
ENGROSSED SUBSTITUTE HOUSE BILL 1758

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Chappell, Brumsickle, Orr, Springer, Riley and Sheldon)

Read first time 03/03/93.

1 AN ACT Relating to public safety directors; amending RCW 41.26.030;
2 creating a new section; and declaring an emergency.

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

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

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

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

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

1 (b) "Employer" for plan II members, means the legislative authority
2 of any city, town, county, or district or the elected officials of any
3 municipal corporation that employs any law enforcement officer and/or
4 fire fighter.

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

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

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

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

25 (d) The term "law enforcement officer" also includes the executive
26 secretary of a labor guild, association or organization (which is an
27 employer under RCW 41.26.030(2) as now or hereafter amended) if that
28 individual has five years previous membership in the retirement system
29 established in chapter 41.20 RCW. The provisions of this subsection
30 shall not apply to plan II members; and

31 (e) The term "law enforcement officer" also includes a person
32 employed on or after January 1, 1993, as a public safety officer or
33 director of public safety, so long as the job duties substantially
34 involve only either police or fire duties, or both, and no other duties
35 in a city or town with a population of less than ten thousand. The
36 provisions of this subsection (3)(e) shall not apply to any public
37 safety officer or director of public safety who is receiving a
38 retirement allowance under this chapter as of the effective date of
39 this act.

1 (4) "Fire fighter" means:

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

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

8 (c) Supervisory fire fighter personnel;

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

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

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

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

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

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

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

35 (i) A natural born child;

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

38 (iii) A posthumous child;

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

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

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

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

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

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

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

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

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

1 disability of any member, the basic salary payable to such member at
2 the time of disability retirement; (iv) in the case of a member who
3 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
4 such member at the time of vesting.

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

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

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

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

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

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

1 from and after the member's initial commencement of employment as a
2 fire fighter or law enforcement officer, during which the member worked
3 for seventy or more hours, or was on disability leave or disability
4 retirement. Only service credit months of service shall be counted in
5 the computation of any retirement allowance or other benefit provided
6 for in this chapter.

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

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

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

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

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

1 If a member receives basic salary from two or more employers during
2 any calendar month, the individual shall receive one service credit
3 month's service credit during any calendar month in which multiple
4 service for ninety or more hours is rendered; or one-half service
5 credit month's service credit during any calendar month in which
6 multiple service for at least seventy hours but less than ninety hours
7 is rendered; or one-quarter service credit month during any calendar
8 month in which multiple service for less than seventy hours is
9 rendered.

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

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

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

24 (18) "Disability board" for plan I members means either the county
25 disability board or the city disability board established in RCW
26 41.26.110.

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

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

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

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

1 (a) Hospital expenses: These are the charges made by a hospital,
2 in its own behalf, for
3 (i) Board and room not to exceed semiprivate room rate unless
4 private room is required by the attending physician due to the
5 condition of the patient.
6 (ii) Necessary hospital services, other than board and room,
7 furnished by the hospital.
8 (b) Other medical expenses: The following charges are considered
9 "other medical expenses", provided that they have not been considered
10 as "hospital expenses".
11 (i) The fees of the following:
12 (A) A physician or surgeon licensed under the provisions of chapter
13 18.71 RCW;
14 (B) An osteopath licensed under the provisions of chapter 18.57
15 RCW;
16 (C) A chiropractor licensed under the provisions of chapter 18.25
17 RCW.
18 (ii) The charges of a registered graduate nurse other than a nurse
19 who ordinarily resides in the member's home, or is a member of the
20 family of either the member or the member's spouse.
21 (iii) The charges for the following medical services and supplies:
22 (A) Drugs and medicines upon a physician's prescription;
23 (B) Diagnostic x-ray and laboratory examinations;
24 (C) X-ray, radium, and radioactive isotopes therapy;
25 (D) Anesthesia and oxygen;
26 (E) Rental of iron lung and other durable medical and surgical
27 equipment;
28 (F) Artificial limbs and eyes, and casts, splints, and trusses;
29 (G) Professional ambulance service when used to transport the
30 member to or from a hospital when injured by an accident or stricken by
31 a disease;
32 (H) Dental charges incurred by a member who sustains an accidental
33 injury to his or her teeth and who commences treatment by a legally
34 licensed dentist within ninety days after the accident;
35 (I) Nursing home confinement or hospital extended care facility;
36 (J) Physical therapy by a registered physical therapist;
37 (K) Blood transfusions, including the cost of blood and blood
38 plasma not replaced by voluntary donors;

1 (L) An optometrist licensed under the provisions of chapter 18.53
2 RCW.

3 (23) "Regular interest" means such rate as the director may
4 determine.

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

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 2.** Section 1 of this act shall apply
28 retroactively to January 1, 1993.

29 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and shall take
32 effect immediately.

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