

2 **SSB 5496** - H COMM AMD **ADOPTED 4/5/95**

3 By Committee on Appropriations

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5 Strike everything after the enacting clause and insert the
6 following:

7 **"Sec. 1.** RCW 41.40.010 and 1994 c 298 s 2, 1994 c 247 s 5, 1994 c
8 197 s 23, and 1994 c 177 s 8 are each reenacted and amended to read as
9 follows:

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

12 (1) "Retirement system" means the public employees' retirement
13 system provided for in this chapter.

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

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

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

29 (b) "Employer" for plan II members, means every branch, department,
30 agency, commission, board, and office of the state, and any political
31 subdivision and municipal corporation of the state admitted into the
32 retirement system, including public agencies created pursuant to RCW
33 35.63.070, 36.70.060, and 39.34.030.

34 (5) "Member" means any employee included in the membership of the
35 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
36 does not prohibit a person otherwise eligible for membership in the

1 retirement system from establishing such membership effective when he
2 or she first entered an eligible position.

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

4 (a) Any person who became a member of the system prior to April 1,
5 1949;

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

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

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

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

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

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

36 (8)(a) "Compensation earnable" for plan I members, means salaries
37 or wages earned during a payroll period for personal services and where
38 the compensation is not all paid in money, maintenance compensation
39 shall be included upon the basis of the schedules established by the

1 member's employer. Compensation that a member receives for being in
2 standby status is also compensation earnable, subject to the conditions
3 of this subsection. A member is in standby status when not being paid
4 for time actually worked and only when both of the following conditions
5 exist: (i) The member is required to be present at, or in the
6 immediate vicinity of, a specified location; and (ii) the employer
7 requires the member to be prepared to report immediately for work, if
8 the need arises, although the need may not arise. Standby compensation
9 is regular salary for the purposes of RCW 41.50.150(2).

10 (A) "Compensation earnable" for plan I members also includes the
11 following actual or imputed payments, which are not paid for personal
12 services:

13 (I) Retroactive payments to an individual by an employer on
14 reinstatement of the employee in a position, or payments by an employer
15 to an individual in lieu of reinstatement in a position which are
16 awarded or granted as the equivalent of the salary or wage which the
17 individual would have earned during a payroll period shall be
18 considered compensation earnable and the individual shall receive the
19 equivalent service credit;

20 (II) If a leave of absence is taken by an individual for the
21 purpose of serving in the state legislature, the salary which would
22 have been received for the position from which the leave of absence was
23 taken, shall be considered as compensation earnable if the employee's
24 contribution is paid by the employee and the employer's contribution is
25 paid by the employer or employee.

26 (III) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
27 and 72.09.240;

28 (IV) Compensation that a member would have received but for a
29 disability occurring in the line of duty only as authorized by RCW
30 41.40.038; and

31 (V) Compensation that a member receives due to participation in the
32 leave sharing program only as authorized by RCW 41.04.650 through
33 41.04.670.

34 (B) "Compensation earnable" does not include:

35 (I) Remuneration for unused sick leave authorized under RCW
36 41.04.340, 28A.400.210, or 28A.310.490;

37 (II) Remuneration for unused annual leave in excess of thirty days
38 as authorized by RCW 43.01.044 and 43.01.041.

39 (b) "Compensation earnable" for plan II members, means salaries or

1 wages earned by a member during a payroll period for personal services,
2 including overtime payments, and shall include wages and salaries
3 deferred under provisions established pursuant to sections 403(b),
4 414(h), and 457 of the United States Internal Revenue Code, but shall
5 exclude nonmoney maintenance compensation and lump sum or other
6 payments for deferred annual sick leave, unused accumulated vacation,
7 unused accumulated annual leave, or any form of severance pay.
8 Compensation that a member receives for being in standby status is also
9 compensation earnable, subject to the conditions of this subsection.
10 A member is in standby status when not being paid for time actually
11 worked and only when both of the following conditions exist: (i) The
12 member is required to be present at, or in the immediate vicinity of,
13 a specified location; and (ii) the employer requires the member to be
14 prepared to report immediately for work, if the need arises, although
15 the need may not arise. Standby compensation is regular salary for the
16 purposes of RCW 41.50.150(2).

17 "Compensation earnable" for plan II members also includes the
18 following actual or imputed payments, which are not paid for personal
19 services:

20 (A) Retroactive payments to an individual by an employer on
21 reinstatement of the employee in a position, or payments by an employer
22 to an individual in lieu of reinstatement in a position which are
23 awarded or granted as the equivalent of the salary or wage which the
24 individual would have earned during a payroll period shall be
25 considered compensation earnable to the extent provided above, and the
26 individual shall receive the equivalent service credit;

27 (B) In any year in which a member serves in the legislature, the
28 member shall have the option of having such member's compensation
29 earnable be the greater of:

30 (I) The compensation earnable the member would have received had
31 such member not served in the legislature; or

32 (II) Such member's actual compensation earnable received for
33 nonlegislative public employment and legislative service combined. Any
34 additional contributions to the retirement system required because
35 compensation earnable under (b)(ii)(B)(II) of this subsection is
36 greater than compensation earnable under (b)(ii)(B)(I) of this
37 subsection shall be paid by the member for both member and employer
38 contributions;

39 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and

1 72.09.240;

2 (D) Compensation that a member would have received but for a
3 disability occurring in the line of duty only as authorized by RCW
4 41.40.038; and

5 (E) Compensation that a member receives due to participation in the
6 leave sharing program only as authorized by RCW 41.04.650 through
7 41.04.670.

8 (9)(a) "Service" for plan I members, except as provided in RCW
9 41.40.088, means periods of employment in an eligible position or
10 positions for one or more employers rendered to any employer for which
11 compensation is paid, and includes time spent in office as an elected
12 or appointed official of an employer. Compensation earnable earned in
13 full time work for seventy hours or more in any given calendar month
14 shall constitute one service credit month except as provided in RCW
15 41.40.088. Compensation earnable earned for less than seventy hours in
16 any calendar month shall constitute one-quarter service credit month of
17 service except as provided in RCW 41.40.088. Only service credit
18 months and one-quarter service credit months shall be counted in the
19 computation of any retirement allowance or other benefit provided for
20 in this chapter. Any fraction of a year of service shall be taken into
21 account in the computation of such retirement allowance or benefits.
22 Time spent in standby status, whether compensated or not, is not
23 service.

24 (i) Service by a state employee officially assigned by the state on
25 a temporary basis to assist another public agency, shall be considered
26 as service as a state employee: PROVIDED, That service to any other
27 public agency shall not be considered service as a state employee if
28 such service has been used to establish benefits in any other public
29 retirement system.

30 (ii) An individual shall receive no more than a total of twelve
31 service credit months of service during any calendar year. If an
32 individual is employed in an eligible position by one or more employers
33 the individual shall receive no more than one service credit month
34 during any calendar month in which multiple service for seventy or more
35 hours is rendered.

36 (iii) A school district employee may count up to forty-five days of
37 sick leave as creditable service solely for the purpose of determining
38 eligibility to retire under RCW 41.40.180 as authorized by RCW
39 28A.400.300. For purposes of plan I "forty-five days" as used in RCW

1 28A.400.300 is equal to two service credit months. Use of less than
2 forty-five days of sick leave is creditable as allowed under this
3 subsection as follows:

4 (A) Less than twenty-two days equals one-quarter service credit
5 month;

6 (B) Twenty-two days equals one service credit month;

7 (C) More than twenty-two days but less than forty-five days equals
8 one and one-quarter service credit month.

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

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

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

29 (ii) A member shall receive a total of not more than twelve service
30 credit months of service for such calendar year. If an individual is
31 employed in an eligible position by one or more employers the
32 individual shall receive no more than one service credit month during
33 any calendar month in which multiple service for ninety or more hours
34 is rendered.

35 (iii) Up to forty-five days of sick leave may be creditable as
36 service solely for the purpose of determining eligibility to retire
37 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
38 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
39 service credit months. Use of less than forty-five days of sick leave

1 is creditable as allowed under this subsection as follows:

2 (A) Less than eleven days equals one-quarter service credit month;

3 (B) Eleven or more days but less than twenty-two days equals one-
4 half service credit month;

5 (C) Twenty-two days equals one service credit month;

6 (D) More than twenty-two days but less than thirty-three days
7 equals one and one-quarter service credit month;

8 (E) Thirty-three or more days but less than forty-five days equals
9 one and one-half service credit month.

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

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

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

16 (13) "Membership service" means:

17 (a) All service rendered, as a member, after October 1, 1947;

18 (b) ~~((All service after October 1, 1947, to any employer prior to
19 the time of its admission into the retirement system: PROVIDED, That
20 an amount equal to the employer and employee contributions which would
21 have been paid to the retirement system on account of such service
22 shall have been paid to the retirement system with interest (as
23 computed by the department) on the employee's portion prior to
24 retirement of such person, by the employee or his or her employer,
25 except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer
26 contributions plus employee contributions with interest submitted by
27 the employee under this subsection shall be placed in the employee's
28 individual account in the employees' savings fund and be treated as any
29 other contribution made by the employee, with the exception that the
30 contributions submitted by the employee in payment of the employer's
31 obligation, together with the interest the director may apply to the
32 employer's contribution, shall be excluded from the calculation of the
33 member's annuity in the event the member selects a benefit with an
34 annuity option;~~

35 (e)) Service not to exceed six consecutive months of probationary
36 service rendered after April 1, 1949, and prior to becoming a member,
37 in the case of any member, upon payment in full by such member of the
38 total amount of the employer's contribution to the retirement fund
39 which would have been required under the law in effect when such

1 probationary service was rendered if the member had been a member
2 during such period, except that the amount of the employer's
3 contribution shall be calculated by the director based on the first
4 month's compensation earnable as a member;

5 ~~((d))~~ (c) Service not to exceed six consecutive months of
6 probationary service, rendered after October 1, 1947, and before April
7 1, 1949, and prior to becoming a member, in the case of any member,
8 upon payment in full by such member of five percent of such member's
9 salary during said period of probationary service, except that the
10 amount of the employer's contribution shall be calculated by the
11 director based on the first month's compensation earnable as a member.

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

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

18 (15) "Regular interest" means such rate as the director may
19 determine.

20 (16) "Accumulated contributions" means the sum of all contributions
21 standing to the credit of a member in the member's individual account,
22 including any amount paid under RCW 41.50.165(2), together with the
23 regular interest thereon.

24 (17)(a) "Average final compensation" for plan I members, means the
25 annual average of the greatest compensation earnable by a member during
26 any consecutive two year period of service credit months for which
27 service credit is allowed; or if the member has less than two years of
28 service credit months then the annual average compensation earnable
29 during the total years of service for which service credit is allowed.

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

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

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

1 installments.

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

5 (21) "Retirement allowance" means the sum of the annuity and the
6 pension.

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

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

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

14 (25) "Eligible position" means:

15 (a) Any position that, as defined by the employer, normally
16 requires five or more months of service a year for which regular
17 compensation for at least seventy hours is earned by the occupant
18 thereof. For purposes of this chapter an employer shall not define
19 "position" in such a manner that an employee's monthly work for that
20 employer is divided into more than one position;

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

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

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

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

32 (29) "Retiree" means any person in receipt of a retirement
33 allowance or other benefit provided by this chapter resulting from
34 service rendered to an employer while a member. A person is in receipt
35 of a retirement allowance as defined in subsection (21) of this section
36 or other benefit as provided by this chapter when the department mails,
37 causes to be mailed, or otherwise transmits the retirement allowance
38 warrant.

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

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

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

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

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

12 (35) "Index" means, for any calendar year, that year's annual
13 average consumer price index, Seattle, Washington area, for urban wage
14 earners and clerical workers, all items, compiled by the bureau of
15 labor statistics, United States department of labor.

16 (36) "Index A" means the index for the year prior to the
17 determination of a postretirement adjustment.

18 (37) "Index B" means the index for the year prior to index A.

19 (38) "Index year" means the earliest calendar year in which the
20 index is more than sixty percent of index A.

21 (39) "Adjustment ratio" means the value of index A divided by index
22 B.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.40 RCW
24 to read as follows:

25 (1) Membership service to any employer prior to the time of its
26 admission into the retirement system may be purchased for any member if
27 additional contributions are made. Such contributions shall be equal
28 to the total employee and employer contributions that would have been
29 required for all the member service prior to the employer's admission
30 to the retirement system, plus interest to the date of payment, as
31 determined by the director.

32 (2) The employer or member, or both, may make the contributions in
33 accordance with the options stated in this subsection. The employer
34 must select one of the options and apply it uniformly to all employees,
35 except those covered by subsection (5) of this section.

36 (a) Option A: The employer agrees to make all of the
37 contributions;

38 (b) Option B: The employer agrees to make a portion of the

1 contributions, with the balance to be paid by the employee; or

2 (c) Option C: The employer makes no contributions. The member
3 must make all contributions required by subsection (1) of this section,
4 plus interest, before membership service can be credited under this
5 section.

6 (3) All contributions plus interest made by the member shall be
7 placed in the member's individual account in the members' savings fund.

8 (4) All payments under this subsection and RCW 41.40.160(2) must be
9 completed within fifteen years from the date of the employer's
10 admission or prior to the retirement of such member, whichever occurs
11 sooner.

12 (5) No additional contributions under this section will be required
13 for service prior to the employer's admission into the retirement
14 system if the employer made contributions for such service to a
15 qualified retirement plan as defined by 26 U.S.C. Sec. 401(a) and such
16 contributions plus interest accrued cannot be transferred to the
17 retirement system. The employer may elect to purchase such service
18 under the retirement system. The member shall not be permitted to
19 purchase such service.

20 **Sec. 3.** RCW 41.40.062 and 1991 c 35 s 93 are each amended to read
21 as follows:

22 (1) The employees and appointive and elective officials of any
23 political subdivision or association of political subdivisions of the
24 state may become members of the retirement system by the approval of
25 the local legislative authority.

26 (2) On and after September 1, 1965, every school district of the
27 state of Washington shall be an employer under this chapter. Every
28 employee of each school district who is eligible for membership under
29 RCW 41.40.023 shall be a member of the retirement system and
30 participate on the same basis as a person who first becomes a member
31 through the admission of any employer into the retirement system on and
32 after April 1, 1949.

33 ~~((3) Each political subdivision becoming an employer under the~~
34 ~~meaning of this chapter shall make contributions to the funds of the~~
35 ~~retirement system as provided in RCW 41.50.250, 41.40.045, and~~
36 ~~41.40.048 and its employees shall contribute to the employees' savings~~
37 ~~fund at the rate established under the provisions of RCW 41.40.330. In~~
38 ~~addition to the foregoing requirement, where the political subdivision~~

1 becoming an employer under this section has its own retirement plan,
2 any of the employee members thereof who may elect to transfer to this
3 retirement system may, if permitted by the plan, withdraw all or any
4 part of their employees' contributions to the former plan and transfer
5 the funds to the employees' savings fund at the time of their transfer
6 of membership. Any portion of the employees' savings fund not
7 withdrawn shall be transferred by the employer to the retirement system
8 over a period not to exceed fifteen years. The length of the transfer
9 period and the method of payment to be utilized during that period
10 shall be established by agreement between the department and the
11 political subdivision. Employers making deferred payments of employee
12 funds under this section shall transfer an additional amount equal to
13 the interest that would have been credited to each employee's savings
14 fund had his or her contributions been transferred to the state
15 retirement system's employee savings fund on the date the political
16 subdivision became an employer under this section. Any funds remaining
17 in the employer's former retirement plan after all obligations of the
18 plan have been provided for, as evidenced by appropriate actuarial
19 study, shall be disposed of by the governing body of the political
20 subdivision in such manner as it deems appropriate. For the purpose of
21 administering and interpreting this chapter the department may
22 substitute the names of political subdivisions of the state for the
23 "state" and employees of the subdivisions for "state employees"
24 wherever those terms appear in this chapter. The department may also
25 alter any dates mentioned in this chapter for the purpose of making the
26 provisions of the chapter applicable to the entry of any political
27 subdivisions into the system. Any member transferring employment to
28 another employer which is covered by the retirement system may continue
29 as a member without loss of previously earned pension and annuity
30 benefits. The department shall keep accounts as are necessary to show
31 the contributions of each political subdivision to the benefit account
32 fund and shall have the power to debit and credit the various accounts
33 in accordance with the transfer of the members from one employer to
34 another.

35 (4) Employees of a political subdivision, maintaining its own
36 retirement system, who have been transferred to a health district
37 formed pursuant to chapter 70.46 RCW, but who have been allowed to
38 remain members of the political subdivision's retirement system may be
39 transferred as a group to the Washington public employees' retirement

1 system.— This transfer may be made by the action of the legislative
2 authority of the political subdivision maintaining its own retirement
3 system.— This transfer shall include employer's and member's funds in
4 the transferring municipalities' retirement system.

5 (5) ~~Employees of a political subdivision, maintaining its own~~
6 ~~retirement system, heretofore transferred to a joint airport operation~~
7 ~~of two municipalities pursuant to chapter 14.08 RCW, may be transferred~~
8 ~~as a group to the Washington public employees' retirement system.— This~~
9 ~~transfer may be made by the action of the legislative authority of the~~
10 ~~political subdivision maintaining its own retirement system.— This~~
11 ~~transfer shall include employer's and member's funds in the~~
12 ~~transferring municipalities' retirement system.))~~

13 NEW SECTION. **Sec. 4.** RCW 41.40.045 and 1989 c 273 s 22, 1986 c
14 268 s 4, 1973 1st ex.s. c 190 s 13, 1972 ex.s. c 151 s 14, 1971 ex.s.
15 c 271 s 11, 1963 c 174 s 15, 1961 c 291 s 11, & 1957 c 231 s 4 are each
16 repealed.

17 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and shall take
20 effect immediately."

21 **SSB 5496** - H COMM AMD
22 By Committee on Appropriations

23

24 On page 1, line 2 of the title, after "contributions;" strike the
25 remainder of the title and insert "amending RCW 41.40.062; reenacting
26 and amending RCW 41.40.010; adding a new section to chapter 41.40 RCW;
27 repealing RCW 41.40.045; and declaring an emergency."

--- END ---