

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1294

53rd Legislature
1993 Regular Session

Passed by the House March 13, 1993
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 13, 1993
Yeas 42 Nays 5

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1294** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1294

Passed Legislature - 1993 Regular Session

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Locke, Mielke, Orr, Heavey, Scott, Quall, Chappell, R. Fisher, R. Meyers, Ludwig, R. Johnson, Wood, Grant, Riley, King, Mastin, Forner, Franklin, Karahalios, Jacobsen, Zellinsky, Romero, Johanson, Morris, Flemming, Leonard, Brown, Finkbeiner, Holm, Eide, G. Cole, Ogden, Jones, Wang, Sheldon, Bray, G. Fisher, Long, Dellwo, Roland, Tate, Springer, Thibaudeau, L. Johnson, J. Kohl, Voloria, Dunshee, Basich, Campbell, Kessler, H. Myers, Vance, Brough, Dorn, Hansen, Schmidt, Cooke, Casada, Edmondson, Carlson and Brumsickle)

Read first time 03/08/93.

1 AN ACT Relating to the law enforcement officers' and fire fighters'
2 retirement system; amending RCW 41.26.420, 41.26.430, 41.26.470,
3 41.26.530, 41.26.540, 41.26.550, 41.54.010, 41.54.040, and 41.56.460;
4 adding a new section to chapter 41.26 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 41.26 RCW
7 under the subchapter heading "Plan II" to read as follows:

8 The legislature recognizes the demanding, physical nature of law
9 enforcement and fire fighting, and the resulting need to allow law
10 enforcement officers and fire fighters to make transitions into other
11 careers when these employees feel they can no longer pursue law
12 enforcement or fire fighting. The legislature also recognizes the
13 challenge and cost of maintaining the viability of a retired employee's
14 benefit over longer periods of retirement as longevity increases, and
15 that this problem is compounded for employees who leave a career before
16 they retire from the work force.

17 Therefore, the purpose of this act is to: (1) Provide full
18 retirement benefits to law enforcement officers and fire fighters at an
19 appropriate age that reflects the unique and physically demanding

1 nature of their work; (2) provide a fair and reasonable value from the
2 retirement system for those who leave the law enforcement or fire
3 fighting profession before retirement; (3) increase flexibility for law
4 enforcement officers and fire fighters to make transitions into other
5 public or private sector employment; (4) increase employee options for
6 addressing retirement needs, personal financial planning, and career
7 transitions; and (5) continue the legislature's established policy of
8 having employees pay a fifty percent share of the contributions toward
9 their retirement benefits and any enhancements.

10 **Sec. 2.** RCW 41.26.420 and 1979 ex.s. c 249 s 4 are each amended to
11 read as follows:

12 Except as provided in RCW 41.26.530, a member of the retirement
13 system shall receive a retirement allowance equal to two percent of
14 such member's final average salary for each year of service.

15 **Sec. 3.** RCW 41.26.430 and 1991 c 343 s 18 are each amended to read
16 as follows:

17 (1) NORMAL RETIREMENT. Any member with at least five service
18 credit years of service who has attained at least age (~~(fifty-eight)~~)
19 fifty-five shall be eligible to retire and to receive a retirement
20 allowance computed according to the provisions of RCW 41.26.420.

21 (2) EARLY RETIREMENT. Any member who has completed at least twenty
22 service credit years of service and has attained age fifty shall be
23 eligible to retire and to receive a retirement allowance computed
24 according to the provisions of RCW 41.26.420, except that a member
25 retiring pursuant to this subsection shall have the retirement
26 allowance actuarially reduced to reflect the difference in the number
27 of years between age at retirement and the attainment of age (~~(fifty-~~
28 ~~eight)~~) fifty-five.

29 **Sec. 4.** RCW 41.26.470 and 1990 c 249 s 19 are each amended to read
30 as follows:

31 (1) A member of the retirement system who becomes totally
32 incapacitated for continued employment by an employer as determined by
33 the director shall be eligible to receive an allowance under the
34 provisions of RCW 41.26.410 through 41.26.550. Such member shall
35 receive a monthly disability allowance computed as provided for in RCW
36 41.26.420 and shall have such allowance actuarially reduced to reflect

1 the difference in the number of years between age at disability and the
2 attainment of age (~~(fifty-eight)~~) fifty-five.

3 (2) Any member who receives an allowance under the provisions of
4 this section shall be subject to such comprehensive medical
5 examinations as required by the department. If such medical
6 examinations reveal that such a member has recovered from the
7 incapacitating disability and the member is no longer entitled to
8 benefits under Title 51 RCW, the retirement allowance shall be canceled
9 and the member shall be restored to duty in the same civil service
10 rank, if any, held by the member at the time of retirement or, if
11 unable to perform the duties of the rank, then, at the member's
12 request, in such other like or lesser rank as may be or become open and
13 available, the duties of which the member is then able to perform. In
14 no event shall a member previously drawing a disability allowance be
15 returned or be restored to duty at a salary or rate of pay less than
16 the current salary attached to the rank or position held by the member
17 at the date of the retirement for disability. If the department
18 determines that the member is able to return to service, the member is
19 entitled to notice and a hearing. Both the notice and the hearing
20 shall comply with the requirements of chapter 34.05 RCW, the
21 Administrative Procedure Act.

22 (3) Those members subject to this chapter who became disabled in
23 the line of duty on or after July 23, 1989, and who receive benefits
24 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW
25 41.04.535 shall receive or continue to receive service credit subject
26 to the following:

27 (a) No member may receive more than one month's service credit in
28 a calendar month.

29 (b) No service credit under this section may be allowed after a
30 member separates or is separated without leave of absence.

31 (c) Employer contributions shall be paid by the employer at the
32 rate in effect for the period of the service credited.

33 (d) Employee contributions shall be collected by the employer and
34 paid to the department at the rate in effect for the period of service
35 credited.

36 (e) State contributions shall be as provided in RCW 41.26.450.

37 (f) Contributions shall be based on the regular compensation which
38 the member would have received had the disability not occurred.

1 (g) The service and compensation credit under this section shall be
2 granted for a period not to exceed six consecutive months.

3 (h) Should the legislature revoke the service credit authorized
4 under this section or repeal this section, no affected employee is
5 entitled to receive the credit as a matter of contractual right.

6 (4)(a) If the recipient of a monthly retirement allowance under
7 this section dies before the total of the retirement allowance paid to
8 the recipient equals the amount of the accumulated contributions at the
9 date of retirement, then the balance shall be paid to such person or
10 persons having an insurable interest in his or her life as the
11 recipient has nominated by written designation duly executed and filed
12 with the director, or, if there is no such designated person or persons
13 still living at the time of the recipient's death, then to the
14 surviving spouse, or, if there is neither such designated person or
15 persons still living at the time of his or her death nor a surviving
16 spouse, then to his or her legal representative.

17 (b) If a recipient of a monthly retirement allowance under this
18 section died before April 27, 1989, and before the total of the
19 retirement allowance paid to the recipient equaled the amount of his or
20 her accumulated contributions at the date of retirement, then the
21 department shall pay the balance of the accumulated contributions to
22 the member's surviving spouse or, if there is no surviving spouse, then
23 in equal shares to the member's children. If there is no surviving
24 spouse or children, the department shall retain the contributions.

25 **Sec. 5.** RCW 41.26.530 and 1977 ex.s. c 294 s 14 are each amended
26 to read as follows:

27 (1) A member who separates or has separated after having completed
28 at least five years of service may remain a member during the period of
29 such member's absence from service for the exclusive purpose only of
30 receiving a retirement allowance under the provisions of RCW 41.26.430
31 if such member maintains the member's accumulated contributions intact.

32 (2) The retirement allowance payable under the provisions of RCW
33 41.26.430 to a member who separates after having completed at least
34 twenty years of service, and remains a member during the period of his
35 or her absence from service by maintaining his or her accumulated
36 contributions intact, shall be increased by twenty-five one-hundredths
37 of one percent, compounded for each month from the date of separation

1 to the date the retirement allowance commences as provided in RCW
2 41.26.490.

3 **Sec. 6.** RCW 41.26.540 and 1982 1st ex.s. c 52 s 5 are each amended
4 to read as follows:

5 (1) A member who has completed less than ten years of service, who
6 ceases to be an employee of an employer except by service or disability
7 retirement, may request a refund of the member's accumulated
8 contributions. A member who has completed ten or more years of
9 service, who ceases to be an employee of an employer except by service
10 or disability retirement, may request a refund of one hundred fifty
11 percent of the member's accumulated contributions.

12 (2) The refund shall be made within ninety days following the
13 receipt of the request and notification of termination through the
14 contribution reporting system by the employer; except that in the case
15 of death, an initial payment shall be made within thirty days of
16 receipt of request for such payment and notification of termination
17 through the contribution reporting system by the employer. A member
18 who files a request for refund and subsequently enters into employment
19 with another employer prior to the refund being made shall not be
20 eligible for a refund. The refund of accumulated contributions shall
21 terminate all rights to benefits under RCW 41.26.410 through 41.26.550.

22 **Sec. 7.** RCW 41.26.550 and 1977 ex.s. c 294 s 16 are each amended
23 to read as follows:

24 A member, who had left service and withdrawn the member's
25 ~~((accumulated contributions))~~ funds pursuant to RCW 41.26.540, shall
26 receive service credit for such prior service if the member restores
27 all withdrawn ~~((accumulated contributions))~~ funds together with
28 interest since the time of withdrawal as determined by the department.
29 The restoration of such funds must be completed within five years of
30 the resumption of service or prior to retirement, whichever occurs
31 first.

32 **Sec. 8.** RCW 41.54.010 and 1990 c 192 s 1 are each amended to read
33 as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

1 (1) "Base salary" means salaries or wages earned by a member of a
2 system during a payroll period for personal services and includes wages
3 and salaries deferred under provisions of the United States internal
4 revenue code, but shall exclude overtime payments, nonmoney maintenance
5 compensation, and lump sum payments for deferred annual sick leave,
6 unused accumulated vacation, unused accumulated annual leave, any form
7 of severance pay, any bonus for voluntary retirement, any other form of
8 leave, or any similar lump sum payment.

9 (2) "Department" means the department of retirement systems.

10 (3) "Director" means the director of the department of retirement
11 systems.

12 (4) "Dual member" means a person who (a) is or becomes a member of
13 a system on or after July 1, 1988, (b) has been a member of one or more
14 other systems, and (c) has never been retired for service from a
15 retirement system and is not receiving a disability retirement or
16 disability leave benefit from any retirement system listed in RCW
17 41.50.030 or subsection (6) of this section.

18 (5) "Service" means the same as it may be defined in each
19 respective system. For the purposes of RCW 41.54.030, military service
20 granted under RCW 41.40.170(3) or 43.43.260 may only be based on
21 service accrued under chapter 41.40 or 43.43 RCW, respectively.

22 (6) "System" means the retirement systems established under
23 chapters 41.32, 41.40, 41.44, and 43.43 RCW; plan II of the system
24 established under chapter 41.26 RCW; and the city employee retirement
25 systems for Seattle, Tacoma, and Spokane. The inclusion of an
26 individual first class city system is subject to the procedure set
27 forth in RCW 41.54.061.

28 **Sec. 9.** RCW 41.54.040 and 1990 c 192 s 5 are each amended to read
29 as follows:

30 (1) Except where subsection (4) of this section applies, retirement
31 allowances calculated under RCW 41.54.030 shall be paid separately by
32 each respective current and prior system. Any deductions from such
33 separate payments shall be according to the provisions of the
34 respective systems.

35 (2) Postretirement adjustments, if any, shall be applied by the
36 respective systems based on the payments made under subsection (1) of
37 this section.

1 (3) If a dual member dies in service in any system, the surviving
2 spouse shall receive the same benefit from each system that would have
3 been received if the member were active in the system at the time of
4 death based on service actually established in that system. However,
5 this subsection does not make a surviving spouse eligible for the
6 survivor benefits provided in RCW 43.43.270.

7 (4) The department shall adopt rules under chapter 34.05 RCW to
8 ensure that where a dual member has service in a system established
9 under chapter 41.32, 41.40, 41.44, or 43.43 RCW; service in plan II of
10 the system established under chapter 41.26 RCW; and service under the
11 city employee retirement system for Seattle, Tacoma, or Spokane, the
12 entire additional cost incurred as a result of the dual member
13 receiving a benefit under this chapter shall be borne by the city
14 retirement system that the person is a member of.

15 **Sec. 10.** RCW 41.56.460 and 1988 c 110 s 1 are each amended to read
16 as follows:

17 (1) In making its determination, the panel shall be mindful of the
18 legislative purpose enumerated in RCW 41.56.430 and as additional
19 standards or guidelines to aid it in reaching a decision, it shall take
20 into consideration the following factors:

21 (a) The constitutional and statutory authority of the employer;

22 (b) Stipulations of the parties;

23 (c)(i) For employees listed in RCW 41.56.030(7)(a) and 41.56.495,
24 comparison of the wages, hours and conditions of employment of
25 personnel involved in the proceedings with the wages, hours, and
26 conditions of employment of like personnel of like employers of similar
27 size on the west coast of the United States;

28 (ii) For employees listed in RCW 41.56.030(7)(b), comparison of the
29 wages, hours, and conditions of employment of personnel involved in the
30 proceedings with the wages, hours, and conditions of employment of like
31 personnel of public fire departments of similar size on the west coast
32 of the United States. However, when an adequate number of comparable
33 employers exists within the state of Washington, other west coast
34 employers shall not be considered;

35 (d) The average consumer prices for goods and services, commonly
36 known as the cost of living;

37 (e) Changes in any of the foregoing circumstances during the
38 pendency of the proceedings; and

1 (f) Such other factors, not confined to the foregoing, which are
2 normally or traditionally taken into consideration in the determination
3 of wages, hours and conditions of employment.

4 (2) Nothing in subsection (1)(c) of this section shall be construed
5 to authorize the panel to require the employer to pay, directly or
6 indirectly, the increased employee contributions resulting from chapter
7 . . . , Laws of 1993 (this act), as required under chapter 41.26 RCW.

8 NEW SECTION. **Sec. 11.** If specific funding for this act,
9 referencing this act by bill number, is not provided by June 30, 1993,
10 in the biennial appropriations act, this act shall be null and void.

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