

2 **SHB 2644 - H AMD 987 ADOPTED 02/12/94**

3 By Representative Sommers

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5 On page 6, beginning on line 27, strike all of section 8 and insert
6 the following:

7 "Sec. 8. RCW 41.40.010 and 1993 c 95 s 8 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 public employees' retirement
12 system provided for in this chapter.

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

15 (3) "State treasurer" means the treasurer of the state of
16 Washington.

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

28 (b) "Employer" for plan II members, means every branch, department,
29 agency, commission, board, and office of the state, and any political
30 subdivision and municipal corporation of the state admitted into the
31 retirement system, including public agencies created pursuant to RCW
32 35.63.070, 36.70.060, and 39.34.030.

33 (5) "Member" means any employee included in the membership of the
34 retirement system, as provided for in RCW 41.40.023.

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

1 (a) Any person who became a member of the system prior to April 1,
2 1949;

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

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

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

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

22 (f) Any member who has been a contributor under the system for two
23 or more years and who has restored all contributions that may have been
24 withdrawn as provided by RCW 41.40.150 and who on the effective date of
25 the individual's retirement has rendered five or more years of service
26 for the state or any political subdivision prior to the time of the
27 admission of the employer into the system; except that the provisions
28 relating to the minimum amount of retirement allowance for the member
29 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
30 apply to the member.

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

33 (8)(a) "Compensation earnable" for plan I members, means salaries
34 or wages earned during a payroll period for personal services and where
35 the compensation is not all paid in money, maintenance compensation
36 shall be included upon the basis of the schedules established by the
37 member's employer(~~(:—PROVIDED, That)~~). Compensation that a member
38 receives for being in standby status is also compensation earnable,
39 subject to the conditions of this subsection. A member is in standby

1 status when not being paid for time actually worked and only when both
2 of the following conditions exist: (i) The member is required to be
3 present at, or in the immediate vicinity of, a specified location; and
4 (ii) the employer requires the member to be prepared to report
5 immediately for work, if the need arises, although the need may not
6 arise. Standby compensation is regular salary for the purposes of RCW
7 41.50.150(2). Retroactive payments to an individual by an employer on
8 reinstatement of the employee in a position, or payments by an employer
9 to an individual in lieu of reinstatement in a position which are
10 awarded or granted as the equivalent of the salary or wage which the
11 individual would have earned during a payroll period shall be
12 considered compensation earnable and the individual shall receive the
13 equivalent service credit(~~(:—PROVIDED FURTHER, That)~~)). If a leave of
14 absence is taken by an individual for the purpose of serving in the
15 state legislature, the salary which would have been received for the
16 position from which the leave of absence was taken, shall be considered
17 as compensation earnable if the employee's contribution is paid by the
18 employee and the employer's contribution is paid by the employer or
19 employee.

20 (b) "Compensation earnable" for plan II members, means salaries or
21 wages earned by a member during a payroll period for personal services,
22 including overtime payments, and shall include wages and salaries
23 deferred under provisions established pursuant to sections 403(b),
24 414(h), and 457 of the United States Internal Revenue Code, but shall
25 exclude nonmoney maintenance compensation and lump sum payments for
26 deferred annual sick leave, unused accumulated vacation, unused
27 accumulated annual leave, or any form of severance pay(~~(:—PROVIDED,~~
28 ~~That)~~)). Compensation that a member receives for being in standby
29 status is also compensation earnable, subject to the conditions of this
30 subsection. A member is in standby status when not being paid for time
31 actually worked and only when both of the following conditions exist:
32 (i) The member is required to be present at, or in the immediate
33 vicinity of, a specified location; and (ii) the employer requires the
34 member to be prepared to report immediately for work, if the need
35 arises, although the need may not arise. Standby compensation is
36 regular salary for the purposes of RCW 41.50.150(2). Retroactive
37 payments to an individual by an employer on reinstatement of the
38 employee in a position, or payments by an employer to an individual in
39 lieu of reinstatement in a position which are awarded or granted as the

1 equivalent of the salary or wage which the individual would have earned
2 during a payroll period shall be considered compensation earnable to
3 the extent provided above, and the individual shall receive the
4 equivalent service credit(~~(: PROVIDED FURTHER, That)~~). In any year in

5 which a member serves in the legislature, the member shall have the
6 option of having such member's compensation earnable be the greater of:

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

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

16 (9)(a) "Service" for plan I members, except as provided in RCW
17 41.40.088, means periods of employment in an eligible position or
18 positions for one or more employers rendered to any employer for which
19 compensation is paid, and includes time spent in office as an elected
20 or appointed official of an employer. Compensation earnable earned in
21 full time work for seventy hours or more in any given calendar month
22 shall constitute one service credit month except as provided in RCW
23 41.40.088. Compensation earnable earned for less than seventy hours in
24 any calendar month shall constitute one-quarter service credit month of
25 service except as provided in RCW 41.40.088. Only service credit
26 months and one-quarter service credit months shall be counted in the
27 computation of any retirement allowance or other benefit provided for
28 in this chapter. Any fraction of a year of service shall be taken into
29 account in the computation of such retirement allowance or benefits.
30 Time spent in standby status, whether compensated or not, is not
31 service.

32 Service by a state employee officially assigned by the state on a
33 temporary basis to assist another public agency, shall be considered as
34 service as a state employee: PROVIDED, That service to any other
35 public agency shall not be considered service as a state employee if
36 such service has been used to establish benefits in any other public
37 retirement system: PROVIDED FURTHER, That an individual shall receive
38 no more than a total of twelve service credit months of service during
39 any calendar year: PROVIDED FURTHER, That where an individual is

1 employed in an eligible position by one or more employers the
2 individual shall receive no more than one service credit month during
3 any calendar month in which multiple service for seventy or more hours
4 is rendered.

5 (b) "Service" for plan II members, means periods of employment by
6 a member in an eligible position or positions for one or more employers
7 for which compensation earnable is paid. Compensation earnable earned
8 for ninety or more hours in any calendar month shall constitute one
9 service credit month except as provided in RCW 41.40.088. Compensation
10 earnable earned for at least seventy hours but less than ninety hours
11 in any calendar month shall constitute one-half service credit month of
12 service. Compensation earnable earned for less than seventy hours in
13 any calendar month shall constitute one-quarter service credit month of
14 service. Time spent in standby status, whether compensated or not, is
15 not service.

16 Any fraction of a year of service shall be taken into account in
17 the computation of such retirement allowance or benefits.

18 Service in any state elective position shall be deemed to be full
19 time service, except that persons serving in state elective positions
20 who are members of the teachers' retirement system or law enforcement
21 officers' and fire fighters' retirement system at the time of election
22 or appointment to such position may elect to continue membership in the
23 teachers' retirement system or law enforcement officers' and fire
24 fighters' retirement system.

25 A member shall receive a total of not more than twelve service
26 credit months of service for such calendar year: PROVIDED, That when
27 an individual is employed in an eligible position by one or more
28 employers the individual shall receive no more than one service credit
29 month during any calendar month in which multiple service for ninety or
30 more hours is rendered.

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

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

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

37 (13) "Membership service" means:

38 (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 41.40.023: 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
31 period of probationary service, except that the amount of the
32 employer's contribution shall be calculated by the director based on
33 the first month's compensation earnable as a member.

34 (14)(a) "Beneficiary" for plan I members, means any person in
35 receipt of a retirement allowance, pension or other benefit provided by
36 this chapter.

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

1 (15) "Regular interest" means such rate as the director may
2 determine.

3 (16) "Accumulated contributions" means the sum of all contributions
4 standing to the credit of a member in the member's individual account
5 together with the regular interest thereon.

6 (17)(a) "Average final compensation" for plan I members, means the
7 annual average of the greatest compensation earnable by a member during
8 any consecutive two year period of service credit months for which
9 service credit is allowed; or if the member has less than two years of
10 service credit months then the annual average compensation earnable
11 during the total years of service for which service credit is allowed.

12 (b) "Average final compensation" for plan II members, means the
13 member's average compensation earnable of the highest consecutive sixty
14 months of service credit months prior to such member's retirement,
15 termination, or death. Periods constituting authorized leaves of
16 absence may not be used in the calculation of average final
17 compensation except under RCW 41.40.710(2).

18 (18) "Final compensation" means the annual rate of compensation
19 earnable by a member at the time of termination of employment.

20 (19) "Annuity" means payments for life derived from accumulated
21 contributions of a member. All annuities shall be paid in monthly
22 installments.

23 (20) "Pension" means payments for life derived from contributions
24 made by the employer. All pensions shall be paid in monthly
25 installments.

26 (21) "Retirement allowance" means the sum of the annuity and the
27 pension.

28 (22) "Employee" means any person who may become eligible for
29 membership under this chapter, as set forth in RCW 41.40.023.

30 (23) "Actuarial equivalent" means a benefit of equal value when
31 computed upon the basis of such mortality and other tables as may be
32 adopted by the director.

33 (24) "Retirement" means withdrawal from active service with a
34 retirement allowance as provided by this chapter.

35 (25) "Eligible position" means:

36 (a) Any position that, as defined by the employer, normally
37 requires five or more months of service a year for which regular
38 compensation for at least seventy hours is earned by the occupant
39 thereof. For purposes of this chapter an employer shall not define

1 "position" in such a manner that an employee's monthly work for that
2 employer is divided into more than one position;

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

5 (26) "Ineligible position" means any position which does not
6 conform with the requirements set forth in subsection (25) of this
7 section.

8 (27) "Leave of absence" means the period of time a member is
9 authorized by the employer to be absent from service without being
10 separated from membership.

11 (28) "Totally incapacitated for duty" means total inability to
12 perform the duties of a member's employment or office or any other work
13 for which the member is qualified by training or experience.

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

17 (30) "Director" means the director of the department.

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

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

23 (33) "Plan I" means the public employees' retirement system, plan
24 I providing the benefits and funding provisions covering persons who
25 first became members of the system prior to October 1, 1977.

26 (34) "Plan II" means the public employees' retirement system, plan
27 II providing the benefits and funding provisions covering persons who
28 first became members of the system on and after October 1, 1977.

29 NEW SECTION. **Sec. 9.** The inclusion of standby compensation in the
30 definition of compensation earnable in RCW 41.40.010 shall apply to
31 compensation earned after the effective date of this act, and on a
32 retroactive basis to standby compensation reported to the department
33 prior to the effective date of this act."

34 Renumber the remaining sections consecutively and correct internal
35 references accordingly.

1 EFFECT: Amends the definition of compensation earnable in PERS
2 Plan I and II to include standby pay. Standby pay would be included in
3 compensation earnable only where a member is required to be present at
4 or near a specified location and report to work immediately should the
5 need arise. Standby pay will not be treated as "excess compensation"
6 upon retirement, for which employers would otherwise be charged a one-
7 time lump sum payment to the pension trust fund. Time spent on standby
8 status is not counted toward service credit for purposes of determining
9 retirement benefits and eligibility.

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