

**SENATE BILL 5224**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senators Moore, Rasmussen, Johnson, Saling and Nelson; by request of Joint Committee on Pension Policy.

Read first time January 24, 1991. Referred to Committee on Ways & Means.

1 AN ACT Relating to public retirement; amending RCW 41.32.260,  
2 41.32.550, and 41.18.015; reenacting and amending RCW 41.40.120; adding  
3 new sections to chapter 41.32 RCW; adding a new section to chapter  
4 41.26 RCW; adding a new section to chapter 41.40 RCW; adding a new  
5 section to chapter 43.43 RCW; creating new sections; and declaring an  
6 emergency.

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

8 **Sec. 1.** RCW 41.32.260 and 1974 ex.s. c 199 s 2 are each amended to  
9 read as follows:

10 Any member whose public school service is interrupted by active  
11 service to the United States as a member of its military, naval or air  
12 service, or to the state of Washington, as a member of the legislature,  
13 may upon becoming reemployed in the public schools, receive credit for  
14 such service upon presenting satisfactory proof, and contributing to  
15 the annuity fund, either in a lump sum or installments, such amounts as

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

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW  
25 to read as follows:

26 A member of the retirement system who is a member of the state  
27 legislature or a state official eligible for the combined pension and  
28 annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter  
29 amended shall have deductions taken from his or her salary in the

1 amount of six percent of earnable compensation and that service credit  
2 shall be established with the retirement system while such deductions  
3 are reported to the retirement system, unless he or she has by reason  
4 of his or her employment become a contributing member of another public  
5 retirement system in the state of Washington. Such elected official  
6 who has retired or otherwise terminated his or her public school  
7 service may then elect to terminate his or her membership in the  
8 retirement system and receive retirement benefits while continuing to  
9 serve as an elected official. A member of the retirement system who  
10 had previous service as an elected or appointed official, for which he  
11 or she did not contribute to the retirement system, may receive credit  
12 for such legislative service unless he or she has received credit for  
13 that service in another state retirement system, upon making  
14 contributions in such amounts as shall be determined by the board of  
15 trustees.

16 **Sec. 3.** RCW 41.32.550 and 1970 ex.s. c 35 s 4 are each amended to  
17 read as follows:

18 Should the (~~board~~) director determine from the report of the  
19 medical director that a member (~~in full time service~~) employed under  
20 an annual contract with an employer has become permanently disabled for  
21 the performance of his or her duties or at any time while a member is  
22 receiving temporary disability benefits that a member's disability will  
23 be permanent, a member shall have the option of then receiving (1) all  
24 of his or her accumulated contributions in a lump sum payment and  
25 canceling his or her membership, or (2) of accepting a retirement  
26 allowance based on service or age, if eligible under RCW 41.32.480, or  
27 (3) if he or she had five or more years of Washington membership  
28 service credit established with the retirement system, a retirement  
29 allowance because of disability: PROVIDED, That any member applying for

1 a retirement allowance who is eligible for benefits on the basis of  
2 service or age shall receive a retirement allowance based on the  
3 provision of law governing retirement for service or age. If the  
4 member qualifies to receive a retirement allowance because of  
5 disability he or she shall be paid the maximum annuity which shall be  
6 the actuarial equivalent of his or her accumulated contributions at his  
7 or her age of retirement and a pension equal to the service pension to  
8 which he or she would be entitled under RCW 41.32.497 as now or  
9 hereafter amended. If the member dies before he or she has received in  
10 annuity payments the present value of his or her accumulated  
11 contributions at the time of his or her retirement, the unpaid balance  
12 shall be paid to his or her estate or to such persons as he or she  
13 shall have nominated by written designation executed and filed with the  
14 (~~board of trustees~~) department.

15 A member retired for disability may be required at any time to  
16 submit to reexamination. If medical findings reveal that the  
17 individual is no longer disabled for the performance of public school  
18 service, the retirement allowance granted because of disability may be  
19 terminated by action of the (~~board of trustees~~) director or upon  
20 written request of the member. In case of such termination, the  
21 individual shall be restored to full membership in the retirement  
22 system.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.32 RCW  
24 to read as follows:

25 Persons who were under an annual half-time contract with an  
26 employer anytime during the period of September 1, 1986, through August  
27 31, 1987, shall be eligible for benefits provided by RCW 41.32.550, as  
28 amended by chapter ..., Laws of 1991 (this act), if during that period

1 they were medically determined to be permanently disabled for the  
2 performance of their duty.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.26 RCW  
4 to read as follows:

5 If a member is called or recalled to active duty in the armed  
6 forces of the United States between August 2, 1990, and date  
7 terminating "Operation Desert Shield," as specified by the president or  
8 an agency of the United States government, and dies in the line of  
9 duty, such member's death shall be presumed to have occurred on the  
10 date of the member's termination of service in the system. This will  
11 qualify the member's beneficiary for benefit under RCW 41.26.160 or  
12 41.26.510, whichever may apply.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.32 RCW  
14 to read as follows:

15 If a member is called or recalled to active duty in the armed  
16 forces of the United States between August 2, 1990, and date  
17 terminating "Operation Desert Shield," as specified by the president or  
18 an agency of the United States government, and dies in the line of  
19 duty, such member's death shall be presumed to have occurred on the  
20 date of the member's termination of service in the system. This will  
21 qualify the member's beneficiary for benefit under RCW 41.32.522 and  
22 41.32.523 or 41.32.805, whichever may apply.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.40 RCW  
24 to read as follows:

25 If a member is called or recalled to active duty in the armed  
26 forces of the United States between August 2, 1990, and date  
27 terminating "Operation Desert Shield," as specified by the president or

1 an agency of the United States government, and dies in the line of  
2 duty, such member's death shall be presumed to have occurred on the  
3 date of the member's termination of service in the system. This will  
4 qualify the member's beneficiary for benefit under RCW 41.40.270 or  
5 41.40.700, whichever may apply.

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.43 RCW  
7 to read as follows:

8 If a member is called or recalled to active duty in the armed  
9 forces of the United States between August 2, 1990, and date  
10 terminating "Operation Desert Shield," as specified by the president or  
11 an agency of the United States government, and dies in the line of  
12 duty, such member's death shall be presumed to have occurred on the  
13 date of the member's termination of services in the system. This will  
14 qualify the member's beneficiary for benefit under RCW 43.43.270.

15 **Sec. 9.** RCW 41.40.120 and 1990 c 274 s 10 and 1990 c 192 s 4 are  
16 each reenacted and amended to read as follows:

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

20 (1) Persons in ineligible positions;

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

25 (3)(a) Persons holding elective offices or persons appointed  
26 directly by the governor: PROVIDED, That such persons shall have the  
27 option of applying for membership during such periods of employment:  
28 AND PROVIDED FURTHER, That any persons holding or who have held

1 elective offices or persons appointed by the governor who are members  
2 in the retirement system and who have, prior to becoming such members,  
3 previously held an elective office, and did not at the start of such  
4 initial or successive terms of office exercise their option to become  
5 members, may apply for membership to be effective during such term or  
6 terms of office, and shall be allowed to establish the service credit  
7 applicable to such term or terms of office upon payment of the employee  
8 contributions therefor by the employee with interest as determined by  
9 the director and employer contributions therefor by the employer or  
10 employee with interest as determined by the director: AND PROVIDED  
11 FURTHER, That all contributions with interest submitted by the employee  
12 under this subsection shall be placed in the employee's individual  
13 account in the employee's savings fund and be treated as any other  
14 contribution made by the employee, with the exception that any  
15 contributions submitted by the employee in payment of the employer's  
16 obligation, together with the interest the director may apply to the  
17 employer's contribution, shall not be considered part of the member's  
18 annuity for any purpose except withdrawal of contributions;

19 (b) A member holding elective office (~~((in a town or city))~~) who has  
20 elected to apply for membership pursuant to (a) of this subsection and  
21 who later wishes to be eligible for a retirement allowance shall have  
22 the option of ending his or her membership in the retirement system.  
23 A member wishing to end his or her membership under this subsection  
24 must file, on a form supplied by the department, a statement indicating  
25 that the member agrees to irrevocably abandon any claim for service for  
26 future periods served as an elected official (~~((of a town or city))~~). A  
27 member who receives (~~((more than ten thousand dollars per year in))~~)  
28 compensation for his or her elective service greater than the highest  
29 salary authorized at the time of his or her retirement under RCW

1 43.03.013 is not eligible for the option provided by this subsection  
2 (~~(3)(b)~~);

3 (4) Employees holding membership in, or receiving pension benefits  
4 under, any retirement plan operated wholly or in part by an agency of  
5 the state or political subdivision thereof, or who are by reason of  
6 their current employment contributing to or otherwise establishing the  
7 right to receive benefits from any such retirement plan: PROVIDED,  
8 HOWEVER, In any case where the retirement system has in existence an  
9 agreement with another retirement system in connection with exchange of  
10 service credit or an agreement whereby members can retain service  
11 credit in more than one system, such an employee shall be allowed  
12 membership rights should the agreement so provide: AND PROVIDED  
13 FURTHER, That an employee shall be allowed membership if otherwise  
14 eligible while receiving survivor's benefits: AND PROVIDED FURTHER,  
15 That an employee shall not either before or after June 7, 1984, be  
16 excluded from membership or denied service credit pursuant to this  
17 subsection solely on account of: (a) Membership in the plan created  
18 under chapter 2.14 RCW; or (b) enrollment under the relief and  
19 compensation provisions or the pension provisions of the volunteer fire  
20 fighters' relief and pension fund under chapter 41.24 RCW;

21 (5) Patient and inmate help in state charitable, penal, and  
22 correctional institutions;

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

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

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



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

5 (10) Persons appointed after April 1, 1963, by the liquor control  
6 board as agency vendors;

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

11 (12) Plan I retirees employed in eligible positions on a temporary  
12 basis for a period not to exceed five months in a calendar year:  
13 PROVIDED, That if such employees are employed for more than five months  
14 in a calendar year in an eligible position they shall become members of  
15 the system prospectively;

16 (13) Persons employed by or appointed or elected as an official of  
17 a first class city that has its own retirement system: PROVIDED, That  
18 any member elected or appointed to an elective office on or after April  
19 1, 1971, shall have the option of continuing as a member of this system  
20 in lieu of becoming a member of the city system. A member who elects  
21 to continue as a member of this system shall pay the appropriate member  
22 contributions and the city shall pay the employer contributions at the  
23 rates prescribed by this chapter. The city shall also transfer to this  
24 system all of such member's accumulated contributions together with  
25 such further amounts as necessary to equal all employee and employer  
26 contributions which would have been paid into this system on account of  
27 such service with the city and thereupon the member shall be granted  
28 credit for all such service. Any city that becomes an employer as  
29 defined in RCW 41.40.010(4) as the result of an individual's election  
30 under this subsection shall not be required to have all employees

1 covered for retirement under the provisions of this chapter. Nothing  
2 in this subsection shall prohibit a city of the first class with its  
3 own retirement system from: (a) Transferring all of its current  
4 employees to the retirement system established under this chapter, or  
5 (b) allowing newly hired employees the option of continuing coverage  
6 under the retirement system established by this chapter.

7 Notwithstanding any other provision of this chapter, persons  
8 transferring from employment with a first class city of over four  
9 hundred thousand population that has its own retirement system to  
10 employment with the state department of agriculture may elect to remain  
11 within the retirement system of such city and the state shall pay the  
12 employer contributions for such persons at like rates as prescribed for  
13 employers of other members of such system;

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

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

23 (16) Employees who are citizens of the United States and who reside  
24 and perform duties for an employer outside of the United States:  
25 PROVIDED, That unless otherwise excluded under this chapter or chapter  
26 41.04 RCW, the employee may apply for membership (a) within thirty days  
27 after employment in an eligible position and membership service credit  
28 shall be granted from the first day of membership service, and (b)  
29 after this thirty-day period, but membership service credit shall be  
30 granted only from the date of application;

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

11 **Sec. 10.** RCW 41.18.015 and 1961 c 255 s 11 are each amended to  
12 read as follows:

13 There is hereby created in each fire protection district which  
14 qualifies under this chapter, a firemen's pension board to consist of  
15 the following five members, the chairman of the fire commissioners for  
16 said district who shall be chairman of the board, the county auditor,  
17 county treasurer, and in addition, two regularly employed ((firemen))  
18 or retired fire fighters elected by secret ballot of the ((firemen))  
19 employed and retired fire fighters. Retired members who are subject to  
20 the jurisdiction of the pension board have both the right to elect and  
21 the right to be elected under this section. The first members to be  
22 elected by the ((firemen)) fire fighters shall be ((for a term of one  
23 and two years, respectively, and their successors shall be)) elected  
24 annually for a two-year term. ((That)) The two ((firemen so)) fire  
25 fighter elected members shall, in turn, select a third ((fireman))  
26 eligible member who shall serve in the event of an absence of one of  
27 the regularly elected ((firemen)) members. In case a vacancy occurs in  
28 the membership of the ((firemen)) fire fighter or retired members, the  
29 members ((of the fire department)) shall in the same manner elect a

1 successor to serve ((his)) the unexpired term. The board may select  
2 and appoint a secretary who may, but need not be a member of the board.  
3 In case of absence or inability of the chairman to act, the board may  
4 select a chairman pro tempore who shall during such absence or  
5 inability perform the duties and exercise the powers of the chairman.  
6 A majority of the members of said board shall constitute a quorum and  
7 have power to transact business.

8 NEW SECTION. **Sec. 11.** If a law enforcement officers' and fire  
9 fighters' system member's prior service as a law enforcement officer or  
10 fire fighter under a prior pension system is not creditable due to the  
11 withdrawal of his or her contributions plus accrued interest thereon  
12 from a prior pension system, such member shall be credited with such  
13 prior service, as a law enforcement officer or fire fighter, by paying  
14 to the Washington law enforcement officers' and fire fighters'  
15 retirement system, on or before June 30, 1992, an amount which is equal  
16 to that which was withdrawn from the prior system by such member, as a  
17 law enforcement officer or fire fighter.

18 NEW SECTION. **Sec. 12.** If a law enforcement officers' and fire  
19 fighters' system member's prior service as a law enforcement officer or  
20 fire fighter under a prior pension system is not creditable because,  
21 although employed in a position covered by a prior pension act, such  
22 member had not yet become a member of the pension system governed by  
23 such act, such member shall be credited with such prior service as a  
24 law enforcement officer or fire fighter, by paying to the Washington  
25 law enforcement officers' and fire fighters' retirement system, on or  
26 before June 30, 1992, an amount which is equal to the employer's  
27 contributions which would have been required under the prior act when

1 such service was rendered if the member had been a member of such  
2 system during such period.

3 NEW SECTION. **Sec. 13.** 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.