
HOUSE BILL 2739

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Schoesler, Orr, Johanson, Campbell, Chappell, Roland and Jones; by request of Washington State University

Read first time 01/21/94. Referred to Committee on Appropriations.

1 AN ACT Relating to the law enforcement officers' and fire fighters'
2 retirement system; amending RCW 41.26.450 and 41.40.093; reenacting and
3 amending RCW 41.26.030; and adding a new section to chapter 41.56 RCW.

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

5 **Sec. 1.** RCW 41.26.030 and 1993 c 502 s 1 and 1993 c 322 s 1 are
6 each reenacted and amended to 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 following entities to
4 the extent that the entity employs any law enforcement officer and/or
5 fire fighter:

6 (i) The legislative authority of any city, town, county, or
7 district;

8 (ii) The elected officials of any municipal corporation; ((or))

9 (iii) The governing body of any other general authority law
10 enforcement agency; or

11 (iv) An institution of higher education as defined in RCW
12 28B.10.016.

13 (3) "Law enforcement officer" beginning January 1, 1994, means any
14 person who is commissioned and employed by an employer on a full time,
15 fully compensated basis to enforce the criminal laws of the state of
16 Washington generally, with the following qualifications:

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

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

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

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

38 (e) The term "law enforcement officer" also includes a person
39 employed on or after January 1, 1993, as a public safety officer or

1 director of public safety, so long as the job duties substantially
2 involve only either police or fire duties, or both, and no other duties
3 in a city or town with a population of less than ten thousand. The
4 provisions of this subsection (3)(e) shall not apply to any public
5 safety officer or director of public safety who is receiving a
6 retirement allowance under this chapter as of May 12, 1993.

7 (4) "Fire fighter" means:

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

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

14 (c) Supervisory fire fighter personnel;

15 (d) Any full time executive secretary of an association of fire
16 protection districts authorized under RCW 52.12.031. The provisions of
17 this subsection (4)(d) shall not apply to plan II members;

18 (e) The executive secretary of a labor guild, association or
19 organization (which is an employer under RCW 41.26.030(2) as now or
20 hereafter amended), if such individual has five years previous
21 membership in a retirement system established in chapter 41.16 or 41.18
22 RCW. The provisions of this subsection (4)(e) shall not apply to plan
23 II members;

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

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

32 (h) As of January 1, 1995, any person who is employed on a full-
33 time, fully compensated basis as a fire fighter for an institution of
34 higher education as defined by RCW 28B.10.016.

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

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

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

5 (i) A natural born child;

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

8 (iii) A posthumous child;

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

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

13 (b) A person shall also be deemed to be a child up to and including
14 the age of twenty years and eleven months while attending any high
15 school, college, or vocational or other educational institution
16 accredited, licensed, or approved by the state, in which it is located,
17 including the summer vacation months and all other normal and regular
18 vacation periods at the particular educational institution after which
19 the child returns to school.

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

26 (9) "Retirement fund" means the "Washington law enforcement
27 officers' and fire fighters' retirement system fund" as provided for
28 herein.

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

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

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

37 (12)(a) "Final average salary" for plan I members, means (i) for a
38 member holding the same position or rank for a minimum of twelve months
39 preceding the date of retirement, the basic salary attached to such

1 same position or rank at time of retirement; (ii) for any other member,
2 including a civil service member who has not served a minimum of twelve
3 months in the same position or rank preceding the date of retirement,
4 the average of the greatest basic salaries payable to such member
5 during any consecutive twenty-four month period within such member's
6 last ten years of service for which service credit is allowed, computed
7 by dividing the total basic salaries payable to such member during the
8 selected twenty-four month period by twenty-four; (iii) in the case of
9 disability of any member, the basic salary payable to such member at
10 the time of disability retirement; (iv) in the case of a member who
11 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
12 such member at the time of vesting.

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

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

23 (b) "Basic salary" for plan II members, means salaries or wages
24 earned by a member during a payroll period for personal services,
25 including overtime payments, and shall include wages and salaries
26 deferred under provisions established pursuant to sections 403(b),
27 414(h), and 457 of the United States Internal Revenue Code, but shall
28 exclude lump sum payments for deferred annual sick leave, unused
29 accumulated vacation, unused accumulated annual leave, or any form of
30 severance pay. In any year in which a member serves in the legislature
31 the member shall have the option of having such member's basic salary
32 be the greater of:

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

35 (ii) Such member's actual basic salary received for nonlegislative
36 public employment and legislative service combined. Any additional
37 contributions to the retirement system required because basic salary
38 under (b)(i) of this subsection is greater than basic salary under

1 (b)(ii) of this subsection shall be paid by the member for both member
2 and employer contributions.

3 (14)(a) "Service" for plan I members, means all periods of
4 employment for an employer as a fire fighter or law enforcement
5 officer, for which compensation is paid, together with periods of
6 suspension not exceeding thirty days in duration. For the purposes of
7 this chapter service shall also include service in the armed forces of
8 the United States as provided in RCW 41.26.190. Credit shall be
9 allowed for all service credit months of service rendered by a member
10 from and after the member's initial commencement of employment as a
11 fire fighter or law enforcement officer, during which the member worked
12 for seventy or more hours, or was on disability leave or disability
13 retirement. Only service credit months of service shall be counted in
14 the computation of any retirement allowance or other benefit provided
15 for in this chapter.

16 (i) For members retiring after May 21, 1971 who were employed under
17 the coverage of a prior pension act before March 1, 1970, "service"
18 shall also include (A) such military service not exceeding five years
19 as was creditable to the member as of March 1, 1970, under the member's
20 particular prior pension act, and (B) such other periods of service as
21 were then creditable to a particular member under the provisions of RCW
22 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
23 be allowed for any service rendered prior to March 1, 1970, where the
24 member at the time of rendition of such service was employed in a
25 position covered by a prior pension act, unless such service, at the
26 time credit is claimed therefor, is also creditable under the
27 provisions of such prior act.

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

31 (b) "Service" for plan II members, means periods of employment by
32 a member for one or more employers for which basic salary is earned for
33 ninety or more hours per calendar month which shall constitute a
34 service credit month. Periods of employment by a member for one or
35 more employers for which basic salary is earned for at least seventy
36 hours but less than ninety hours per calendar month shall constitute
37 one-half service credit month. Periods of employment by a member for
38 one or more employers for which basic salary is earned for less than
39 seventy hours shall constitute a one-quarter service credit month.

1 Members of the retirement system who are elected or appointed to a
2 state elective position may elect to continue to be members of this
3 retirement system.

4 Service credit years of service shall be determined by dividing the
5 total number of service credit months of service by twelve. Any
6 fraction of a service credit year of service as so determined shall be
7 taken into account in the computation of such retirement allowance or
8 benefits.

9 If a member receives basic salary from two or more employers during
10 any calendar month, the individual shall receive one service credit
11 month's service credit during any calendar month in which multiple
12 service for ninety or more hours is rendered; or one-half service
13 credit month's service credit during any calendar month in which
14 multiple service for at least seventy hours but less than ninety hours
15 is rendered; or one-quarter service credit month during any calendar
16 month in which multiple service for less than seventy hours is
17 rendered.

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

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

25 (17) "Actuarial valuation" means a mathematical determination of
26 the financial condition of a retirement plan. It includes the
27 computation of the present monetary value of benefits payable to
28 present members, and the present monetary value of future employer and
29 employee contributions, giving effect to mortality among active and
30 retired members and also to the rates of disability, retirement,
31 withdrawal from service, salary and interest earned on investments.

32 (18) "Disability board" for plan I members means either the county
33 disability board or the city disability board established in RCW
34 41.26.110.

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

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

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

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

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

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

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

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

19 (i) The fees of the following:

20 (A) A physician or surgeon licensed under the provisions of chapter
21 18.71 RCW;

22 (B) An osteopath licensed under the provisions of chapter 18.57
23 RCW;

24 (C) A chiropractor licensed under the provisions of chapter 18.25
25 RCW.

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

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

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

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

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

33 (D) Anesthesia and oxygen;

34 (E) Rental of iron lung and other durable medical and surgical
35 equipment;

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

37 (G) Professional ambulance service when used to transport the
38 member to or from a hospital when injured by an accident or stricken by
39 a disease;

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

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

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

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

8 (L) An optometrist licensed under the provisions of chapter 18.53
9 RCW.

10 (23) "Regular interest" means such rate as the director may
11 determine.

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

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

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

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

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

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

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

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

34 (32) "General authority law enforcement agency" means any agency,
35 department, or division of a municipal corporation, political
36 subdivision, or other unit of local government of this state, and any
37 agency, department, or division of state government, having as its
38 primary function the detection and apprehension of persons committing
39 infractions or violating the traffic or criminal laws in general, but

1 not including the Washington state patrol. Such an agency, department,
2 or division is distinguished from a limited authority law enforcement
3 agency having as one of its functions the apprehension or detection of
4 persons committing infractions or violating the traffic or criminal
5 laws relating to limited subject areas, including but not limited to,
6 the state departments of natural resources, (~~(fisheries, wildlife)~~)
7 fish and wildlife, and social and health services, the state gambling
8 commission, the state lottery commission, the state parks and
9 recreation commission, the state utilities and transportation
10 commission, the state liquor control board, and the state department of
11 corrections.

12 **Sec. 2.** RCW 41.26.450 and 1993 c 502 s 2 are each amended to read
13 as follows:

14 The required contribution rates to the plan II system for members,
15 employers, and the state of Washington shall be established by the
16 director from time to time as may be necessary upon the advice of the
17 state actuary. The state actuary shall use the aggregate actuarial
18 cost method to calculate contribution rates.

19 The member, the employer and the state shall each contribute the
20 following shares of the cost of the retirement system:

21 Member	50%
22 Employer	30%
23 State	20%

24 However, port districts established under Title 53 RCW and
25 institutions of higher education as defined in RCW 28B.10.016 shall
26 contribute both the employer and state shares of the cost of the
27 retirement system for any of their employees who are law enforcement
28 officers. Institutions of higher education as defined in RCW
29 28B.10.016 shall also contribute for any of their employees who are
30 fire fighters as defined in RCW 41.26.030.

31 Effective January 1, 1987, however, no member or employer
32 contributions are required for any calendar month in which the member
33 is not granted service credit.

34 Any adjustments in contribution rates required from time to time
35 for future costs shall likewise be shared proportionally by the
36 members, employers, and the state.

1 Any increase in the contribution rate required as the result of a
2 failure of the state or of an employer to make any contribution
3 required by this section shall be borne in full by the state or by that
4 employer not making the contribution.

5 The director shall notify all employers of any pending adjustment
6 in the required contribution rate and such increase shall be announced
7 at least thirty days prior to the effective date of the change.

8 Members' contributions required by this section shall be deducted
9 from the members basic salary each payroll period. The members
10 contribution and the employers contribution shall be remitted directly
11 to the department within fifteen days following the end of the calendar
12 month during which the payroll period ends. The state's contribution
13 required by this section shall be transferred to the plan II fund from
14 the total contributions transferred by the state treasurer under RCW
15 41.45.060 and 41.45.070.

16 **Sec. 3.** RCW 41.40.093 and 1993 c 502 s 3 are each amended to read
17 as follows:

18 (1) An employee who was a member on or before January 1, 1994, and,
19 on January 1, 1994, is employed by a port district or an institution of
20 higher education as a law enforcement officer as defined in RCW
21 41.26.030, has the following options:

22 (a) The employee may remain a member of the retirement system,
23 notwithstanding the definition of law enforcement officer under RCW
24 41.26.030; or

25 (b) The member may make an irrevocable choice, filed in writing
26 with the department no later than January 1, 1995, to transfer to the
27 law enforcement officers' and fire fighters' retirement system plan II
28 as defined in RCW 41.26.030. An employee transferring membership under
29 this subsection (1)(b) shall be a dual member as provided in RCW
30 41.54.010.

31 (2) An employee who was a member on or before January 1, 1995, and
32 on January 1, 1995, is employed by an institution of higher education
33 as a fire fighter as defined by RCW 41.26.030, has the options in
34 subsection (1) of this section. A fire fighter electing the option in
35 subsection (1)(b) of this section shall make an irrevocable choice,
36 filed in writing with the department no later than January 1, 1996. A
37 fire fighter transferring membership under subsection (1)(b) of this
38 section shall be a dual member as provided in RCW 41.54.010.

1 (3)(a) If the department determines that transfers of service
2 credit and accumulated contributions between the state's retirement
3 systems are permitted by federal law without the employee or the
4 retirement system fund incurring adverse income tax liability as a
5 result of the transfer, (~~(an employee)~~) a law enforcement officer who
6 transferred membership under subsection (1)(b) of this section may
7 choose to transfer service credit as a law enforcement officer
8 previously earned under the retirement system, to the law enforcement
9 officers' and fire fighters' retirement system plan II, by making an
10 irrevocable choice filed in writing with the department within one year
11 of the department's announcement of the ability to make such a
12 transfer. However, fire fighters employed by institutions of higher
13 education shall not have the option to transfer service credit under
14 this subsection.

15 (b) Any law enforcement officer choosing to transfer under this
16 subsection shall have transferred from the retirement system to the law
17 enforcement officers' and fire fighters' retirement system plan II:
18 (i) All the employee's applicable accumulated contributions and
19 employer contributions attributed to such employee; and (ii) all
20 applicable months of service, as defined in RCW 41.26.030(14)(b),
21 credited to the employee under this chapter, as though such service was
22 rendered as a member of the law enforcement officers' and fire
23 fighters' retirement system.

24 (c) For the applicable period of service, the employee shall pay
25 the difference between the contributions such employee paid to the
26 retirement system, and the contributions which would have been paid by
27 the employee had the employee been a member of the law enforcement
28 officers' and fire fighters' retirement system, plus interest as
29 determined by the director.

30 (d) For the applicable period of service, the employer shall pay
31 the difference between the employer contributions paid to the
32 retirement system, and the combined employer and state contributions
33 which would have been payable to the law enforcement officers' and fire
34 fighters' retirement system, plus interest as determined by the
35 director. The amount of interest determined by the director to be paid
36 by the employer shall be sufficient to ensure that the contribution
37 level of current members of the law enforcement officers' and fire
38 fighters' retirement system will not increase due to this transfer.
39 For the purpose of this subsection (~~((+2))~~) (3)(d), the state

1 contribution shall not include the contribution related to the
2 amortization of the costs of the law enforcement officers' and fire
3 fighters' retirement system plan I as required by chapter 41.45 RCW.

4 (e) An individual who transfers service credit and contributions
5 under this subsection shall be permanently excluded from the retirement
6 system for all service as a law enforcement officer.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.56 RCW
8 to read as follows:

9 Nothing in RCW 41.56.460(1)(c) may be construed to authorize the
10 panel to require the employer to pay, directly or indirectly, the
11 increased employee contributions resulting from chapter ..., Laws of
12 1994 (this act), as required under chapter 41.26 RCW.

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