
SENATE BILL 6186

State of Washington

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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 01/21/92. Referred to Committee on Ways & Means.

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: (a)
3 The district reported compensation earnable to the department for the
4 period of authorized leave; (b) the member satisfied all other
5 eligibility criteria established by this chapter; and (c) the earnable
6 compensation reported for the member was the salary the member would
7 have been paid by the district for the position the member was on leave
8 from, as established in the district's collective bargaining agreement
9 for nonsupervisory certificated employees.

10 (3) School districts and community and technical college districts
11 may correct their records and transmittals to the department as may be
12 necessary to comply with the provisions of subsection (2) of this
13 section for members who were on leave under subsection (1) of this
14 section during the 1990-91 or 1991-92 school year. Members for whom
15 employer or employee contributions have not yet been submitted for
16 service for leave during the 1990-91 or 1991-92 school year shall have
17 until January 1, 1993, to submit such contributions, with interest as
18 determined by the department, if they wish to receive service credit
19 under this section.

20 Any member who received a distribution of contributions from the
21 department in 1990 or 1991 as a result of the department's
22 administration of prior law regarding educational association leave
23 shall have the option to establish credit for such service, provided
24 the conditions of subsections (1) and (2) of this section are met and
25 the member reimburses the department for the amount of contributions
26 distributed no later than January 1, 1993.

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

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

7 (2) In order to receive credit under subsection (1) of this
8 section, the member must make both the employer and employee
9 contributions, plus interest as determined by the department, within
10 five years of resumption of service or prior to retirement, whichever
11 comes sooner. The contributions required for members employed by a
12 school district shall be based on the earnable compensation the member
13 would have received for the position the member was on leave from, as
14 established in the district's collective bargaining agreement for
15 nonsupervisory certificated employees. The contributions required for
16 members employed by a community and technical college district shall be
17 based on the average of the member's compensation earnable at both the
18 time the authorized leave of absence was granted and the time the
19 member resumed employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (A) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an employer
3 to an individual in lieu of reinstatement in a position which are
4 awarded or granted as the equivalent of the salary or wages which the
5 individual would have earned during a payroll period shall be
6 considered earnable compensation and the individual shall receive the
7 equivalent service credit.

8 (B) If a leave of absence, without pay, is taken by a member for
9 the purpose of serving as a member of the state legislature, and such
10 member has served in the legislature five or more years, the salary
11 which would have been received for the position from which the leave of
12 absence was taken shall be considered as compensation earnable if the
13 employee's contribution thereon is paid by the employee. In addition,
14 where a member has been a member of the state legislature for five or
15 more years, earnable compensation for the member's two highest
16 compensated consecutive years of service shall include a sum not to
17 exceed thirty-six hundred dollars for each of such two consecutive
18 years, regardless of whether or not legislative service was rendered
19 during those two years.

20 (ii) For members employed less than full time under written
21 contract with a school district, or community college district, in an
22 instructional position, for which the member receives service credit of
23 less than one year in all of the years used to determine the earnable
24 compensation used for computing benefits due under RCW 41.32.497,
25 41.32.498, and 41.32.520, the member may elect to have earnable
26 compensation defined as provided in RCW (~~41.32.011~~) 41.32.345. For
27 the purposes of this subsection, the term "instructional position"
28 means a position in which more than seventy-five percent of the
29 member's time is spent as a classroom instructor (including office
30 hours), a librarian, or a counselor. Earnable compensation shall be so

1 defined only for the purpose of the calculation of retirement benefits
2 and only as necessary to insure that members who receive fractional
3 service credit under RCW 41.32.270 receive benefits proportional to
4 those received by members who have received full-time service credit.

5 (iii) For members who receive service credit pursuant to section 1
6 or 2 of this act for a period of authorized leave from a school
7 district, the earnable compensation allowable for calculation of the
8 member's average final compensation shall be the salary the member
9 would have been paid by the district for the position the member was on
10 leave from, as established in the district's collective bargaining
11 agreement for nonsupervisory certificated employees.

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

19 (b) "Earnable compensation" for plan II members, means salaries or
20 wages earned by a member during a payroll period for personal services,
21 including overtime payments, and shall include wages and salaries
22 deferred under provisions established pursuant to sections 403(b),
23 414(h), and 457 of the United States Internal Revenue Code, but shall
24 exclude lump sum payments for deferred annual sick leave, unused
25 accumulated vacation, unused accumulated annual leave, or any form of
26 severance pay.

27 (i) Retroactive payments to an individual by an employer on
28 reinstatement of the employee in a position or payments by an employer
29 to an individual in lieu of reinstatement in a position which are
30 awarded or granted as the equivalent of the salary or wages which the

1 individual would have earned during a payroll period shall be
2 considered earnable compensation, to the extent provided above, and the
3 individual shall receive the equivalent service credit.

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

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

9 (B) Such member's actual earnable compensation received for
10 teaching and legislative service combined. Any additional
11 contributions to the retirement system required because compensation
12 earnable under (b)(ii)(A) of this subsection is greater than
13 compensation earnable under (b)(ii)(B) of this subsection shall be paid
14 by the member for both member and employer contributions.

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

17 (13) "Fiscal year" means a year which begins July 1st and ends June
18 30th of the following year.

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

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

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

29 (17) "Membership service" means service rendered subsequent to the
30 first day of eligibility of a person to membership in the retirement

1 system: PROVIDED, That where a member is employed by two or more
2 employers the individual shall receive no more than one service credit
3 month during any calendar month in which multiple service is rendered.
4 The provisions of this subsection shall apply only to plan I members.

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

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

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

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

18 (22) "Public school" means any institution or activity operated by
19 the state of Washington or any instrumentality or political subdivision
20 thereof employing teachers, except the University of Washington and
21 Washington State University.

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

26 (24) "Regular interest" means such rate as the director may
27 determine.

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

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

3 (26) "Retirement system" means the Washington state teachers'
4 retirement system.

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

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

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

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

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

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

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

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

7 Any person who is a member of the teachers' retirement system and
8 who is elected or appointed to a state elective position may continue
9 to be a member of the retirement system and continue to receive a
10 service credit month for each of the months in a state elective
11 position by making the required member contributions.

12 When an individual is employed by two or more employers the
13 individual shall only receive one month's service credit during any
14 calendar month in which multiple service for ninety or more hours is
15 rendered.

16 The department shall adopt rules implementing this subsection.

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

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

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

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

1 public school and renders service of an instructional or educational
2 nature.

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

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

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

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

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

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

19 (38) "Substitute teacher" means:

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

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

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

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

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

8 (d) The elected position of the superintendent of public
9 instruction is an eligible position.

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

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

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