

SENATE BILL 5092

State of Washington

52nd Legislature

1991 Regular Session

By Senators Roach, Snyder, Stratton, Amondson, L. Kreidler, McCaslin, Erwin, Newhouse, Niemi, Sellar, Craswell, Gaspard, Hayner, Skratek, L. Smith, Talmadge, Oke, Bauer, Rasmussen, Thorsness, Johnson, Wojahn, Cantu and West.

Read first time January 18, 1991. Referred to Committee on Ways & Means.

1 AN ACT Relating to employee benefits while on active duty during
2 operation Desert Shield; amending RCW 28B.10.407, 41.26.190, 41.26.520,
3 41.32.260, 41.32.810, 41.40.170, and 41.40.710; adding a new section to
4 chapter 28A.400 RCW; adding a new section to chapter 41.04 RCW; adding
5 a new section to chapter 41.32 RCW; adding a new section to chapter
6 43.43 RCW; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.400
9 RCW to read as follows:

10 (1) If an employee of a school district or an educational service
11 district is activated from either federal military reserve service or
12 state militia service and placed on active duty with the armed forces
13 of the United States due to operation Desert Shield during the period
14 from August 2, 1990, through a date specified by an agency of the
15 federal government terminating operation Desert Shield, such employee's

1 dependents shall be entitled to the same health care and other
2 insurance in which such employee was enrolled immediately prior to
3 being placed on active duty. This continuation of coverage shall
4 continue until either:

5 (a) The employee is either released or discharged from active duty;
6 or

7 (b) Six months after the employee is killed in the line of duty
8 unless the surviving spouse or dependent has a prior right to continue
9 such coverage by law or contract.

10 (2) The premium cost, if any, of such health care and other
11 insurance programs to the spouse and/or dependents shall be the same as
12 the premium that would have been required of the employee had he or she
13 remained in the employ of the school or educational service district.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.04 RCW
15 to read as follows:

16 (1) If an employee of the state, county, municipality, or other
17 political subdivision is activated from either federal military reserve
18 service or state militia service and placed on active duty with the
19 armed forces of the United States due to operation Desert Shield during
20 the period from August 2, 1990, through a date specified by an agency
21 of the federal government terminating operation Desert Shield, such
22 employee's dependents shall be entitled to the same health care and
23 other insurance in which such employee was enrolled immediately prior
24 to being placed on active duty. This continuation of coverage shall
25 continue until either:

26 (a) The employee is either released or discharged from active duty;
27 or

1 (b) Six months after the employee is killed in the line of duty
2 unless the surviving spouse or dependent has a prior right to continue
3 such coverage by law or contract.

4 (2) The premium cost, if any, of such health care and other
5 insurance programs to the spouse and/or dependents shall be the same as
6 the premium that would have been required of the employee had he or she
7 remained in the employ of the employer.

8 **Sec. 3.** RCW 28B.10.407 and 1987 c 448 s 1 are each amended to read
9 as follows:

10 (1) A faculty member or other employee designated by the boards of
11 regents of the state universities, the boards of trustees of the
12 regional universities and The Evergreen State College, or the state
13 board for community college education who is granted an authorized
14 leave of absence without pay may apply the period of time while on the
15 leave in the computation of benefits in any annuity and retirement plan
16 authorized under RCW 28B.10.400 through 28B.10.430 only to the extent
17 provided in subsection (2) of this section.

18 (2) An employee who is eligible under subsection (1) of this
19 section may receive a maximum of two years' credit during the
20 employee's entire working career for periods of authorized leave
21 without pay. Such credit may be obtained only if the employee pays
22 both the employer and employee contributions required under RCW
23 28B.10.405 and 28B.10.410 while on the authorized leave of absence and
24 if the employee returns to employment with the university or college
25 immediately following the leave of absence for a period of not less
26 than two years. The employee and employer contributions shall be based
27 on the average of the employee's compensation at the time the leave of
28 absence was authorized and the time the employee resumes employment.
29 Any benefit under RCW 28B.10.400(3) shall be based only on the

1 employee's compensation earned from employment with the university or
2 college.

3 (a) An employee, other than someone meeting the conditions of (b)
4 of this subsection, who is inducted into the armed forces of the United
5 States shall be deemed to be on an unpaid, authorized leave of absence.

6 (b) During the period from August 2, 1990, to a date specified by
7 an agency of the federal government as the end of the situation known
8 as operation "Desert Shield," if an employee is activated from federal
9 military reserve or state militia service to active duty in the armed
10 forces of the United States due to operation Desert Shield, such
11 employee shall continue membership in any annuity or retirement income
12 plan established under the provisions of RCW 28B.10.400 as though
13 employed for the period of active duty. Such membership, however,
14 shall terminate in the event of death. The necessary retirement
15 contributions for this period required by RCW 28B.10.405 and 28B.10.410
16 shall be paid by the board of regents of the state universities, boards
17 of trustees of the regional universities and of The Evergreen State
18 College, or the state board for community college education based on
19 the salary being paid at the time of entering active duty incremented
20 by any subsequent general salary increase upon the request of the
21 employee when returning to employment after release from active duty.
22 Upon receipt of the contributions the appropriate service shall be
23 granted.

24 **Sec. 4.** RCW 41.26.190 and 1970 ex.s. c 6 s 13 are each amended to
25 read as follows:

26 Each person affected by this chapter who either (1) at the time of
27 entering the armed services or (2) at the time of being activated from
28 federal military reserve or state militia service to active duty due to
29 the situation known as operation "Desert Shield," during the period

1 from August 2, 1990, to a date specified by an agency of the federal
2 government as the end of operation Desert Shield, was a member of this
3 system, and has honorably served in the armed services of the United
4 States, shall have added to his or her period of service as computed
5 under this chapter, his or her period of service in the armed forces:
6 PROVIDED, That such credited service shall not exceed five years.

7 **Sec. 5.** RCW 41.26.520 and 1989 c 88 s 2 are each amended to read
8 as follows:

9 (1) A member who is on a paid leave of absence authorized by a
10 member's employer shall continue to receive service credit as provided
11 for under the provisions of RCW 41.26.410 through 41.26.550.

12 (2) A member shall be eligible to receive a maximum of two years
13 service credit during a member's entire working career for those
14 periods when a member is on an unpaid leave of absence authorized by an
15 employer except for such leave of absence where service credit is
16 granted under subsection (3) of this section. Such credit may be
17 obtained only if the member makes the employer, member, and state
18 contributions plus interest as determined by the department for the
19 period of the authorized leave of absence within five years of
20 resumption of service or prior to retirement whichever comes sooner:
21 PROVIDED, That for the purpose of this subsection the contribution
22 shall not include the contribution for the unfunded supplemental
23 present value as required by RCW 41.26.450. The contributions required
24 shall be based on the average of the member's basic salary at both the
25 time the authorized leave of absence was granted and the time the
26 member resumed employment.

27 (3) A member who is inducted into the armed forces of the United
28 States shall be deemed to be on an unpaid, authorized leave of absence.
29 If, however, the member is activated from federal military reserve or

1 state militia service to active duty into the armed forces of the
2 United States due to the situation known as operation "Desert Shield,"
3 during the period from August 2, 1990, to a date specified by an agency
4 of the federal government as the end of operation Desert Shield, the
5 member shall retain his or her membership as though the member were
6 still in the employ of an employer, but this membership shall terminate
7 in the event of death. The contributions required by RCW 41.26.450
8 shall be based on the basic salary being received at the time of
9 entering active duty, incremented by any general salary increase or
10 negotiated increase which is implemented during such period upon the
11 request of the member when returning to employment after release from
12 active duty. These contributions shall be paid as follows:

13	<u>Employee</u>	<u>50%</u>
14	<u>Employer</u>	<u>30%</u>
15	<u>State</u>	<u>20%</u>

16 Upon receipt of the contributions the appropriate service shall be
17 granted. When the member requests crediting of service after returning
18 to employment from active military service, the employer shall pay the
19 employee's assigned share of fifty percent.

20 (4) A member receiving benefits under Title 51 RCW who is not
21 receiving benefits under this chapter shall be deemed to be on unpaid,
22 authorized leave of absence.

23 **Sec. 6.** RCW 41.32.260 and 1974 ex.s. c 199 s 2 are each amended to
24 read as follows:

25 (1) Any member whose public school service is interrupted by active
26 service to the United States as a member of its military, naval or air
27 service, other than as provided in subsection (2) of this section, or
28 to the state of Washington, as a member of the legislature, may upon
29 becoming reemployed in the public schools, receive credit for such

1 service upon presenting satisfactory proof, and contributing to the
2 annuity fund, either in a lump sum or installments, such amounts as
3 shall be determined by the board of trustees(~~(: PROVIDED (1), That no~~
4 ~~such military service credit in excess of five years shall be~~
5 ~~established or reestablished after July 1, 1961, unless the service was~~
6 ~~actually rendered during time of war: PROVIDED FURTHER (2), That a~~
7 ~~member of the retirement system who is a member of the state~~
8 ~~legislature or a state official eligible for the combined pension and~~
9 ~~annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter~~
10 ~~amended shall have deductions taken from his or her salary in the~~
11 ~~amount of seven and one half percent of earnable compensation and that~~
12 ~~service credit shall be established with the retirement system while~~
13 ~~such deductions are reported to the retirement system, unless he or she~~
14 ~~has by reason of his or her employment become a contributing member of~~
15 ~~another public retirement system in the state of Washington: AND~~
16 ~~PROVIDED FURTHER (3), That such elected official who has retired or~~
17 ~~otherwise terminated his or her public school service may then elect to~~
18 ~~terminate his or her membership in the retirement system and receive~~
19 ~~retirement benefits while continuing to serve as an elected official:~~
20 ~~AND, PROVIDED FURTHER (4), That a member of the retirement system who~~
21 ~~had previous service as an elected or appointed official, for which he~~
22 ~~or she did not contribute to the retirement system, may receive credit~~
23 ~~for such legislative service unless he or she has received credit for~~
24 ~~that service in another state retirement system, upon making~~
25 ~~contributions in such amounts as shall be determined by the board of~~
26 ~~trustees)).~~

27 (2) Any member whose public school service is interrupted by being
28 activated from federal military reserve or state militia service to
29 active service into the armed forces of the United States due to the
30 situation known as operation "Desert Shield," during the period from

1 August 2, 1990, to a date specified by an agency of the federal
2 government as the end of operation Desert Shield, shall be considered
3 as continuing his or her membership as though still in the employ of an
4 employer. This membership shall terminate in the event of death. The
5 necessary employee contributions as well as the employer contributions
6 required under this chapter shall be paid by the employer based on the
7 salary being paid at the time of entering active service incremented by
8 either any subsequent general salary increase or negotiated salary
9 increase upon the request of the member when returning to employment
10 after release from active duty. Upon receipt of the contributions the
11 appropriate service shall be granted.

12 NEW SECTION. Sec. 7. A new section is added to chapter 41.32 RCW
13 to read as follows:

14 A member of the retirement system who is a member of the state
15 legislature or a state official eligible for the combined pension and
16 annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter
17 amended shall have deductions taken from his or her salary in the
18 amount of seven and one-half percent of earnable compensation and that
19 service credit shall be established with the retirement system while
20 such deductions are reported to the retirement system, unless he or she
21 has by reason of employment become a contributing member of another
22 public retirement system in the state of Washington. Such elected
23 official who has retired or otherwise terminated public school service
24 may then elect to terminate membership in the retirement system and
25 receive retirement benefits while continuing to serve as an elected
26 official. A member of the retirement system who had previous service
27 as an elected or appointed official, for which he or she did not
28 contribute to the retirement system, may receive credit for such
29 legislative service unless he or she has received credit for that

1 service in another state retirement system, upon making contributions
2 in such amounts as shall be determined by the board of trustees.

3 **Sec. 8.** RCW 41.32.810 and 1977 ex.s. c 293 s 13 are each amended
4 to read as follows:

5 A member who is on a paid leave of absence authorized by a member's
6 employer shall continue to receive service credit as provided for under
7 the provisions of RCW 41.32.755 through 41.32.825.

8 A member shall be eligible to receive a maximum of two years
9 service credit during a member's entire working career for those
10 periods when a member is on an unpaid leave of absence authorized by an
11 employer except for such leave of absence where service credit is
12 granted under this section because of activation from federal military
13 reserve or state militia service to active duty in the armed forces of
14 the United States. Such credit may be obtained only if the member
15 makes both the employer and member contributions plus interest as
16 determined by the department for the period of the authorized leave of
17 absence within five years of resumption of service or prior to
18 retirement whichever comes sooner: PROVIDED, That for the purpose of
19 this (~~(subsection—[section])~~) section the contribution shall not
20 include the contribution for the unfunded supplemental present value as
21 required by RCW 41.32.775. The contributions required shall be based
22 on the average of the member's compensation earnable at both the time
23 the authorized leave of absence was granted and the time the member
24 resumed employment.

25 A member who is inducted into the armed forces of the United States
26 shall be deemed to be on an unpaid, authorized leave of absence.

27 If, however, any member's public school service is interrupted by
28 being activated from federal military reserve or state militia service
29 to active service into the armed forces of the United States due to the

1 situation known as operation "Desert Shield," during the period from
2 August 2, 1990, to a date specified by an agency of the federal
3 government as the end of operation Desert Shield, the member shall be
4 considered as continuing his or her membership as though still in the
5 employ of an employer. This membership shall terminate in the event of
6 death. The necessary employee contributions as well as the employer
7 contributions required under this chapter shall be paid by the employer
8 based on the salary being paid at the time of entering active service
9 incremented by either any subsequent general salary increase or
10 negotiated salary increase upon the request of the member when
11 returning to employment after release from active duty. Upon receipt
12 of the contributions the appropriate service shall be granted.

13 **Sec. 9.** RCW 41.40.170 and 1981 c 294 s 12 are each amended to read
14 as follows:

15 (1) A member, except members whose service is interrupted by being
16 activated from federal military reserve or state militia service to
17 active service into the armed forces of the United States due to the
18 situation known as operation "Desert Shield," during the period from
19 August 2, 1990, to a date specified by an agency of the federal
20 government as the end of operation Desert Shield, who has served or
21 shall serve on active federal service in the military or naval forces
22 of the United States and who left or shall leave an employer to enter
23 such service shall be deemed to be on military leave of absence if he
24 or she has resumed or shall resume employment as an employee within one
25 year from termination thereof.

26 (2) If he or she has applied or shall apply for reinstatement of
27 employment, within one year from termination of the military service,
28 and is refused employment for reasons beyond his or her control, he or

1 she shall, upon resumption of service within ten years have such
2 service credited to him or her.

3 (3) In any event, after completing twenty-five years of creditable
4 service, any member may have his or her service in the armed forces
5 credited to him or her as a member whether or not he or she left the
6 employ of an employer to enter such armed service: PROVIDED, That in no
7 instance, described in subsections (1), (2), and (3) of this section,
8 shall military service in excess of five years be credited: AND
9 PROVIDED FURTHER, That in each instance the member must restore all
10 withdrawn accumulated contributions, which restoration must be
11 completed within five years of membership service following his or her
12 first resumption of employment or complete twenty-five years of
13 creditable service: AND PROVIDED FURTHER, That this section will not
14 apply to any individual, not a veteran within the meaning of RCW
15 41.04.005, as now or hereafter amended: AND PROVIDED FURTHER, That in
16 no instance, described in subsections (1), (2), and (3) of this
17 section, shall military service be credited to any member who is
18 receiving full military retirement benefits pursuant to Title 10 United
19 States Code.

20 (4) Members whose service is interrupted by being activated from
21 federal military reserve or state militia service to active service
22 into the armed forces of the United States due to the situation known
23 as operation Desert Shield, during the period from August 2, 1990, to
24 a date specified by an agency of the federal government as the end of
25 operation Desert Shield, shall be considered as continuing his or her
26 membership as though still in the employ of an employer. This
27 membership shall terminate in the event of death. The necessary
28 employee contributions as well as the employer contributions required
29 under this chapter shall be paid by the employer based on the salary
30 being paid at the time of entering active service incremented by either

1 any subsequent general salary increase or, if appropriate, negotiated
2 salary increase upon the request of the member when returning to
3 employment after release from active duty. Upon receipt of the
4 contributions the appropriate service shall be granted.

5 **Sec. 10.** RCW 41.40.710 and 1977 ex.s. c 295 s 12 are each amended
6 to read as follows:

7 A member who is on a paid leave of absence authorized by a member's
8 employer shall continue to receive service credit as provided for under
9 the provisions of RCW 41.40.610 through 41.40.740.

10 A member shall be eligible to receive a maximum of two years
11 service credit during a member's entire working career for those
12 periods when a member is on an unpaid leave of absence authorized by an
13 employer except for such leave of absence where service credit is
14 granted under this section because of activation from federal military
15 reserve or state militia service to active duty in the armed forces of
16 the United States. Such credit may be obtained only if the member
17 makes both the employer and member contributions plus interest as
18 determined by the department for the period of the authorized leave of
19 absence within five years of resumption of service or prior to
20 retirement whichever comes sooner: PROVIDED, That for the purpose of
21 this ((~~subsection~~[section])) section the contribution shall not
22 include the contribution for the unfunded supplemental present value as
23 required by RCW 41.40.650. The contributions required shall be based
24 on the average of the member's compensation earnable at both the time
25 the authorized leave of absence was granted and the time the member
26 resumed employment.

27 A member who is inducted into the armed forces of the United States
28 shall be deemed to be on an unpaid, authorized leave of absence.

1 Any member whose service is interrupted by being activated from
2 federal military reserve or state militia service to active service
3 into the armed forces of the United States due to the situation known
4 as operation "Desert Shield," during the period from August 2, 1990, to
5 a date specified by an agency of the federal government as the end of
6 operation Desert Shield, shall be considered as continuing his or her
7 membership as though still in the employ of an employer. This
8 membership shall terminate in the event of death. The necessary
9 employee contributions as well as the employer contributions required
10 under this chapter shall be paid by the employer based on the salary
11 being paid at the time of entering active service incremented by either
12 any subsequent general salary increase or negotiated salary increase
13 upon the request of the member when returning to employment after
14 release from active duty. Upon receipt of the contributions the
15 appropriate service shall be granted.

16 NEW SECTION. Sec. 11. A new section is added to chapter 43.43 RCW
17 to read as follows:

18 Members whose service is interrupted by being activated from
19 federal military reserve or state militia service to active service
20 into the armed forces of the United States due to the situation known
21 as operation "Desert Shield," during the period from August 2, 1990, to
22 a date specified by an agency of the federal government as the end of
23 operation Desert Shield, shall be considered as continuing his or her
24 membership as though still in the employ of an employer. This
25 membership shall terminate in the event of death. The necessary
26 employee contributions as well as the employer contributions required
27 under this chapter shall be paid by the employer based on the salary
28 being paid at the time of entering active service incremented by any
29 subsequent general salary increase upon the request of the member when

1 returning to employment after release from active duty. Upon receipt
2 of the contributions the appropriate service shall be granted.

3 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect immediately.