retirement system plans 1, 2, or 3, the public employees'
24 retirement system plans 1 or 2, or the Washington state patrol
25 retirement system who has previously established service credit in the
26 restated law enforcement officers' and fire fighters' retirement system
27 may make an irrevocable election to have such service transferred to
28 their current retirement system and plan subject to the following
29 conditions:

30 (1) If the individual is employed by an employer in an eligible
31 position, as of July 1, 1997, the election to transfer service must be
32 filed in writing with the department no later than July 1, 1998. If
33 the individual is not employed by an employer in an eligible position,
34 as of July 1, 1997, the election to transfer service must be filed in
35 writing with the department no later than one year from the date they
36 are employed by an employer in an eligible position.

1 (2) An individual transferring service under this section forfeits
2 the rights to all benefits as a member of the restated law enforcement
3 officers' and fire fighters' retirement system and will be permanently
4 excluded from membership.

5 (3) Any individual choosing to transfer service under this section
6 will have transferred to their current retirement system and plan: (a)
7 All the individual's accumulated contributions; (b) an amount
8 sufficient to ensure that the employer contribution rate in the
9 individual's current system and plan will not increase due to the
10 transfer; and (c) all applicable months of service, as defined in
11 section 202(14) of this act.

12 (4) If an individual has withdrawn contributions from the law
13 enforcement officers' and fire fighters' retirement system plan 1 or
14 the plan established by this chapter, the individual may restore the
15 contributions, together with interest as determined by the director,
16 and recover the service represented by the contributions for the sole
17 purpose of transferring service under this section. The contributions
18 must be restored before the transfer can occur and the restoration must
19 be completed within the time limitations specified in subsection (1) of
20 this section.

21 (5) Any service transferred under this section does not apply to
22 the eligibility requirements for military service credit as defined in
23 RCW 41.40.170(3) or 43.43.260(3).

24 (6) If an individual does not meet the time limitations of
25 subsection (1) of this section, the individual may elect to restore any
26 withdrawn contributions and transfer service under this section by
27 paying the amount required under subsection (3)(b) of this section less
28 any employee contributions transferred.

29 NEW SECTION. Sec. 234. SERVICE CREDIT FOR PAID LEAVE OF ABSENCE--
30 APPLICATION TO ELECTED OFFICIALS OF LABOR ORGANIZATIONS. (1) A member
31 who is on a paid leave of absence authorized by a member's employer
32 shall continue to receive service credit as provided under this
33 chapter.

34 (2) A member who receives compensation from an employer while on an
35 authorized leave of absence to serve as an elected official of a labor
36 organization, and whose employer is reimbursed by the labor
37 organization for the compensation paid to the member during the period
38 of absence, may also be considered to be on a paid leave of absence.

1 This subsection shall only apply if the member's leave of absence is
2 authorized by a collective bargaining agreement that provides that the
3 member retains seniority rights with the employer during the period of
4 leave. The basic salary reported for a member who establishes service
5 credit under this subsection may not be greater than the salary paid to
6 the highest paid job class covered by the collective bargaining
7 agreement.

8 NEW SECTION. **Sec. 235.** APPEAL TO DIRECTOR. Any person feeling
9 aggrieved by any order or determination of a disability board denying
10 disability leave or disability retirement, or canceling a previously
11 granted disability retirement allowance, shall have the right to appeal
12 the order or determination to the director. The director shall have no
13 jurisdiction to entertain the appeal unless a notice of appeal is filed
14 with the director within thirty days following the rendition of the
15 order by the applicable disability board. A copy of the notice of
16 appeal shall be served upon the director and the applicable disability
17 board and, within ninety days thereof, the disability board shall
18 certify its decision and order which shall include findings of fact and
19 conclusions of law, together with a transcript of all proceedings in
20 connection therewith, to the director for review. Upon review of the
21 record, the director may affirm the order of the disability board or
22 may remand the case for such further proceedings as he or she may
23 direct, in accordance with such rules of procedure as the director
24 shall adopt.

25 NEW SECTION. **Sec. 236.** NOTICE FOR HEARING REQUIRED PRIOR TO
26 PETITIONING FOR JUDICIAL REVIEW. Any person aggrieved by any final
27 decision of the director must, before petitioning for judicial review,
28 file with the director by mail or personally within sixty days from the
29 day the decision was communicated to the person, a notice for a
30 hearing. The notice of hearing shall set forth in full detail the
31 grounds upon which such person considers such decision unjust or
32 unlawful and shall include every issue to be considered, and it must
33 contain a detailed statement of facts upon which such person relies in
34 support thereof. Such persons shall be deemed to have waived all
35 objections or irregularities concerning the matter on which such appeal
36 is taken other than those specifically set forth in the notice of
37 hearing or appearing in the records of the retirement system.

1 NEW SECTION. **Sec. 237.** HEARING--CONDUCT. A hearing shall be held
2 by the director, or the director's duly authorized representative, in
3 the county of the residence of the claimant at a time and place
4 designated by the director. Such hearing shall be de novo and shall
5 conform to the provisions of chapter 34.05 RCW. The disability board
6 and the department shall be entitled to appear in all such proceedings
7 and introduce testimony in support of the decision. Judicial review of
8 any final decision by the director shall be governed by the provisions
9 of chapter 34.05 RCW.

10 NEW SECTION. **Sec. 238.** INCREASES OR DECREASES IN RETIREMENT
11 ALLOWANCES TO BE DETERMINED BY DEPARTMENT IN ACCORDANCE WITH CONSUMER
12 PRICE INDEX. For purposes of this section:

13 (1) "Index" means, for any calendar year, that year's average
14 consumer price index for the Seattle, Washington area for urban wage
15 earners and clerical workers, all items (1957-1959=100), compiled by
16 the bureau of labor statistics of the United States department of
17 labor;

18 (2) "Retirement allowance" means the retirement allowance provided
19 for in sections 217 and 222 of this act, and the monthly allowance
20 provided for in section 226 of this act.

21 On April 1st of each year, every retirement allowance which has
22 been in effect for more than one year shall be adjusted to that dollar
23 amount which exceeds its original dollar amount by the percentage
24 difference which the department finds to exist between the index for
25 the previous calendar year and the index for the calendar year prior to
26 the effective retirement date of the person to whom, or on behalf of
27 whom, such retirement allowance is being paid.

28 For the purposes of this section, "basic allowance" means that
29 portion of a total retirement allowance, and any cost-of-living
30 adjustment thereon, attributable to a member (individually) and shall
31 not include the increased amounts attributable to the existence of a
32 child or children. In those cases where a child ceases to be qualified
33 as an eligible child, so as to lessen the total allowance, the
34 allowance shall, at that time, be reduced to the basic allowance plus
35 the amount attributable for the appropriate number of eligible
36 children. In those cases where a child qualifies as an eligible child
37 subsequent to the retirement of a member so as to increase the total
38 allowance payable, such increased allowance shall at the time of the

1 next and appropriate subsequent cost-of-living adjustments, be
2 considered the original dollar amount of the allowance.

3 NEW SECTION. **Sec. 239.** INCREASE IN PRESENTLY PAYABLE BENEFITS FOR
4 SERVICE OR DISABILITY AUTHORIZED. All benefits presently payable
5 pursuant to the provisions of RCW 41.20.050, 41.20.060, and 41.20.080
6 as such RCW sections existed prior to the effective date of the
7 amendment of such RCW sections by sections 1, 2, 3, chapter 191, Laws
8 of 1961 to persons who retired prior to the effective date of the 1961
9 amendatory act, shall be increased annually as provided in this
10 section. The local pension board shall meet subsequent to March 31st
11 but prior to June 30th of each year for the purpose of adjusting
12 benefit allowances payable pursuant to RCW 41.20.050, 41.20.060, and
13 41.20.080. The local board shall determine the increase in the
14 consumer price index between January 1st and December 31st of the
15 previous year and increase in dollar amount the benefits payable
16 subsequent to July 1st of the year in which the board makes such
17 determination by a dollar amount proportionate to the increase in the
18 consumer price index: PROVIDED, That regardless of the change in the
19 consumer price index, such increase shall be at least two percent each
20 year such adjustment is made.

21 Each year effective with the July payment all benefits specified in
22 this section, shall be increased as authorized by this section. This
23 benefit increase shall be paid monthly as part of the regular pension
24 payment and shall be cumulative.

25 For the purpose of this section, "consumer price index" means, for
26 any calendar year, the consumer price index for the Seattle, Washington
27 area as compiled by the bureau of labor statistics of the United States
28 department of labor.

29 NEW SECTION. **Sec. 240.** INCREASE IN CERTAIN PRESENTLY PAYABLE
30 DEATH BENEFITS AUTHORIZED. All benefits presently payable pursuant to
31 the provisions of RCW 41.20.085 which are not related to the amount of
32 current salary attached to the position held by the deceased member
33 shall be increased annually in the same manner and to the same extent
34 as provided for pursuant to section 239 of this act.

35 NEW SECTION. **Sec. 241.** DECLARATION OF POLICY RESPECTING BENEFITS
36 FOR INJURY OR DEATH--CIVIL ACTIONS ABOLISHED. The legislature of the

1 state of Washington hereby declares that the relationship between
2 members of the restated law enforcement officers' and fire fighters'
3 retirement system and their governmental employers is similar to that
4 of workers to their employers and that the sure and certain relief
5 granted by this chapter is desirable, and as beneficial to such law
6 enforcement officers and fire fighters as workers' compensation
7 coverage is to persons covered by Title 51 RCW. The legislature
8 further declares that removal of law enforcement officers and fire
9 fighters from workers' compensation coverage under Title 51 RCW
10 necessitates the (1) continuance of sure and certain relief for
11 personal injuries incurred in the course of employment or occupational
12 disease, which the legislature finds to be accomplished by the
13 provisions of this chapter and (2) protection for the governmental
14 employer from actions at law; and to this end the legislature further
15 declares that the benefits and remedies conferred by this chapter upon
16 law enforcement officers and fire fighters covered under this chapter
17 shall be to the exclusion of any other remedy, proceeding, or
18 compensation for personal injuries or sickness, caused by the
19 governmental employer except as otherwise provided by this chapter; and
20 to that end all civil actions and civil causes of actions by such law
21 enforcement officers and fire fighters against their governmental
22 employers for personal injuries or sickness are hereby abolished,
23 except as otherwise provided in this chapter.

24 NEW SECTION. **Sec. 242.** CAUSE OF ACTION FOR INJURY OR DEATH, WHEN.
25 If injury or death results to a member from the intentional or
26 negligent act or omission of a member's governmental employer, the
27 member, the widow, widower, child, or dependent of the member shall
28 have the privilege to benefit under this chapter and also have cause of
29 action against the governmental employer as otherwise provided by law,
30 for any excess of damages over the amount received or receivable under
31 this chapter.

32 NEW SECTION. **Sec. 243.** Sections 1 through 8 and 201 through 242
33 of this act constitute a new chapter in Title 41 RCW, to be designated
34 chapter 41.26A RCW.

35 **PART III**
36 **LEOFF MEDICAL BENEFITS RISK POOL**

1 NEW SECTION. **Sec. 301.** The purpose of this chapter is to
2 establish a risk assumption program whereby employers of active and
3 retired members of the restated law enforcement officers' and fire
4 fighters' retirement system under chapter 41.26A RCW voluntarily enter
5 into membership in a risk pool for the purpose of sharing the
6 noninsured medical costs of long-term care and major medical services
7 for retired members of the retirement system. Such long-term care and
8 major medical services are those required under chapter 41.26A RCW and
9 approved by city and county disability boards.

10 NEW SECTION. **Sec. 302.** The definitions in this section apply to
11 this chapter unless the context clearly requires otherwise.

12 (1) "Actuary" means the state actuary, office of the state actuary.

13 (2) "Beneficiary" means any person in receipt of a retirement
14 allowance or disability allowance who is eligible for medical services
15 under the restated law enforcement officers' and fire fighters'
16 retirement system under chapter 41.26A RCW.

17 (3) "Employer" means the legislative authority of any city, town,
18 county, or district or the elected officials of any municipal
19 corporation that employs any member of the restated law enforcement
20 officers' and fire fighters' retirement system, or any authorized
21 association of such municipalities.

22 (4) "Executive board" means the law enforcement officers' and fire
23 fighters' risk pool executive board.

24 (5) "Long-term care" means those medically necessary services
25 required under section 202(22) of this act, authorized under section
26 225 of this act, and received in a facility for skilled nursing care,
27 intermediate care, custodial care, hospice care, day care, in-home
28 nursing care, or other in-home care or services. For purposes of
29 expenditures from the medical account, long-term care only includes
30 qualified long-term care services as defined in internal revenue code
31 section 7702B(2), and qualified long-term care insurance contract as
32 defined in internal revenue code section 7702B(b).

33 (6) "Medical costs" means those costs incurred in the provision of
34 the medically necessary medical services required under section 202(22)
35 of this act and authorized under section 225 of this act. For purposes
36 of expenditures from the medical account, medical costs only include
37 cost of medical care as defined in internal revenue code section
38 213(d).

1 (7) "Risk assumption" means a decision to absorb the entity's
2 financial exposure to a risk of loss without the creation of a formal
3 program of advance funding of anticipated losses.

4 (8) "Risk pool" means the long-term care and medical costs risk
5 pool created for the law enforcement officers' and fire fighters'
6 medical benefits risk pool.

7 (9) "State risk manager" means the risk manager, risk management
8 division, department of general administration.

9 NEW SECTION. **Sec. 303.** (1) There is hereby established the law
10 enforcement officers' and fire fighters' medical benefits risk pool.

11 (2) The risk pool is a risk assumption insurance program for the
12 sole purpose of employers sharing the noninsured medical costs of long-
13 term care and medical costs for beneficiaries.

14 (3) An employer's participation and withdrawal from the risk pool
15 is subject to rules established by the executive board.

16 NEW SECTION. **Sec. 304.** (1) The law enforcement officers' and fire
17 fighters' risk pool executive board is hereby established.

18 (2)(a) The membership of the executive board shall consist of seven
19 persons as follows:

20 (i) The chair is appointed by the governor for a four-year term of
21 office. The chair shall be familiar with risk pool operation, medical,
22 and long-term care matters but shall not have been employed as a law
23 enforcement officer or fire fighter or served on a law enforcement
24 officers' and fire fighters' disability board; and

25 (ii) Six others selected by the governor from lists of recommended
26 persons made by their respective organizations as follows:

27 (A) Two persons representing counties, one of which is an elected
28 official;

29 (B) Two persons representing cities and towns, one of which is an
30 elected official; and

31 (C) Two persons representing fire protection districts, one of
32 which is an elected commissioner.

33 (b) If a member vacates his or her position, the governor shall
34 select a person from a list recommended by his or her respective
35 organization to replace the vacating member for the remainder of the
36 term of office for the vacated position.

1 (3) One position of the county, city, or town, and fire protection
2 district groups and the law enforcement officer position have an
3 initial term of two years and four years thereafter. The remaining
4 positions have terms of four years.

5 (4) A vice-chair shall be elected at the first meeting of the
6 executive board and every two years thereafter. Upon the absence of
7 the chair, the vice-chair shall act in his or her place.

8 (5) The executive board shall meet at least quarterly and shall
9 maintain minutes of each meeting and any records as may be necessary,
10 which are public records.

11 (6) The chair and three other members constitute a quorum.

12 (7) The members of the executive board shall not receive
13 compensation for their service upon the executive board but shall be
14 reimbursed for all expenses incidental to such service as to the amount
15 authorized by either RCW 42.24.090 or 43.03.050 and 43.03.060,
16 whichever is applicable.

17 NEW SECTION. **Sec. 305.** The duties of the executive board are as
18 follows:

19 (1) Establish the basis of membership in the risk pool;

20 (2) Define and establish the benefits to be reimbursed by the risk
21 pool;

22 (3) Authorize distribution of moneys from the risk pool account
23 consistent with the provisions of rules and regulations established by
24 the internal revenue service;

25 (4) Determine, with the assistance of the actuary, employer
26 premiums to the risk pool;

27 (5) Authorize reimbursement for medical and long-term care costs,
28 required under section 202(22) of this act and authorized under section
29 225 of this act that are not covered by standard medical insurance
30 policies. The board shall adopt rules governing these reimbursements
31 consistent with the provisions of the internal revenue code and rules
32 and regulations established by the internal revenue service;

33 (6) Purchase reinsurance as necessary;

34 (7) Appoint other staff as necessary for the operation of the risk
35 pool; fix their compensation within the limits provided by law; and
36 prescribe their duties; and

37 (8) Enter into contracts necessary for the operation of the risk
38 pool, including risk management, claims, and administrative services.

1 NEW SECTION. **Sec. 306.** Funding for the risk pool account,
2 established in section 310 of this act, may come from three sources:
3 (1) Employer premiums; (2) surplus assets which are transferred from
4 the Washington law enforcement officers' and fire fighters' system plan
5 1 retirement fund under section 8 of this act; and (3) investment
6 earnings.

7 NEW SECTION. **Sec. 307.** The state risk manager shall adopt rules
8 governing the implementation, management, and operation of the risk
9 pool in consultation with the health and welfare advisory board under
10 RCW 48.62.051. All rules shall be appropriate for the type of program
11 and class of risk covered. The state risk manager's rules shall
12 include:

13 (1) Standards for the implementation, management, operation, and
14 solvency of the risk pool, including the necessity and frequency of
15 actuarial analyses and claims audits;

16 (2) Standards for claims management procedures;

17 (3) Standards for contracts between the risk pool and private
18 businesses including standards for contracts between third-party
19 administrators and the risk pool; and

20 (4) Standards for an annual report with the state risk manager and
21 state auditor including, but not limited to:

22 (a) Copies of all the insurance coverage documents;

23 (b) A description of the program structure;

24 (c) An actuarial analysis, if required;

25 (d) A list of contractors and service providers;

26 (e) The financial and loss experience of the program; and

27 (f) Such other information as required by rule of the state risk
28 manager.

29 NEW SECTION. **Sec. 308.** The risk pool may not engage in an act or
30 practice that in any respect significantly differs from the management
31 and operation plan that formed the basis for the state risk manager's
32 approval unless the risk pool first notifies the state risk manager in
33 writing and obtains the state risk manager's approval. The state risk
34 manager shall approve or disapprove the proposed change within sixty
35 days of receipt of the notice. If the state risk manager denies a
36 requested change, the risk manager shall specify in detail the reasons
37 for denial and the manner in which the risk pool would fail to meet the

1 requirements of this chapter or any rules adopted in accordance with
2 this chapter.

3 NEW SECTION. **Sec. 309.** (1) The state risk manager shall establish
4 and charge an investigation fee in an amount necessary to cover the
5 costs for the initial review and approval of the risk pool. The fee
6 must accompany the initial submission of the plan of operation and
7 management.

8 (2) The costs of subsequent reviews and investigations shall be
9 charged to the risk pool being reviewed or investigated in accordance
10 with the actual time and expenses incurred in the review or
11 investigation.

12 (3) The risk pool shall pay any required fee or assessment required
13 by the health and welfare advisory board under RCW 48.62.051.

14 NEW SECTION. **Sec. 310.** (1) The law enforcement officers' and fire
15 fighters' medical benefits risk pool account is hereby established in
16 the custody of the state treasurer. The account shall be invested by
17 the Washington state investment board pursuant to section 7 of this
18 act.

19 (2) The account shall consist of such money as is directed by law
20 for deposit in the account, and such other money not subject to
21 appropriation that the law enforcement officers' and fire fighters'
22 risk pool executive board authorizes to be deposited in the account.
23 Any money deposited in the account, the use of which has been
24 restricted by law, may only be expended in accordance with those
25 restrictions.

26 (3) Only the executive board or the board's designee may make
27 disbursements from the account.

28 NEW SECTION. **Sec. 311.** Sections 301 through 310 of this act
29 constitute a new chapter in Title 41 RCW.

30 **Sec. 312.** RCW 44.44.040 and 1987 c 25 s 3 are each amended to read
31 as follows:

32 The office of the state actuary shall have the following powers and
33 duties:

34 (1) Perform all actuarial services for the department of retirement
35 systems, including all studies required by law, the state board for

1 volunteer fire fighters and reserve officers, and the law enforcement
2 officers' and fire fighters' risk pool executive board. Reimbursement
3 for such services shall be made to the state actuary pursuant to the
4 provisions of RCW 39.34.130 as now or hereafter amended.

5 (2) Advise the legislature and the governor regarding pension
6 benefit provisions, and funding policies and investment policies of the
7 state investment board.

8 (3) Consult with the legislature and the governor concerning
9 determination of actuarial assumptions used by the department of
10 retirement systems.

11 (4) Prepare a report, to be known as the actuarial fiscal note, on
12 each pension bill introduced in the legislature which briefly explains
13 the financial impact of the bill. The actuarial fiscal note shall
14 include: (a) The statutorily required contribution for the biennium
15 and the following twenty-five years; (b) the biennial cost of the
16 increased benefits if these exceed the required contribution; and (c)
17 any change in the present value of the unfunded accrued benefits. An
18 actuarial fiscal note shall also be prepared for all amendments which
19 are offered in committee or on the floor of the house of
20 representatives or the senate to any pension bill. However, a majority
21 of the members present may suspend the requirement for an actuarial
22 fiscal note for amendments offered on the floor of the house of
23 representatives or the senate.

24 (5) Provide such actuarial services to the legislature as may be
25 requested from time to time.

26 (6) Provide staff and assistance to the committee established under
27 (~~RCW 46.44.050~~) RCW 44.44.050.

28 (7) Provide assistance as required under section 305 of this act.

29 **Sec. 313.** RCW 48.62.031 and 1991 sp.s. c 30 s 3 are each amended
30 to read as follows:

31 (1) The governing body of a local government entity may
32 individually self-insure, may join or form a self-insurance program
33 together with other entities, and may jointly purchase insurance or
34 reinsurance with other entities for property and liability risks, and
35 health and welfare benefits only as permitted under this chapter. In
36 addition, the entity or entities may contract for or hire personnel to
37 provide risk management, claims, and administrative services in
38 accordance with this chapter.

1 (2) The governing body of a local government entity individually
2 may join or form a risk assumption program together with other
3 entities, and may jointly purchase insurance or reinsurance with other
4 entities for health and welfare benefits. In addition, the entity or
5 entities may contract for or hire personnel to provide risk management,
6 claims, and administrative services in accordance with this chapter.

7 (3) The agreement to form a joint self-insurance or risk assumption
8 program shall be made under chapter 39.34 RCW.

9 (~~(3)~~) (4) Every individual and joint self-insurance program and
10 a health and welfare risk assumption program is subject to audit by the
11 state auditor.

12 (~~(4)~~) (5) If provided for in the agreement or contract
13 established under chapter 39.34 RCW, a joint self-insurance or risk
14 assumption program may, in conformance with this chapter:

15 (a) Contract or otherwise provide for risk management and loss
16 control services;

17 (b) Contract or otherwise provide legal counsel for the defense of
18 claims and other legal services;

19 (c) Consult with the state insurance commissioner and the state
20 risk manager;

21 (d) Jointly purchase insurance and reinsurance coverage in such
22 form and amount as the program's participants agree by contract; and

23 (e) Possess any other powers and perform all other functions
24 reasonably necessary to carry out the purposes of this chapter.

25 (~~(5)~~) (6) A local government entity or a health and welfare risk
26 assumption program that has decided to assume a risk of loss must have
27 available for inspection by the state auditor a written report
28 indicating the class of risk or risks the governing body of the entity
29 has decided to assume.

30 (~~(6)~~) (7) Every joint self-insurance or risk assumption program
31 governed by this chapter shall appoint the risk manager as its attorney
32 to receive service of, and upon whom shall be served, all legal process
33 issued against it in this state upon causes of action arising in this
34 state.

35 (a) Service upon the risk manager as attorney shall constitute
36 service upon the program. Service upon joint insurance programs
37 subject to chapter 30, Laws of 1991 1st sp. sess. can be had only by
38 service upon the risk manager. At the time of service, the plaintiff

1 shall pay to the risk manager a fee to be set by the risk manager,
2 taxable as costs in the action.

3 (b) With the initial filing for approval with the risk manager,
4 each joint self-insurance program shall designate by name and address
5 the person to whom the risk manager shall forward legal process so
6 served upon him or her. The joint self-insurance program may change
7 such person by filing a new designation.

8 (c) The appointment of the risk manager as attorney shall be
9 irrevocable, shall bind any successor in interest or to the assets or
10 liabilities of the joint self-insurance program, and shall remain in
11 effect as long as there is in force in this state any contract made by
12 the joint self-insurance program or liabilities or duties arising
13 therefrom.

14 (d) The risk manager shall keep a record of the day and hour of
15 service upon him or her of all legal process. A copy of the process,
16 by registered mail with return receipt requested, shall be sent by the
17 risk manager, to the person designated for the purpose by the joint
18 self-insurance or risk assumption program in its most recent such
19 designation filed with the risk manager. No proceedings shall be had
20 against the joint self-insurance or risk assumption program, and the
21 program shall not be required to appear, plead, or answer, until the
22 expiration of forty days after the date of service upon the risk
23 manager.

24 **Sec. 314.** RCW 48.62.051 and 1991 sp.s. c 30 s 5 are each amended
25 to read as follows:

26 (1) The health and welfare advisory board is created consisting of
27 the insurance commissioner and the state risk manager, or their
28 designees, as ex officio members and six members appointed by the
29 governor on the basis of their experience and knowledge pertaining to
30 local government self-insured health and welfare benefits programs.
31 The board shall include one city management representative; one county
32 management representative; two management representatives from local
33 government self-insured health and welfare programs; and two
34 representatives of statewide employee organizations representing local
35 government employees.

36 (2) The board shall assist the state risk manager in:

37 (a) Adopting rules governing the operation and management of both
38 individual and joint self-insured health and welfare benefits programs

1 and the law enforcement officers' and fire fighters' medical benefits
2 risk pool;

3 (b) Reviewing and approving the creation of both individual and
4 joint self-insured health and welfare benefits programs;

5 (c) Reviewing annual reports filed by health and welfare benefits
6 programs and in recommending that corrective action be taken by the
7 programs when necessary; and

8 (d) Responding to concerns of the state auditor related to the
9 management and operation of health and welfare benefits programs.

10 (3) The board shall annually elect a chair and a vice-chair from
11 its members. The board shall meet at least quarterly at such times as
12 the state risk manager may fix. The board members who are appointed
13 shall serve without compensation from the state but shall suffer no
14 loss because of absence from their regular employment. Members of the
15 board who are not public employees shall be compensated in accordance
16 with RCW 43.03.240.

17 (4) A majority of the board constitutes a quorum for the
18 transaction of business.

19 (5) The board shall keep public records of its proceedings.

20 PART IV

21 MISCELLANEOUS AMENDATORY SECTIONS

22 **Sec. 401.** RCW 2.10.155 and 1990 c 274 s 14 are each amended to
23 read as follows:

24 (1) No judge shall be eligible to receive the judge's monthly
25 service or disability retirement allowance if the retired judge is
26 employed:

27 (a) For more than eight hundred ten hours in a calendar year as a
28 pro tempore judge; or

29 (b) In an eligible position as defined in RCW 41.40.010 or
30 41.32.010, or as a law enforcement officer or fire fighter as defined
31 in RCW 41.26.030 or section 202 of this act.

32 (2) Subsection (1) of this section notwithstanding, a previously
33 elected judge of the superior court who retired before June 7, 1990,
34 leaving a pending case in which the judge had made discretionary
35 rulings may hear the pending case as a judge pro tempore without having
36 his or her retirement allowance suspended.

1 (3) If a retired judge's benefits have been suspended under this
2 section, his or her benefits shall be reinstated when the retiree
3 terminates the employment that caused his or her benefits to be
4 suspended. Upon reinstatement, the retired judge's benefits shall be
5 actuarially recomputed pursuant to the rules adopted by the department.

6 (4) The department shall adopt rules implementing this section.

7 **Sec. 402.** RCW 6.15.020 and 1999 c 81 s 1 and 1999 c 42 s 603 are
8 each reenacted and amended to read as follows:

9 (1) It is the policy of the state of Washington to ensure the well-
10 being of its citizens by protecting retirement income to which they are
11 or may become entitled. For that purpose generally and pursuant to the
12 authority granted to the state of Washington under 11 U.S.C. Sec.
13 522(b)(2), the exemptions in this section relating to retirement
14 benefits are provided.

15 (2) Unless otherwise provided by federal law, any money received by
16 any citizen of the state of Washington as a pension from the government
17 of the United States, whether the same be in the actual possession of
18 such person or be deposited or loaned, shall be exempt from execution,
19 attachment, garnishment, or seizure by or under any legal process
20 whatever, and when a debtor dies, or absconds, and leaves his or her
21 family any money exempted by this subsection, the same shall be exempt
22 to the family as provided in this subsection. This subsection shall
23 not apply to child support collection actions issued under chapter
24 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

25 (3) The right of a person to a pension, annuity, or retirement
26 allowance or disability allowance, or death benefits, or any optional
27 benefit, or any other right accrued or accruing to any citizen of the
28 state of Washington under any employee benefit plan, and any fund
29 created by such a plan or arrangement, shall be exempt from execution,
30 attachment, garnishment, or seizure by or under any legal process
31 whatever. This subsection shall not apply to child support collection
32 actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise
33 permitted by federal law. This subsection shall permit benefits under
34 any such plan or arrangement to be payable to a spouse, former spouse,
35 child, or other dependent of a participant in such plan to the extent
36 expressly provided for in a qualified domestic relations order that
37 meets the requirements for such orders under the plan, or, in the case
38 of benefits payable under a plan described in sections 403(b) or 408 of

1 the internal revenue code of 1986, as amended, or section 409 of such
2 code as in effect before January 1, 1984, to the extent provided in any
3 order issued by a court of competent jurisdiction that provides for
4 maintenance or support. This subsection shall not prohibit actions
5 against an employee benefit plan, or fund for valid obligations
6 incurred by the plan or fund for the benefit of the plan or fund.

7 (4) For the purposes of this section, the term "employee benefit
8 plan" means any plan or arrangement that is described in RCW 49.64.020,
9 including any Keogh plan, whether funded by a trust or by an annuity
10 contract, and in sections 401(a) or 403(a) of the internal revenue code
11 of 1986, as amended; or that is a tax-sheltered annuity described in
12 section 403(b) of such code or an individual retirement account
13 described in section 408 of such code; or a Roth individual retirement
14 account described in section 408A of such code; or a medical savings
15 account described in section 220 of such code; or an education
16 individual retirement account described in section 530 of such code; or
17 a retirement bond described in section 409 of such code as in effect
18 before January 1, 1984. The term "employee benefit plan" also means
19 any rights accruing on account of money paid currently or in advance
20 for purchase of tuition units under the advanced college tuition
21 payment program in chapter 28B.95 RCW. The term "employee benefit
22 plan" shall not include any employee benefit plan that is established
23 or maintained for its employees by the government of the United States,
24 by the state of Washington under chapter 2.10, 2.12, 41.26, 41.26A,
25 41.32, 41.34, 41.35, 41.40 or 43.43 RCW or RCW 41.50.770, or by any
26 agency or instrumentality of the government of the United States.

27 (5) An employee benefit plan shall be deemed to be a spendthrift
28 trust, regardless of the source of funds, the relationship between the
29 trustee or custodian of the plan and the beneficiary, or the ability of
30 the debtor to withdraw or borrow or otherwise become entitled to
31 benefits from the plan before retirement. This subsection shall not
32 apply to child support collection actions issued under chapter 26.18,
33 26.23, or 74.20A RCW, if otherwise permitted by federal law. This
34 subsection shall permit benefits under any such plan or arrangement to
35 be payable to a spouse, former spouse, child, or other dependent of a
36 participant in such plan to the extent expressly provided for in a
37 qualified domestic relations order that meets the requirements for such
38 orders under the plan, or, in the case of benefits payable under a plan
39 described in sections 403(b) or 408 of the internal revenue code of

1 1986, as amended, or section 409 of such code as in effect before
2 January 1, 1984, to the extent provided in any order issued by a court
3 of competent jurisdiction that provides for maintenance or support.

4 (6) Unless contrary to applicable federal law, nothing contained in
5 subsection (3), (4), or (5) of this section shall be construed as a
6 termination or limitation of a spouse's community property interest in
7 an individual retirement account held in the name of or on account of
8 the other spouse, the account holder spouse. At the death of the
9 nonaccount holder spouse, the nonaccount holder spouse may transfer or
10 distribute the community property interest of the nonaccount holder
11 spouse in the account holder spouse's individual retirement account to
12 the nonaccount holder spouse's estate, testamentary trust, inter vivos
13 trust, or other successor or successors pursuant to the last will of
14 the nonaccount holder spouse or the law of intestate succession, and
15 that distributee may, but shall not be required to, obtain an order of
16 a court of competent jurisdiction, including a nonjudicial dispute
17 resolution agreement entered into pursuant to RCW 11.96.170 or other
18 order entered under chapter 11.96A RCW, to confirm the distribution.
19 For purposes of subsection (3) of this section, the distributee of the
20 nonaccount holder spouse's community property interest in an individual
21 retirement account shall be considered a person entitled to the full
22 protection of subsection (3) of this section. The nonaccount holder
23 spouse's consent to a beneficiary designation by the account holder
24 spouse with respect to an individual retirement account shall not,
25 absent clear and convincing evidence to the contrary, be deemed a
26 release, gift, relinquishment, termination, limitation, or transfer of
27 the nonaccount holder spouse's community property interest in an
28 individual retirement account. For purposes of this subsection, the
29 term "nonaccount holder spouse" means the spouse of the person in whose
30 name the individual retirement account is maintained. The term
31 "individual retirement account" includes an individual retirement
32 account and an individual retirement annuity both as described in
33 section 408 of the internal revenue code of 1986, as amended, a Roth
34 individual retirement account as described in section 408A of the
35 internal revenue code of 1986, as amended, and an individual retirement
36 bond as described in section 409 of the internal revenue code as in
37 effect before January 1, 1984. As used in this subsection, an order of
38 a court of competent jurisdiction includes an agreement, as that term
39 is used under RCW 11.96A.220.

1 **Sec. 403.** RCW 26.09.138 and 1991 c 365 s 24 are each amended to
2 read as follows:

3 (1) Any obligee of a court order or decree establishing a spousal
4 maintenance obligation may seek a mandatory benefits assignment order
5 under chapter 41.50 RCW if any spousal maintenance payment is more than
6 fifteen days past due and the total of such past due payments is equal
7 to or greater than one hundred dollars, or if the obligor requests a
8 withdrawal of accumulated contributions from the department of
9 retirement systems.

10 (2) Any court order or decree establishing a spousal maintenance
11 obligation may state that, if any spousal maintenance payment is more
12 than fifteen days past due and the total of such past due payments is
13 equal to or greater than one hundred dollars, or if the obligor
14 requests a withdrawal of accumulated contributions from the department
15 of retirement systems, the obligee may seek a mandatory benefits
16 assignment order under chapter 41.50 RCW without prior notice to the
17 obligor. Any such court order or decree may also, or in the
18 alternative, contain a provision that would allow the department to
19 make a direct payment of all or part of a withdrawal of accumulated
20 contributions pursuant to RCW 41.50.550(3). Failure to include this
21 provision does not affect the validity of the court order or decree
22 establishing the spousal maintenance, nor does such failure affect the
23 general applicability of RCW 41.50.500 through 41.50.650 to such
24 obligations.

25 (3) The remedies in RCW 41.50.530 through 41.50.630 are the
26 exclusive provisions of law enforceable against the department of
27 retirement systems in connection with any action for enforcement of a
28 spousal maintenance obligation ordered pursuant to a divorce,
29 dissolution, or legal separation, and no other remedy ordered by a
30 court under this chapter shall be enforceable against the department of
31 retirement systems for collection of spousal maintenance.

32 (4)(a) Nothing in this section regarding mandatory assignment of
33 benefits to enforce a spousal maintenance obligation shall abridge the
34 right of an ex spouse to receive direct payment of retirement benefits
35 payable pursuant to: (i) A court decree of dissolution or legal
36 separation; or (ii) any court order or court-approved property
37 settlement agreement; or (iii) incident to any court decree of
38 dissolution or legal separation, if such dissolution orders fully
39 comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW

1 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, ((41.26.180))
2 41.26.053, section 209 of this act, 41.32.052, 41.40.052, or 43.43.310
3 as those statutes existed before July 1, 1987, and as those statutes
4 exist on and after July 28, 1991.

5 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)
6 were entered between July 1, 1987, and July 28, 1991, shall be entitled
7 to receive direct payments of retirement benefits to satisfy court-
8 ordered property divisions if the dissolution orders filed with the
9 department comply or are amended to comply with RCW 41.50.670 through
10 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, ((41.26.180))
11 41.26.053, section 209 of this act, 41.32.052, 41.40.052, or 43.43.310.

12 **Sec. 404.** RCW 36.28A.010 and 1975 1st ex.s. c 172 s 1 are each
13 amended to read as follows:

14 The Washington association of sheriffs and police chiefs is hereby
15 declared to be a combination of units of local government: PROVIDED,
16 That such association shall not be considered an "employer" within the
17 meaning of RCW 41.26.030(2), section 202 of this act, or 41.40.010(4):
18 PROVIDED FURTHER, That no compensation received as an employee of the
19 association shall be considered salary for purposes of the provisions
20 of any retirement system created pursuant to the general laws of this
21 state: PROVIDED FURTHER, That such association shall not qualify for
22 inclusion under the unallocated two mills of the property tax of any
23 political subdivision: PROVIDED FURTHER, That the association shall
24 not have the authority to assess any excess levy or bond measure.

25 **Sec. 405.** RCW 41.04.205 and 1995 1st sp.s. c 6 s 8 are each
26 amended to read as follows:

27 (1) Notwithstanding the provisions of RCW 41.04.180, the employees,
28 with their dependents, of any county, municipality, or other political
29 subdivision of this state shall be eligible to participate in any
30 insurance or self-insurance program for employees administered under
31 chapter 41.05 RCW if the legislative authority of any such county,
32 municipality, or other political subdivisions of this state determines,
33 subject to collective bargaining under applicable statutes, a transfer
34 to an insurance or self-insurance program administered under chapter
35 41.05 RCW should be made. In the event of a special district employee
36 transfer pursuant to this section, members of the governing authority
37 shall be eligible to be included in such transfer if such members are

1 authorized by law as of June 25, 1976, to participate in the insurance
2 program being transferred from and subject to payment by such members
3 of all costs of insurance for members.

4 (2) When the legislative authority of a county, municipality, or
5 other political subdivision determines to so transfer, the state health
6 care authority shall:

7 (a) Establish the conditions for participation; and

8 (b) Have the sole right to reject the application.

9 Approval of the application by the state health care authority
10 shall effect a transfer of the employees involved to the insurance,
11 self-insurance, or health care program applied for.

12 (3) Any application of this section to members of the law
13 enforcement officers' and fire fighters' retirement system under
14 chapter 41.26 or 41.26A RCW is subject to chapter 41.56 RCW.

15 (4) School districts may voluntarily transfer, except that all
16 eligible employees in a bargaining unit of a school district may
17 transfer only as a unit and all nonrepresented employees in a district
18 may transfer only as a unit.

19 **Sec. 406.** RCW 41.04.270 and 1988 c 195 s 5 are each amended to
20 read as follows:

21 (1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26,
22 41.26A, 41.28, 41.32, 41.40, or 43.43 RCW to the contrary, on and after
23 March 19, 1976, any member or former member who (a) receives a
24 retirement allowance earned by said former member as deferred
25 compensation from any public retirement system authorized by the
26 general laws of this state, or (b) is eligible to receive a retirement
27 allowance from any public retirement system listed in RCW 41.50.030,
28 but chooses not to apply, or (c) is the beneficiary of a disability
29 allowance from any public retirement system listed in RCW 41.50.030
30 shall be estopped from becoming a member of or accruing any contractual
31 rights whatsoever in any other public retirement system listed in RCW
32 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not
33 apply to persons who have accumulated less than fifteen years service
34 credit in any such system.

35 (2) Nothing in this section is intended to apply to any retirement
36 system except those listed in RCW 41.50.030 and the city employee
37 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)

1 of this section does not apply to a dual member as defined in RCW
2 41.54.010.

3 **Sec. 407.** RCW 41.04.350 and 1979 ex.s. c 159 s 1 are each amended
4 to read as follows:

5 (1) Notwithstanding any other provisions of law, no employee of the
6 state of Washington or any of its political subdivisions or any
7 institution supported in total or in part by the state or any of its
8 political subdivisions, other than employees covered by chapters 41.26,
9 41.26A, and 43.43 RCW, shall be compelled to retire solely on the basis
10 of age prior to attaining seventy years of age.

11 (2) All compulsory retirement provisions relating to public
12 employees, other than employees covered by chapters 41.26, 41.26A, and
13 43.43 RCW, may be waived for individuals attaining seventy years of age
14 by the individual's employer.

15 **Sec. 408.** RCW 41.04.400 and 1984 c 184 s 22 are each amended to
16 read as follows:

17 It is the purpose of RCW 41.04.405 through 41.04.430 to govern the
18 retirement rights of persons whose employment status is altered when:

19 (1) Two or more units of local government of this state, at least one
20 of which is a first class city with its own retirement system, enter
21 into an agreement for the consolidated performance of a governmental
22 service, activity, or undertaking; (2) the service, activity, or
23 undertaking is to be performed either by one of the participating
24 local governmental units or by a newly established separate legal
25 entity; and (3) the employees of the participating local governmental
26 units are not all members of the same Washington public retirement
27 system.

28 RCW 41.04.405 through 41.04.430 are not intended to and do not
29 govern retirement rights of any members of the retirement systems
30 established by chapter 41.16, 41.18, 41.20, (~~or~~) 41.26, or 41.26A
31 RCW, or of employees described in RCW 35.58.265, 35.58.390, or
32 70.08.070. To the extent there is any conflict between RCW 41.04.405
33 through 41.04.430 and RCW 41.04.110, the provisions of RCW 41.04.405
34 through 41.04.430 shall govern.

35 **Sec. 409.** RCW 41.05.320 and 1995 1st sp.s. c 6 s 13 are each
36 amended to read as follows:

1 (1) Elected officials and all permanent employees of the state are
2 eligible to participate in the benefits contribution plan and
3 contribute amount(s) by agreement with the authority. The authority
4 may adopt rules to permit participation in the plan by temporary
5 employees of the state.

6 (2) Persons eligible under subsection (1) of this section may enter
7 into benefits contribution agreements with the state.

8 (3)(a) In the initial year of the medical flexible spending
9 arrangement or cafeteria plan, if authorized, an eligible person may
10 become a participant after the adoption of the plan and before its
11 effective date by agreeing to have a portion of his or her gross salary
12 contributed and deposited into a health care and other benefits account
13 to be used for reimbursement of expenses covered by the plan.

14 (b) After the initial year of the medical flexible spending
15 arrangement or cafeteria plan, if authorized, an eligible person may
16 become a participant for a full plan year, with annual benefit
17 selection for each new plan year made before the beginning of the plan
18 year, as determined by the authority, or upon becoming eligible.

19 (c) Once an eligible person elects to participate and the amount of
20 gross salary that he or she shall contribute and the benefit for which
21 the funds are to be used during the plan year is determined, the
22 agreement shall be irrevocable and may not be amended during the plan
23 year except as provided in (d) of this subsection. Prior to making an
24 election to participate in the (~~benefit[s]~~) benefits contribution
25 plan, the eligible person shall be informed in writing of all the
26 benefits and contributions that will occur as a result of such
27 election.

28 (d) The authority shall provide in the benefits contribution plan
29 that a participant may enroll, terminate, or change his or her election
30 after the plan year has begun if there is a significant change in a
31 participant's status, as provided by 26 U.S.C. Sec. 125 and the
32 regulations adopted under that section and defined by the authority.

33 (4) The authority shall establish as part of the benefits
34 contribution plan the procedures for and effect of withdrawal from the
35 plan by reason of retirement, death, leave of absence, or termination
36 of employment. To the extent possible under federal law, the authority
37 shall protect participants from forfeiture of rights under the plan.

38 (5) Any contribution under the benefits contribution plan shall
39 continue to be included as reportable compensation for the purpose of

1 computing the state retirement and pension benefits earned by the
2 employee pursuant to chapters 41.26, 41.26A, 41.32, 41.40, and 43.43
3 RCW.

4 **Sec. 410.** RCW 41.18.210 and 1974 ex.s. c 148 s 1 are each amended
5 to read as follows:

6 Any former employee of a department of a city of the first class,
7 who (1) was a member of the employees' retirement system of such city,
8 and (2) is now employed within the fire department of such city, may
9 transfer his former membership credit from the city employees'
10 retirement system to the fireman's pension system created by chapters
11 41.16 and 41.18 RCW by filing a written request with the board of
12 administration and the municipal fireman's pension board, respectively.

13 Upon the receipt of such request, the transfer of membership to the
14 city's fireman's pension system shall be made, together with a transfer
15 of all accumulated contributions credited to such member. The board of
16 administration shall transmit to the municipal fireman's pension board
17 a record of service credited to such member which shall be computed and
18 credited to such member as a part of his period of employment in the
19 city's fireman's pension system. For the purpose of the transfer
20 contemplated by this section, those affected individuals who have
21 formerly withdrawn funds from the city employees' retirement system
22 shall be allowed to restore contributions withdrawn from that
23 retirement system directly to the fireman's pension system and receive
24 credit in the fireman's pension system for their former membership
25 service in the prior system.

26 Any employee so transferring shall have all the rights, benefits,
27 and privileges that he would have been entitled to had he been a member
28 of the city's fireman's pension system from the beginning of his
29 employment with the city.

30 No person so transferring shall thereafter be entitled to any other
31 public pension, except that provided by chapter 41.26 or 41.26A RCW or
32 social security, which is based upon such service with the city.

33 The right of any employee to file a written request for transfer of
34 membership as set forth in this section shall expire December 31, 1974.

35 **Sec. 411.** RCW 41.20.170 and 1973 c 143 s 2 are each amended to
36 read as follows:

1 Any former employee of a department of a city of the first class
2 who (1) was a member of the employees' retirement system of such city,
3 and (2) is now employed within the police department of such city, may
4 transfer his or her membership from the city employees' retirement
5 system to the city's police relief and pension fund system by filing a
6 written request with the board of administration and the board of
7 trustees, respectively, of the two systems.

8 Upon the receipt of such request, the transfer of membership to the
9 city's police relief and pension fund system shall be made, together
10 with a transfer of all accumulated contributions credited to such
11 member. The board of administration of the city's employees'
12 retirement system shall transmit to the board of trustees of the city's
13 police relief and pension fund system a record of service credited to
14 such member which shall be computed and credited to such member as a
15 part of his or her period of employment in the city's police relief and
16 pension fund system. For the purpose of the transfer contemplated by
17 this section, the affected individuals shall be allowed to restore
18 withdrawn contributions to the city employees' retirement system and
19 reinstate their membership service records.

20 Any employee so transferring shall have all the rights, benefits
21 and privileges that he or she would have been entitled to had he or she
22 been a member of the city's police relief and pension fund system from
23 the beginning of his or her employment with the city.

24 No person so transferring shall thereafter be entitled to any other
25 public pension, except that provided by chapter 41.26 or 41.26A RCW or
26 social security, which is based upon service with the city.

27 The right of any employee to file a written request for transfer of
28 membership as set forth herein shall expire December 31, 1973.

29 **Sec. 412.** RCW 41.20.175 and 1974 ex.s. c 148 s 2 are each amended
30 to read as follows:

31 A former employee of a fire department of a city of the first class
32 who (1) was a member of the fireman's pension system created by
33 chapters 41.16 or 41.18 RCW, and (2) is now employed within the police
34 department of such city, will be regarded as having received membership
35 service credit for such service to the fire department in the city's
36 police and relief pension system at the time he recovers such service
37 credit by paying withdrawn contributions to the Washington law

1 enforcement officers' and fire fighters' retirement system pursuant to
2 RCW 41.26.030(~~((14))~~) or section 202 of this act.

3 **Sec. 413.** RCW 41.24.400 and 1999 c 148 s 31 are each amended to
4 read as follows:

5 (1) Except as provided in subsection (2) of this section, any
6 municipality may make provision by appropriate legislation and payment
7 of fees required by RCW 41.24.030(1) solely for the purpose of enabling
8 any reserve officer to enroll under the retirement pension provisions
9 of this chapter or fees required under RCW 41.24.030(1) to pay for the
10 costs of extending the relief provisions of this chapter to its reserve
11 officers.

12 (2) A reserve officer is not eligible to receive a benefit under
13 the retirement provisions of this chapter for service under chapter
14 41.26, 41.26A, 41.32, or 41.40 RCW.

15 (3) Every municipality shall make provisions for the collection and
16 payment of the fees required under this chapter, and shall continue to
17 make provisions for all reserve officers who come under this chapter as
18 long as they continue to be employed as reserve officers.

19 (4) Except as provided under RCW 41.24.450, a reserve officer is
20 not eligible to receive a benefit under the relief provisions of this
21 chapter.

22 **Sec. 414.** RCW 41.32.800 and 1998 c 341 s 605 are each amended to
23 read as follows:

24 (1) Except as provided in RCW 41.32.802, no retiree under the
25 provisions of plan 2 shall be eligible to receive such retiree's
26 monthly retirement allowance if he or she is employed in an eligible
27 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
28 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
29 section 202 of this act.

30 If a retiree's benefits have been suspended under this section, his
31 or her benefits shall be reinstated when the retiree terminates the
32 employment that caused his or her benefits to be suspended. Upon
33 reinstatement, the retiree's benefits shall be actuarially recomputed
34 pursuant to the rules adopted by the department.

35 (2) The department shall adopt rules implementing this section.

1 **Sec. 415.** RCW 41.32.860 and 1997 c 254 s 7 are each amended to
2 read as follows:

3 (1) Except under RCW 41.32.862, no retiree shall be eligible to
4 receive such retiree's monthly retirement allowance if he or she is
5 employed in an eligible position as defined in RCW 41.40.010 or
6 41.32.010, or as a law enforcement officer or fire fighter as defined
7 in RCW 41.26.030 or section 202 of this act.

8 (2) If a retiree's benefits have been suspended under this section,
9 his or her benefits shall be reinstated when the retiree terminates the
10 employment that caused the suspension of benefits. Upon reinstatement,
11 the retiree's benefits shall be actuarially recomputed pursuant to the
12 rules adopted by the department.

13 **Sec. 416.** RCW 41.35.230 and 1998 c 341 s 24 are each amended to
14 read as follows:

15 (1) Except as provided in RCW 41.35.060, no retiree under the
16 provisions of plan 2 shall be eligible to receive such retiree's
17 monthly retirement allowance if he or she is employed in an eligible
18 position as defined in RCW 41.35.010, RCW 41.40.010 or 41.32.010, or as
19 a law enforcement officer or fire fighter as defined in RCW 41.26.030
20 or section 202 of this act, except that a retiree who ends his or her
21 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
22 not subject to this section if the retiree's only employment is as an
23 elective official.

24 (2) If a retiree's benefits have been suspended under this section,
25 his or her benefits shall be reinstated when the retiree terminates the
26 employment that caused his or her benefits to be suspended. Upon
27 reinstatement, the retiree's benefits shall be actuarially recomputed
28 pursuant to the rules adopted by the department.

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

30 **Sec. 417.** RCW 41.40.690 and 1998 c 341 s 606 are each amended to
31 read as follows:

32 (1) Except as provided in RCW 41.40.037, no retiree under the
33 provisions of plan 2 shall be eligible to receive such retiree's
34 monthly retirement allowance if he or she is employed in an eligible
35 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
36 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
37 section 202 of this act, except that a retiree who ends his or her

1 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
2 not subject to this section if the retiree's only employment is as an
3 elective official of a city or town.

4 (2) If a retiree's benefits have been suspended under this section,
5 his or her benefits shall be reinstated when the retiree terminates the
6 employment that caused his or her benefits to be suspended. Upon
7 reinstatement, the retiree's benefits shall be actuarially recomputed
8 pursuant to the rules adopted by the department.

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

10 **Sec. 418.** RCW 41.40.850 and 2000 c 247 s 315 are each amended to
11 read as follows:

12 (1) Except as provided in RCW 41.40.037, no retiree under the
13 provisions of plan 3 shall be eligible to receive such retiree's
14 monthly retirement allowance if he or she is employed in an eligible
15 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
16 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
17 section 202 of this act, except that a retiree who ends his or her
18 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
19 not subject to this section if the retiree's only employment is as an
20 elective official of a city or town.

21 (2) If a retiree's benefits have been suspended under this section,
22 his or her benefits shall be reinstated when the retiree terminates the
23 employment that caused his or her benefits to be suspended. Upon
24 reinstatement, the retiree's benefits shall be actuarially recomputed
25 pursuant to the rules adopted by the department.

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

27 **Sec. 419.** RCW 41.45.010 and 1998 c 341 s 401 are each amended to
28 read as follows:

29 It is the intent of the legislature to provide a dependable and
30 systematic process for funding the benefits provided to members and
31 retirees of the public employees' retirement system, chapter 41.40 RCW;
32 the teachers' retirement system, chapter 41.32 RCW; the law enforcement
33 officers' and fire fighters' retirement systems, chapter 41.26 and
34 41.26A RCW; the school employees' retirement system, chapter 41.35 RCW;
35 and the Washington state patrol retirement system, chapter 43.43 RCW.

36 The funding processes established by this chapter ~~((is))~~ are
37 intended to achieve the following goals:

1 (1) To continue to fully fund the public employees' retirement
2 system plan 2, the teachers' retirement system plans 2 and 3, the
3 school employees' retirement system plans 2 and 3, and the law
4 enforcement officers' and fire fighters' retirement system plan 2 as
5 provided by law;

6 (2) To fully amortize the total costs of the public employees'
7 retirement system plan 1(~~(7)~~) and the teachers' retirement system plan
8 1(~~(7~~ and the law enforcement officers' and fire fighters' retirement
9 system plan 1)) not later than June 30, 2024;

10 (3) To maintain the sound actuarially funding of the restated law
11 enforcement officers' and fire fighters' retirement system;

12 (4) To enable taxpayers and retirement system members to benefit
13 from favorable actuarial experience and investment returns by means of
14 contribution rate reductions for plan 2 members and employers, and by
15 a return of surplus assets from the termination of the law enforcement
16 officers' and fire fighters' retirement system plan 1 to employees,
17 employers, and the state;

18 (5) To establish predictable long-term employer contribution rates
19 which will remain a relatively constant proportion of the future state
20 budgets; and

21 (~~(4)~~) (6) To fund, to the extent feasible, benefit increases for
22 plan 1 members and all benefits for plan 2 and 3 members over the
23 working lives of those members so that the cost of those benefits are
24 paid by the taxpayers who receive the benefit of those members'
25 service.

26 **Sec. 420.** RCW 41.45.010 and 2000 c 247 s 501 are each amended to
27 read as follows:

28 It is the intent of the legislature to provide a dependable and
29 systematic process for funding the benefits provided to members and
30 retirees of the public employees' retirement system, chapter 41.40 RCW;
31 the teachers' retirement system, chapter 41.32 RCW; the law enforcement
32 officers' and fire fighters' retirement systems, chapter 41.26 and
33 41.26A RCW; the school employees' retirement system, chapter 41.35 RCW;
34 and the Washington state patrol retirement system, chapter 43.43 RCW.

35 The funding processes established by this chapter (~~is~~) are
36 intended to achieve the following goals:

37 (1) To continue to fully fund the public employees' retirement
38 system plans 2 and 3, the teachers' retirement system plans 2 and 3,

1 the school employees' retirement system plans 2 and 3, and the law
2 enforcement officers' and fire fighters' retirement system plan 2 as
3 provided by law;

4 (2) To fully amortize the total costs of the public employees'
5 retirement system plan 1(~~(7)~~) and the teachers' retirement system plan
6 1(~~(7)~~ and the law enforcement officers' and fire fighters' retirement
7 system plan 1)) not later than June 30, 2024;

8 (3) To maintain the sound actuarial funding of the restated law
9 enforcement officers' and fire fighters' retirement system;

10 (4) To enable taxpayers and retirement system members to benefit
11 from favorable actuarial experience and investment returns by means of
12 contribution rate reductions for plan 2 members and employers, and by
13 a return of surplus assets from the termination of the law enforcement
14 officers' and fire fighters' retirement system plan 1 to employees,
15 employers, and the state;

16 (5) To establish predictable long-term employer contribution rates
17 which will remain a relatively constant proportion of the future state
18 budgets; and

19 (~~(4)~~) (6) To fund, to the extent feasible, benefit increases for
20 plan 1 members and all benefits for plan 2 and 3 members over the
21 working lives of those members so that the cost of those benefits are
22 paid by the taxpayers who receive the benefit of those members'
23 service.

24 **Sec. 421.** RCW 41.45.020 and 1998 c 341 s 402 and 1998 c 283 s 1
25 are each reenacted and amended to read as follows:

26 As used in this chapter, the following terms have the meanings
27 indicated unless the context clearly requires otherwise.

28 (1) "Council" means the pension funding council created in RCW
29 41.45.100.

30 (2) "Department" means the department of retirement systems.

31 (3) "Restated law enforcement officers' and fire fighters'
32 retirement system (~~plan 1~~)" and "law enforcement officers' and fire
33 fighters' retirement system plan 2" mean the benefits and funding
34 provisions under chapter 41.26A and 41.26 RCW, respectively.

35 (4) "Public employees' retirement system plan 1" and "public
36 employees' retirement system plan 2" mean the benefits and funding
37 provisions under chapter 41.40 RCW.

1 (5) "Teachers' retirement system plan 1," "teachers' retirement
2 system plan 2," and "teachers' retirement system plan 3" mean the
3 benefits and funding provisions under chapter 41.32 RCW.

4 (6) "School employees' retirement system plan 2" and "school
5 employees' retirement system plan 3" mean the benefits and funding
6 provisions under chapter 41.35 RCW.

7 (7) "Washington state patrol retirement system" means the
8 retirement benefits provided under chapter 43.43 RCW.

9 (8) "Unfunded liability" means the unfunded actuarial accrued
10 liability of a retirement system.

11 (9) "Actuary" or "state actuary" means the state actuary employed
12 under chapter 44.44 RCW.

13 (10) "State retirement systems" means the retirement systems listed
14 in RCW 41.50.030.

15 (11) "Work group" means the pension funding work group created in
16 RCW 41.45.120.

17 (12) "Classified employee" means a member of the Washington school
18 employees' retirement system plan 2 or plan 3 as defined in RCW
19 41.35.010.

20 (13) "Teacher" means a member of the teachers' retirement system as
21 defined in RCW 41.32.010(15).

22 **Sec. 422.** RCW 41.45.020 and 2000 c 247 s 502 are each amended to
23 read as follows:

24 As used in this chapter, the following terms have the meanings
25 indicated unless the context clearly requires otherwise.

26 (1) "Council" means the pension funding council created in RCW
27 41.45.100.

28 (2) "Department" means the department of retirement systems.

29 (3) "Restated law enforcement officers' and fire fighters'
30 retirement system ((plan 1))" and "law enforcement officers' and fire
31 fighters' retirement system plan 2" mean the benefits and funding
32 provisions under chapter 41.26A and 41.26 RCW, respectively.

33 (4) "Public employees' retirement system plan 1," "public
34 employees' retirement system plan 2," and "public employees' retirement
35 system plan 3" mean the benefits and funding provisions under chapter
36 41.40 RCW.

1 (5) "Teachers' retirement system plan 1," "teachers' retirement
2 system plan 2," and "teachers' retirement system plan 3" mean the
3 benefits and funding provisions under chapter 41.32 RCW.

4 (6) "School employees' retirement system plan 2" and "school
5 employees' retirement system plan 3" mean the benefits and funding
6 provisions under chapter 41.35 RCW.

7 (7) "Washington state patrol retirement system" means the
8 retirement benefits provided under chapter 43.43 RCW.

9 (8) "Unfunded liability" means the unfunded actuarial accrued
10 liability of a retirement system.

11 (9) "Actuary" or "state actuary" means the state actuary employed
12 under chapter 44.44 RCW.

13 (10) "State retirement systems" means the retirement systems listed
14 in RCW 41.50.030.

15 (11) "Work group" means the pension funding work group created in
16 RCW 41.45.120.

17 (12) "Classified employee" means a member of the Washington school
18 employees' retirement system plan 2 or plan 3 as defined in RCW
19 41.35.010.

20 (13) "Teacher" means a member of the teachers' retirement system as
21 defined in RCW 41.32.010(15).

22 **Sec. 423.** RCW 41.45.050 and 1998 c 341 s 403 are each amended to
23 read as follows:

24 (1) Employers of members of the public employees' retirement
25 system, the teachers' retirement system, the school employees'
26 retirement system, and the Washington state patrol retirement system
27 shall make contributions to those systems based on the rates
28 established in RCW 41.45.060 and 41.45.070.

29 (2) The state shall make contributions to the law enforcement
30 officers' and fire fighters' retirement system plan 2 based on the
31 rates established in RCW 41.45.060 and 41.45.070. The state treasurer
32 shall transfer the required contributions each month on the basis of
33 salary data provided by the department. The state shall make
34 contributions pursuant to section 5 of this act to maintain the sound
35 actuarial status of the restated law enforcement officers' and fire
36 fighters' defined benefit retirement plan.

37 (3) The department shall bill employers, and the state shall make
38 contributions to the law enforcement officers' and fire fighters'

1 retirement system plan 2, using the combined rates established in RCW
2 41.45.060 and 41.45.070 regardless of the level of pension funding
3 provided in the biennial budget. Any member of an affected retirement
4 system may, by mandamus or other appropriate proceeding, require the
5 transfer and payment of funds as directed in this section.

6 (4) The contributions received for the public employees' retirement
7 system shall be allocated between the public employees' retirement
8 system plan 1 fund and public employees' retirement system plan 2 fund
9 as follows: The contributions necessary to fully fund the public
10 employees' retirement system plan 2 employer contribution required by
11 RCW 41.40.650 shall first be deposited in the public employees'
12 retirement system plan 2 fund. All remaining public employees'
13 retirement system employer contributions shall be deposited in the
14 public employees' retirement system plan 1 fund.

15 (5) The contributions received for the teachers' retirement system
16 shall be allocated between the plan 1 fund and the combined plan 2 and
17 plan 3 fund as follows: The contributions necessary to fully fund the
18 combined plan 2 and plan 3 employer contribution shall first be
19 deposited in the combined plan 2 and plan 3 fund. All remaining
20 teachers' retirement system employer contributions shall be deposited
21 in the plan 1 fund.

22 (6) The contributions received for the school employees' retirement
23 system shall be allocated between the public employees' retirement
24 system plan 1 fund and the school employees' retirement system combined
25 plan 2 and plan 3 fund as follows: The contributions necessary to
26 fully fund the combined plan 2 and plan 3 employer contribution shall
27 first be deposited in the combined plan 2 and plan 3 fund. All
28 remaining school employees' retirement system employer contributions
29 shall be deposited in the public employees' retirement system plan 1
30 fund.

31 (7) The contributions received under RCW 41.26.450 for the law
32 enforcement officers' and fire fighters' retirement system shall be
33 allocated (~~between the law enforcement officers' and fire fighters'~~
34 ~~retirement system plan 1 and~~) to the law enforcement officers' and
35 fire fighters' retirement system plan 2 fund (~~as follows:—The~~
36 ~~contributions necessary to fully fund the law enforcement officers' and~~
37 ~~fire fighters' retirement system plan 2 employer contributions shall be~~
38 ~~first deposited in the law enforcement officers' and fire fighters'~~
39 ~~retirement system plan 2 fund. All remaining law enforcement officers'~~

1 ~~and fire fighters' retirement system employer contributions shall be~~
2 ~~deposited in the law enforcement officers' and fire fighters'~~
3 ~~retirement system plan 1 fund))~~.

4 (8) The funding of the restated law enforcement officers' and fire
5 fighters' defined benefit retirement plan shall be provided pursuant to
6 section 5 of this act.

7 **Sec. 424.** RCW 41.45.050 and 2000 c 247 s 503 are each amended to
8 read as follows:

9 (1) Employers of members of the public employees' retirement
10 system, the teachers' retirement system, the school employees'
11 retirement system, and the Washington state patrol retirement system
12 shall make contributions to those systems based on the rates
13 established in RCW 41.45.060 and 41.45.070.

14 (2) The state shall make contributions to the law enforcement
15 officers' and fire fighters' retirement system plan 2 based on the
16 rates established in RCW 41.45.060 and 41.45.070. The state treasurer
17 shall transfer the required contributions each month on the basis of
18 salary data provided by the department. The state shall make
19 contributions pursuant to section 5 of this act to maintain the sound
20 actuarial status of the restated law enforcement officers' and fire
21 fighters' defined benefit retirement plan.

22 (3) The department shall bill employers, and the state shall make
23 contributions to the law enforcement officers' and fire fighters'
24 retirement system plan 2, using the combined rates established in RCW
25 41.45.060 and 41.45.070 regardless of the level of pension funding
26 provided in the biennial budget. Any member of an affected retirement
27 system may, by mandamus or other appropriate proceeding, require the
28 transfer and payment of funds as directed in this section.

29 (4) The contributions received for the public employees' retirement
30 system shall be allocated between the public employees' retirement
31 system plan 1 fund and the public employees' retirement system combined
32 plan 2 and plan 3 fund as follows: The contributions necessary to
33 fully fund the public employees' retirement system combined plan 2 and
34 plan 3 employer contribution shall first be deposited in the public
35 employees' retirement system combined plan 2 and plan 3 fund. All
36 remaining public employees' retirement system employer contributions
37 shall be deposited in the public employees' retirement system plan 1
38 fund.

1 (5) The contributions received for the teachers' retirement system
2 shall be allocated between the plan 1 fund and the combined plan 2 and
3 plan 3 fund as follows: The contributions necessary to fully fund the
4 combined plan 2 and plan 3 employer contribution shall first be
5 deposited in the combined plan 2 and plan 3 fund. All remaining
6 teachers' retirement system employer contributions shall be deposited
7 in the plan 1 fund.

8 (6) The contributions received for the school employees' retirement
9 system shall be allocated between the public employees' retirement
10 system plan 1 fund and the school employees' retirement system combined
11 plan 2 and plan 3 fund as follows: The contributions necessary to
12 fully fund the combined plan 2 and plan 3 employer contribution shall
13 first be deposited in the combined plan 2 and plan 3 fund. All
14 remaining school employees' retirement system employer contributions
15 shall be deposited in the public employees' retirement system plan 1
16 fund.

17 (7) The contributions received under RCW 41.45.060, 41.45.061, and
18 41.45.067 for the law enforcement officers' and fire fighters'
19 retirement system shall be allocated (~~((between the law enforcement
20 officers' and fire fighters' retirement system plan 1 and))~~ to the law
21 enforcement officers' and fire fighters' retirement system plan 2 fund
22 (~~(as follows: The contributions necessary to fully fund the law
23 enforcement officers' and fire fighters' retirement system plan 2
24 employer contributions shall be first deposited in the law enforcement
25 officers' and fire fighters' retirement system plan 2 fund. All
26 remaining law enforcement officers' and fire fighters' retirement
27 system employer contributions shall be deposited in the law enforcement
28 officers' and fire fighters' retirement system plan 1 fund))~~)).

29 (8) The funding of the restated law enforcement officers' and fire
30 fighters' defined benefit retirement plan shall be provided pursuant to
31 section 5 of this act.

32 **Sec. 425.** RCW 41.45.060 and 2000 2nd sp.s. c 1 s 905 and 2000 c
33 247 s 504 are each reenacted and amended to read as follows:

34 (1) The state actuary shall provide actuarial valuation results
35 based on the assumptions adopted under RCW 41.45.030.

36 (2) Not later than September 30, 1998, and every two years
37 thereafter, consistent with the assumptions adopted under RCW
38 41.45.030, the council shall adopt and may make changes to:

1 (a) A basic state contribution rate for the law enforcement
2 officers' and fire fighters' retirement system plan 2;

3 (b) Basic employer contribution rates for the public employees'
4 retirement system, the teachers' retirement system, and the Washington
5 state patrol retirement system to be used in the ensuing biennial
6 period; and

7 (c) A basic employer contribution rate for the school employees'
8 retirement system for funding the public employees' retirement system
9 plan 1.

10 For the 1999-2001 fiscal biennium, the rates adopted by the council
11 shall be effective for the period designated in section 902, chapter 1,
12 Laws of 2000 2nd sp. sess. and RCW 41.45.0602.

13 (3) The employer and state contribution rates adopted by the
14 council shall be the level percentages of pay that are needed:

15 (a) To fully amortize the total costs of the public employees'
16 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
17 ~~law enforcement officers' and fire fighters' retirement system plan~~
18 ~~1,~~) and the unfunded liability of the Washington state patrol
19 retirement system not later than June 30, 2024, except as provided in
20 subsection (5) of this section;

21 (b) To also continue to fully fund the public employees' retirement
22 system plans 2 and 3, the teachers' retirement system plans 2 and 3,
23 the school employees' retirement system plans 2 and 3, and the law
24 enforcement officers' and fire fighters' retirement system plan 2 in
25 accordance with RCW 41.45.061, 41.45.067, and this section; and

26 (c) For the law enforcement officers' and fire fighters' system
27 plan 2, the rate charged to employers, except as provided in RCW
28 41.26.450, shall be thirty percent of the cost of the retirement system
29 and the rate charged to the state shall be twenty percent of the cost
30 of the retirement system.

31 (4) The aggregate actuarial cost method shall be used to calculate
32 a combined plan 2 and 3 employer contribution rate.

33 (5) An amount equal to the amount of extraordinary investment gains
34 as defined in RCW 41.31.020 shall be used to shorten the amortization
35 period for the public employees' retirement system plan 1 and the
36 teachers' retirement system plan 1.

37 (6) The council shall immediately notify the directors of the
38 office of financial management and department of retirement systems of
39 the state and employer contribution rates adopted.

1 (7) The director of the department of retirement systems shall
2 collect those rates adopted by the council.

3 **Sec. 426.** RCW 41.45.070 and 1998 c 340 s 10 and 1998 c 341 s 406
4 are each reenacted and amended to read as follows:

5 (1) In addition to the basic employer contribution rate established
6 in RCW 41.45.060, the department shall also charge employers of public
7 employees' retirement system, teachers' retirement system, school
8 employees' retirement system, or Washington state patrol retirement
9 system members an additional supplemental rate to pay for the cost of
10 additional benefits, if any, granted to members of those systems.
11 Except as provided in subsections (6) and (7) of this section, the
12 supplemental contribution rates required by this section shall be
13 calculated by the state actuary and shall be charged regardless of
14 language to the contrary contained in the statute which authorizes
15 additional benefits.

16 (2) In addition to the basic state contribution rate established in
17 RCW 41.45.060 for the law enforcement officers' and fire fighters'
18 retirement system plan 2 the department shall also establish a
19 supplemental rate to pay for the cost of additional benefits, if any,
20 granted to members of the law enforcement officers' and fire fighters'
21 retirement system plan 2. Except as provided in subsection (6) of this
22 section, this supplemental rate shall be calculated by the state
23 actuary and the state treasurer shall transfer the additional required
24 contributions regardless of language to the contrary contained in the
25 statute which authorizes the additional benefits.

26 (3) The supplemental rate charged under this section to fund
27 benefit increases provided to active members of the public employees'
28 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
29 ~~law enforcement officers' and fire fighters' retirement system plan~~
30 ~~1,7~~)) and Washington state patrol retirement system, shall be calculated
31 as the level percentage of all members' pay needed to fund the cost of
32 the benefit not later than June 30, 2024.

33 (4) The supplemental rate charged under this section to fund
34 benefit increases provided to active and retired members of the public
35 employees' retirement system plan 2, the teachers' retirement system
36 plan 2 and plan 3, the school employees' retirement system plan 2 and
37 plan 3, or the law enforcement officers' and fire fighters' retirement
38 system plan 2, shall be calculated as the level percentage of all

1 members' pay needed to fund the cost of the benefit, as calculated
2 under RCW 41.40.650 or 41.26.450, respectively.

3 (5) The supplemental rate charged under this section to fund
4 postretirement adjustments which are provided on a nonautomatic basis
5 to current retirees shall be calculated as the percentage of pay needed
6 to fund the adjustments as they are paid to the retirees. The
7 supplemental rate charged under this section to fund automatic
8 postretirement adjustments for active or retired members of the public
9 employees' retirement system plan 1 and the teachers' retirement system
10 plan 1 shall be calculated as the level percentage of pay needed to
11 fund the cost of the automatic adjustments not later than June 30,
12 2024.

13 (6) A supplemental rate shall not be charged to pay for the cost of
14 additional benefits granted to members pursuant to chapter 340, Laws of
15 1998.

16 (7) A supplemental rate shall not be charged to pay for the cost of
17 additional benefits granted to members pursuant to chapter 41.31A RCW;
18 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,
19 Laws of 1998.

20 **Sec. 427.** RCW 41.45.070 and 2000 c 247 s 505 are each amended to
21 read as follows:

22 (1) In addition to the basic employer contribution rate established
23 in RCW 41.45.060, the department shall also charge employers of public
24 employees' retirement system, teachers' retirement system, school
25 employees' retirement system, or Washington state patrol retirement
26 system members an additional supplemental rate to pay for the cost of
27 additional benefits, if any, granted to members of those systems.
28 Except as provided in subsections (6) and (7) of this section, the
29 supplemental contribution rates required by this section shall be
30 calculated by the state actuary and shall be charged regardless of
31 language to the contrary contained in the statute which authorizes
32 additional benefits.

33 (2) In addition to the basic state contribution rate established in
34 RCW 41.45.060 for the law enforcement officers' and fire fighters'
35 retirement system plan 2 the department shall also establish a
36 supplemental rate to pay for the cost of additional benefits, if any,
37 granted to members of the law enforcement officers' and fire fighters'
38 retirement system plan 2. Except as provided in subsection (6) of this

1 section, this supplemental rate shall be calculated by the state
2 actuary and the state treasurer shall transfer the additional required
3 contributions regardless of language to the contrary contained in the
4 statute which authorizes the additional benefits.

5 (3) The supplemental rate charged under this section to fund
6 benefit increases provided to active members of the public employees'
7 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
8 ~~law enforcement officers' and fire fighters' retirement system plan~~
9 ~~17~~) and Washington state patrol retirement system, shall be calculated
10 as the level percentage of all members' pay needed to fund the cost of
11 the benefit not later than June 30, 2024.

12 (4) The supplemental rate charged under this section to fund
13 benefit increases provided to active and retired members of the public
14 employees' retirement system plan 2 and plan 3, the teachers'
15 retirement system plan 2 and plan 3, the school employees' retirement
16 system plan 2 and plan 3, or the law enforcement officers' and fire
17 fighters' retirement system plan 2, shall be calculated as the level
18 percentage of all members' pay needed to fund the cost of the benefit,
19 as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

20 (5) The supplemental rate charged under this section to fund
21 postretirement adjustments which are provided on a nonautomatic basis
22 to current retirees shall be calculated as the percentage of pay needed
23 to fund the adjustments as they are paid to the retirees. The
24 supplemental rate charged under this section to fund automatic
25 postretirement adjustments for active or retired members of the public
26 employees' retirement system plan 1 and the teachers' retirement system
27 plan 1 shall be calculated as the level percentage of pay needed to
28 fund the cost of the automatic adjustments not later than June 30,
29 2024.

30 (6) A supplemental rate shall not be charged to pay for the cost of
31 additional benefits granted to members pursuant to chapter 340, Laws of
32 1998.

33 (7) A supplemental rate shall not be charged to pay for the cost of
34 additional benefits granted to members pursuant to chapter 41.31A RCW;
35 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,
36 Laws of 1998.

37 **Sec. 428.** RCW 41.48.030 and 1971 ex.s. c 257 s 19 are each amended
38 to read as follows:

1 (1) The governor is hereby authorized to enter on behalf of the
2 state into an agreement with the secretary of health, education, and
3 welfare consistent with the terms and provisions of this chapter, for
4 the purpose of extending the benefits of the federal old-age and
5 survivors insurance system to employees of the state or any political
6 subdivision not members of an existing retirement system, or to members
7 of a retirement system established by the state or by a political
8 subdivision thereof or by an institution of higher learning with
9 respect to services specified in such agreement which constitute
10 "employment" as defined in RCW 41.48.020. Such agreement may contain
11 such provisions relating to coverage, benefits, contributions,
12 effective date, modification and termination of the agreement,
13 administration, and other appropriate provisions as the governor and
14 secretary of health, education, and welfare shall agree upon, but,
15 except as may be otherwise required by or under the social security act
16 as to the services to be covered, such agreement shall provide in
17 effect that--

18 (a) Benefits will be provided for employees whose services are
19 covered by the agreement (and their dependents and survivors) on the
20 same basis as though such services constituted employment within the
21 meaning of title II of the social security act;

22 (b) The state will pay to the secretary of the treasury, at such
23 time or times as may be prescribed under the social security act,
24 contributions with respect to wages (as defined in RCW 41.48.020),
25 equal to the sum of the taxes which would be imposed by the federal
26 insurance contributions act if the services covered by the agreement
27 constituted employment within the meaning of that act;

28 (c) Such agreement shall be effective with respect to services in
29 employment covered by the agreement or modification thereof performed
30 after a date specified therein but in no event may it be effective with
31 respect to any such services performed prior to the first day of the
32 calendar year immediately preceding the calendar year in which such
33 agreement or modification of the agreement is accepted by the secretary
34 of health, education and welfare.

35 (d) All services which constitute employment as defined in RCW
36 41.48.020 and are performed in the employ of the state by employees of
37 the state, shall be covered by the agreement;

38 (e) All services which (i) constitute employment as defined in RCW
39 41.48.020, (ii) are performed in the employ of a political subdivision

1 of the state, and (iii) are covered by a plan which is in conformity
2 with the terms of the agreement and has been approved by the governor
3 under RCW 41.48.050, shall be covered by the agreement; and

4 (f) As modified, the agreement shall include all services described
5 in either paragraph (d) or paragraph (e) of this subsection and
6 performed by individuals to whom section 218(c)(3)(C) of the social
7 security act is applicable, and shall provide that the service of any
8 such individual shall continue to be covered by the agreement in case
9 he thereafter becomes eligible to be a member of a retirement system;
10 and

11 (g) As modified, the agreement shall include all services described
12 in either paragraph (d) or paragraph (e) of this subsection and
13 performed by individuals in positions covered by a retirement system
14 with respect to which the governor has issued a certificate to the
15 secretary of health, education, and welfare pursuant to subsection (5)
16 of this section.

17 (h) Law enforcement officers and firemen of each political
18 subdivision of this state who are covered by the Washington law
19 enforcement officers' and fire fighters' retirement systems (~~Act~~
20 ~~(chapter 209, Laws of 1969 ex. sess.)~~) under chapters 41.26 and 41.26A
21 RCW as now in existence or hereafter amended shall constitute a
22 separate "coverage group" for purposes of the agreement entered into
23 under this section and for purposes of section 218 of the social
24 security act. To the extent that the agreement between this state and
25 the federal secretary of health, education, and welfare in existence on
26 the date of adoption of this subsection is inconsistent with this
27 subsection, the governor shall seek to modify the inconsistency.

28 (2) Any instrumentality jointly created by this state and any other
29 state or states is hereby authorized, upon the granting of like
30 authority by such other state or states, (a) to enter into an agreement
31 with the secretary of health, education, and welfare whereby the
32 benefits of the federal old-age and survivors insurance system shall be
33 extended to employees of such instrumentality, (b) to require its
34 employees to pay (and for that purpose to deduct from their wages)
35 contributions equal to the amounts which they would be required to pay
36 under RCW 41.48.040(1) if they were covered by an agreement made
37 pursuant to subsection (1) of this section, and (c) to make payments to
38 the secretary of the treasury in accordance with such agreement,
39 including payments from its own funds, and otherwise to comply with

1 such agreements. Such agreement shall, to the extent practicable, be
2 consistent with the terms and provisions of subsection (1) and other
3 provisions of this chapter.

4 (3) The governor is empowered to authorize a referendum, and to
5 designate an agency or individual to supervise its conduct, in
6 accordance with the requirements of section 218(d)(3) of the social
7 security act, and subsection (4) of this section on the question of
8 whether service in all positions covered by a retirement system
9 established by the state or by a political subdivision thereof should
10 be excluded from or included under an agreement under this chapter. If
11 a retirement system covers positions of employees of the state of
12 Washington, of the institutions of higher learning, and positions of
13 employees of one or more of the political subdivisions of the state,
14 then for the purpose of the referendum as provided herein, there may be
15 deemed to be a separate retirement system with respect to employees of
16 the state, or any one or more of the political subdivisions, or
17 institutions of higher learning and the governor shall authorize a
18 referendum upon request of the subdivisions' or institutions' of higher
19 learning governing body: PROVIDED HOWEVER, That if a referendum of
20 state employees generally fails to produce a favorable majority vote
21 then the governor may authorize a referendum covering positions of
22 employees in any state department who are compensated in whole or in
23 part from grants made to this state under title III of the federal
24 social security act: PROVIDED, That any city or town affiliated with
25 the statewide city employees retirement system organized under chapter
26 41.44 RCW may at its option agree to a plan submitted by the board of
27 trustees of said statewide city employees retirement system for
28 inclusion under an agreement under this chapter if the referendum to be
29 held as provided herein indicates a favorable result: PROVIDED
30 FURTHER, That the teachers' retirement system be considered one system
31 for the purpose of the referendum except as applied to the several
32 colleges of education. The notice of referendum required by section
33 218(d)(3)(C) of the social security act to be given to employees shall
34 contain or shall be accompanied by a statement, in such form and such
35 detail as the agency or individual designated to supervise the
36 referendum shall deem necessary and sufficient, to inform the employees
37 of the rights which will accrue to them and their dependents and
38 survivors, and the liabilities to which they will be subject, if their
39 services are included under an agreement under this chapter.

1 (4) The governor, before authorizing a referendum, shall require
2 the following conditions to be met:

3 (a) The referendum shall be by secret written ballot on the
4 question of whether service in positions covered by such retirement
5 system shall be excluded from or included under the agreement between
6 the governor and the secretary of health, education, and welfare
7 provided for in RCW 41.48.030(1);

8 (b) An opportunity to vote in such referendum shall be given and
9 shall be limited to eligible employees;

10 (c) Not less than ninety days' notice of such referendum shall be
11 given to all such employees;

12 (d) Such referendum shall be conducted under the supervision (of
13 the governor or) of an agency or individual designated by the governor;

14 (e) The proposal for coverage shall be approved only if a majority
15 of the eligible employees vote in favor of including services in such
16 positions under the agreement;

17 (f) The state legislature, in the case of a referendum affecting
18 the rights and liabilities of state employees covered under the state
19 employees' retirement system and employees under the teachers'
20 retirement system, and in all other cases the local legislative
21 authority or governing body, shall have specifically approved the
22 proposed plan and approved any necessary structural adjustment to the
23 existing system to conform with the proposed plan.

24 (5) Upon receiving satisfactory evidence that with respect to any
25 such referendum the conditions specified in subsection (4) of this
26 section and section 218(d)(3) of the social security act have been met,
27 the governor shall so certify to the secretary of health, education,
28 and welfare.

29 (6) If the legislative body of any political subdivision of this
30 state certifies to the governor that a referendum has been held under
31 the terms of RCW 41.48.050(1)(i) and gives notice to the governor of
32 termination of social security for any coverage group of the political
33 subdivision, the governor shall give two years advance notice in
34 writing to the federal department of health, education, and welfare of
35 such termination of the agreement entered into under this section with
36 respect to said coverage group.

37 **Sec. 429.** RCW 41.48.050 and 1981 c 119 s 1 are each amended to
38 read as follows:

1 (1) Each political subdivision of the state is hereby authorized to
2 submit for approval by the governor a plan for extending the benefits
3 of title II of the social security act, in conformity with the
4 applicable provisions of such act, to those employees of such political
5 subdivisions who are not covered by an existing pension or retirement
6 system. Each pension or retirement system established by the state or
7 a political subdivision thereof is hereby authorized to submit for
8 approval by the governor a plan for extending the benefits of title II
9 of the social security act, in conformity with applicable provisions of
10 such act, to members of such pension or retirement system. Each such
11 plan and any amendment thereof shall be approved by the governor if he
12 finds that such plan, or such plan as amended, is in conformity with
13 such requirements as are provided in regulations of the governor,
14 except that no such plan shall be approved unless--

15 (a) It is in conformity with the requirements of the social
16 security act and with the agreement entered into under RCW 41.48.030;

17 (b) It provides that all services which constitute employment as
18 defined in RCW 41.48.020 and are performed in the employ of the
19 political subdivision by employees thereof, shall be covered by the
20 plan;

21 (c) It specifies the source or sources from which the funds
22 necessary to make the payments required by paragraph (a) of subsection
23 (3) and by subsection (4) of this section are expected to be derived
24 and contains reasonable assurance that such sources will be adequate
25 for such purposes;

26 (d) It provides that in the plan of coverage for members of the
27 state teachers' retirement system or for state employee members of the
28 state employees' retirement system, there shall be no additional cost
29 to or involvement of the state until such plan has received prior
30 approval by the legislature;

31 (e) It provides for such methods of administration of the plan by
32 the political subdivision as are found by the governor to be necessary
33 for the proper and efficient administration of the plan;

34 (f) It provides that the political subdivision will make such
35 reports, in such form and containing such information, as the governor
36 may from time to time require and comply with such provisions as the
37 governor or the secretary of health, education, and welfare may from
38 time to time find necessary to assure the correctness and verification
39 of such reports; and

1 (g) It authorizes the governor to terminate the plan in its
2 entirety, in his discretion, if he finds that there has been a failure
3 to comply substantially with any provision contained in such plan, such
4 termination to take effect at the expiration of such notice and on such
5 conditions as may be provided by regulations of the governor and may be
6 consistent with the provisions of the social security act.

7 (h) It provides that law enforcement officers and fire fighters of
8 each political subdivision of this state who are covered by the
9 Washington law enforcement officers' and fire fighters' retirement
10 systems (~~(Act (chapter 209, Laws of 1969 ex. sess.))~~) under chapters
11 41.26 and 41.26A RCW as now in existence or hereafter amended shall
12 constitute a separate "coverage group" for purposes of the plan or
13 agreement entered into under this section and for purposes of section
14 216 of the social security act. To the extent that the plan or
15 agreement entered into between the state and any political subdivision
16 of this state is inconsistent with this subsection, the governor shall
17 seek to modify the inconsistency.

18 (i) It provides that the plan or agreement may be terminated by any
19 political subdivision as to any such coverage group upon giving at
20 least two years advance notice in writing to the governor, effective at
21 the end of the calendar quarter specified in the notice. It shall
22 specify that before notice of such termination is given, a referendum
23 shall be held among the members of the coverage group under the
24 following conditions:

25 (i) The referendum shall be conducted under the supervision of the
26 legislative body of the political subdivision.

27 (ii) Not less than sixty days' notice of such referendum shall be
28 given to members of the coverage group.

29 (iii) An opportunity to vote by secret ballot in such referendum
30 shall be given and shall be limited to all members of the coverage
31 group.

32 (iv) The proposal for termination shall be approved only if a
33 majority of the coverage group vote in favor of termination.

34 (v) If a majority of the coverage group vote in favor of
35 termination, the legislative body of the political subdivision shall
36 certify the results of the referendum to the governor and give notice
37 of termination of such coverage group.

38 (2) The governor shall not finally refuse to approve a plan
39 submitted by a political subdivision under subsection (1), and shall

1 not terminate an approved plan, without reasonable notice and
2 opportunity for hearing to the political subdivision affected thereby.

3 (3)(a) Each political subdivision as to which a plan has been
4 approved under this section shall pay into the contribution ((fund))
5 account, with respect to wages (as defined in RCW 41.48.020), at such
6 time or times as the governor may by regulation prescribe,
7 contributions in the amounts and at the rates specified in the
8 applicable agreement entered into by the governor under RCW 41.48.030.

9 (b) Each political subdivision required to make payments under
10 paragraph (a) of this subsection is authorized, in consideration of the
11 employee's retention in, or entry upon, employment after enactment of
12 this chapter, to impose upon each of its employees, as to services
13 which are covered by an approved plan, a contribution with respect to
14 his wages (as defined in RCW 41.48.020), not exceeding the amount of
15 employee tax which is imposed by the federal insurance contributions
16 act, and to deduct the amount of such contribution from his wages as
17 and when paid. Contributions so collected shall be paid into the OASI
18 contribution ((fund)) account in partial discharge of the liability of
19 such political subdivision or instrumentality under paragraph (a) of
20 this subsection. Failure to deduct such contribution shall not relieve
21 the employee or employer of liability therefor.

22 (4) Delinquent reports and payments due under paragraph (f) of
23 subsection (1) and paragraph (a) of subsection (3) of this section will
24 be subject to an added interest charge of six percent per year or, if
25 higher, the rate chargeable to the state by the secretary by virtue of
26 federal law, if the late report or payment contributes to any federal
27 penalty for late filing of reports or for late deposit of
28 contributions. Delinquent contributions, interest and penalties may be
29 recovered by civil action or may, at the request of the governor, be
30 deducted from any other moneys payable to the political subdivision by
31 any department or agency of the state.

32 **Sec. 430.** RCW 41.50.030 and 1998 c 341 s 501 are each amended to
33 read as follows:

34 (1) As soon as possible but not more than one hundred and eighty
35 days after March 19, 1976, there is transferred to the department of
36 retirement systems, except as otherwise provided in this chapter, all
37 powers, duties, and functions of:

38 (a) The Washington public employees' retirement system;

- 1 (b) The Washington state teachers' retirement system;
- 2 (c) The Washington law enforcement officers' and fire fighters'
- 3 retirement system;
- 4 (d) The Washington state patrol retirement system;
- 5 (e) The Washington judicial retirement system; and
- 6 (f) The state treasurer with respect to the administration of the
- 7 judges' retirement fund imposed pursuant to chapter 2.12 RCW.
- 8 (2) On July 1, 1996, there is transferred to the department all
- 9 powers, duties, and functions of the deferred compensation committee.
- 10 (3) The department shall administer chapter 41.34 RCW.
- 11 (4) The department shall administer the Washington school
- 12 employees' retirement system created under chapter 41.35 RCW.
- 13 (5) The department shall administer the restated law enforcement
- 14 officers' and fire fighters' retirement system under chapter 41.26A
- 15 RCW.

16 **Sec. 431.** RCW 41.50.055 and 1991 c 35 s 16 are each amended to

17 read as follows:

18 The administration of the Washington law enforcement officers' and

19 fire fighters' retirement systems ~~((is))~~ under chapters 41.26 and

20 41.26A RCW are hereby vested in the director of retirement systems, and

21 the director shall:

22 (1) Keep in convenient form such data as shall be deemed necessary

23 for actuarial evaluation purposes;

24 (2) As of March 1, 1970, and at least every two years thereafter,

25 through the state actuary, make an actuarial valuation as to the

26 mortality and service experience of the beneficiaries under this

27 chapter and the various accounts created for the purpose of showing the

28 financial status of the retirement fund;

29 (3) Adopt for the Washington law enforcement officers' and fire

30 fighters' retirement systems the mortality tables and such other tables

31 as shall be deemed necessary;

32 (4) Keep a record of all its proceedings, which shall be open to

33 inspection by the public;

34 (5) From time to time adopt such rules and regulations not

35 inconsistent with chapters 41.26 and 41.26A RCW, for the administration

36 of the provisions of this chapter, for the administration of the funds

37 created by this chapter and chapter 41.26A RCW and the several accounts

38 thereof, and for the transaction of the business of the system;

1 (6) Prepare and publish annually a financial statement showing the
2 condition of the Washington law enforcement officers' and fire
3 fighters' funds and the various accounts thereof, and setting forth
4 such other facts, recommendations and data as may be of use in the
5 advancement of knowledge concerning the Washington law enforcement
6 officers' and fire fighters' retirement systems, and furnish a copy
7 thereof to each employer, and to such members as may request copies
8 thereof;

9 (7) Perform such other functions as are required for the execution
10 of the provisions of chapters 41.26 and 41.26A RCW;

11 (8) Fix the amount of interest to be credited at a rate which shall
12 be based upon the net annual earnings of the Washington law enforcement
13 officers' and fire fighters' funds for the preceding twelve-month
14 period and from time to time make any necessary changes in such rate;

15 (9) Pay from the department of retirement systems expense fund the
16 expenses incurred in administration of the Washington law enforcement
17 officers' and fire fighters' retirement systems from those funds
18 appropriated for that purpose;

19 (10) Perform any other duties prescribed elsewhere in chapter 41.26
20 or 41.26A RCW;

21 (11) Issue decisions relating to appeals initiated pursuant to RCW
22 41.16.145 and 41.18.104 as now or hereafter amended and shall be
23 authorized to order increased benefits pursuant to RCW 41.16.145 and
24 41.18.104 as now or hereafter amended.

25 **Sec. 432.** RCW 41.50.075 and 1998 c 341 s 503 are each amended to
26 read as follows:

27 (1) (~~Two funds are~~) A fund is hereby created and established in
28 the state treasury to be known as (~~the Washington law enforcement~~
29 ~~officers' and fire fighters' system plan 1 retirement fund, and~~) the
30 Washington law enforcement officers' and fire fighters' system plan 2
31 retirement fund which shall consist of all moneys paid into (~~them~~)
32 the fund in accordance with the provisions of this chapter and chapter
33 41.26 RCW, whether such moneys take the form of cash, securities, or
34 other assets. The (~~plan 1 fund shall consist of all moneys paid to~~
35 ~~finance the benefits provided to members of the law enforcement~~
36 ~~officers' and fire fighters' retirement system plan 1, and the~~) plan
37 2 fund shall consist of all moneys paid to finance the benefits

1 provided to members of the law enforcement officers' and fire fighters'
2 retirement system plan 2.

3 (2) All of the assets of the Washington state teachers' retirement
4 system shall be credited according to the purposes for which they are
5 held, to two funds to be maintained in the state treasury, namely, the
6 teachers' retirement system plan 1 fund and the teachers' retirement
7 system combined plan 2 and 3 fund. The plan 1 fund shall consist of
8 all moneys paid to finance the benefits provided to members of the
9 Washington state teachers' retirement system plan 1, and the combined
10 plan 2 and 3 fund shall consist of all moneys paid to finance the
11 benefits provided to members of the Washington state teachers'
12 retirement system plan 2 and 3.

13 (3) There is hereby established in the state treasury two separate
14 funds, namely the public employees' retirement system plan 1 fund and
15 the public employees' retirement system plan 2 fund. The plan 1 fund
16 shall consist of all moneys paid to finance the benefits provided to
17 members of the public employees' retirement system plan 1, and the plan
18 2 fund shall consist of all moneys paid to finance the benefits
19 provided to members of the public employees' retirement system plan 2.

20 (4) There is hereby established in the state treasury the school
21 employees' retirement system combined plan 2 and 3 fund. The combined
22 plan 2 and 3 fund shall consist of all moneys paid to finance the
23 benefits provided to members of the school employees' retirement system
24 plan 2 and plan 3.

25 **Sec. 433.** RCW 41.50.075 and 2000 c 247 s 601 are each amended to
26 read as follows:

27 (1) ~~((Two funds are))~~ A fund is hereby created and established in
28 the state treasury to be known as ~~((the Washington law enforcement
29 officers' and fire fighters' system plan 1 retirement fund, and))~~ the
30 Washington law enforcement officers' and fire fighters' system plan 2
31 retirement fund which shall consist of all moneys paid into ~~((them))~~
32 the fund in accordance with the provisions of this chapter and chapter
33 41.26 RCW, whether such moneys take the form of cash, securities, or
34 other assets. The ~~((plan 1 fund shall consist of all moneys paid to
35 finance the benefits provided to members of the law enforcement
36 officers' and fire fighters' retirement system plan 1, and the))~~ plan
37 2 fund shall consist of all moneys paid to finance the benefits

1 provided to members of the law enforcement officers' and fire fighters'
2 retirement system plan 2.

3 (2) All of the assets of the Washington state teachers' retirement
4 system shall be credited according to the purposes for which they are
5 held, to two funds to be maintained in the state treasury, namely, the
6 teachers' retirement system plan 1 fund and the teachers' retirement
7 system combined plan 2 and 3 fund. The plan 1 fund shall consist of
8 all moneys paid to finance the benefits provided to members of the
9 Washington state teachers' retirement system plan 1, and the combined
10 plan 2 and 3 fund shall consist of all moneys paid to finance the
11 benefits provided to members of the Washington state teachers'
12 retirement system plan 2 and 3.

13 (3) There is hereby established in the state treasury two separate
14 funds, namely the public employees' retirement system plan 1 fund and
15 the public employees' retirement system combined plan 2 and plan 3
16 fund. The plan 1 fund shall consist of all moneys paid to finance the
17 benefits provided to members of the public employees' retirement system
18 plan 1, and the combined plan 2 and plan 3 fund shall consist of all
19 moneys paid to finance the benefits provided to members of the public
20 employees' retirement system plans 2 and 3.

21 (4) There is hereby established in the state treasury the school
22 employees' retirement system combined plan 2 and 3 fund. The combined
23 plan 2 and 3 fund shall consist of all moneys paid to finance the
24 benefits provided to members of the school employees' retirement system
25 plan 2 and plan 3.

26 (5) The department shall administer the funds established under the
27 restated law enforcement officers' and fire fighters' retirement system
28 under chapter 41.26A RCW, including:

29 (a) The restated law enforcement officers' and fire fighters'
30 defined benefit retirement fund; and

31 (b) The state surplus assets reserve fund.

32 **Sec. 434.** RCW 41.50.080 and 1998 c 341 s 504 are each amended to
33 read as follows:

34 The state investment board shall provide for the investment of all
35 funds of the Washington public employees' retirement system, the
36 teachers' retirement system, the school employees' retirement system,
37 the Washington law enforcement officers' and fire fighters' retirement
38 systems under chapters 41.26 and 41.26A RCW, the Washington state

1 patrol retirement system, the Washington judicial retirement system,
2 and the judges' retirement fund, pursuant to RCW 43.84.150, and may
3 sell or exchange investments acquired in the exercise of that
4 authority.

5 **Sec. 435.** RCW 41.50.090 and 1985 c 102 s 6 are each amended to
6 read as follows:

7 (1) Except as otherwise provided in this section, on the effective
8 date of transfer as provided in RCW 41.50.030, the department shall
9 succeed to and is vested with all powers, duties, and functions now or
10 by any concurrent act of this 1976 legislature vested in the individual
11 retirement boards set forth in RCW 41.50.030 relating to the
12 administration of their various retirement systems, including but not
13 limited to the power to appoint a staff and define the duties thereof:
14 PROVIDED, That actuarial services required by the department shall be
15 performed by the state actuary as provided in RCW 44.44.040.

16 (2) The department shall keep each retirement board fully informed
17 on the administration of the corresponding retirement system, and shall
18 furnish any information requested by a retirement board.

19 (3) Rules proposed by the director under RCW 2.10.070, 41.50.055,
20 41.32.025, or 41.40.020 shall be submitted to the appropriate
21 retirement boards for review prior to adoption. After receiving
22 approval of the members of the appropriate board, such rules shall
23 become effective as provided by the administrative procedure act,
24 chapter 34.05 RCW.

25 (4) Each retirement board shall continue to perform all functions
26 as are vested in it by law with respect to applications for benefits
27 paid upon either temporary or permanent disability, with such staff
28 assistance from the department as may be required. The director shall
29 perform those functions with respect to disability benefits as are
30 vested in him or her by ((RCW 41.26.120, 41.26.125, and 41.26.200))
31 chapter 41.26A RCW.

32 **Sec. 436.** RCW 41.50.110 and 1998 c 341 s 508 are each amended to
33 read as follows:

34 (1) Except as provided by RCW 41.50.255 and subsection (6) of this
35 section, all expenses of the administration of the department and the
36 expenses of administration of the retirement systems created in
37 chapters 2.10, 2.12, 41.26, 41.26A, 41.32, 41.40, 41.34, 41.35, and

1 43.43 RCW shall be paid from the department of retirement systems
2 expense fund.

3 (2) In order to reimburse the department of retirement systems
4 expense fund on an equitable basis the department shall ascertain and
5 report to each employer, as defined in RCW 41.26.030, section 202 of
6 this act, 41.32.010, 41.35.010, or 41.40.010, the sum necessary to
7 defray its proportional share of the entire expense of the
8 administration of the retirement system that the employer participates
9 in during the ensuing biennium or fiscal year whichever may be
10 required. Such sum is to be computed in an amount directly
11 proportional to the estimated entire expense of the administration as
12 the ratio of monthly salaries of the employer's members bears to the
13 total salaries of all members in the entire system. It shall then be
14 the duty of all such employers to include in their budgets or otherwise
15 provide the amounts so required.

16 (3) The department shall compute and bill each employer, as defined
17 in RCW 41.26.030, section 202 of this act, 41.32.010, 41.35.010, or
18 41.40.010, at the end of each month for the amount due for that month
19 to the department of retirement systems expense fund and the same shall
20 be paid as are its other obligations. Such computation as to each
21 employer shall be made on a percentage rate of salary established by
22 the department. However, the department may at its discretion
23 establish a system of billing based upon calendar year quarters in
24 which event the said billing shall be at the end of each such quarter.

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

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

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

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

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

2 (6) Expenses other than those under RCW 41.34.060(~~(+2)~~) (3) shall
3 be paid pursuant to subsection (1) of this section.

4 **Sec. 437.** RCW 41.50.112 and 2000 c 247 s 1107 are each amended to
5 read as follows:

6 Employers, as defined in RCW 41.26.030, section 202 of this act,
7 41.32.010, 41.34.020, 41.35.010, and 41.40.010, must report all member
8 data to the department in a format designed and communicated by the
9 department. Employers failing to comply with this reporting
10 requirement shall be assessed an additional fee as defined under RCW
11 41.50.110(5).

12 **Sec. 438.** RCW 41.50.150 and 1998 c 341 s 509 are each amended to
13 read as follows:

14 (1) The employer of any employee whose retirement benefits are
15 based in part on excess compensation, as defined in this section,
16 shall, upon receipt of a billing from the department, pay into the
17 appropriate retirement system the present value at the time of the
18 employee's retirement of the total estimated cost of all present and
19 future benefits from the retirement system attributable to the excess
20 compensation. The state actuary shall determine the estimated cost
21 using the same method and procedure as is used in preparing fiscal note
22 costs for the legislature. However, the director may in the director's
23 discretion decline to bill the employer if the amount due is less than
24 fifty dollars. Accounts unsettled within thirty days of the receipt of
25 the billing shall be assessed an interest penalty of one percent of the
26 amount due for each month or fraction thereof beyond the original
27 thirty-day period.

28 (2) "Excess compensation," as used in this section, includes the
29 following payments, if used in the calculation of the employee's
30 retirement allowance:

31 (a) A cash out of unused annual leave in excess of two hundred
32 forty hours of such leave. "Cash out" for purposes of this subsection
33 means:

34 (i) Any payment in lieu of an accrual of annual leave; or

35 (ii) Any payment added to salary or wages, concurrent with a
36 reduction of annual leave;

37 (b) A cash out of any other form of leave;

1 (c) A payment for, or in lieu of, any personal expense or
2 transportation allowance to the extent that payment qualifies as
3 reportable compensation in the member's retirement system;

4 (d) The portion of any payment, including overtime payments, that
5 exceeds twice the regular daily or hourly rate of pay; and

6 (e) Any termination or severance payment.

7 (3) This section applies to the retirement systems listed in RCW
8 41.50.030 and to retirements occurring on or after March 15, 1984.
9 Nothing in this section is intended to amend or determine the meaning
10 of any definition in chapter 2.10, 2.12, 41.26, 41.26A, 41.32, 41.40,
11 41.35, or 43.43 RCW or to determine in any manner what payments are
12 includable in the calculation of a retirement allowance under such
13 chapters.

14 (4) An employer is not relieved of liability under this section
15 because of the death of any person either before or after the billing
16 from the department.

17 **Sec. 439.** RCW 41.50.255 and 1998 c 341 s 511 are each amended to
18 read as follows:

19 The director is authorized to pay from the interest earnings of the
20 trust funds of the public employees' retirement system, the teachers'
21 retirement system, the Washington state patrol retirement system, the
22 Washington judicial retirement system, the judges' retirement system,
23 the school district employees' retirement system, or the law
24 enforcement officers' and fire fighters' retirement systems under
25 chapter 41.26 and 41.26A RCW lawful obligations of the appropriate
26 system for legal expenses and medical expenses which expenses are
27 primarily incurred for the purpose of protecting the appropriate trust
28 fund or are incurred in compliance with statutes governing such funds.

29 The term "legal expense" includes, but is not limited to, legal
30 services provided through the legal services revolving fund, fees for
31 expert witnesses, travel expenses, fees for court reporters, cost of
32 transcript preparation, and reproduction of documents.

33 The term "medical costs" includes, but is not limited to, expenses
34 for the medical examination or reexamination of members or retirees,
35 the costs of preparation of medical reports, and fees charged by
36 medical professionals for attendance at discovery proceedings or
37 hearings.

1 The director may also pay from the interest earnings of the trust
2 funds specified in this section costs incurred in investigating fraud
3 and collecting overpayments, including expenses incurred to review and
4 investigate cases of possible fraud against the trust funds and
5 collection agency fees and other costs incurred in recovering
6 overpayments. Recovered funds must be returned to the appropriate
7 trust funds.

8 **Sec. 440.** RCW 41.50.500 and 1998 c 341 s 512 are each amended to
9 read as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout RCW 41.50.500 through 41.50.650,
12 41.50.670 through 41.50.720, and 26.09.138.

13 (1) "Benefits" means periodic retirement payments or a withdrawal
14 of accumulated contributions.

15 (2) "Disposable benefits" means that part of the benefits of an
16 individual remaining after the deduction from those benefits of any
17 amount required by law to be withheld. The term "required by law to be
18 withheld" does not include any deduction elective to the member.

19 (3) "Dissolution order" means any judgment, decree, or order of
20 spousal maintenance, property division, or court-approved property
21 settlement incident to a decree of divorce, dissolution, invalidity, or
22 legal separation issued by the superior court of the state of
23 Washington or a judgment, decree, or other order of spousal support
24 issued by a court of competent jurisdiction in another state or
25 country, that has been registered or otherwise made enforceable in this
26 state.

27 (4) "Mandatory benefits assignment order" means an order issued to
28 the department of retirement systems pursuant to RCW 41.50.570 to
29 withhold and deliver benefits payable to an obligor under chapter 2.10,
30 2.12, 41.26, 41.26A, 41.32, 41.40, 41.35, or 43.43 RCW.

31 (5) "Obligee" means an ex spouse or spouse to whom a duty of
32 spousal maintenance or property division obligation is owed.

33 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
34 maintenance or a property division obligation.

35 (7) "Periodic retirement payments" means periodic payments of
36 retirement allowances, including but not limited to service retirement
37 allowances, disability retirement allowances, and survivors'

1 allowances. The term does not include a withdrawal of accumulated
2 contributions.

3 (8) "Property division obligation" means any outstanding court-
4 ordered property division or court-approved property settlement
5 obligation incident to a decree of divorce, dissolution, or legal
6 separation.

7 (9) "Standard allowance" means a benefit payment option selected
8 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),
9 41.40.188(1)(a), 41.40.660(1), or 41.35.220 that ceases upon the death
10 of the retiree. Standard allowance also means the benefit allowance
11 provided under RCW 2.10.110, 2.10.130, 43.43.260, (~~41.26.100,~~
12 ~~41.26.130(1)(a)~~) section 217 of this act, section 222(1)(a) of this
13 act, or chapter 2.12 RCW. Standard allowance also means the maximum
14 retirement allowance available under RCW 41.32.530(1) following member
15 withdrawal of accumulated contributions, if any.

16 (10) "Withdrawal of accumulated contributions" means a lump sum
17 payment to a retirement system member of all or a part of the member's
18 accumulated contributions, including accrued interest, at the request
19 of the member including any lump sum amount paid upon the death of the
20 member.

21 **Sec. 441.** RCW 41.50.500 and 2000 c 247 s 603 are each amended to
22 read as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout RCW 41.50.500 through 41.50.650,
25 41.50.670 through 41.50.720, and 26.09.138.

26 (1) "Benefits" means periodic retirement payments or a withdrawal
27 of accumulated contributions.

28 (2) "Disposable benefits" means that part of the benefits of an
29 individual remaining after the deduction from those benefits of any
30 amount required by law to be withheld. The term "required by law to be
31 withheld" does not include any deduction elective to the member.

32 (3) "Dissolution order" means any judgment, decree, or order of
33 spousal maintenance, property division, or court-approved property
34 settlement incident to a decree of divorce, dissolution, invalidity, or
35 legal separation issued by the superior court of the state of
36 Washington or a judgment, decree, or other order of spousal support
37 issued by a court of competent jurisdiction in another state or

1 country, that has been registered or otherwise made enforceable in this
2 state.

3 (4) "Mandatory benefits assignment order" means an order issued to
4 the department of retirement systems pursuant to RCW 41.50.570 to
5 withhold and deliver benefits payable to an obligor under chapter 2.10,
6 2.12, 41.26, 41.26A, 41.32, 41.40, 41.35, or 43.43 RCW.

7 (5) "Obligee" means an ex spouse or spouse to whom a duty of
8 spousal maintenance or property division obligation is owed.

9 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
10 maintenance or a property division obligation.

11 (7) "Periodic retirement payments" means periodic payments of
12 retirement allowances, including but not limited to service retirement
13 allowances, disability retirement allowances, and survivors'
14 allowances. The term does not include a withdrawal of accumulated
15 contributions.

16 (8) "Property division obligation" means any outstanding court-
17 ordered property division or court-approved property settlement
18 obligation incident to a decree of divorce, dissolution, or legal
19 separation.

20 (9) "Standard allowance" means a benefit payment option selected
21 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),
22 41.40.188(1)(a), 41.40.660(1), 41.40.845(1)(a), or 41.35.220 that
23 ceases upon the death of the retiree. Standard allowance also means
24 the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260,
25 ((41.26.100, ~~41.26.130(1)(a))~~) section 217 of this act, section
26 222(1)(a) of this act, or chapter 2.12 RCW. Standard allowance also
27 means the maximum retirement allowance available under RCW 41.32.530(1)
28 following member withdrawal of accumulated contributions, if any.

29 (10) "Withdrawal of accumulated contributions" means a lump sum
30 payment to a retirement system member of all or a part of the member's
31 accumulated contributions, including accrued interest, at the request
32 of the member including any lump sum amount paid upon the death of the
33 member.

34 **Sec. 442.** RCW 41.50.670 and 1998 c 341 s 513 are each amended to
35 read as follows:

36 (1) Nothing in this chapter regarding mandatory assignment of
37 benefits to enforce a spousal maintenance obligation shall abridge the
38 right of an obligee to direct payments of retirement benefits to

1 satisfy a property division obligation ordered pursuant to a court
2 decree of dissolution or legal separation or any court order or court-
3 approved property settlement agreement incident to any court decree of
4 dissolution or legal separation as provided in RCW 2.10.180, 2.12.090,
5 41.04.310, 41.04.320, 41.04.330, 41.26.053, section 209 of this act,
6 41.32.052, 41.35.100, 41.34.070(~~((3+))~~) (4), 41.40.052, 43.43.310, or
7 26.09.138, as those statutes existed before July 1, 1987, and as those
8 statutes exist on and after July 28, 1991. The department shall pay
9 benefits under this chapter in a lump sum or as a portion of periodic
10 retirement payments as expressly provided by the dissolution order. A
11 dissolution order may not order the department to pay a periodic
12 retirement payment or lump sum unless that payment is specifically
13 authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.26A,
14 41.32, 41.35, 41.34, 41.40, or 43.43 RCW, as applicable.

15 (2) The department shall pay directly to an obligee the amount of
16 periodic retirement payments or lump sum payment, as appropriate,
17 specified in the dissolution order if the dissolution order filed with
18 the department pursuant to subsection (1) of this section includes a
19 provision that states in the following form:

20 If (the obligor) receives periodic retirement payments
21 as defined in RCW 41.50.500, the department of retirement systems shall
22 pay to (the obligee) dollars from such payments
23 or . . . percent of such payments. If the obligor's debt is expressed
24 as a percentage of his or her periodic retirement payment and the
25 obligee does not have a survivorship interest in the obligor's benefit,
26 the amount received by the obligee shall be the percentage of the
27 periodic retirement payment that the obligor would have received had he
28 or she selected a standard allowance.

29 If (the obligor) requests or has requested a withdrawal
30 of accumulated contributions as defined in RCW 41.50.500, or becomes
31 eligible for a lump sum death benefit, the department of retirement
32 systems shall pay to (the obligee) dollars plus
33 interest at the rate paid by the department of retirement systems on
34 member contributions. Such interest to accrue from the date of this
35 order's entry with the court of record.

36 (3) This section does not require a member to select a standard
37 allowance upon retirement nor does it require the department to
38 recalculate the amount of a retiree's periodic retirement payment based
39 on a change in survivor option.

1 (4) A court order under this section may not order the department
2 to pay more than seventy-five percent of an obligor's periodic
3 retirement payment to an obligee.

4 (5) Persons whose court decrees were entered between July 1, 1987,
5 and July 28, 1991, shall also be entitled to receive direct payments of
6 retirement benefits to satisfy court-ordered property divisions if the
7 dissolution orders comply or are modified to comply with this section
8 and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180,
9 2.12.090, 41.26.053, section 209 of this act, 41.32.052, 41.35.100,
10 41.34.070, 41.40.052, 43.43.310, and 26.09.138.

11 (6) The obligee must file a copy of the dissolution order with the
12 department within ninety days of that order's entry with the court of
13 record.

14 (7) A division of benefits pursuant to a dissolution order under
15 this section shall be based upon the obligor's gross benefit prior to
16 any deductions. If the department is required to withhold a portion of
17 the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of
18 that amount plus the amount owed to the obligee exceeds the total
19 benefit, the department shall satisfy the withholding requirements
20 under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee.
21 The provisions of this subsection do not apply to amounts withheld
22 pursuant to 26 U.S.C. Sec. 3402(i).

23 **Sec. 443.** RCW 41.56.030 and 2000 c 23 s 1 and 2000 c 19 s 1 are
24 each reenacted and amended to read as follows:

25 As used in this chapter:

26 (1) "Public employer" means any officer, board, commission,
27 council, or other person or body acting on behalf of any public body
28 governed by this chapter, or any subdivision of such public body. For
29 the purposes of this section, the public employer of district court or
30 superior court employees for wage-related matters is the respective
31 county legislative authority, or person or body acting on behalf of the
32 legislative authority, and the public employer for nonwage-related
33 matters is the judge or judge's designee of the respective district
34 court or superior court.

35 (2) "Public employee" means any employee of a public employer
36 except any person (a) elected by popular vote, or (b) appointed to
37 office pursuant to statute, ordinance or resolution for a specified
38 term of office as a member of a multimember board, commission, or

1 committee, whether appointed by the executive head or body of the
2 public employer, or (c) whose duties as deputy, administrative
3 assistant or secretary necessarily imply a confidential relationship to
4 (i) the executive head or body of the applicable bargaining unit, or
5 (ii) any person elected by popular vote, or (iii) any person appointed
6 to office pursuant to statute, ordinance or resolution for a specified
7 term of office as a member of a multimember board, commission, or
8 committee, whether appointed by the executive head or body of the
9 public employer, or (d) who is a court commissioner or a court
10 magistrate of superior court, district court, or a department of a
11 district court organized under chapter 3.46 RCW, or (e) who is a
12 personal assistant to a district court judge, superior court judge, or
13 court commissioner, or (f) excluded from a bargaining unit under RCW
14 41.56.201(2)(a). For the purpose of (e) of this subsection, no more
15 than one assistant for each judge or commissioner may be excluded from
16 a bargaining unit.

17 (3) "Bargaining representative" means any lawful organization which
18 has as one of its primary purposes the representation of employees in
19 their employment relations with employers.

20 (4) "Collective bargaining" means the performance of the mutual
21 obligations of the public employer and the exclusive bargaining
22 representative to meet at reasonable times, to confer and negotiate in
23 good faith, and to execute a written agreement with respect to
24 grievance procedures and collective negotiations on personnel matters,
25 including wages, hours and working conditions, which may be peculiar to
26 an appropriate bargaining unit of such public employer, except that by
27 such obligation neither party shall be compelled to agree to a proposal
28 or be required to make a concession unless otherwise provided in this
29 chapter.

30 (5) "Commission" means the public employment relations commission.

31 (6) "Executive director" means the executive director of the
32 commission.

33 (7) "Uniformed personnel" means: (a) Law enforcement officers as
34 defined in RCW 41.26.030 and section 202 of this act employed by the
35 governing body of any city or town with a population of two thousand
36 five hundred or more and law enforcement officers employed by the
37 governing body of any county with a population of ten thousand or more;
38 (b) correctional employees who are uniformed and nonuniformed,
39 commissioned and noncommissioned security personnel employed in a jail

1 as defined in RCW 70.48.020(5), by a county with a population of
2 seventy thousand or more, and who are trained for and charged with the
3 responsibility of controlling and maintaining custody of inmates in the
4 jail and safeguarding inmates from other inmates; (c) general authority
5 Washington peace officers as defined in RCW 10.93.020 employed by a
6 port district in a county with a population of one million or more; (d)
7 security forces established under RCW 43.52.520; (e) fire fighters as
8 that term is defined in RCW 41.26.030 and section 202 of this act; (f)
9 employees of a port district in a county with a population of one
10 million or more whose duties include crash fire rescue or other fire
11 fighting duties; (g) employees of fire departments of public employers
12 who dispatch exclusively either fire or emergency medical services, or
13 both; or (h) employees in the several classes of advanced life support
14 technicians, as defined in RCW 18.71.200, who are employed by a public
15 employer.

16 (8) "Institution of higher education" means the University of
17 Washington, Washington State University, Central Washington University,
18 Eastern Washington University, Western Washington University, The
19 Evergreen State College, and the various state community colleges.

20 **Sec. 444.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 5 are each
21 amended to read as follows:

22 (1) All earnings of investments of surplus balances in the state
23 treasury shall be deposited to the treasury income account, which
24 account is hereby established in the state treasury.

25 (2) The treasury income account shall be utilized to pay or receive
26 funds associated with federal programs as required by the federal cash
27 management improvement act of 1990. The treasury income account is
28 subject in all respects to chapter 43.88 RCW, but no appropriation is
29 required for refunds or allocations of interest earnings required by
30 the cash management improvement act. Refunds of interest to the
31 federal treasury required under the cash management improvement act
32 fall under RCW 43.88.180 and shall not require appropriation. The
33 office of financial management shall determine the amounts due to or
34 from the federal government pursuant to the cash management improvement
35 act. The office of financial management may direct transfers of funds
36 between accounts as deemed necessary to implement the provisions of the
37 cash management improvement act, and this subsection. Refunds or

1 allocations shall occur prior to the distributions of earnings set
2 forth in subsection (4) of this section.

3 (3) Except for the provisions of RCW 43.84.160, the treasury income
4 account may be utilized for the payment of purchased banking services
5 on behalf of treasury funds including, but not limited to, depository,
6 safekeeping, and disbursement functions for the state treasury and
7 affected state agencies. The treasury income account is subject in all
8 respects to chapter 43.88 RCW, but no appropriation is required for
9 payments to financial institutions. Payments shall occur prior to
10 distribution of earnings set forth in subsection (4) of this section.

11 (4) Monthly, the state treasurer shall distribute the earnings
12 credited to the treasury income account. The state treasurer shall
13 credit the general fund with all the earnings credited to the treasury
14 income account except:

15 (a) The following accounts and funds shall receive their
16 proportionate share of earnings based upon each account's and fund's
17 average daily balance for the period: The capitol building
18 construction account, the Cedar River channel construction and
19 operation account, the Central Washington University capital projects
20 account, the charitable, educational, penal and reformatory
21 institutions account, the common school construction fund, the county
22 criminal justice assistance account, the county sales and use tax
23 equalization account, the data processing building construction
24 account, the deferred compensation administrative account, the deferred
25 compensation principal account, the department of retirement systems
26 expense account, the drinking water assistance account, the Eastern
27 Washington University capital projects account, the education
28 construction fund, the emergency reserve fund, the federal forest
29 revolving account, the health services account, the public health
30 services account, the health system capacity account, the personal
31 health services account, the state higher education construction
32 account, the higher education construction account, the highway
33 infrastructure account, the industrial insurance premium refund
34 account, the judges' retirement account, the judicial retirement
35 administrative account, the judicial retirement principal account, the
36 local leasehold excise tax account, the local real estate excise tax
37 account, the local sales and use tax account, the medical aid account,
38 the mobile home park relocation fund, the multimodal transportation
39 account, the municipal criminal justice assistance account, the

1 municipal sales and use tax equalization account, the natural resources
2 deposit account, the perpetual surveillance and maintenance account,
3 the public employees' retirement system plan 1 account, the public
4 employees' retirement system plan 2 account, the Puyallup tribal
5 settlement account, the resource management cost account, the site
6 closure account, the special wildlife account, the state employees'
7 insurance account, the state employees' insurance reserve account, the
8 state investment board expense account, the state investment board
9 commingled trust fund accounts, the state surplus assets reserve
10 account, the supplemental pension account, the teachers' retirement
11 system plan 1 account, the teachers' retirement system combined plan 2
12 and plan 3 account, the tobacco prevention and control account, the
13 tobacco settlement account, the transportation infrastructure account,
14 the tuition recovery trust fund, the University of Washington bond
15 retirement fund, the University of Washington building account, the
16 volunteer fire fighters' and reserve officers' relief and pension
17 principal fund, the volunteer fire fighters' and reserve officers'
18 administrative fund, the Washington judicial retirement system account,
19 (~~the Washington law enforcement officers' and fire fighters' system~~
20 ~~plan 1 retirement account,~~) the Washington law enforcement officers'
21 and fire fighters' system plan 2 retirement account, the Washington
22 school employees' retirement system combined plan 2 and 3 account, the
23 Washington state health insurance pool account, the Washington state
24 patrol retirement account, the Washington State University building
25 account, the Washington State University bond retirement fund, the
26 water pollution control revolving fund, and the Western Washington
27 University capital projects account. Earnings derived from investing
28 balances of the agricultural permanent fund, the normal school
29 permanent fund, the permanent common school fund, the scientific
30 permanent fund, and the state university permanent fund shall be
31 allocated to their respective beneficiary accounts. All earnings to be
32 distributed under this subsection (4)(a) shall first be reduced by the
33 allocation to the state treasurer's service fund pursuant to RCW
34 43.08.190.

35 (b) The following accounts and funds shall receive eighty percent
36 of their proportionate share of earnings based upon each account's or
37 fund's average daily balance for the period: The aeronautics account,
38 the aircraft search and rescue account, the county arterial
39 preservation account, the department of licensing services account, the

1 essential rail assistance account, the ferry bond retirement fund, the
2 grade crossing protective fund, the high capacity transportation
3 account, the highway bond retirement fund, the highway safety account,
4 the motor vehicle fund, the motorcycle safety education account, the
5 pilotage account, the public transportation systems account, the Puget
6 Sound capital construction account, the Puget Sound ferry operations
7 account, the recreational vehicle account, the rural arterial trust
8 account, the safety and education account, the special category C
9 account, the state patrol highway account, the transportation equipment
10 fund, the transportation fund, the transportation improvement account,
11 the transportation improvement board bond retirement account, and the
12 urban arterial trust account.

13 (5) In conformance with Article II, section 37 of the state
14 Constitution, no treasury accounts or funds shall be allocated earnings
15 without the specific affirmative directive of this section.

16 **Sec. 445.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 6 are each
17 amended to read as follows:

18 (1) All earnings of investments of surplus balances in the state
19 treasury shall be deposited to the treasury income account, which
20 account is hereby established in the state treasury.

21 (2) The treasury income account shall be utilized to pay or receive
22 funds associated with federal programs as required by the federal cash
23 management improvement act of 1990. The treasury income account is
24 subject in all respects to chapter 43.88 RCW, but no appropriation is
25 required for refunds or allocations of interest earnings required by
26 the cash management improvement act. Refunds of interest to the
27 federal treasury required under the cash management improvement act
28 fall under RCW 43.88.180 and shall not require appropriation. The
29 office of financial management shall determine the amounts due to or
30 from the federal government pursuant to the cash management improvement
31 act. The office of financial management may direct transfers of funds
32 between accounts as deemed necessary to implement the provisions of the
33 cash management improvement act, and this subsection. Refunds or
34 allocations shall occur prior to the distributions of earnings set
35 forth in subsection (4) of this section.

36 (3) Except for the provisions of RCW 43.84.160, the treasury income
37 account may be utilized for the payment of purchased banking services
38 on behalf of treasury funds including, but not limited to, depository,

1 safekeeping, and disbursement functions for the state treasury and
2 affected state agencies. The treasury income account is subject in all
3 respects to chapter 43.88 RCW, but no appropriation is required for
4 payments to financial institutions. Payments shall occur prior to
5 distribution of earnings set forth in subsection (4) of this section.

6 (4) Monthly, the state treasurer shall distribute the earnings
7 credited to the treasury income account. The state treasurer shall
8 credit the general fund with all the earnings credited to the treasury
9 income account except:

10 (a) The following accounts and funds shall receive their
11 proportionate share of earnings based upon each account's and fund's
12 average daily balance for the period: The capitol building
13 construction account, the Cedar River channel construction and
14 operation account, the Central Washington University capital projects
15 account, the charitable, educational, penal and reformatory
16 institutions account, the common school construction fund, the county
17 criminal justice assistance account, the county sales and use tax
18 equalization account, the data processing building construction
19 account, the deferred compensation administrative account, the deferred
20 compensation principal account, the department of retirement systems
21 expense account, the drinking water assistance account, the Eastern
22 Washington University capital projects account, the education
23 construction fund, the emergency reserve fund, the federal forest
24 revolving account, the health services account, the public health
25 services account, the health system capacity account, the personal
26 health services account, the state higher education construction
27 account, the higher education construction account, the highway
28 infrastructure account, the industrial insurance premium refund
29 account, the judges' retirement account, the judicial retirement
30 administrative account, the judicial retirement principal account, the
31 local leasehold excise tax account, the local real estate excise tax
32 account, the local sales and use tax account, the medical aid account,
33 the mobile home park relocation fund, the multimodal transportation
34 account, the municipal criminal justice assistance account, the
35 municipal sales and use tax equalization account, the natural resources
36 deposit account, the perpetual surveillance and maintenance account,
37 the public employees' retirement system plan 1 account, the public
38 employees' retirement system combined plan 2 and plan 3 account, the
39 Puyallup tribal settlement account, the resource management cost

1 account, the site closure account, the special wildlife account, the
2 state employees' insurance account, the state employees' insurance
3 reserve account, the state investment board expense account, the state
4 investment board commingled trust fund accounts, the state surplus
5 assets reserve account, the supplemental pension account, the teachers'
6 retirement system plan 1 account, the teachers' retirement system
7 combined plan 2 and plan 3 account, the tobacco prevention and control
8 account, the tobacco settlement account, the transportation
9 infrastructure account, the tuition recovery trust fund, the University
10 of Washington bond retirement fund, the University of Washington
11 building account, the volunteer fire fighters' and reserve officers'
12 relief and pension principal fund, the volunteer fire fighters' and
13 reserve officers' administrative fund, the Washington judicial
14 retirement system account, (~~the Washington law enforcement officers'~~
15 ~~and fire fighters' system plan 1 retirement account,~~) the Washington
16 law enforcement officers' and fire fighters' system plan 2 retirement
17 account, the Washington school employees' retirement system combined
18 plan 2 and 3 account, the Washington state health insurance pool
19 account, the Washington state patrol retirement account, the Washington
20 State University building account, the Washington State University bond
21 retirement fund, the water pollution control revolving fund, and the
22 Western Washington University capital projects account. Earnings
23 derived from investing balances of the agricultural permanent fund, the
24 normal school permanent fund, the permanent common school fund, the
25 scientific permanent fund, and the state university permanent fund
26 shall be allocated to their respective beneficiary accounts. All
27 earnings to be distributed under this subsection (4)(a) shall first be
28 reduced by the allocation to the state treasurer's service fund
29 pursuant to RCW 43.08.190.

30 (b) The following accounts and funds shall receive eighty percent
31 of their proportionate share of earnings based upon each account's or
32 fund's average daily balance for the period: The aeronautics account,
33 the aircraft search and rescue account, the county arterial
34 preservation account, the department of licensing services account, the
35 essential rail assistance account, the ferry bond retirement fund, the
36 grade crossing protective fund, the high capacity transportation
37 account, the highway bond retirement fund, the highway safety account,
38 the motor vehicle fund, the motorcycle safety education account, the
39 pilotage account, the public transportation systems account, the Puget

1 Sound capital construction account, the Puget Sound ferry operations
2 account, the recreational vehicle account, the rural arterial trust
3 account, the safety and education account, the special category C
4 account, the state patrol highway account, the transportation equipment
5 fund, the transportation fund, the transportation improvement account,
6 the transportation improvement board bond retirement account, and the
7 urban arterial trust account.

8 (5) In conformance with Article II, section 37 of the state
9 Constitution, no treasury accounts or funds shall be allocated earnings
10 without the specific affirmative directive of this section.

11 **Sec. 446.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to
12 read as follows:

13 (1) Money in the treasurer's trust fund may be deposited, invested,
14 and reinvested by the state treasurer in accordance with RCW 43.84.080
15 in the same manner and to the same extent as if the money were in the
16 state treasury.

17 (2) All income received from investment of the treasurer's trust
18 fund shall be set aside in an account in the treasury trust fund to be
19 known as the investment income account.

20 (3) The investment income account may be utilized for the payment
21 of purchased banking services on behalf of treasurer's trust funds
22 including, but not limited to, depository, safekeeping, and
23 disbursement functions for the state treasurer or affected state
24 agencies. The investment income account is subject in all respects to
25 chapter 43.88 RCW, but no appropriation is required for payments to
26 financial institutions. Payments shall occur prior to distribution of
27 earnings set forth in subsection (4) of this section.

28 (4)(a) Monthly, the state treasurer shall distribute the earnings
29 credited to the investment income account to the state general fund
30 except under (b) and (c) of this subsection.

31 (b) The following accounts and funds shall receive their
32 proportionate share of earnings based upon each account's or fund's
33 average daily balance for the period: The Washington advanced college
34 tuition payment program account, the agricultural local fund, the
35 American Indian scholarship endowment fund, the basic health plan self-
36 insurance reserve account, the Washington international exchange
37 scholarship endowment fund, the developmental disabilities endowment
38 trust fund, the energy account, the fair fund, the game farm

1 alternative account, the grain inspection revolving fund, the juvenile
2 accountability incentive account, the law enforcement officers' and
3 fire fighters' medical benefits risk pool account, the rural
4 rehabilitation account, the stadium and exhibition center account, the
5 youth athletic facility ((grant)) account, the self-insurance revolving
6 fund, the sulfur dioxide abatement account, the restated law
7 enforcement officers' and fire fighters' defined benefit retirement
8 fund, and the children's trust fund. However, the earnings to be
9 distributed shall first be reduced by the allocation to the state
10 treasurer's service fund pursuant to RCW 43.08.190.

11 (c) The following accounts and funds shall receive eighty percent
12 of their proportionate share of earnings based upon each account's or
13 fund's average daily balance for the period: The advanced right of way
14 revolving fund, the advanced environmental mitigation revolving
15 account, the federal narcotics asset forfeitures account, the high
16 occupancy vehicle account, the local rail service assistance account,
17 and the miscellaneous transportation programs account.

18 (5) In conformance with Article II, section 37 of the state
19 Constitution, no trust accounts or funds shall be allocated earnings
20 without the specific affirmative directive of this section.

21 **Sec. 447.** RCW 46.52.130 and 1998 c 165 s 11 are each amended to
22 read as follows:

23 A certified abstract of the driving record shall be furnished only
24 to the individual named in the abstract, an employer or prospective
25 employer or an agent acting on behalf of an employer or prospective
26 employer, the insurance carrier that has insurance in effect covering
27 the employer or a prospective employer, the insurance carrier that has
28 insurance in effect covering the named individual, the insurance
29 carrier to which the named individual has applied, an alcohol/drug
30 assessment or treatment agency approved by the department of social and
31 health services, to which the named individual has applied or been
32 assigned for evaluation or treatment, or city and county prosecuting
33 attorneys. City attorneys and county prosecuting attorneys may provide
34 the driving record to alcohol/drug assessment or treatment agencies
35 approved by the department of social and health services to which the
36 named individual has applied or been assigned for evaluation or
37 treatment. The director, upon proper request, shall furnish a
38 certified abstract covering the period of not more than the last three

1 years to insurance companies. Upon proper request, the director shall
2 furnish a certified abstract covering a period of not more than the
3 last five years to state approved alcohol/drug assessment or treatment
4 agencies, except that the certified abstract shall also include records
5 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a
6 period of not more than the last ten years. Upon proper request, a
7 certified abstract of the full driving record maintained by the
8 department shall be furnished to a city or county prosecuting attorney,
9 to the individual named in the abstract or to an employer or
10 prospective employer or an agent acting on behalf of an employer or
11 prospective employer of the named individual. The abstract, whenever
12 possible, shall include an enumeration of motor vehicle accidents in
13 which the person was driving; the total number of vehicles involved;
14 whether the vehicles were legally parked or moving; whether the
15 vehicles were occupied at the time of the accident; whether the
16 accident resulted in any fatality; any reported convictions,
17 forfeitures of bail, or findings that an infraction was committed based
18 upon a violation of any motor vehicle law; and the status of the
19 person's driving privilege in this state. The enumeration shall
20 include any reports of failure to appear in response to a traffic
21 citation or failure to respond to a notice of infraction served upon
22 the named individual by an arresting officer. Certified abstracts
23 furnished to prosecutors and alcohol/drug assessment or treatment
24 agencies shall also indicate whether a recorded violation is an
25 alcohol-related offense as defined in RCW 46.01.260(2) that was
26 originally charged as one of the alcohol-related offenses designated in
27 RCW 46.01.260(2)(b)(i).

28 The abstract provided to the insurance company shall exclude any
29 information, except that related to the commission of misdemeanors or
30 felonies by the individual, pertaining to law enforcement officers or
31 fire fighters as defined in RCW 41.26.030 or section 202 of this act,
32 or any officer of the Washington state patrol, while driving official
33 vehicles in the performance of occupational duty. The abstract
34 provided to the insurance company shall include convictions for RCW
35 46.61.5249 and 46.61.525 except that the abstract shall report them
36 only as negligent driving without reference to whether they are for
37 first or second degree negligent driving. The abstract provided to the
38 insurance company shall exclude any deferred prosecution under RCW
39 10.05.060, except that if a person is removed from a deferred

1 prosecution under RCW 10.05.090, the abstract shall show the deferred
2 prosecution as well as the removal.

3 The director shall collect for each abstract the sum of four
4 dollars and fifty cents which shall be deposited in the highway safety
5 fund.

6 Any insurance company or its agent receiving the certified abstract
7 shall use it exclusively for its own underwriting purposes and shall
8 not divulge any of the information contained in it to a third party.
9 No policy of insurance may be canceled, nonrenewed, denied, or have the
10 rate increased on the basis of such information unless the policyholder
11 was determined to be at fault. No insurance company or its agent for
12 underwriting purposes relating to the operation of commercial motor
13 vehicles may use any information contained in the abstract relative to
14 any person's operation of motor vehicles while not engaged in such
15 employment, nor may any insurance company or its agent for underwriting
16 purposes relating to the operation of noncommercial motor vehicles use
17 any information contained in the abstract relative to any person's
18 operation of commercial motor vehicles.

19 Any employer or prospective employer or an agent acting on behalf
20 of an employer or prospective employer receiving the certified abstract
21 shall use it exclusively for his or her own purpose to determine
22 whether the licensee should be permitted to operate a commercial
23 vehicle or school bus upon the public highways of this state and shall
24 not divulge any information contained in it to a third party.

25 Any alcohol/drug assessment or treatment agency approved by the
26 department of social and health services receiving the certified
27 abstract shall use it exclusively for the purpose of assisting its
28 employees in making a determination as to what level of treatment, if
29 any, is appropriate. The agency, or any of its employees, shall not
30 divulge any information contained in the abstract to a third party.

31 Release of a certified abstract of the driving record of an
32 employee or prospective employee requires a statement signed by: (1)
33 The employee or prospective employee that authorizes the release of the
34 record, and (2) the employer attesting that the information is
35 necessary to determine whether the licensee should be employed to
36 operate a commercial vehicle or school bus upon the public highways of
37 this state. If the employer or prospective employer authorizes an
38 agent to obtain this information on their behalf, this must be noted in
39 the statement.

1 Any violation of this section is a gross misdemeanor.

2 **Sec. 448.** RCW 72.72.060 and 1983 c 279 s 5 are each amended to
3 read as follows:

4 The state shall reimburse cities and counties for their costs
5 incurred under chapters 41.26 and 41.26A RCW if the costs are the
6 direct result of physical injuries sustained in the implementation of
7 a contingency plan adopted under RCW 72.02.150 and if reimbursement is
8 not precluded by the following provisions: If the secretary of
9 corrections identifies in the contingency plan the prison walls or
10 other perimeter of the secured area, then reimbursement will not be
11 made unless the injuries occur within the walls or other perimeter of
12 the secured area. If the secretary of corrections does not identify
13 prison walls or other perimeter of the secured area, then reimbursement
14 shall not be made unless the injuries result from providing assistance,
15 requested by the secretary of corrections or the secretary's designee,
16 which is beyond the description of the assistance contained in the
17 contingency plan. In no case shall reimbursement be made when the
18 injuries result from conduct which either is not requested by the
19 secretary of corrections or the secretary's designee, or is in
20 violation of orders by superiors of the local law enforcement agency.

21 NEW SECTION. **Sec. 449.** EFFECTIVE DATES AND EXPIRATION DATES. (1)
22 Sections 419, 421, 423, 426, 432, 440, and 444 of this act expire March
23 1, 2002.

24 (2) Sections 418, 420, 422, 424, 427, 433, 437, 441, and 445 of
25 this act take effect March 1, 2002.

26 **PART V**
27 **MISCELLANEOUS**

28 NEW SECTION. **Sec. 501.** REPEALER. The following acts or parts of
29 acts are each repealed:

30 (1) RCW 41.26.005 (Provisions applicable to "plan 1" and "plan 2")
31 and 1992 c 72 s 2, 1991 c 35 s 12, 1989 c 273 s 10, 1985 c 102 s 5,
32 1979 ex.s. c 249 s 1, & 1977 ex.s. c 294 s 18;

33 (2) RCW 41.26.035 ("Minimum medical and health standards" defined)
34 and 1991 c 35 s 14 & 1971 ex.s. c 257 s 2;

1 (3) RCW 41.26.045 (Minimum medical and health standards) and 1979
2 ex.s. c 249 s 3, 1977 ex.s. c 294 s 20, 1974 ex.s. c 120 s 8, & 1971
3 ex.s. c 257 s 3;

4 (4) RCW 41.26.046 (Minimum medical and health standards--Board to
5 adopt--Publication and distribution--Employer certification procedures)
6 and 1987 c 418 s 2, 1977 ex.s. c 294 s 21, 1974 ex.s. c 120 s 12, 1972
7 ex.s. c 131 s 2, & 1971 ex.s. c 257 s 4;

8 (5) RCW 41.26.047 (Minimum medical and health standards--
9 Exemptions--Employer may adopt higher standards) and 1972 ex.s. c 131
10 s 3 & 1971 ex.s. c 257 s 5;

11 (6) RCW 41.26.075 (Provisions applicable to plan 1) and 1992 c 72
12 s 3 & 1991 c 35 s 101;

13 (7) RCW 41.26.080 (Funding total liability of plan 1 system) and
14 2000 2nd sp.s. c 1 s 907, 1991 c 35 s 17, 1989 c 273 s 13, & 1969 ex.s.
15 c 209 s 8;

16 (8) RCW 41.26.090 (Retirement for service) and 1991 sp.s. c 11 s 4;

17 (9) RCW 41.26.100 (Allowance on retirement for service) and 1991 c
18 343 s 16, 1974 ex.s. c 120 s 3, 1972 ex.s. c 131 s 7, 1971 ex.s. c 257
19 s 9, 1970 ex.s. c 6 s 5, & 1969 ex.s. c 209 s 10;

20 (10) RCW 41.26.110 (City and county disability boards authorized--
21 Composition--Terms--Reimbursement for travel expenses--Duties) and 2000
22 c 234 s 1, 1988 c 164 s 1, 1982 c 12 s 1, 1974 ex.s. c 120 s 9, 1970
23 ex.s. c 6 s 6, 1969 ex.s. c 219 s 3, & 1969 ex.s. c 209 s 11;

24 (11) RCW 41.26.115 (Director of retirement systems to adopt rules
25 governing disability boards--Remand of orders not in accordance with
26 rules) and 1981 c 294 s 1;

27 (12) RCW 41.26.120 (Retirement for disability incurred in the line
28 of duty) and 1991 c 35 s 19, 1986 c 176 s 5, 1985 c 102 s 2, 1981 c 294
29 s 2, 1974 ex.s. c 120 s 10, 1972 ex.s. c 131 s 8, 1970 ex.s. c 6 s 7,
30 & 1969 ex.s. c 209 s 12;

31 (13) RCW 41.26.125 (Retirement for disability not incurred in the
32 line of duty) and 1986 c 176 s 6 & 1985 c 102 s 3;

33 (14) RCW 41.26.130 (Allowance on retirement for disability) and
34 1991 c 35 s 20, 1987 c 185 s 11, 1981 c 294 s 3, 1970 ex.s. c 6 s 8, &
35 1969 ex.s. c 209 s 13;

36 (15) RCW 41.26.135 (Cessation of disability--Determination) and
37 1985 c 103 s 1;

1 (16) RCW 41.26.140 (Reexaminations of disability beneficiaries--
2 Reentry--Appeal) and 1991 c 35 s 21, 1985 c 103 s 2, 1981 c 294 s 4,
3 1974 ex.s. c 120 s 4, 1970 ex.s. c 6 s 9, & 1969 ex.s. c 209 s 14;
4 (17) RCW 41.26.150 (Sickness or disability benefits--Medical
5 services) and 1992 c 22 s 3, 1991 c 35 s 22, 1987 c 185 s 12, 1983 c
6 106 s 23, 1974 ex.s. c 120 s 11, 1971 ex.s. c 257 s 10, 1970 ex.s. c 6
7 s 10, 1969 ex.s. c 219 s 4, & 1969 ex.s. c 209 s 15;
8 (18) RCW 41.26.160 (Death benefits--Duty connected) and 1999 c 134
9 s 2 & 1991 sp.s. c 11 s 5;
10 (19) RCW 41.26.161 (Death benefits--Nonduty connected) and 1999 c
11 134 s 3;
12 (20) RCW 41.26.162 (Ex spouse qualifying as surviving spouse--When)
13 and 1991 sp.s. c 12 s 2;
14 (21) RCW 41.26.170 (Refund of contributions on discontinuance of
15 service--Reentry) and 1994 c 197 s 6, 1991 c 35 s 24, 1970 ex.s. c 6 s
16 14, & 1969 ex.s. c 209 s 22;
17 (22) RCW 41.26.190 (Credit for military service) and 1991 c 35 s
18 26, 1970 ex.s. c 6 s 13, & 1969 ex.s. c 209 s 18;
19 (23) RCW 41.26.192 (Credit for service under prior pension system--
20 Restoration of withdrawn contributions) and 1994 c 197 s 7 & 1992 c 157
21 s 1;
22 (24) RCW 41.26.194 (Credit for service under prior pension system--
23 Service not covered under prior system) and 1994 c 197 s 8 & 1992 c 157
24 s 2;
25 (25) RCW 41.26.195 (Transfer of service credit from other
26 retirement system--Irrevocable election allowed) and 1997 c 122 s 1;
27 (26) RCW 41.26.197 (Service credit for paid leave of absence--
28 Application to elected officials of labor organizations) and 1993 c 95
29 s 3;
30 (27) RCW 41.26.200 (Appeal to director of retirement systems) and
31 1981 c 294 s 5, 1974 ex.s. c 120 s 6, 1971 ex.s. c 257 s 13, 1970 ex.s.
32 c 6 s 11, & 1969 ex.s. c 209 s 16;
33 (28) RCW 41.26.211 (Notice for hearing required prior to
34 petitioning for judicial review) and 1984 c 184 s 16, 1981 c 294 s 6,
35 & 1969 ex.s. c 209 s 19;
36 (29) RCW 41.26.221 (Hearing--Conduct) and 1984 c 184 s 17, 1981 c
37 294 s 7, & 1969 ex.s. c 209 s 20;
38 (30) RCW 41.26.240 (Increases or decreases in retirement allowances
39 to be determined by department in accordance with consumer price index)

1 and 1991 c 35 s 27, 1974 ex.s. c 120 s 13, 1970 ex.s. c 6 s 16, & 1969
2 ex.s. c 209 s 24;

3 (31) RCW 41.26.250 (Increase in presently payable benefits for
4 service or disability authorized) and 1975 1st ex.s. c 178 s 3, 1974
5 ex.s. c 190 s 3, 1970 ex.s. c 37 s 2, & 1969 ex.s. c 209 s 34;

6 (32) RCW 41.26.260 (Increase in certain presently payable death
7 benefits authorized) and 1974 ex.s. c 190 s 4 & 1969 ex.s. c 209 s 35;

8 (33) RCW 41.26.270 (Declaration of policy respecting benefits for
9 injury or death--Civil actions abolished) and 1989 c 12 s 13, 1987 c
10 185 s 13, 1985 c 102 s 4, & 1971 ex.s. c 257 s 14;

11 (34) RCW 41.26.281 (Cause of action for injury or death, when) and
12 1991 c 35 s 28 & 1971 ex.s. c 257 s 15;

13 (35) RCW 41.26.3901 (Severability--1969 ex.s. c 209) and 1969 ex.s.
14 c 209 s 42;

15 (36) RCW 41.26.3902 (Act to control inconsistencies) and 1969 ex.s.
16 c 209 s 43;

17 (37) RCW 41.26.3903 (Effective date--1969 ex.s. c 209) and 1969
18 ex.s. c 209 s 45; and

19 (38) RCW 41.26.410 (Provisions applicable to plan 2) and 1991 c 35
20 s 29 & 1977 ex.s. c 294 s 2.

21 NEW SECTION. **Sec. 502.** SAVINGS. The repeals in section 501 of
22 this act do not affect any existing right acquired or liability or
23 obligation incurred under the statutes repealed or under any rule or
24 order adopted under those statutes nor do they affect any proceeding
25 instituted under them. Rules adopted by the department of retirement
26 systems relating to plan 1 of the law enforcement officers' and fire
27 fighters' retirement system under chapter 41.26 RCW shall continue in
28 effect and apply to the restated law enforcement officers' and fire
29 fighters' retirement system under chapter 41.26A RCW unless expressly
30 inconsistent therewith and until repealed or superseded.

31 NEW SECTION. **Sec. 503.** NONSEVERABILITY. Sections 1 through 8 of
32 this act are not severable, and if any provision of those sections is
33 held invalid by a court of competent jurisdiction, this entire act is
34 null and void.

35 NEW SECTION. **Sec. 504.** CAPTIONS. Part headings and captions used
36 in this act are not any part of the law.

