
HOUSE BILL 1117

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Riley, Mielke, Jones, Leonard, Franklin, Scott, Basich, Campbell, Wood, R. Meyers, Brough, Van Luven, Quall, Brown, Eide, Johanson and Orr

Read first time 01/15/93. Referred to Committee on Appropriations.

1 AN ACT Relating to the definition of employer for purposes of the
2 law enforcement officers' and fire fighters' retirement system plan II;
3 and amending RCW 41.26.030.

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

5 **Sec. 1.** RCW 41.26.030 and 1991 sp.s. c 12 s 1 are each amended to
6 read as follows:

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

9 (1) "Retirement system" means the "Washington law enforcement
10 officers' and fire fighters' retirement system" provided herein.

11 (2)(a) "Employer" for plan I members, means the legislative
12 authority of any city, town, county, or district or the elected
13 officials of any municipal corporation that employs any law enforcement
14 officer and/or fire fighter, any authorized association of such
15 municipalities, and, except for the purposes of RCW 41.26.150, any
16 labor guild, association, or organization, which represents the fire
17 fighters or law enforcement officers of at least seven cities of over
18 20,000 population and the membership of each local lodge or division of

1 which is composed of at least sixty percent law enforcement officers or
2 fire fighters as defined in this chapter.

3 (b) "Employer" for plan II members, means the legislative authority
4 of any city, town, county, or district or the elected officials of any
5 municipal corporation that employs any law enforcement officer and/or
6 fire fighter, and, except for the purposes of RCW 41.26.150, any labor
7 guild, association, or organization that represents the fire fighters
8 or law enforcement officers and the membership of each local lodge or
9 division is composed of at least sixty percent law enforcement officers
10 or fire fighters as defined in this chapter.

11 (3) "Law enforcement officer" means any person who is serving on a
12 full time, fully compensated basis as a county sheriff or deputy
13 sheriff, including sheriffs or deputy sheriffs serving under a
14 different title pursuant to a county charter, city police officer, or
15 town marshal or deputy marshal, with the following qualifications:

16 (a) No person who is serving in a position that is basically
17 clerical or secretarial in nature, and who is not commissioned shall be
18 considered a law enforcement officer;

19 (b) Only those deputy sheriffs, including those serving under a
20 different title pursuant to county charter, who have successfully
21 completed a civil service examination for deputy sheriff or the
22 equivalent position, where a different title is used, and those persons
23 serving in unclassified positions authorized by RCW 41.14.070 except a
24 private secretary will be considered law enforcement officers;

25 (c) Only such full time commissioned law enforcement personnel as
26 have been appointed to offices, positions, or ranks in the police
27 department which have been specifically created or otherwise expressly
28 provided for and designated by city charter provision or by ordinance
29 enacted by the legislative body of the city shall be considered city
30 police officers; and

31 (d) The term "law enforcement officer" also includes the executive
32 secretary and the assistant executive secretary of a labor guild,
33 association or organization (which is an employer under RCW
34 41.26.030(2) as now or hereafter amended) if that individual has five
35 years previous membership in the retirement system established in
36 chapter 41.20 RCW or this chapter. (~~The provisions of this subsection~~
37 ~~shall not apply to plan II members.~~)

38 (4) "Fire fighter" means:

1 (a) Any person who is serving on a full time, fully compensated
2 basis as a member of a fire department of an employer and who is
3 serving in a position which requires passing a civil service
4 examination for fire fighter, and who is actively employed as such;

5 (b) Anyone who is actively employed as a full time fire fighter
6 where the fire department does not have a civil service examination;

7 (c) Supervisory fire fighter personnel;

8 (d) Any full time executive secretary of an association of fire
9 protection districts authorized under RCW 52.12.031. The provisions of
10 this subsection shall not apply to plan II members;

11 (e) The executive secretary of a labor guild, association or
12 organization (which is an employer under RCW 41.26.030(2) as now or
13 hereafter amended), if such individual has five years previous
14 membership in a retirement system established in chapter 41.16 or 41.18
15 RCW. The provisions of this subsection shall not apply to plan II
16 members;

17 (f) Any person who is serving on a full time, fully compensated
18 basis for an employer, as a fire dispatcher, in a department in which,
19 on March 1, 1970, a dispatcher was required to have passed a civil
20 service examination for fire fighter; and

21 (g) Any person who on March 1, 1970, was employed on a full time,
22 fully compensated basis by an employer, and who on May 21, 1971 was
23 making retirement contributions under the provisions of chapter 41.16
24 or 41.18 RCW.

25 (5) "Department" means the department of retirement systems created
26 in chapter 41.50 RCW.

27 (6) "Surviving spouse" means the surviving widow or widower of a
28 member. "Surviving spouse" shall not include the divorced spouse of a
29 member except as provided in RCW 41.26.162.

30 (7)(a) "Child" or "children" means an unmarried person who is under
31 the age of eighteen or mentally or physically handicapped as determined
32 by the department, except a handicapped person in the full time care of
33 a state institution, who is:

34 (i) A natural born child;

35 (ii) A stepchild where that relationship was in existence prior to
36 the date benefits are payable under this chapter;

37 (iii) A posthumous child;

38 (iv) A child legally adopted or made a legal ward of a member prior
39 to the date benefits are payable under this chapter; or

1 (v) An illegitimate child legitimized prior to the date any
2 benefits are payable under this chapter.

3 (b) A person shall also be deemed to be a child up to and including
4 the age of twenty years and eleven months while attending any high
5 school, college, or vocational or other educational institution
6 accredited, licensed, or approved by the state, in which it is located,
7 including the summer vacation months and all other normal and regular
8 vacation periods at the particular educational institution after which
9 the child returns to school.

10 (8) "Member" means any fire fighter, law enforcement officer, or
11 other person as would apply under subsections (3) or (4) of this
12 section whose membership is transferred to the Washington law
13 enforcement officers' and fire fighters' retirement system on or after
14 March 1, 1970, and every law enforcement officer and fire fighter who
15 is employed in that capacity on or after such date.

16 (9) "Retirement fund" means the "Washington law enforcement
17 officers' and fire fighters' retirement system fund" as provided for
18 herein.

19 (10) "Employee" means any law enforcement officer or fire fighter
20 as defined in subsections (3) and (4) of this section.

21 (11)(a) "Beneficiary" for plan I members, means any person in
22 receipt of a retirement allowance, disability allowance, death benefit,
23 or any other benefit described herein.

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

27 (12)(a) "Final average salary" for plan I members, means (i) for a
28 member holding the same position or rank for a minimum of twelve months
29 preceding the date of retirement, the basic salary attached to such
30 same position or rank at time of retirement; (ii) for any other member,
31 including a civil service member who has not served a minimum of twelve
32 months in the same position or rank preceding the date of retirement,
33 the average of the greatest basic salaries payable to such member
34 during any consecutive twenty-four month period within such member's
35 last ten years of service for which service credit is allowed, computed
36 by dividing the total basic salaries payable to such member during the
37 selected twenty-four month period by twenty-four; (iii) in the case of
38 disability of any member, the basic salary payable to such member at
39 the time of disability retirement; (iv) in the case of a member who

1 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
2 such member at the time of vesting.

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

8 (13)(a) "Basic salary" for plan I members, means the basic monthly
9 rate of salary or wages, including longevity pay but not including
10 overtime earnings or special salary or wages, upon which pension or
11 retirement benefits will be computed and upon which employer
12 contributions and salary deductions will be based.

13 (b) "Basic salary" for plan II members, means salaries or wages
14 earned by a member during a payroll period for personal services,
15 including overtime payments, and shall include wages and salaries
16 deferred under provisions established pursuant to sections 403(b),
17 414(h), and 457 of the United States Internal Revenue Code, but shall
18 exclude lump sum payments for deferred annual sick leave, unused
19 accumulated vacation, unused accumulated annual leave, or any form of
20 severance pay: PROVIDED, That in any year in which a member serves in
21 the legislature the member shall have the option of having such
22 member's basic salary be the greater of:

23 (i) The basic salary the member would have received had such member
24 not served in the legislature; or

25 (ii) Such member's actual basic salary received for nonlegislative
26 public employment and legislative service combined. Any additional
27 contributions to the retirement system required because basic salary
28 under (b)(i) of this subsection is greater than basic salary under
29 (b)(ii) of this subsection shall be paid by the member for both member
30 and employer contributions.

31 (14)(a) "Service" for plan I members, means all periods of
32 employment for an employer as a fire fighter or law enforcement
33 officer, for which compensation is paid, together with periods of
34 suspension not exceeding thirty days in duration. For the purposes of
35 this chapter service shall also include service in the armed forces of
36 the United States as provided in RCW 41.26.190. Credit shall be
37 allowed for all service credit months of service rendered by a member
38 from and after the member's initial commencement of employment as a
39 fire fighter or law enforcement officer, during which the member worked

1 for seventy or more hours, or was on disability leave or disability
2 retirement. Only service credit months of service shall be counted in
3 the computation of any retirement allowance or other benefit provided
4 for in this chapter.

5 (i) For members retiring after May 21, 1971 who were employed under
6 the coverage of a prior pension act before March 1, 1970, "service"
7 shall also include (A) such military service not exceeding five years
8 as was creditable to the member as of March 1, 1970, under the member's
9 particular prior pension act, and (B) such other periods of service as
10 were then creditable to a particular member under the provisions of RCW
11 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
12 be allowed for any service rendered prior to March 1, 1970, where the
13 member at the time of rendition of such service was employed in a
14 position covered by a prior pension act, unless such service, at the
15 time credit is claimed therefor, is also creditable under the
16 provisions of such prior act.

17 (ii) A member who is employed by two employers at the same time
18 shall only be credited with service to one such employer for any month
19 during which the member rendered such dual service.

20 (b) "Service" for plan II members, means periods of employment by
21 a member for one or more employers for which basic salary is earned for
22 ninety or more hours per calendar month which shall constitute a
23 service credit month. Periods of employment by a member for one or
24 more employers for which basic salary is earned for at least seventy
25 hours but less than ninety hours per calendar month shall constitute
26 one-half service credit month. Periods of employment by a member for
27 one or more employers for which basic salary is earned for less than
28 seventy hours shall constitute a one-quarter service credit month.

29 Members of the retirement system who are elected or appointed to a
30 state elective position may elect to continue to be members of this
31 retirement system.

32 Service credit years of service shall be determined by dividing the
33 total number of service credit months of service by twelve. Any
34 fraction of a service credit year of service as so determined shall be
35 taken into account in the computation of such retirement allowance or
36 benefits.

37 If a member receives basic salary from two or more employers during
38 any calendar month, the individual shall receive one service credit
39 month's service credit during any calendar month in which multiple

1 service for ninety or more hours is rendered; or one-half service
2 credit month's service credit during any calendar month in which
3 multiple service for at least seventy hours but less than ninety hours
4 is rendered; or one-quarter service credit month during any calendar
5 month in which multiple service for less than seventy hours is
6 rendered.

7 (15) "Accumulated contributions" means the employee's contributions
8 made by a member plus accrued interest credited thereon.

9 (16) "Actuarial reserve" means a method of financing a pension or
10 retirement plan wherein reserves are accumulated as the liabilities for
11 benefit payments are incurred in order that sufficient funds will be
12 available on the date of retirement of each member to pay the member's
13 future benefits during the period of retirement.

14 (17) "Actuarial valuation" means a mathematical determination of
15 the financial condition of a retirement plan. It includes the
16 computation of the present monetary value of benefits payable to
17 present members, and the present monetary value of future employer and
18 employee contributions, giving effect to mortality among active and
19 retired members and also to the rates of disability, retirement,
20 withdrawal from service, salary and interest earned on investments.

21 (18) "Disability board" for plan I members means either the county
22 disability board or the city disability board established in RCW
23 41.26.110.

24 (19) "Disability leave" means the period of six months or any
25 portion thereof during which a member is on leave at an allowance equal
26 to the member's full salary prior to the commencement of disability
27 retirement. The definition contained in this subsection shall apply
28 only to plan I members.

29 (20) "Disability retirement" for plan I members, means the period
30 following termination of a member's disability leave, during which the
31 member is in receipt of a disability retirement allowance.

32 (21) "Position" means the employment held at any particular time,
33 which may or may not be the same as civil service rank.

34 (22) "Medical services" for plan I members, shall include the
35 following as minimum services to be provided. Reasonable charges for
36 these services shall be paid in accordance with RCW 41.26.150.

37 (a) Hospital expenses: These are the charges made by a hospital,
38 in its own behalf, for

1 (i) Board and room not to exceed semiprivate room rate unless
2 private room is required by the attending physician due to the
3 condition of the patient.

4 (ii) Necessary hospital services, other than board and room,
5 furnished by the hospital.

6 (b) Other medical expenses: The following charges are considered
7 "other medical expenses", provided that they have not been considered
8 as "hospital expenses".

9 (i) The fees of the following:

10 (A) A physician or surgeon licensed under the provisions of chapter
11 18.71 RCW;

12 (B) An osteopath licensed under the provisions of chapter 18.57
13 RCW;

14 (C) A chiropractor licensed under the provisions of chapter 18.25
15 RCW.

16 (ii) The charges of a registered graduate nurse other than a nurse
17 who ordinarily resides in the member's home, or is a member of the
18 family of either the member or the member's spouse.

19 (iii) The charges for the following medical services and supplies:

20 (A) Drugs and medicines upon a physician's prescription;

21 (B) Diagnostic x-ray and laboratory examinations;

22 (C) X-ray, radium, and radioactive isotopes therapy;

23 (D) Anesthesia and oxygen;

24 (E) Rental of iron lung and other durable medical and surgical
25 equipment;

26 (F) Artificial limbs and eyes, and casts, splints, and trusses;

27 (G) Professional ambulance service when used to transport the
28 member to or from a hospital when injured by an accident or stricken by
29 a disease;

30 (H) Dental charges incurred by a member who sustains an accidental
31 injury to his or her teeth and who commences treatment by a legally
32 licensed dentist within ninety days after the accident;

33 (I) Nursing home confinement or hospital extended care facility;

34 (J) Physical therapy by a registered physical therapist;

35 (K) Blood transfusions, including the cost of blood and blood
36 plasma not replaced by voluntary donors;

37 (L) An optometrist licensed under the provisions of chapter 18.53
38 RCW.

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

3 (24) "Retiree" for persons who establish membership in the
4 retirement system on or after October 1, 1977, means any member in
5 receipt of a retirement allowance or other benefit provided by this
6 chapter resulting from service rendered to an employer by such member.

7 (25) "Director" means the director of the department.

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

10 (27) "State elective position" means any position held by any
11 person elected or appointed to state-wide office or elected or
12 appointed as a member of the legislature.

13 (28) "Plan I" means the law enforcement officers' and fire
14 fighters' retirement system, plan I providing the benefits and funding
15 provisions covering persons who first became members of the system
16 prior to October 1, 1977.

17 (29) "Plan II" means the law enforcement officers' and fire
18 fighters' retirement system, plan II providing the benefits and funding
19 provisions covering persons who first became members of the system on
20 and after October 1, 1977.

21 (30) "Service credit year" means an accumulation of months of
22 service credit which is equal to one when divided by twelve.

23 (31) "Service credit month" means a full service credit month or an
24 accumulation of partial service credit months that are equal to one.

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