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HOUSE BILL 1268

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State of Washington

52nd Legislature

1991 Regular Session

By Representatives Spanel, Silver, Hine, Forner, Paris, May, P. Johnson, Winsley, Zellinsky, Hochstatter, Nealey, Wynne, Edmondson, Bowman, D. Sommers, Brumsickle, Betrozoff, Wood, Miller, Ballard, Tate, McLean, Jacobsen, Nelson, Jones, Wineberry, Pruitt, Dellwo, R. Johnson, Ogden, Bray, Roland and Basich; by request of Joint Committee on Pension Policy.

Read first time January 25, 1991. Referred to Committee on Appropriations.

1 AN ACT Relating to granting whole and partial retirement service  
2 credit; amending RCW 41.32.010, 41.32.013, 41.32.765, 41.40.010,  
3 41.40.185, 41.40.235, 41.40.450, 41.40.620, 41.40.630, 41.26.030,  
4 41.26.090, 41.26.100, 41.26.160, and 41.26.430; adding a new section to  
5 chapter 41.50 RCW; creating new sections; making appropriations;  
6 providing effective dates; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds:

9 (1) There is a dichotomy in the provision of service credit within  
10 the major two retirement systems of the state. Within plan I of the  
11 public employees' retirement system, credit is given in whole months  
12 upon completing seventy hours per month. Within plan I of the  
13 teachers' retirement system, full annual service credit is given for  
14 full-time employment of four-fifths or more of a school year and  
15 partial annual service credit is given for employment of less than

1 four-fifths of a school year but more than twenty days in a school  
2 year. Plan II of both the public employees' and teachers' retirement  
3 systems' full monthly service credit is based on completing ninety  
4 hours in each month.

5 (2) There is a further dichotomy in that school district employees  
6 under the public employees' retirement system who work nine months of  
7 a school year receive service credit for twelve months. Nonschool  
8 district members of the public employees' retirement system, however,  
9 who may work nine months in a regular, cyclical position receive only  
10 nine months of service credit.

11 (3) There is an expressed interest by public employers in  
12 encouraging job-sharing or tandem positions wherein two persons perform  
13 one job. This is seen as opening up job opportunities for those  
14 persons who have family responsibilities prohibiting full-time  
15 employment.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.50 RCW  
17 to read as follows:

18 The legislature sets forth as retirement policy and intent:

19 (1) The retirement systems of the state shall provide similar  
20 benefits wherever possible.

21 (2) Persons hired into eligible positions shall accrue service  
22 credit for all service rendered.

23 (3) Fractional multiplication (for example:  $1/2 \times 1/2 = 1/4$  in the  
24 instance of service times salary equals the benefit base to which the  
25 percentage is applied) in the calculation of benefits shall be done in  
26 such a manner as to prevent the arithmetic lowering of benefits.

27 (4) Liberalization of the granting of service credit shall not  
28 jeopardize part-time employment of retirees in ineligible positions.

1       **Sec. 3.** RCW 41.32.010 and 1990 c 274 s 2 are each amended to read  
2 as follows:

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

5       (1)(a) "Accumulated contributions" for persons who establish  
6 membership in the retirement system on or before September 30, 1977,  
7 means the sum of all regular annuity contributions with regular  
8 interest thereon.

9       (b) "Accumulated contributions" for persons who establish  
10 membership in the retirement system on or after October 1, 1977, means  
11 the sum of all contributions standing to the credit of a member in the  
12 member's individual account together with the regular interest thereon.

13       (2) "Actuarial equivalent" means a benefit of equal value when  
14 computed upon the basis of such mortality tables and regulations as  
15 shall be adopted by the director and regular interest.

16       (3) "Annuity" means the moneys payable per year during life by  
17 reason of accumulated contributions of a member.

18       (4) "Annuity fund" means the fund in which all of the accumulated  
19 contributions of members are held.

20       (5) "Annuity reserve fund" means the fund to which all accumulated  
21 contributions are transferred upon retirement.

22       (6) (a) "Beneficiary" for persons who establish membership in the  
23 retirement system on or before September 30, 1977, means any person in  
24 receipt of a retirement allowance or other benefit provided by this  
25 chapter.

26       (b) "Beneficiary" for persons who establish membership in the  
27 retirement system on or after October 1, 1977, means any person in  
28 receipt of a retirement allowance or other benefit provided by this  
29 chapter resulting from service rendered to an employer by another  
30 person.

1 (7) "Contract" means any agreement for service and compensation  
2 between a member and an employer.

3 (8) "Creditable service" means membership service plus prior  
4 service for which credit is allowable. This subsection shall apply  
5 only to persons who establish membership in the retirement system on or  
6 before September 30, 1977.

7 (9) "Dependent" means receiving one-half or more of support from a  
8 member.

9 (10) "Disability allowance" means monthly payments during  
10 disability. This subsection shall apply only to persons who establish  
11 membership in the retirement system on or before September 30, 1977.

12 (11) (a) (i) "Earnable compensation" for persons who establish  
13 membership in the retirement system on or before September 30, 1977,  
14 means all salaries and wages paid by an employer to an employee member  
15 of the retirement system for personal services rendered during a fiscal  
16 year. In all cases where compensation includes maintenance the  
17 employer shall fix the value of that part of the compensation not paid  
18 in money: PROVIDED, That retroactive payments to an individual by an  
19 employer on reinstatement of the employee in a position, or payments by  
20 an employer to an individual in lieu of reinstatement in a position  
21 which are awarded or granted as the equivalent of the salary or wages  
22 which the individual would have earned during a payroll period shall be  
23 considered earnable compensation and the individual shall receive the  
24 equivalent service credit: PROVIDED FURTHER, That if a leave of  
25 absence, without pay, is taken by a member for the purpose of serving  
26 as a member of the state legislature, and such member has served in the  
27 legislature five or more years, the salary which would have been  
28 received for the position from which the leave of absence was taken  
29 shall be considered as compensation earnable if the employee's  
30 contribution thereon is paid by the employee. In addition, where a

1 member has been a member of the state legislature for five or more  
2 years, earnable compensation for the member's two highest compensated  
3 consecutive years of service shall include a sum not to exceed  
4 thirty-six hundred dollars for each of such two consecutive years,  
5 regardless of whether or not legislative service was rendered during  
6 those two years.

7 (ii) For members employed less than full time under written  
8 contract with a school district, or community college district, in an  
9 instructional position, for which the member receives service credit of  
10 less than one year in all of the years used to determine the earnable  
11 compensation used for computing benefits due under RCW 41.32.497,  
12 41.32.498, and 41.32.520, the member may elect to have earnable  
13 compensation defined as provided in RCW 41.32.011. For the purposes of  
14 this subsection, the term "instructional position" means a position in  
15 which more than seventy-five percent of the member's time is spent as  
16 a classroom instructor (including office hours), a librarian, or a  
17 counselor. Earnable compensation shall be so defined only for the  
18 purpose of the calculation of retirement benefits and only as necessary  
19 to insure that members who receive fractional service credit under RCW  
20 41.32.270 receive benefits proportional to those received by members  
21 who have received full-time service credit.

22 (b) "Earnable compensation" for persons who establish membership in  
23 the retirement system on or after October 1, 1977, means salaries or  
24 wages earned by a member during a payroll period for personal services,  
25 including overtime payments, and shall include wages and salaries  
26 deferred under provisions established pursuant to sections 403(b),  
27 414(h), and 457 of the United States Internal Revenue Code, but shall  
28 exclude lump sum payments for deferred annual sick leave, unused  
29 accumulated vacation, unused accumulated annual leave, or any form of  
30 severance pay: PROVIDED, That retroactive payments to an individual by

1 an employer on reinstatement of the employee in a position or payments  
2 by an employer to an individual in lieu of reinstatement in a position  
3 which are awarded or granted as the equivalent of the salary or wages  
4 which the individual would have earned during a payroll period shall be  
5 considered earnable compensation, to the extent provided above, and the  
6 individual shall receive the equivalent service credit: PROVIDED  
7 FURTHER, That in any year in which a member serves in the legislature  
8 the member shall have the option of having such member's earnable  
9 compensation be the greater of:

10 (i) The earnable compensation the member would have received had  
11 such member not served in the legislature; or

12 (ii) Such member's actual earnable compensation received for  
13 teaching and legislative service combined. Any additional  
14 contributions to the retirement system required because compensation  
15 earnable under subparagraph (i) of this subsection is greater than  
16 compensation earnable under subparagraph (ii) of this subsection shall  
17 be paid by the member for both member and employer contributions.

18 (12) "Employer" means the state of Washington, the school district,  
19 or any agency of the state of Washington by which the member is paid.

20 (13) "Fiscal year" means a year which begins July 1st and ends June  
21 30th of the following year.

22 (14) "Former state fund" means the state retirement fund in  
23 operation for teachers under chapter 187, Laws of 1923, as amended.

24 (15) "Local fund" means any of the local retirement funds for  
25 teachers operated in any school district in accordance with the  
26 provisions of chapter 163, Laws of 1917 as amended.

27 (16) "Member" means any teacher included in the membership of the  
28 retirement system. Also, any other employee of the public schools who,  
29 on July 1, 1947, had not elected to be exempt from membership and who,

1 prior to that date, had by an authorized payroll deduction, contributed  
2 to the annuity fund.

3 (17) "Membership service" means service rendered subsequent to the  
4 first day of eligibility of a person to membership in the retirement  
5 system: PROVIDED, That where a member is employed by two or more  
6 employers the individual shall ((only)) receive no more than one  
7 ((month's)) service credit month during any calendar month in which  
8 multiple service is rendered. The provisions of this subsection shall  
9 apply only to persons who establish membership in the retirement system  
10 on or before September 30, 1977.

11 (18) "Pension" means the moneys payable per year during life from  
12 the pension reserve fund.

13 (19) "Pension reserve fund" is a fund in which shall be accumulated  
14 an actuarial reserve adequate to meet present and future pension  
15 liabilities of the system and from which all pension obligations are to  
16 be paid.

17 (20) "Prior service" means service rendered prior to the first date  
18 of eligibility to membership in the retirement system for which credit  
19 is allowable. The provisions of this subsection shall apply only to  
20 persons who establish membership in the retirement system on or before  
21 September 30, 1977.

22 (21) "Prior service contributions" means contributions made by a  
23 member to secure credit for prior service. The provisions of this  
24 subsection shall apply only to persons who establish membership in the  
25 retirement system on or before September 30, 1977.

26 (22) "Public school" means any institution or activity operated by  
27 the state of Washington or any instrumentality or political subdivision  
28 thereof employing teachers, except the University of Washington and  
29 Washington State University.

1 (23) "Regular contributions" means the amounts required to be  
2 deducted from the compensation of a member and credited to the member's  
3 individual account in the annuity fund. This subsection shall apply  
4 only to persons establishing membership in the retirement system on or  
5 before September 30, 1977.

6 (24) "Regular interest" means such rate as the director may  
7 determine.

8 (25) (a) "Retirement allowance" for persons who establish  
9 membership in the retirement system on or before September 30, 1977,  
10 means the sum of annuity and pension or any optional benefits payable  
11 in lieu thereof.

12 (b) "Retirement allowance" for persons who establish membership in  
13 the retirement system on or after October 1, 1977, means monthly  
14 payments to a retiree or beneficiary as provided in this chapter.

15 (26) "Retirement system" means the Washington state teachers'  
16 retirement system.

17 (27) (a) "Service" means the time during which a member has been  
18 employed by an employer for compensation: PROVIDED, That where a  
19 member is employed by two or more employers the individual shall  
20 ((only)) receive no more than one ((month's)) service credit month  
21 during any calendar month in which multiple service is rendered.

22 (b) "Service" for persons who establish membership in the  
23 retirement system on or after October 1, 1977, means periods of  
24 employment by a member for one or more employers for which earnable  
25 compensation is earned subject to the following conditions:

26 (i) A member employed in an eligible position or as a substitute  
27 shall receive one service credit month for each month of September  
28 through August of the following year if he or she earns earnable  
29 compensation for eight hundred ten or more hours during that period and  
30 is employed during nine of those months, except that a member may not



1 receive credit for any period prior to the member's employment in an  
2 eligible position except as provided in sections 12 and 13 of this act;

3 (ii) If a member is employed either in an eligible position ((does  
4 not meet the requirements of (b)(i) of this subsection)) or as a  
5 substitute teacher for nine months of the twelve month period between  
6 September through August of the following year but earns earnable  
7 compensation for less than eight hundred ten hours but for at least six  
8 hundred thirty hours, he or she will receive one-half of a service  
9 credit ((only)) month for ((those calendar months during which he or  
10 she has received compensation for ninety or more hours)) each month of  
11 the twelve month period;

12 (iii) All other members in an eligible position or as a substitute  
13 teacher shall receive service credit as follows:

14 (A) A service credit month is earned in those calendar months where  
15 earnable compensation is earned for ninety or more hours;

16 (B) A half-service credit month is earned in those calendar months  
17 where earnable compensation is earned for at least seventy hours but  
18 less than ninety hours; and

19 (C) A quarter-service credit month is earned in those calendar  
20 months where earnable compensation is earned for less than seventy  
21 hours.

22 Any person who is a member of the teachers' retirement system and  
23 who is elected or appointed to a state elective position may continue  
24 to be a member of the retirement system and continue to receive a  
25 service credit month for ((the time spent)) each of the months in a  
26 state elective position by making the required member contributions.

27 When an individual is employed by two or more employers the  
28 individual shall only receive one month's service credit during any  
29 calendar month in which multiple service for ninety or more hours is  
30 rendered.

1           Notwithstanding RCW 41.32.240, teachers covered by RCW 41.32.755  
2 through 41.32.825, who render service need not serve for ninety days to  
3 obtain membership so long as the required contribution is submitted for  
4 such ninety-day period. Where a member did not receive service credit  
5 under RCW 41.32.775 through 41.32.825 due to the ninety-day period in  
6 RCW 41.32.240 the member may receive service credit for that period so  
7 long as the required contribution is submitted for the period. Anyone  
8 entering membership on or after October 1, 1977, and prior to July 1,  
9 1979, shall have until June 30, 1980, to make the required contribution  
10 in one lump sum.

11           The department shall adopt rules implementing this subsection  
12 (~~((27)(b))~~).

13           (28) "Service credit year" means an accumulation of months of  
14 service credit which is equal to one when divided by twelve.

15           (29) "Service credit month" means a full service credit month or an  
16 accumulation of partial service credit months that are equal to one.

17           (30) "Survivors' benefit fund" means the fund from which survivor  
18 benefits are paid to dependents of deceased members. This subsection  
19 shall apply only to persons establishing membership in the retirement  
20 system on or before September 30, 1977.

21           (~~((29))~~) (31) "Teacher" means any person qualified to teach who is  
22 engaged by a public school in an instructional, administrative, or  
23 supervisory capacity. The term includes state, educational service  
24 district, and school district superintendents and their assistants and  
25 all employees certificated by the superintendent of public instruction;  
26 and in addition thereto any full time school doctor who is employed by  
27 a public school and renders service of an instructional or educational  
28 nature.

29           (~~((30))~~) (32) "Average final compensation" for persons who  
30 establish membership in the retirement system on or after October 1,

1 1977, means the member's average earnable compensation of the highest  
2 consecutive sixty service credit months (~~(of service)~~) prior to such  
3 member's retirement, termination, or death. Periods constituting  
4 authorized leaves of absence may not be used in the calculation of  
5 average final compensation.

6 ~~((+31+))~~ (33) "Retiree" means any member in receipt of a retirement  
7 allowance or other benefit provided by this chapter resulting from  
8 service rendered to an employer by such member.

9 ~~((+32+))~~ (34) "Department" means the department of retirement  
10 systems created in chapter 41.50 RCW.

11 ~~((+33+))~~ (35) "Director" means the director of the department.

12 ~~((+34+))~~ (36) "State elective position" means any position held by  
13 any person elected or appointed to state-wide office or elected or  
14 appointed as a member of the legislature.

15 ~~((+35+))~~ (37) "State actuary" or "actuary" means the person  
16 appointed pursuant to RCW 44.44.010(2).

17 ~~((+36+))~~ (38) "Retirement board" means the director of retirement  
18 systems.

19 ~~((+37+))~~ (39) "Substitute teacher" means:

20 (a) A teacher who is hired by (~~(a school district)~~) an employer to  
21 work as a temporary teacher, except for teachers who are annual  
22 contract employees of (~~(a school district)~~) an employer and are  
23 guaranteed a minimum number of hours; or

24 (b) ~~((Persons))~~ Teachers who either (i) work in ineligible  
25 positions (~~(in))~~ for more than one (~~(school district))~~ employer or (ii)  
26 work in an ineligible position or positions together with an eligible  
27 position.

28 ~~((+38+))~~ (40) (a) "Eligible position" (~~(in))~~ for plan II members  
29 from June 7, 1990 through the effective date of this section means a  
30 position which normally requires two or more uninterrupted months of

1 creditable service during September through August of the following  
2 year.

3 (b) "Eligible position" for plan II members on and after the  
4 effective date of this section means a position that normally requires  
5 five or more months of at least seventy hours of earnable compensation  
6 during September through August of the following year.

7 (c) For purposes of this chapter an employer shall not define  
8 "position" in such a manner that an employee's work for that employer  
9 is divided into more than one position.

10 (d) The elected position of the superintendent of public  
11 instruction is an eligible position.

12 **Sec. 4.** RCW 41.32.013 and 1990 c 274 s 5 are each amended to read  
13 as follows:

14 Substitute teachers may apply to the department to receive service  
15 credit or credit for earnable compensation or both after the end of the  
16 last day of instruction of the school year during which the service was  
17 performed.

18 (1) The application must:

19 (a) Include a list of the employers the substitute teacher has  
20 worked for;

21 (b) Include proof of hours worked and compensation earned; and

22 (c) Be made prior to retirement.

23 (2) If the department accepts the substitute teacher's application  
24 for service credit, the substitute teacher may obtain service credit by  
25 paying the required contribution to the retirement system. The  
26 employer must pay the required employer contribution upon notice from  
27 the department that the substitute teacher has made contributions under  
28 this section.

1 (3) The department shall charge interest prospectively on employee  
2 contributions that are submitted under this section more than six  
3 months after the end of the school year, as defined in RCW 28A.150.040,  
4 for which the substitute teacher is seeking service credit. The  
5 interest rate charged to the employee shall take into account interest  
6 lost on employer contributions delayed for more than six months after  
7 the end of the school year.

8 (4) Each (~~school district~~) employer shall quarterly notify each  
9 substitute teacher it has employed during the school year of the number  
10 of hours worked by, and the compensation paid to, the substitute  
11 teacher.

12 (5) The department shall adopt rules implementing this section.

13 (6) If a substitute teacher as defined in RCW 41.32.010(39)(b)(ii)  
14 applies to the department under this section for credit for earnable  
15 compensation earned from an employer the substitute teacher must make  
16 contributions for all periods of service for that employer.

17 **Sec. 5.** RCW 41.32.765 and 1977 ex.s. c 293 s 4 are each amended to  
18 read as follows:

19 (1) NORMAL RETIREMENT. Any member with at least five service  
20 credit years of service who has attained at least age sixty-five shall  
21 be eligible to retire and to receive a retirement allowance computed  
22 according to the provisions of RCW 41.32.760.

23 (2) EARLY RETIREMENT. Any member who has completed at least twenty  
24 service credit years of service who has attained at least age  
25 fifty-five shall be eligible to retire and to receive a retirement  
26 allowance computed according to the provisions of RCW 41.32.760, except  
27 that a member retiring pursuant to this subsection shall have the  
28 retirement allowance actuarially reduced to reflect the difference in

1 the number of years between age at retirement and the attainment of age  
2 sixty-five.

3 **Sec. 6.** RCW 41.40.010 and 1990 c 274 s 3 are each amended to read  
4 as follows:

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

7 (1) "Retirement system" means the public employees' retirement  
8 system provided for in this chapter.

9 (2) "Retirement board" means the board provided for in this chapter  
10 and chapter 41.26 RCW.

11 (3) "State treasurer" means the treasurer of the state of  
12 Washington.

13 (4) (a) "Employer" for persons who establish membership in the  
14 retirement system on or before September 30, 1977, means every branch,  
15 department, agency, commission, board, and office of the state, any  
16 political subdivision or association of political subdivisions of the  
17 state admitted into the retirement system, and legal entities  
18 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW as now  
19 or hereafter amended; and the term shall also include any labor guild,  
20 association, or organization the membership of a local lodge or  
21 division of which is comprised of at least forty percent employees of  
22 an employer (other than such labor guild, association, or organization)  
23 within this chapter. The term may also include any city of the first  
24 class that has its own retirement system.

25 (b) "Employer" for persons who establish membership in the  
26 retirement system on or after October 1, 1977, means every branch,  
27 department, agency, commission, board, and office of the state, and any  
28 political subdivision and municipal corporation of the state admitted

1 into the retirement system, including public agencies created pursuant  
2 to RCW 35.63.070, 36.70.060, and 39.34.030.

3 (5) "Member" means any employee included in the membership of the  
4 retirement system, as provided for in RCW 41.40.120.

5 (6) "Original member" of this retirement system means:

6 (a) Any person who became a member of the system prior to April 1,  
7 1949;

8 (b) Any person who becomes a member through the admission of an  
9 employer into the retirement system on and after April 1, 1949, and  
10 prior to April 1, 1951;

11 (c) Any person who first becomes a member by securing employment  
12 with an employer prior to April 1, 1951, provided the member has  
13 rendered at least one or more years of service to any employer prior to  
14 October 1, 1947;

15 (d) Any person who first becomes a member through the admission of  
16 an employer into the retirement system on or after April 1, 1951,  
17 provided, such person has been in the regular employ of the employer  
18 for at least six months of the twelve-month period preceding the said  
19 admission date;

20 (e) Any member who has restored all contributions that may have  
21 been withdrawn as provided by RCW 41.40.150 and who on the effective  
22 date of the individual's retirement becomes entitled to be credited  
23 with ten years or more of membership service except that the provisions  
24 relating to the minimum amount of retirement allowance for the member  
25 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
26 apply to the member;

27 (f) Any member who has been a contributor under the system for two  
28 or more years and who has restored all contributions that may have been  
29 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
30 the individual's retirement has rendered five or more years of service

1 for the state or any political subdivision prior to the time of the  
2 admission of the employer into the system; except that the provisions  
3 relating to the minimum amount of retirement allowance for the member  
4 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
5 apply to the member.

6 (7) "New member" means a person who becomes a member on or after  
7 April 1, 1949, except as otherwise provided in this section.

8 (8) (a) "Compensation earnable" for persons who establish  
9 membership in the retirement system on or before September 30, 1977,  
10 means salaries or wages earned during a payroll period for personal  
11 services and where the compensation is not all paid in money,  
12 maintenance compensation shall be included upon the basis of the  
13 schedules established by the member's employer: PROVIDED, That  
14 retroactive payments to an individual by an employer on reinstatement  
15 of the employee in a position, or payments by an employer to an  
16 individual in lieu of reinstatement in a position which are awarded or  
17 granted as the equivalent of the salary or wage which the individual  
18 would have earned during a payroll period shall be considered  
19 compensation earnable and the individual shall receive the equivalent  
20 service credit: PROVIDED FURTHER, That if a leave of absence is taken  
21 by an individual for the purpose of serving in the state legislature,  
22 the salary which would have been received for the position from which  
23 the leave of absence was taken, shall be considered as compensation  
24 earnable if the employee's contribution is paid by the employee and the  
25 employer's contribution is paid by the employer or employee.

26 (b) "Compensation earnable" for persons who establish membership in  
27 the retirement system on or after October 1, 1977, means salaries or  
28 wages earned by a member during a payroll period for personal services,  
29 including overtime payments, and shall include wages and salaries  
30 deferred under provisions established pursuant to sections 403(b),



1 414(h), and 457 of the United States Internal Revenue Code, but shall  
2 exclude nonmoney maintenance compensation and lump sum payments for  
3 deferred annual sick leave, unused accumulated vacation, unused  
4 accumulated annual leave, or any form of severance pay: PROVIDED, That  
5 retroactive payments to an individual by an employer on reinstatement  
6 of the employee in a position, or payments by an employer to an  
7 individual in lieu of reinstatement in a position which are awarded or  
8 granted as the equivalent of the salary or wage which the individual  
9 would have earned during a payroll period shall be considered  
10 compensation earnable to the extent provided above, and the individual  
11 shall receive the equivalent service credit: PROVIDED FURTHER, That in  
12 any year in which a member serves in the legislature, the member shall  
13 have the option of having such member's compensation earnable be the  
14 greater of:

15 (i) The compensation earnable the member would have received had  
16 such member not served in the legislature; or

17 (ii) Such member's actual compensation earnable received for  
18 nonlegislative public employment and legislative service combined. Any  
19 additional contributions to the retirement system required because  
20 compensation earnable under subparagraph (i) of this subsection is  
21 greater than compensation earnable under subparagraph (ii) of this  
22 subsection shall be paid by the member for both member and employer  
23 contributions.

24 (9)(a) "Service" for persons who establish membership in the  
25 retirement system on or before September 30, 1977, except as provided  
26 in RCW 41.40.450, means periods of employment in an eligible position  
27 or positions for one or more employers rendered to any employer for  
28 which compensation is paid, and includes time spent in office as an  
29 elected or appointed official of an employer. Compensation earnable  
30 earned in full time work for seventy hours or more in any given

1 calendar month shall constitute one (~~month of~~) service credit month  
2 except as provided in RCW 41.40.450. Compensation earnable earned for  
3 less than seventy hours in any calendar month shall constitute one-  
4 quarter service credit month of service except as provided in RCW  
5 41.40.450. Only service credit months (~~of service~~) and one-quarter  
6 service credit months shall be counted in the computation of any  
7 retirement allowance or other benefit provided for in this chapter.  
8 (~~Years of service shall be determined by dividing the total number of~~  
9 ~~months of service by twelve.~~) Any fraction of a year of service (~~as~~  
10 ~~so determined~~) shall be taken into account in the computation of such  
11 retirement allowance or benefits.

12 Service by a state employee officially assigned by the state on a  
13 temporary basis to assist another public agency, shall be considered as  
14 service as a state employee: PROVIDED, That service to any other  
15 public agency shall not be considered service as a state employee if  
16 such service has been used to establish benefits in any other public  
17 retirement system: PROVIDED FURTHER, That an individual shall receive  
18 no more than a total of twelve service credit months of service  
19 (~~credit~~) during any calendar year: PROVIDED FURTHER, That where an  
20 individual is employed in an eligible position by (~~two or more~~) one  
21 or more employers the individual shall (~~only~~) receive no more than  
22 one (~~months~~) service credit month during any calendar month in which  
23 multiple service for seventy or more hours is rendered.

24 (b) "Service" for persons who establish membership in the  
25 retirement system on or after October 1, 1977, means periods of  
26 employment by a member in an eligible position or positions for one or  
27 more employers for which compensation earnable is paid. Compensation  
28 earnable earned for ninety or more hours (~~per~~) in any calendar month  
29 shall constitute one service credit month except as provided in RCW  
30 41.40.450. Compensation earnable earned for at least seventy hours but

1 less than ninety hours in any calendar month shall constitute one-half  
2 service credit month of service. Compensation earnable earned for less  
3 than seventy hours in any calendar month shall constitute one-quarter  
4 service credit month of service.

5 ~~((Years of service shall be determined by dividing the total number~~  
6 ~~of months of service by twelve.))~~ Any fraction of a year of service  
7 ~~((as so determined))~~ shall be taken into account in the computation of  
8 such retirement allowance or benefits.

9 Service in any state elective position shall be deemed to be full  
10 time service, except that persons serving in state elective positions  
11 who are members of the teachers' retirement system or law enforcement  
12 officers' and fire fighters' retirement system at the time of election  
13 or appointment to such position may elect to continue membership in the  
14 teachers' retirement system or law enforcement officers' and fire  
15 fighters' retirement system.

16 A member shall receive a total of not more than twelve service  
17 credit months of service for such calendar year: PROVIDED, That when  
18 an individual is employed in an eligible position by ~~((two))~~ one or  
19 more employers the individual shall ~~((only))~~ receive no more than one  
20 ~~((month's))~~ service credit month during any calendar month in which  
21 multiple service for ninety or more hours is rendered.

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

24 (11) "Service credit month" means a month or an accumulation of  
25 months of service credit which is equal to one.

26 (12) "Prior service" means all service of an original member  
27 rendered to any employer prior to October 1, 1947.

28 ~~((11))~~ (13) "Membership service" means:

29 (a) All service rendered, as a member, after October 1, 1947;

1 (b) All service after October 1, 1947, to any employer prior to the  
2 time of its admission into the retirement system: PROVIDED, That an  
3 amount equal to the employer and employee contributions which would  
4 have been paid to the retirement system on account of such service  
5 shall have been paid to the retirement system with interest (as  
6 computed by the department) on the employee's portion prior to  
7 retirement of such person, by the employee or his employer, except as  
8 qualified by RCW 41.40.120: PROVIDED FURTHER, That employer  
9 contributions plus employee contributions with interest submitted by  
10 the employee under this subsection shall be placed in the employee's  
11 individual account in the employees' savings fund and be treated as any  
12 other contribution made by the employee, with the exception that the  
13 contributions submitted by the employee in payment of the employer's  
14 obligation, together with the interest the director may apply to the  
15 employer's contribution, shall be excluded from the calculation of the  
16 member's annuity in the event the member selects a benefit with an  
17 annuity option;

18 (c) Service not to exceed six consecutive months of probationary  
19 service rendered after April 1, 1949, and prior to becoming a member,  
20 in the case of any member, upon payment in full by such member of the  
21 total amount of the employer's contribution to the retirement fund  
22 which would have been required under the law in effect when such  
23 probationary service was rendered if the member had been a member  
24 during such period, except that the amount of the employer's  
25 contribution shall be calculated by the director based on the first  
26 month's compensation earnable as a member;

27 (d) Service not to exceed six consecutive months of probationary  
28 service, rendered after October 1, 1947, and before April 1, 1949, and  
29 prior to becoming a member, in the case of any member, upon payment in  
30 full by such member of five percent of such member's salary during said

1 period of probationary service, except that the amount of the  
2 employer's contribution shall be calculated by the director based on  
3 the first month's compensation earnable as a member.

4 ~~((12))~~ (14) (a) "Beneficiary" for persons who establish  
5 membership in the retirement system on or before September 30, 1977,  
6 means any person in receipt of a retirement allowance, pension or other  
7 benefit provided by this chapter.

8 (b) "Beneficiary" for persons who establish membership in the  
9 retirement system on or after October 1, 1977, means any person in  
10 receipt of a retirement allowance or other benefit provided by this  
11 chapter resulting from service rendered to an employer by another  
12 person.

13 ~~((13))~~ (15) "Regular interest" means such rate as the director  
14 may determine.

15 ~~((14))~~ (16) "Accumulated contributions" means the sum of all  
16 contributions standing to the credit of a member in the member's  
17 individual account together with the regular interest thereon.

18 ~~((15))~~ (17) (a) "Average final compensation" for persons who  
19 establish membership in the retirement system on or before September  
20 30, 1977, means the annual average of the greatest compensation  
21 earnable by a member during any consecutive two year period of service  
22 credit months for which service credit is allowed; or if the member has  
23 less than two years of service credit months then the annual average  
24 compensation earnable during the total years of service for which  
25 service credit is allowed.

26 (b) "Average final compensation" for persons who establish  
27 membership in the retirement system on or after October 1, 1977, means  
28 the member's average compensation earnable of the highest consecutive  
29 sixty months of service credit months prior to such member's  
30 retirement, termination, or death. Periods constituting authorized

1 leaves of absence may not be used in the calculation of average final  
2 compensation.

3 ~~((16))~~ (18) "Final compensation" means the annual rate of  
4 compensation earnable by a member at the time of termination of  
5 employment.

6 ~~((17))~~ (19) "Annuity" means payments for life derived from  
7 accumulated contributions of a member. All annuities shall be paid in  
8 monthly installments.

9 ~~((18))~~ (20) "Pension" means payments for life derived from  
10 contributions made by the employer. All pensions shall be paid in  
11 monthly installments.

12 ~~((19))~~ (21) "Retirement allowance" means the sum of the annuity  
13 and the pension.

14 ~~((20))~~ (22) "Employee" means any person who may become eligible  
15 for membership under this chapter, as set forth in RCW 41.40.120.

16 ~~((21))~~ (23) "Actuarial equivalent" means a benefit of equal value  
17 when computed upon the basis of such mortality and other tables as may  
18 be adopted by the director.

19 ~~((22))~~ (24) "Retirement" means withdrawal from active service  
20 with a retirement allowance as provided by this chapter.

21 ~~((23))~~ (25) "Eligible position" means:

22 (a) Any position which normally requires five or more months of  
23 service a year for which regular compensation for at least seventy  
24 hours is ~~((paid to))~~ earned by the occupant thereof. For purposes of  
25 this chapter an employer shall not define "position" in such a manner  
26 that an employee's work for that employer is divided into more than one  
27 position;

28 (b) Any position occupied by an elected official or person  
29 appointed directly by the governor for which compensation is paid.

1       (~~(24)~~) (26) "Ineligible position" means any position which does  
2 not conform with the requirements set forth in (~~(subdivision (23))~~)  
3 subsection (25) of this section.

4       (~~(25)~~) (27) "Leave of absence" means the period of time a member  
5 is authorized by the employer to be absent from service without being  
6 separated from membership.

7       (~~(26)~~) (28) "Totally incapacitated for duty" means total  
8 inability to perform the duties of a member's employment or office or  
9 any other work for which the member is qualified by training or  
10 experience.

11       (~~(27)~~) (29) "Retiree" means any member in receipt of a retirement  
12 allowance or other benefit provided by this chapter resulting from  
13 service rendered to an employer by such member.

14       (~~(28)~~) (30) "Department" means the department of retirement  
15 systems created in chapter 41.50 RCW.

16       (~~(29)~~) (31) "Director" means the director of the department.

17       (~~(30)~~) (32) "State elective position" means any position held by  
18 any person elected or appointed to state-wide office or elected or  
19 appointed as a member of the legislature.

20       (~~(31)~~) (33) "State actuary" or "actuary" means the person  
21 appointed pursuant to RCW 44.44.010(2).

22       **Sec. 7.** RCW 41.40.185 and 1990 c 249 s 7 are each amended to read  
23 as follows:

24       Upon retirement from service, as provided for in RCW 41.40.180 or  
25 41.40.210, a member shall be eligible for a service retirement  
26 allowance computed on the basis of the law in effect at the time of  
27 retirement, together with such post-retirement pension increases as may  
28 from time to time be expressly authorized by the legislature. The

1 service retirement allowance payable to members retiring on and after  
2 February 25, 1972 shall consist of:

3 (1) An annuity which shall be the actuarial equivalent of his or  
4 her additional contributions made pursuant to RCW 41.40.330(2).

5 (2) A membership service pension, subject to the provisions of  
6 subsection (4) of this section, which shall be equal to two percent of  
7 his or her average final compensation for each service credit year or  
8 fraction of a service credit year of membership service.

9 (3) A prior service pension which shall be equal to one-seventieth  
10 of his or her average final compensation for each year or fraction of  
11 a year of prior service not to exceed thirty years credited to his or  
12 her service accounts. In no event, except as provided in this 1972  
13 amendatory act, shall any member receive a retirement allowance  
14 pursuant to subsections (2) and (3) of this section of more than sixty  
15 percent of his or her average final compensation: PROVIDED, That no  
16 member shall receive a pension under this section of less than nine  
17 hundred dollars per annum if such member has twelve or more years of  
18 service credit, or less than one thousand and two hundred dollars per  
19 annum if such member has sixteen or more years of service credit, or  
20 less than one thousand five hundred and sixty dollars per annum if such  
21 member has twenty or more years of service credit.

22 (4) Notwithstanding the provisions of subsections (1) through (3)  
23 of this section, the retirement allowance payable for service where a  
24 member was elected or appointed pursuant to Articles II or III of the  
25 Constitution of the state of Washington or RCW 48.02.010 and the  
26 implementing statutes shall be a combined pension and annuity. Said  
27 retirement allowance shall be equal to three percent of the average  
28 final compensation for each year of such service. Any member covered  
29 by this subsection who upon retirement has served ten or more years  
30 shall receive a retirement allowance of at least one thousand two



1 hundred dollars per annum; such member who has served fifteen or more  
2 years shall receive a retirement allowance of at least one thousand  
3 eight hundred dollars per annum; and such member who has served twenty  
4 or more years shall receive a retirement allowance of at least two  
5 thousand four hundred dollars per annum: PROVIDED, That the initial  
6 retirement allowance of a member retiring only under the provisions of  
7 this subsection shall not exceed the average final compensation upon  
8 which the retirement allowance is based. The minimum benefits provided  
9 in this subsection shall apply to all retired members or to the  
10 surviving spouse of deceased members who were elected to the office of  
11 state senator or state representative.

12 **Sec. 8.** RCW 41.40.235 and 1986 c 176 s 4 are each amended to read  
13 as follows:

14 (1) Upon retirement, a member shall receive a nonduty disability  
15 retirement allowance equal to two percent of average final compensation  
16 for each service credit year of service: PROVIDED, That such allowance  
17 shall be reduced by two percent of itself for each year or fraction  
18 thereof that his or her age is less than fifty-five years: PROVIDED  
19 FURTHER, That in no case may the allowance provided by this section  
20 exceed sixty percent of average final compensation.

21 (2) If the recipient of a retirement allowance under this section  
22 dies before the total of the retirement allowance paid to the recipient  
23 equals the amount of the accumulated contributions at the date of  
24 retirement, then the balance shall be paid to such person or persons  
25 having an insurable interest in his or her life as the recipient has  
26 nominated by written designation duly executed and filed with the  
27 director or, if there is no such designated person or persons still  
28 living at the time of the recipient's death, then to the surviving  
29 spouse or, if there is neither such designated person or persons still

1 living at the time of his or her death nor a surviving spouse, then to  
2 his or her legal representative.

3 **Sec. 9.** RCW 41.40.450 and 1990 c 274 s 4 are each amended to read  
4 as follows:

5 (1) A plan I member who is employed by a school district or  
6 districts, an educational (~~(school-[service])~~) service district, the  
7 state school for the deaf, the state school for the blind, institutions  
8 of higher education, or community colleges:

9 (a) Shall receive a service credit month for each month of the  
10 period from September through August of the following year if he or she  
11 is employed in an eligible position, earns compensation earnable for  
12 six hundred thirty hours or more during that period, and is employed  
13 during nine months of that period, except that a member may not receive  
14 credit for any period prior to the member's employment in an eligible  
15 position;

16 (b) If a member in an eligible position does not meet the  
17 requirements of (a) of this subsection, the member is entitled to a  
18 service credit (~~(only)~~) month for (~~(those calendar months during which~~  
19 ~~he or she received)~~) each month of the period he or she earns earnable  
20 compensation for seventy or more hours; and the member is entitled to  
21 a one-quarter service credit month for those calendar months during  
22 which he or she earned compensation for less than seventy hours.

23 (2) Except for any period prior to the member's employment in an  
24 eligible position, a plan II member who is employed by a school  
25 district or districts, an educational (~~(school-[service])~~) service  
26 district, the state school for the blind, the state school for the  
27 deaf, institutions of higher education, or community colleges:

28 (a) Shall receive a service credit month for each month of the  
29 period from September through August of the following year if he or she

1 is employed in an eligible position, earns compensation earnable for  
2 eight hundred ten hours or more during that period, and is employed  
3 during nine months of that period(~~(, except that a member may not~~  
4 ~~receive credit for any period prior to the member's employment in an~~  
5 ~~eligible position))~~);

6 (b) If a member in an eligible position for each month of the  
7 period from September through August of the following year does not  
8 meet the hours requirements of (a) of this subsection, the member is  
9 entitled to one-half service credit (~~(only)~~) month for (~~(those calendar~~  
10 ~~months during which he or she received)~~) each month of the period if he  
11 or she earns earnable compensation for (~~(ninety or more hours)~~) at  
12 least six hundred thirty hours but less than eight hundred ten hours  
13 during that period, and is employed nine months of that period.

14 (c) In all other instances, a member in an eligible position is  
15 entitled to service credit months as follows:

16 (i) One service credit month for each month in which compensation  
17 is earned for ninety or more hours;

18 (ii) One-half service credit month for each month in which  
19 compensation is earned for at least seventy hours but less than ninety  
20 hours; and

21 (iii) One-quarter service credit month for each month in which  
22 compensation is earned for less than seventy hours.

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

24 **Sec. 10.** RCW 41.40.620 and 1977 ex.s. c 295 s 3 are each amended  
25 to read as follows:

26 A member of the retirement system shall receive a retirement  
27 allowance equal to two percent of such member's average final  
28 compensation for each service credit year of service.

1       **Sec. 11.** RCW 41.40.630 and 1977 ex.s. c 295 s 4 are each amended  
2 to read as follows:

3       (1) NORMAL RETIREMENT. Any member with at least five service  
4 credit years (~~(of service)~~) who has attained at least age sixty-five  
5 shall be eligible to retire and to receive a retirement allowance  
6 computed according to the provisions of RCW 41.40.620.

7       (2) EARLY RETIREMENT. Any member who has completed at least twenty  
8 service credit years (~~(of service)~~) and has attained age fifty-five  
9 shall be eligible to retire and to receive a retirement allowance  
10 computed according to the provisions of RCW 41.40.620, except that a  
11 member retiring pursuant to this subsection shall have the retirement  
12 allowance actuarially reduced to reflect the difference in the number  
13 of years between age at retirement and the attainment of age sixty-  
14 five.

15       NEW SECTION. **Sec. 12.** The department of retirement systems  
16 shall credit at least one-half service credit month for each month of  
17 each school year, as defined by RCW 28A.150.040, from October 1, 1977,  
18 through December 31, 1986, to a member of the teachers' retirement  
19 system plan II who was employed by an employer, as defined by RCW  
20 41.32.010(12), under a contract for half-time employment as determined  
21 by the department for such school year.

22       NEW SECTION. **Sec. 13.** (1) By December 31, 1992, the  
23 department of retirement systems shall implement and complete the  
24 following process for those members of the law enforcement officers'  
25 and fire fighters' retirement system plan II, public employees'  
26 retirement system plans I and II, and teachers' retirement system plan  
27 II who erroneously had contributions either deducted or picked-up from  
28 their earnings on and after January 1, 1987:

1 (a) Create a list of transactions by employer for those members  
2 whose employer either deducted or picked-up employee contributions  
3 during a month where an employee did not work sufficient hours to earn  
4 service credit;

5 (b) Provide the affected employers with direction and guidance for  
6 the review of the transmitted lists from this subsection and the  
7 employers' preparation of any necessary correcting transactions to the  
8 department's records;

9 (c) Receive all correcting transactions submitted by the employer.

10 (2) All debits and credits to all member accounts affected by this  
11 remedial process shall be reconciled by the department.

12 (3) All moneys payable to an affected member, or any moneys to be  
13 further deducted or picked-up from such member's earnings, shall be  
14 determined and accomplished solely by the employer.

15 (4) After December 31, 1992, no credit of employer contributions  
16 shall be made.

17 (5) Return of contributions to an employee by the department is  
18 limited solely to when such member retires or otherwise terminates his  
19 or her membership and chooses to withdraw them with any accumulated  
20 interest.

21 (6) Employer contributions forfeited under this section shall be  
22 transferred to the department of retirement systems expense account.

23 NEW SECTION. **Sec. 14.** (1) There is hereby appropriated for  
24 the biennium ending June 30, 1993, from the department of retirement  
25 systems expense fund to the department of retirement systems the sum of  
26 five thousand dollars or as much thereof as may be necessary to be used  
27 exclusively for the provision of brochures explaining the partial  
28 service benefit provided by this act.

1 (2) There is hereby appropriated for the biennium ending June 30,  
2 1993, from the department of retirement systems expense fund to the  
3 department of retirement systems the sum of two hundred fifty thousand  
4 dollars or as much thereof as may be necessary to be used exclusively  
5 for the purpose of administering the implementation of sections 3  
6 through 11 of this act.

7 **Sec. 15.** RCW 41.26.030 and 1987 c 418 s 1 are each amended to read  
8 as follows:

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

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

13 (2) (a) "Employer" for persons who establish membership in the  
14 retirement system on or before September 30, 1977, means the  
15 legislative authority of any city, town, county or district or the  
16 elected officials of any municipal corporation that employs any law  
17 enforcement officer and/or fire fighter, any authorized association of  
18 such 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 persons who establish membership in the  
25 retirement system on or after October 1, 1977, means the legislative  
26 authority of any city, town, county, or district or the elected  
27 officials of any municipal corporation that employs any law enforcement  
28 officer and/or fire fighter.

1 (3) "Law enforcement officer" means any person who is serving on a  
2 full time, fully compensated basis as a county sheriff or deputy  
3 sheriff, including sheriffs or deputy sheriffs serving under a  
4 different title pursuant to a county charter, city police officer, or  
5 town marshal or deputy marshal, with the following qualifications:

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

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

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

21 (d) The term "law enforcement officer" also includes the executive  
22 secretary of a labor guild, association or organization (which is an  
23 employer under RCW 41.26.030(2) as now or hereafter amended) if such  
24 individual has five years previous membership in the retirement system  
25 established in chapter 41.20 RCW: PROVIDED, That for persons who  
26 establish membership in the retirement system on or after October 1,  
27 1977, the provisions of this subparagraph shall not apply; and

28 (e) The term "law enforcement officer" also includes any person  
29 employed on or after November 1, 1975, and prior to December 1, 1975,  
30 as a director of public safety so long as the duties of the director

1 substantially involve only police and/or fire duties and no other  
2 duties.

3 (4) "Fire fighter" means:

4 (a) any person who is serving on a full time, fully compensated  
5 basis as a member of a fire department of an employer and who is  
6 serving in a position which requires passing a civil service  
7 examination for fire fighter, or fireman if this title is used by the  
8 department, and who is actively employed as such;

9 (b) anyone who is actively employed as a full time fire fighter  
10 where the fire department does not have a civil service examination;

11 (c) supervisory fire fighter personnel;

12 (d) any full time executive secretary of an association of fire  
13 protection districts authorized under RCW 52.12.031: PROVIDED, That  
14 for persons who establish membership in the retirement system on or  
15 after October 1, 1977, the provisions of this subparagraph shall not  
16 apply;

17 (e) the executive secretary of a labor guild, association or  
18 organization (which is an employer under RCW 41.26.030(2) as now or  
19 hereafter amended), if such individual has five years previous  
20 membership in a retirement system established in chapter 41.16 or 41.18  
21 RCW: PROVIDED, That for persons who establish membership in the  
22 retirement system on or after October 1, 1977, the provisions of this  
23 subparagraph shall not apply;

24 (f) any person who is serving on a full time, fully compensated  
25 basis for an employer, as a fire dispatcher, in a department in which,  
26 on March 1, 1970, a dispatcher was required to have passed a civil  
27 service examination for fireman or fire fighter;

28 (g) any person who on March 1, 1970, was employed on a full time,  
29 fully compensated basis by an employer, and who on May 21, 1971, was



1 making retirement contributions under the provisions of chapter 41.16  
2 or 41.18 RCW; and

3 (h) the term "fire fighter" also includes any person employed on or  
4 after November (~~(1975)~~) 1, 1975, and prior to December 1, 1975, as a  
5 director of public safety so long as the duties of the director  
6 substantially involve only police and/or fire duties and no other  
7 duties.

8 (5) "Retirement board" means the Washington public employees'  
9 retirement system board established in chapter 41.40 RCW, including two  
10 members of the retirement system and two employer representatives as  
11 provided for in RCW 41.26.050. The retirement board shall be called  
12 the Washington law enforcement officers' and fire fighters' retirement  
13 board and may enter in legal relationships in that name. Any legal  
14 relationships entered into in that name prior to the adoption of this  
15 1972 amendatory act are hereby ratified.

16 (6) "Surviving spouse" means the surviving widow or widower of a  
17 member. The word shall not include the divorced spouse of a member.

18 (7) "Child" or "children" whenever used in this chapter means every  
19 natural born child and stepchild where that relationship was in  
20 existence prior to the date benefits are payable under this chapter,  
21 posthumous child, child legally adopted or made a legal ward of a  
22 member prior to the date benefits are payable under this chapter, and  
23 illegitimate child legitimized prior to the date any benefits are  
24 payable under this chapter, all while unmarried, and either under the  
25 age of eighteen years or mentally or physically handicapped as  
26 determined by the retirement board except a handicapped person in the  
27 full time care of a state institution. A person shall also be deemed  
28 to be a child up to and including the age of twenty years and eleven  
29 months while attending any high school, college, or vocational or other  
30 educational institution accredited, licensed, or approved by the state,

1 in which it is located, including the summer vacation months and all  
2 other normal and regular vacation periods at the particular educational  
3 institution after which the child returns to school.

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

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

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

15 (11) (a) "Beneficiary" for persons who establish membership in the  
16 retirement system on or before September 30, 1977, means any person in  
17 receipt of a retirement allowance, disability allowance, death benefit,  
18 or any other benefit described herein.

19 (b) "Beneficiary" for persons who establish membership in the  
20 retirement system on or after October 1, 1977, means any person in  
21 receipt of a retirement allowance or other benefit provided by this  
22 chapter resulting from service rendered to an employer by another  
23 person.

24 (12) (a) "Final average salary" for persons who establish  
25 membership in the retirement system on or before September 30, 1977,  
26 means (i) for a member holding the same position or rank for a minimum  
27 of twelve months preceding the date of retirement, the basic salary  
28 attached to such same position or rank at time of retirement; (ii) for  
29 any other member, including a civil service member who has not served  
30 a minimum of twelve months in the same position or rank preceding the

1 date of retirement, the average of the greatest basic salaries payable  
2 to such member during any consecutive twenty-four month period within  
3 such member's last ten years of service for which service credit is  
4 allowed, computed by dividing the total basic salaries payable to such  
5 member during the selected twenty-four month period by twenty-four;  
6 (iii) in the case of disability of any member, the basic salary payable  
7 to such member at the time of disability retirement; (iv) in the case  
8 of a member who hereafter vests pursuant to RCW 41.26.090, the basic  
9 salary payable to such member at the time of vesting.

10 (b) "Final average salary" for persons who establish membership in  
11 the retirement system on or after October 1, 1977, means the monthly  
12 average of the member's basic salary for the highest consecutive sixty  
13 service credit months of service prior to such member's retirement,  
14 termination, or death. Periods constituting authorized unpaid leaves  
15 of absence may not be used in the calculation of final average salary.

16 (13) (a) "Basic salary" for persons who establish membership in the  
17 retirement system on or before September 30, 1977, means the basic  
18 monthly rate of salary or wages, including longevity pay but not  
19 including overtime earnings or special salary or wages, upon which  
20 pension or retirement benefits will be computed and upon which employer  
21 contributions and salary deductions will be based.

22 (b) "Basic salary" for persons who establish membership in the  
23 retirement system on or after October 1, 1977, means salaries or wages  
24 earned by a member during a payroll period for personal services,  
25 including overtime payments, and shall include wages and salaries  
26 deferred under provisions established pursuant to sections 403(b),  
27 414(h), and 457 of the United States Internal Revenue Code, but shall  
28 exclude lump sum payments for deferred annual sick leave, unused  
29 accumulated vacation, unused accumulated annual leave, or any form of  
30 severance pay: PROVIDED, That in any year in which a member serves in

1 the legislature the member shall have the option of having such  
2 member's basic salary be the greater of:

3 (i) the basic salary the member would have received had such member  
4 not served in the legislature; or

5 (ii) such member's actual basic salary received for nonlegislative  
6 public employment and legislative service combined. Any additional  
7 contributions to the retirement system required because basic salary  
8 under subparagraph (i) of this subsection is greater than basic salary  
9 under subparagraph (ii) of this subsection shall be paid by the member  
10 for both member and employer contributions.

11 (14) (a) "Service" for persons who establish membership in the  
12 retirement system on or before September 30, 1977, means all periods of  
13 employment for an employer as a fire fighter or law enforcement  
14 officer, for which compensation is paid, together with periods of  
15 suspension not exceeding thirty days in duration. For the purposes of  
16 this chapter service shall also include service in the armed forces of  
17 the United States as provided in RCW 41.26.190. Credit shall be  
18 allowed for all service credit months of service rendered by a member  
19 from and after the member's initial commencement of employment as a  
20 fire fighter or law enforcement officer, during which the member worked  
21 for seventy or more hours, or was on disability leave or disability  
22 retirement. Only service credit months of service shall be counted in  
23 the computation of any retirement allowance or other benefit provided  
24 for in this chapter. In addition to the foregoing, for members  
25 retiring after May 21, 1971 who were employed under the coverage of a  
26 prior pension act before March 1, 1970, "service" shall include (i)  
27 such military service not exceeding five years as was creditable to the  
28 member as of March 1, 1970, under the member's particular prior pension  
29 act, and (ii) such other periods of service as were then creditable to  
30 a particular member under the provisions of RCW 41.18.165, 41.20.160 or

1 41.20.170. However, in no event shall credit be allowed for any service  
2 rendered prior to March 1, 1970, where the member at the time of  
3 rendition of such service was employed in a position covered by a prior  
4 pension act, unless such service, at the time credit is claimed  
5 therefor, is also creditable under the provisions of such prior act:  
6 PROVIDED, That if such member's prior service is not creditable due to  
7 the withdrawal of his contributions plus accrued interest thereon from  
8 a prior pension system, such member shall be credited with such prior  
9 service, as a law enforcement officer or fire fighter, by paying to the  
10 Washington law enforcement officers' and fire fighters' retirement  
11 system, on or before March 1, 1975, an amount which is equal to that  
12 which was withdrawn from the prior system by such member, as a law  
13 enforcement officer or fire fighter: PROVIDED FURTHER, That if such  
14 member's prior service is not creditable because, although employed in  
15 a position covered by a prior pension act, such member had not yet  
16 become a member of the pension system governed by such act, such member  
17 shall be credited with such prior service as a law enforcement officer  
18 or fire fighter, by paying to the Washington law enforcement officers'  
19 and fire fighters' retirement system, on or before March 1, 1975, an  
20 amount which is equal to the employer's contributions which would have  
21 been required under the prior act when such service was rendered if the  
22 member had been a member of such system during such period: AND  
23 PROVIDED FURTHER, That where a member is employed by two employers at  
24 the same time, ((he)) the member shall only be credited with service to  
25 one such employer for any month during which ((he)) the member rendered  
26 such dual service.

27 (b) "Service" for persons who establish membership in the  
28 retirement system on or after October 1, 1977, means periods of  
29 employment by a member for one or more employers for which basic salary  
30 is earned for ninety or more hours per calendar month which shall

1 constitute a service credit month. Periods of employment by a member  
2 for one or more employers for which basic salary is earned for at least  
3 seventy hours but less than ninety hours per calendar month shall  
4 constitute one-half service credit month. Periods of employment by a  
5 member for one or more employers for which basic salary is earned for  
6 less than seventy hours shall constitute a one-quarter service credit  
7 month.

8 Members of the retirement system who are elected or appointed to a  
9 state elective position may elect to continue to be members of this  
10 retirement system.

11 Service credit years of service shall be determined by dividing the  
12 total number of service credit months of service by twelve. Any  
13 fraction of a service credit year of service as so determined shall be  
14 taken into account in the computation of such retirement allowance or  
15 benefits.

16 If a member receives basic salary from two or more employers during  
17 any calendar month, the individual shall receive one service credit  
18 month's service credit during any calendar month in which multiple  
19 service for ninety or more hours is rendered; or one-half service  
20 credit month's service credit during any calendar month in which  
21 multiple service for at least seventy hours but less than ninety hours  
22 is rendered; or one-quarter service credit month during any calendar  
23 month in which multiple service for less than seventy hours is  
24 rendered.

25 (15) "Accumulated contributions" means the employee's contributions  
26 made by a member plus accrued interest credited thereon.

27 (16) "Actuarial reserve" means a method of financing a pension or  
28 retirement plan wherein reserves are accumulated as the liabilities for  
29 benefit payments are incurred in order that sufficient funds will be

1 available on the date of retirement of each member to pay the member's  
2 future benefits during the period of retirement.

3 (17) "Actuarial valuation" means a mathematical determination of  
4 the financial condition of a retirement plan. It includes the  
5 computation of the present monetary value of benefits payable to  
6 present members, and the present monetary value of future employer and  
7 employee contributions, giving effect to mortality among active and  
8 retired members and also to the rates of disability, retirement,  
9 withdrawal from service, salary and interest earned on investments.

10 (18) "Disability board" means either the county disability board or  
11 the city disability board established in RCW 41.26.110 for persons who  
12 establish membership in the retirement system on or before September  
13 30, 1977.

14 (19) "Disability leave" means the period of six months or any  
15 portion thereof during which a member is on leave at an allowance equal  
16 to the member's full salary prior to the commencement of disability  
17 retirement. The definition contained in this subsection shall apply  
18 only to persons who establish membership in the retirement system on or  
19 before September 30, 1977.

20 (20) "Disability retirement" for persons who establish membership  
21 in the retirement system on or before September 30, 1977, means the  
22 period following termination of a member's disability leave, during  
23 which the member is in receipt of a disability retirement allowance.

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

26 (22) "Medical services" for persons who establish membership in the  
27 retirement system on or before September 30, 1977, shall include the  
28 following as minimum services to be provided. Reasonable charges for  
29 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

11 (i) The fees of the following:

12 (A) A physician or surgeon licensed under the provisions of chapter  
13 18.71 RCW;

14 (B) An osteopath licensed under the provisions of chapter 18.57  
15 RCW;

16 (C) A chiropractor licensed under the provisions of chapter 18.25  
17 RCW.

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

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

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

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

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

25 (D) Anesthesia and oxygen;

26 (E) Rental of iron lung and other durable medical and surgical  
27 equipment;

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



1 (G) Professional ambulance service when used to transport the  
2 member to or from a hospital when he or she is injured by an accident  
3 or stricken by a disease;

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

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

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

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

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

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

15 (24) "Retiree" for persons who establish membership in the  
16 retirement system on or after October 1, 1977, means any member in  
17 receipt of a retirement allowance or other benefit provided by this  
18 chapter resulting from service rendered to an employer by such member.

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

21 (26) "Director" means the director of the department.

22 (27) "State actuary" or "actuary" means the person appointed  
23 pursuant to RCW 44.44.010(2).

24 (28) "State elective position" means any position held by any  
25 person elected or appointed to state-wide office or elected or  
26 appointed as a member of the legislature.

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

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

1       **Sec. 16.** RCW 41.26.090 and 1977 ex.s. c 294 s 22 are each amended  
2 to read as follows:

3       Retirement of a member for service shall be made by the board as  
4 follows:

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

10       (2) Any member having five or more service credit years of service,  
11 who terminates his or her employment with any employer, may leave his  
12 or her contributions in the fund. Any employee who so elects, upon  
13 attaining age fifty, shall be eligible to apply for and receive a  
14 service retirement allowance based on his or her years of service,  
15 commencing on the first day following ((his)) attainment of age fifty.  
16 This section shall also apply to a person who rendered service as a law  
17 enforcement officer or fire fighter, as those terms are defined in RCW  
18 41.26.030, on or after July 1, 1969, but who was not employed as a law  
19 enforcement officer or fire fighter on March 1, 1970, by reason of his  
20 or her having been elected to a public office. Any member selecting  
21 this optional vesting with less than twenty service credit years of  
22 service shall not be covered by the provisions of RCW 41.26.150, and  
23 his or her survivors shall not be entitled to the benefits of RCW  
24 41.26.160 unless his or her death occurs after he or she has attained  
25 the age of fifty years. Those members selecting this optional vesting  
26 with twenty or more years service shall not be covered by the  
27 provisions of RCW 41.26.150 until the attainment of the age of fifty  
28 years: PROVIDED, That a member selecting this option, with less than  
29 twenty service credit years of service credit, who shall die prior to  
30 attaining the age of fifty years, shall have paid from the Washington

1 law enforcement officers' and fire fighters' retirement fund, to such  
2 member's surviving spouse, if any, otherwise to such beneficiary as the  
3 member shall have designated in writing, or if no such designation has  
4 been made, to the personal representative of his or her estate, a lump  
5 sum which is equal to the amount of such member's accumulated  
6 contributions plus accrued interest: PROVIDED FURTHER, That if the  
7 vested member has twenty or more service credit years of service credit  
8 the surviving spouse or children shall then become eligible for the  
9 benefits of RCW 41.26.160 regardless of his or her age at the time of  
10 ((his)) death, to the exclusion of the lump sum amount provided by this  
11 subsection.

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

24 **Sec. 17.** RCW 41.26.100 and 1974 ex.s. c 120 s 3 are each amended  
25 to read as follows:

26 A member upon retirement for service shall receive a monthly  
27 retirement allowance computed according to his or her completed  
28 creditable service credit years of service as follows: Five years but  
29 under ten years, one-twelfth of one percent of his or her final average

1 salary for each month of service; ten years but under twenty years,  
2 one-twelfth of one and one-half percent of his or her final average  
3 salary for each month of service; and twenty years and over one-twelfth  
4 of two percent of his or her final average salary for each month of  
5 service: PROVIDED, That the recipient of a retirement allowance who  
6 shall return to service as a law enforcement officer or fire fighter  
7 shall be considered to have terminated his or her retirement status and  
8 he or she shall immediately become a member of the retirement system  
9 with the status of membership he or she had as of the date of ((his))  
10 retirement. Retirement benefits shall be suspended during the period  
11 of his or her return to service and he or she shall make contributions  
12 and receive service credit. Such a member shall have the right to  
13 again retire at any time and his or her retirement allowance shall be  
14 recomputed, and paid, based upon additional service rendered and any  
15 change in final average salary: PROVIDED FURTHER, That no retirement  
16 allowance paid pursuant to this section shall exceed sixty percent of  
17 final average salary, except as such allowance may be increased by  
18 virtue of RCW 41.26.240, as now or hereafter amended.

19 **Sec. 18.** RCW 41.26.160 and 1986 c 176 s 7 are each amended to read  
20 as follows:

21 (1) In the event of the death of any member who is in active  
22 service, or who has vested under the provisions of RCW 41.26.090 with  
23 twenty or more service credit years of service, or who is on disability  
24 leave or retired, whether for disability or service, his or her  
25 surviving spouse shall become entitled to receive a monthly allowance  
26 equal to fifty percent of his or her final average salary at the date  
27 of death if active, or the amount of retirement allowance the vested  
28 member would have received at age fifty, or the amount of the  
29 retirement allowance such retired member was receiving at the time of

1 ((his)) death if retired for service or disability. The amount of this  
2 allowance will be increased five percent of final average salary for  
3 each child as defined in RCW 41.26.030(7), as now or hereafter amended,  
4 subject to a maximum combined allowance of sixty percent of final  
5 average salary: PROVIDED, That if the child or children is or are in  
6 the care of a legal guardian, payment of the increase attributable to  
7 each child will be made to the child's legal guardian or, in the  
8 absence of a legal guardian and if the member has created a trust for  
9 the benefit of the child or children, payment of the increase  
10 attributable to each child will be made to the trust.

11 (2) If at the time of the death of a vested member with twenty or  
12 more service credit years of service as provided above or a member  
13 retired for service or disability, the surviving spouse has not been  
14 lawfully married to such member for one year prior to ((his)) the  
15 member's retirement or separation from service if a vested member, the  
16 surviving spouse shall not be eligible to receive the benefits under  
17 this section: PROVIDED, That if a member dies as a result of a  
18 disability incurred in the line of duty, then if he or she was married  
19 at the time he or she was disabled, ((his)) the surviving spouse shall  
20 be eligible to receive the benefits under this section.

21 (3) If there be no surviving spouse eligible to receive benefits at  
22 the time of such member's death, then the child or children of such  
23 member shall receive a monthly allowance equal to thirty percent of  
24 final average salary for one child and an additional ten percent for  
25 each additional child subject to a maximum combined payment, under this  
26 subsection, of sixty percent of final average salary. When there cease  
27 to be any eligible children as defined in RCW 41.26.030(7), as now or  
28 hereafter amended, there shall be paid to the legal heirs of said  
29 member the excess, if any, of accumulated contributions of said member  
30 at the time of ((his)) death over all payments made to his or her

1 survivors on his or her behalf under this chapter: PROVIDED, That  
2 payments under this subsection to children shall be prorated equally  
3 among the children, if more than one. If the member has created a  
4 trust for the benefit of the child or children, the payment shall be  
5 made to the trust.

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

10 (5) If a surviving spouse receiving benefits under the provisions  
11 of this section thereafter dies and there are children as defined in  
12 RCW 41.26.030(7), as now or hereafter amended, payment to the spouse  
13 shall cease and the child or children shall receive the benefits as  
14 provided in subsection (3) (~~above~~) of this section.

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

18 **Sec. 19.** RCW 41.26.430 and 1977 ex.s. c 294 s 4 are each amended  
19 to read as follows:

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

24 (2) EARLY RETIREMENT. Any member who has completed at least twenty  
25 service credit years of service and has attained age fifty shall be  
26 eligible to retire and to receive a retirement allowance computed  
27 according to the provisions of RCW 41.26.420, except that a member  
28 retiring pursuant to this subsection shall have the retirement  
29 allowance actuarially reduced to reflect the difference in the number

1 of years between age at retirement and the attainment of age  
2 fifty-eight.

3 NEW SECTION. **Sec. 20.** (1) Sections 3 through 11 of this act  
4 shall take effect September 1, 1991.

5 (2) The remainder of this act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and shall take  
8 effect July 1, 1991.