
SUBSTITUTE SENATE BILL 6186

State of Washington

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By Senate Committee on Ways & Means (originally sponsored by Senators Nelson, Johnson, Niemi, Craswell, Rasmussen, Moore, Snyder, Oke, Bauer, Gaspard, Saling and Bailey; by request of Joint Committee on Pension Policy)

Read first time 02/07/92.

1 AN ACT Relating to providing service credit for periods of unpaid
2 leave of absence as an elected official of a Washington education
3 association; reenacting and amending RCW 41.32.010; adding new sections
4 to chapter 41.32 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.32 RCW,
7 under the subchapter heading "provisions applicable to plan I and plan
8 II," to read as follows:

9 (1) Any member of the retirement system who prior to June 30, 1992,
10 was on a leave of absence authorized by a school district or a
11 community and technical college district to work as an elected official
12 of an education association in the state of Washington shall be granted
13 service credit for that leave period, subject to the conditions and
14 procedures provided in subsections (2) and (3) of this section.

1 (2) A member shall be granted service credit under subsection (1)
2 of this section for periods of leave prior to June 30, 1992, if the
3 district reported compensation to the department for the period of
4 authorized leave.

5 (3) Members for whom employer or employee contributions have not
6 yet been submitted for service for leave during the 1990-91 or 1991-92
7 school year shall have until January 1, 1993, to submit such
8 contributions, with interest as determined by the department, if they
9 wish to receive service credit under this section.

10 Any member who received a distribution of contributions from the
11 department in 1990 or 1991 as a result of the department's
12 administration of prior law regarding educational association leave
13 shall have the option to establish credit for such service, provided
14 the conditions of this section are met and the member reimburses the
15 department for the amount of contributions distributed, with interest
16 as determined by the department, no later than January 1, 1993.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW,
18 under the subchapter heading "plan I," to read as follows:

19 (1) A member shall be eligible to receive a maximum of four years
20 of service credit for periods spent after June 30, 1992, on an unpaid
21 leave of absence authorized by a school district or a community and
22 technical college district to work as an elected official of an
23 education association in the state of Washington, subject to the
24 conditions and procedures specified in subsection (2) of this section.

25 (2) In order to receive credit under subsection (1) of this
26 section, the member must make both the employer and employee
27 contributions, plus interest as determined by the department, within
28 five years of resumption of service or prior to retirement, whichever
29 comes first. The contributions required for members employed by a

1 school district shall be based on the earnable compensation the member
2 would have received for the position the member occupied immediately
3 prior to taking leave, as established in the district's collective
4 bargaining agreement for nonsupervisory certificated employees. The
5 contributions required for members employed by a community and
6 technical college district shall be based on the average of the
7 member's earnable compensation at both the time the authorized leave of
8 absence was granted and the time the member resumed employment.

9 **Sec. 3.** RCW 41.32.010 and 1991 c 343 s 3 and 1991 c 35 s 31 are
10 each reenacted and amended to read as follows:

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

13 (1)(a) "Accumulated contributions" for plan I members, means the
14 sum of all regular annuity contributions with regular interest thereon.

15 (b) "Accumulated contributions" for plan II members, means the sum
16 of all contributions standing to the credit of a member in the member's
17 individual account together with the regular interest thereon.

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

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

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

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

27 (6)(a) "Beneficiary" for plan I members, means any person in
28 receipt of a retirement allowance or other benefit provided by this
29 chapter.

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

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

6 (8) "Creditable service" means membership service plus prior
7 service for which credit is allowable. This subsection shall apply
8 only to plan I members.

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

11 (10) "Disability allowance" means monthly payments during
12 disability. This subsection shall apply only to plan I members.

13 (11)(a) "Earnable compensation" for plan I members, means:

14 (i) All salaries and wages paid by an employer to an employee
15 member of the retirement system for personal services rendered during
16 a fiscal year. In all cases where compensation includes maintenance
17 the employer shall fix the value of that part of the compensation not
18 paid in money.

19 (A) Retroactive payments to an individual by an employer on
20 reinstatement of the employee in a position, or payments by an employer
21 to an individual in lieu of reinstatement in a position which are
22 awarded or granted as the equivalent of the salary or wages which the
23 individual would have earned during a payroll period shall be
24 considered earnable compensation and the individual shall receive the
25 equivalent service credit.

26 (B) If a leave of absence, without pay, is taken by a member for
27 the purpose of serving as a member of the state legislature, and such
28 member has served in the legislature five or more years, the salary
29 which would have been received for the position from which the leave of
30 absence was taken shall be considered as compensation earnable if the

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

8 (ii) For members employed less than full time under written
9 contract with a school district, or community college district, in an
10 instructional position, for which the member receives service credit of
11 less than one year in all of the years used to determine the earnable
12 compensation used for computing benefits due under RCW 41.32.497,
13 41.32.498, and 41.32.520, the member may elect to have earnable
14 compensation defined as provided in RCW (~~41.32.011~~) 41.32.345. For
15 the purposes of this subsection, the term "instructional position"
16 means a position in which more than seventy-five percent of the
17 member's time is spent as a classroom instructor (including office
18 hours), a librarian, or a counselor. Earnable compensation shall be so
19 defined only for the purpose of the calculation of retirement benefits
20 and only as necessary to insure that members who receive fractional
21 service credit under RCW 41.32.270 receive benefits proportional to
22 those received by members who have received full-time service credit.

23 (iii) For members who receive service credit pursuant to section 1
24 or 2 of this act for a period of authorized leave from a school
25 district, the earnable compensation allowable for calculation of the
26 member's average final compensation shall be the salary the member
27 would have been paid by the district for the position the member
28 occupied immediately prior to taking leave, as established in the
29 district's collective bargaining agreement for nonsupervisory
30 certificated employees.

1 (iv) For members who receive service credit pursuant to section 1
2 or 2 of this act for a period of authorized leave from a community or
3 technical college district, the earnable compensation allowable for
4 calculation of average final compensation for periods of service
5 authorized under this chapter shall be the average of the member's
6 compensation earnable at both the time the authorized leave of absence
7 was granted and the time the member resumed employment.

8 (b) "Earnable compensation" for plan II members, means salaries or
9 wages earned by a member during a payroll period for personal services,
10 including overtime payments, and shall include wages and salaries
11 deferred under provisions established pursuant to sections 403(b),
12 414(h), and 457 of the United States Internal Revenue Code, but shall
13 exclude lump sum payments for deferred annual sick leave, unused
14 accumulated vacation, unused accumulated annual leave, or any form of
15 severance pay.

16 (i) Retroactive payments to an individual by an employer on
17 reinstatement of the employee in a position or payments by an employer
18 to an individual in lieu of reinstatement in a position which are
19 awarded or granted as the equivalent of the salary or wages which the
20 individual would have earned during a payroll period shall be
21 considered earnable compensation, to the extent provided above, and the
22 individual shall receive the equivalent service credit.

23 (ii) In any year in which a member serves in the legislature the
24 member shall have the option of having such member's earnable
25 compensation be the greater of:

26 (A) The earnable compensation the member would have received had
27 such member not served in the legislature; or

28 (B) Such member's actual earnable compensation received for
29 teaching and legislative service combined. Any additional
30 contributions to the retirement system required because compensation

1 earnable under (b)(ii)(A) of this subsection is greater than
2 compensation earnable under (b)(ii)(B) of this subsection shall be paid
3 by the member for both member and employer contributions.

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

6 (13) "Fiscal year" means a year which begins July 1st and ends June
7 30th of the following year.

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

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

13 (16) "Member" means any teacher included in the membership of the
14 retirement system. Also, any other employee of the public schools who,
15 on July 1, 1947, had not elected to be exempt from membership and who,
16 prior to that date, had by an authorized payroll deduction, contributed
17 to the annuity fund.

18 (17) "Membership service" means service rendered subsequent to the
19 first day of eligibility of a person to membership in the retirement
20 system: PROVIDED, That where a member is employed by two or more
21 employers the individual shall receive no more than one service credit
22 month during any calendar month in which multiple service is rendered.
23 The provisions of this subsection shall apply only to plan I members.

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

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

1 (20) "Prior service" means service rendered prior to the first date
2 of eligibility to membership in the retirement system for which credit
3 is allowable. The provisions of this subsection shall apply only to
4 plan I members.

5 (21) "Prior service contributions" means contributions made by a
6 member to secure credit for prior service. The provisions of this
7 subsection shall apply only to plan I members.

8 (22) "Public school" means any institution or activity operated by
9 the state of Washington or any instrumentality or political subdivision
10 thereof employing teachers, except the University of Washington and
11 Washington State University.

12 (23) "Regular contributions" means the amounts required to be
13 deducted from the compensation of a member and credited to the member's
14 individual account in the annuity fund. This subsection shall apply
15 only to plan I members.

16 (24) "Regular interest" means such rate as the director may
17 determine.

18 (25)(a) "Retirement allowance" for plan I members, means monthly
19 payments based on the sum of annuity and pension, or any optional
20 benefits payable in lieu thereof.

21 (b) "Retirement allowance" for plan II members, means monthly
22 payments to a retiree or beneficiary as provided in this chapter.

23 (26) "Retirement system" means the Washington state teachers'
24 retirement system.

25 (27)(a) "Service" means the time during which a member has been
26 employed by an employer for compensation: PROVIDED, That where a
27 member is employed by two or more employers the individual shall
28 receive no more than one service credit month during any calendar month
29 in which multiple service is rendered.

1 (b) "Service" for plan II members, means periods of employment by
2 a member for one or more employers for which earnable compensation is
3 earned subject to the following conditions:

4 (i) A member employed in an eligible position or as a substitute
5 shall receive one service credit month for each month of September
6 through August of the following year if he or she earns earnable
7 compensation for eight hundred ten or more hours during that period and
8 is employed during nine of those months, except that a member may not
9 receive credit for any period prior to the member's employment in an
10 eligible position except as provided in RCW 41.32.812 and 41.50.132;

11 (ii) If a member is employed either in an eligible position or as
12 a substitute teacher for nine months of the twelve month period between
13 September through August of the following year but earns earnable
14 compensation for less than eight hundred ten hours but for at least six
15 hundred thirty hours, he or she will receive one-half of a service
16 credit month for each month of the twelve month period;

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

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

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

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

27 Any person who is a member of the teachers' retirement system and
28 who is elected or appointed to a state elective position may continue
29 to be a member of the retirement system and continue to receive a

1 service credit month for each of the months in a state elective
2 position by making the required member contributions.

3 When an individual is employed by two or more employers the
4 individual shall only receive one month's service credit during any
5 calendar month in which multiple service for ninety or more hours is
6 rendered.

7 The department shall adopt rules implementing this subsection.

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

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

12 (30) "Survivors' benefit fund" means the fund from which survivor
13 benefits are paid to dependents of deceased members. This subsection
14 shall apply only to plan I members.

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

23 (32) "Average final compensation" for plan II members, means the
24 member's average earnable compensation of the highest consecutive sixty
25 service credit months prior to such member's retirement, termination,
26 or death. Periods constituting authorized leaves of absence may not be
27 used in the calculation of average final compensation.

28 (33) "Retiree" means any member in receipt of a retirement
29 allowance or other benefit provided by this chapter resulting from
30 service rendered to an employer by such member.

1 (34) "Department" means the department of retirement systems
2 created in chapter 41.50 RCW.

3 (35) "Director" means the director of the department.

4 (36) "State elective position" means any position held by any
5 person elected or appointed to state-wide office or elected or
6 appointed as a member of the legislature.

7 (37) "State actuary" or "actuary" means the person appointed
8 pursuant to RCW 44.44.010(2).

9 (38) "Substitute teacher" means:

10 (a) A teacher who is hired by an employer to work as a temporary
11 teacher, except for teachers who are annual contract employees of an
12 employer and are guaranteed a minimum number of hours; or

13 (b) Teachers who either (i) work in ineligible positions for more
14 than one employer or (ii) work in an ineligible position or positions
15 together with an eligible position.

16 (39)(a) "Eligible position" for plan II members from June 7, 1990,
17 through September 1, 1991, means a position which normally requires two
18 or more uninterrupted months of creditable service during September
19 through August of the following year.

20 (b) "Eligible position" for plan II on and after September 1, 1991,
21 means a position that, as defined by the employer, normally requires
22 five or more months of at least seventy hours of earnable compensation
23 during September through August of the following year.

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

27 (d) The elected position of the superintendent of public
28 instruction is an eligible position.

1 (40) "Plan I" means the teachers' retirement system, plan I
2 providing the benefits and funding provisions covering persons who
3 first became members of the system prior to October 1, 1977.

4 (41) "Plan II" means the teachers' retirement system, plan II
5 providing the benefits and funding provisions covering persons who
6 first became members of the system on and after October 1, 1977.

7 (42) "Education association" means an association organized to
8 carry out collective bargaining activities, the majority of whose
9 members are employees covered by chapter 41.59 RCW or academic
10 employees covered by chapter 28B.52 RCW.

11 NEW SECTION. Sec. 4. This act shall apply retroactively for
12 periods of leave occurring before the effective date of this act.