

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1453

54th Legislature
1995 Regular Session

Passed by the House March 10, 1995
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 4, 1995
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1453** 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**

SUBSTITUTE HOUSE BILL 1453

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Foreman, Ogden, Chappell, Costa, Dickerson, Schoesler, Stevens and Radcliff)

Read first time 03/06/95.

1 AN ACT Relating to reserve officers' retirement; amending RCW
2 41.24.010, 41.24.030, 41.24.040, 41.24.170, 41.24.172, 41.24.190, and
3 41.24.200; reenacting and amending RCW 41.24.240; and adding new
4 sections to chapter 41.24 RCW.

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

6 **Sec. 1.** RCW 41.24.010 and 1993 c 331 s 1 are each amended to read
7 as follows:

8 As used in this chapter:

9 "Municipal corporation" or "municipality" includes any county, city
10 ~~((or))~~, town or combination thereof, fire protection district, local
11 law enforcement agency, or any water, irrigation, or other district,
12 authorized by law to afford emergency medical services or protection to
13 life and property within its boundaries ~~((from fire))~~.

14 "Fire department" means any regularly organized fire department or
15 emergency medical service district consisting wholly of volunteer fire
16 fighters, or any part-paid and part-volunteer fire department duly
17 organized and maintained by any municipality: PROVIDED, That any such
18 municipality wherein a part-paid fire department is maintained may by

1 appropriate legislation permit the full-paid members of its department
2 to come under the provisions of chapter 41.16 RCW.

3 "Fire fighter" includes any fire fighter or emergency worker who is
4 a member of any fire department of any municipality but shall not
5 include full time, paid fire fighters who are members of the Washington
6 law enforcement officers' and fire fighters' retirement system, with
7 respect to periods of service rendered in such capacity.

8 "Emergency worker" means any emergency medical service personnel,
9 regulated by chapters 18.71 and 18.73 RCW, who is a member of an
10 emergency medical service district but shall not include full-time,
11 paid emergency medical service personnel who are members of the
12 Washington public employees' retirement system, with respect to periods
13 of service rendered in such capacity.

14 "Performance of duty" shall be construed to mean and include any
15 work in and about company quarters or any fire station or any other
16 place under the direction or general orders of the chief or other
17 officer having authority to order such member to perform such work;
18 responding to, working at, or returning from an alarm of fire; drill;
19 or any work performed of an emergency nature in accordance with the
20 rules and regulations of the fire department.

21 "State board" means the state board for volunteer fire fighters and
22 reserve officers created herein.

23 "Board of trustees" means a board of trustees created under RCW
24 41.24.060 or, for matters affecting an emergency worker, an emergency
25 medical service district board of trustees created under RCW 41.24.330.

26 "Appropriate legislation" means an ordinance when an ordinance is
27 the means of legislating by any municipality, and resolution in all
28 other cases.

29 "Reserve officer" means the same as defined by the Washington state
30 criminal justice training commission under chapter 43.101 RCW.

31 "Participant" means any fire fighter, emergency worker, or reserve
32 officer who is or may become eligible to receive a benefit of any type
33 under the retirement provisions of this chapter, or whose beneficiary
34 may be eligible to receive any such benefit.

35 NEW SECTION. **Sec. 2.** (1) Except as provided in subsection (2) of
36 this section, any municipality may make provision by appropriate
37 legislation and payment of fees required by RCW 41.24.030(1)(d) solely

1 for the purpose of enabling any reserve officer to enroll under the
2 retirement provisions of this chapter.

3 (2) A reserve officer is not eligible to receive a benefit under
4 the retirement provisions of this chapter for service under chapter
5 41.26, 41.32, or 41.40 RCW.

6 (3) Every municipality shall make provisions for the collection and
7 payment of the fees required under this chapter, and shall continue to
8 make provisions for all reserve officers who come under this chapter as
9 long as they continue to be employed as reserve officers.

10 (4) A reserve officer is not eligible to receive a benefit under
11 the relief and compensation provisions of this chapter.

12 **Sec. 3.** RCW 41.24.030 and 1992 c 97 s 1 are each amended to read
13 as follows:

14 (1) There is created in the state treasury a trust fund for the
15 benefit of the (~~fire fighters of the state~~) participants covered by
16 this chapter, which shall be designated the volunteer fire fighters'
17 relief and pension principal fund and shall consist of:

18 (a) All bequests, fees, gifts, emoluments, or donations given or
19 paid to the fund.

20 (b) An annual fee for each member of its fire department to be paid
21 by each municipal corporation for the purpose of affording the members
22 of its fire department with protection from death or disability as
23 provided in this chapter as follows:

24 (i) Ten dollars for each volunteer or part-paid member of its fire
25 department;

26 (ii) A sum equal to one and one-half of one percent of the annual
27 salary attached to the rank of each full-paid member of its fire
28 department, prorated for 1970 on the basis of services prior to March
29 1, 1970.

30 (c) Where a municipal corporation has elected to make available to
31 the members of its fire department the retirement provisions as
32 provided in this chapter, an annual fee of sixty dollars for each of
33 its fire fighters electing to enroll therein, thirty dollars of which
34 shall be paid by the municipality and thirty dollars of which shall be
35 paid by the fire fighter.

36 (d) Where a municipal corporation has elected to make the
37 retirement provisions of this chapter available to reserve officers,
38 for each reserve officer that elects to enroll: An annual fee of

1 thirty dollars shall be paid by the reserve officer and an annual fee
2 determined by the state board based on the latest actuarial valuation
3 shall be paid by the municipal corporation. The fee paid by the
4 municipal corporation may include operating expenses.

5 (e) Forty percent of all moneys received by the state from taxes on
6 fire insurance premiums shall be paid into the state treasury and
7 credited to the administrative fund created in subsection (2) of this
8 section.

9 ~~((e))~~ (f) The state investment board, upon request of the state
10 treasurer shall have full power to invest or reinvest such portion of
11 the amounts credited to the principal fund as is not, in the judgment
12 of the treasurer, required to meet current withdrawals. Such
13 investments shall be made in the manner prescribed by RCW 43.84.150 and
14 not otherwise.

15 ~~((f))~~ (g) All bonds or other obligations purchased according to
16 ~~((e))~~ (f) of this subsection shall be forthwith placed in the custody
17 of the state treasurer, and he or she shall collect the principal
18 thereof and interest thereon when due.

19 The state investment board may sell any of the bonds or obligations
20 so acquired and the proceeds thereof shall be paid to the state
21 treasurer.

22 The interest and proceeds from the sale and redemption of any bonds
23 or other obligations held by the fund and invested by the state
24 investment board shall be credited to and form a part of the principal
25 fund, less the allocation to the state investment board expense account
26 pursuant to RCW 43.33A.160.

27 All amounts credited to the principal fund shall be available for
28 making the benefit payments required by this chapter.

29 The state treasurer shall make an annual report showing the
30 condition of the fund.

31 (2) The volunteer fire fighters' relief and pension administrative
32 fund is hereby created in the state treasury. Moneys in the account,
33 including unanticipated revenues under RCW 43.79.270, may be spent only
34 after appropriation, and may be used only for operating expenses of the
35 volunteer fire fighters' relief and pension principal fund, the
36 operating expenses of the volunteer fire fighters' relief and pension
37 administrative fund, or for transfer from the administrative fund to
38 the principal fund.

1 (a) The state board shall compute a percentage of the amounts
2 credited to the administrative fund to be paid into the principal fund.

3 (b) For the purpose of providing amounts to be used to defray the
4 cost of administration of the principal and administrative funds, the
5 state board shall ascertain at the beginning of each biennium and
6 request from the legislature an appropriation from the administrative
7 fund sufficient to cover estimated expenses for the biennium.

8 NEW SECTION. **Sec. 4.** Credit for service as a reserve officer
9 shall not be counted for purposes of RCW 41.24.170 except as stated in
10 this section: Within one year of an election to cover reserve officers
11 under the retirement provisions of this chapter, the municipality must
12 elect, on a one-time basis, one of the following:

13 (1)(a) To count credit for service only after the effective date of
14 this act;

15 (b) To pay annual fees only for service after the effective date of
16 this act; or

17 (2)(a) To count credit for all service as a reserve officer, but
18 only if the actuarial cost, as determined by the state board, is paid
19 by the municipality. The municipality may charge reserve officers for
20 any portion of the cost; and

21 (b) To pay annual fees only for service after the effective date of
22 this act; or

23 (3)(a) To count credit for all service as a reserve officer, but
24 only if the actuarial cost, as determined by the state board, is paid
25 by the municipality. The municipality may charge reserve officers for
26 any portion of the cost; and

27 (b) To pay annual fees for service prior to the effective date of
28 this act, if:

29 (i) The reserve officer elects, within one year of the
30 municipality's election under this section, to pay the annual fee plus
31 one percent per month interest for each year of past service counted;
32 and

33 (ii) The municipality pays the actuarial cost, as determined by the
34 state board, of the benefit provided in (b) of this subsection. The
35 municipality may charge reserve officers for any portion of the cost.

36 Payments under this section may be made in a lump sum or in a
37 manner prescribed by the state board.

1 **Sec. 5.** RCW 41.24.040 and 1989 c 91 s 10 are each amended to read
2 as follows:

3 On or before the first day of March of each year, every municipal
4 corporation shall pay such amount as shall be due from it to said fund,
5 together with the amounts collected from the ((~~fire fighters of its~~
6 ~~fire department~~)) participants: PROVIDED, That no fire fighter shall
7 forfeit his or her right to participate in the relief and compensation
8 provisions of this chapter by reason of nonpayment: PROVIDED FURTHER,
9 That no ((~~fire fighter~~)) participant shall forfeit his or her right to
10 participate in the retirement provisions of this chapter until after
11 March 1st of such year: AND PROVIDED FURTHER, That where a
12 municipality has failed to pay or remit the annual fees required within
13 the time provided such delinquent payment shall bear interest at the
14 rate of one percent per month from March 1st until paid: AND PROVIDED
15 FURTHER, That where a ((~~fire fighter~~)) participant has forfeited his or
16 her right to participate in the retirement provisions of this chapter
17 that ((~~fire fighter~~)) participant may be reinstated so as to
18 participate to the same extent as if all fees had been paid by the
19 payment of all back fees with interest at the rate of one percent per
20 month provided he or she has at all times been otherwise eligible.

21 NEW SECTION. **Sec. 6.** The head of a local law enforcement agency
22 is authorized to enroll its reserve officers and to certify reserve
23 officer service under the retirement provisions of this chapter. The
24 head of that agency shall sign, certify, and send to the state board a
25 voucher for each person entitled to payment from the fund, stating the
26 amount of the payment. The state board, after review and approval
27 shall cause a warrant to be issued on the fund for the amount specified
28 and approved on each voucher. However, after the applicant's
29 eligibility for pension is verified, the state board shall authorize
30 the regular issuance of monthly warrants in payment thereof without
31 further action of the head of the law enforcement agency.

32 **Sec. 7.** RCW 41.24.170 and 1992 c 97 s 2 are each amended to read
33 as follows:

34 Except as provided in section 4 of this act, whenever any ((fire
35 fighter)) participant has been a member and served honorably for a
36 period of ten years or more as an active member in any capacity, of any
37 regularly organized volunteer fire department or law enforcement agency

1 of any municipality in this state, and which municipality and ((fire
2 fighter)) participant are enrolled under the retirement provisions, and
3 the ((fire-fighter)) participant has reached the age of sixty-five
4 years, the board of trustees shall order and direct that he or she be
5 retired and be paid a monthly pension as provided in this section.

6 Whenever a ((fire-fighter)) participant has been a member, and
7 served honorably for a period of twenty-five years or more as an active
8 member in any capacity, of any regularly organized volunteer fire
9 department or law enforcement agency of any municipality in this state,
10 and he or she has reached the age of sixty-five years, and the annual
11 retirement fee has been paid for a period of twenty-five years, the
12 board of trustees shall order and direct that he or she be retired and
13 such ((fire-fighter)) participant be paid a monthly pension of two
14 hundred twenty-five dollars from the fund for the balance of that
15 ((fire-fighter's)) participant's life.

16 Whenever any ((fire-fighter)) participant has been a member, and
17 served honorably for a period of twenty-five years or more as an active
18 member in any capacity, of any regularly organized volunteer fire
19 department or law enforcement agency of any municipality in this state,
20 and the ((fire-fighter)) participant has reached the age of sixty-five
21 years, and the annual retirement fee has been paid for a period of less
22 than twenty-five years, the board of trustees shall order and direct
23 that he or she be retired and that such ((fire-fighter)) participant
24 shall receive a minimum monthly pension of twenty-five dollars
25 increased by the sum of eight dollars each month for each year the
26 annual fee has been paid, but not to exceed the maximum monthly pension
27 provided in this section, for the balance of the ((fire-fighter's))
28 participant's life.

29 No pension provided in this section may become payable before the
30 sixty-fifth birthday of the ((fire-fighter)) participant, nor for any
31 service less than twenty-five years: PROVIDED, HOWEVER, That:

32 (1) Any ((fire-fighter)) participant, upon completion of twenty-
33 five years' service and attainment of age sixty, may irrevocably elect,
34 in lieu of the pension to which that ((fire-fighter)) participant would
35 be entitled under this section at age sixty-five, to receive for the
36 balance of his or her life a monthly pension equal to sixty percent of
37 such pension.

38 (2) Any ((fire-fighter)) participant, upon completion of twenty-
39 five years' service and attainment of age sixty-two, may irrevocably

1 elect, in lieu of the pension to which that (~~fire-fighter~~)
2 participant would be entitled under this section at age sixty-five, to
3 receive for the balance of his or her life a monthly pension equal to
4 seventy-five percent of such pension.

5 (3) Any (~~fire-fighter~~) participant, upon completion of less than
6 twenty-five years of service shall receive the applicable reduced
7 pension provided in this subsection, according to the age at which that
8 (~~fire-fighter~~) participant elects to begin to receive the pension.
9 If receipt of the benefits begins at age sixty-five the (~~fire
10 fighter~~) participant shall receive one hundred percent of the reduced
11 benefit; at age sixty-two the (~~fire-fighter~~) participant shall
12 receive seventy-five percent of the reduced benefit; and at age sixty
13 the (~~fire-fighter~~) participant shall receive sixty percent of the
14 reduced benefit. The reduced benefit shall be computed as follows:

15 (a) Upon completion of ten years, but less than fifteen years of
16 service, a monthly pension equal to fifteen percent of such pension as
17 the (~~fire-fighter~~) participant would have been entitled to receive at
18 age sixty-five after twenty-five years of service;

19 (b) Upon completion of fifteen years, but less than twenty years of
20 service, a monthly pension equal to thirty percent of such pension as
21 the (~~fire-fighter~~) participant would have been entitled to receive at
22 age sixty-five after twenty-five years of service; and

23 (c) Upon completion of twenty years, but less than twenty-five
24 years of service, a monthly pension equal to sixty percent of such
25 pension as the (~~fire-fighter~~) participant would have been entitled to
26 receive at age sixty-five after twenty-five years of service.

27 NEW SECTION. **Sec. 8.** A reserve officer shall not receive a
28 retirement benefit under this chapter unless he or she completes at
29 least three years of service after the effective date of this act.

30 **Sec. 9.** RCW 41.24.172 and 1989 c 91 s 6 are each amended to read
31 as follows:

32 Before beginning to receive the pension provided for in RCW
33 41.24.170, the (~~fire-fighter~~) participant shall elect, in a writing
34 filed with the state board, to have the pension paid under either
35 option 1 or 2, with option 2 calculated so as to be actuarially
36 equivalent to option 1.

1 (1) Option 1. A (~~fire fighter~~) participant electing this option
2 shall receive a monthly pension payable throughout the (~~fire~~
3 ~~fighter's~~) participant's life. However, if the (~~fire fighter~~)
4 participant dies before the total pension paid to the (~~fire fighter~~)
5 participant equals the amount paid into the fund, then the balance
6 shall be paid to the (~~fire fighter's~~) participant's surviving spouse,
7 or if there be no surviving spouse, then to the (~~fire fighter's~~)
8 participant's legal representatives.

9 (2) Option 2. A (~~fire fighter~~) participant electing this option
10 shall receive a reduced monthly pension, which upon the (~~fire~~
11 ~~fighter's~~) participant's death shall be continued throughout the life
12 of and paid to the (~~fire fighter's~~) participant's surviving spouse
13 named in the written election filed with the state board.

14 NEW SECTION. Sec. 10. The state board shall direct payment from
15 the fund in the following cases:

16 (1) To any reserve officer, upon his or her request, upon attaining
17 the age of sixty-five years, who, for any reason, is not qualified to
18 receive the monthly retirement pension under this chapter and who was
19 enrolled in the fund and on whose behalf annual fees for retirement
20 pension were paid, a lump sum amount equal to the amount paid into the
21 fund by the reserve officer.

22 (2) If any reserve officer who has not completed at least ten years
23 of service dies without having requested a lump sum payment under
24 subsection (1) or (3) of this section, there shall be paid to the
25 reserve officer's surviving spouse, or if there is no surviving spouse,
26 then to such reserve officer's legal representatives, a lump sum amount
27 equal to the amount paid into the fund by the reserve officer. If any
28 reserve officer who has completed at least ten years of service dies
29 without having requested a lump sum payment under subsection (1) or (3)
30 of this section and before beginning to receive the monthly pension
31 provided for in this chapter, the reserve officer's surviving spouse
32 shall elect to receive either:

33 (a) A monthly pension computed as provided for in RCW 41.24.170
34 actuarially adjusted to reflect option 2 of RCW 41.24.172 and further
35 actuarially reduced to reflect the difference in the number of years
36 between the reserve officer's age at death and age sixty-five; or

1 (b) A lump sum amount equal to the amount paid into the fund by the
2 reserve officer and the municipality or municipalities in whose
3 department he or she has served.

4 If there is no surviving spouse, then there shall be paid to the
5 reserve officer's legal representatives a lump sum amount equal to the
6 amount paid into the fund by the reserve officer.

7 (3) If any reserve officer retires from service before attaining
8 the age of sixty-five years, the reserve officer may make application
9 for the return in a lump sum of the amount paid into the fund by
10 himself or herself.

11 **Sec. 11.** RCW 41.24.190 and 1989 c 91 s 16 are each amended to read
12 as follows:

13 The filing of reports of enrollment shall be prima facie evidence
14 of the service of the ((fire fighters)) participants therein listed for
15 the year of such report as to service rendered subsequent to July 6,
16 1945. Proof of service of fire fighters prior to that date shall be by
17 documentary evidence, or such other evidence reduced to writing and
18 sworn to under oath, as shall be submitted to the state board and
19 certified by it as sufficient.

20 **Sec. 12.** RCW 41.24.200 and 1989 c 91 s 17 are each amended to read
21 as follows:

22 The aggregate term of service of any ((fire fighter)) participant
23 need not be continuous nor need it be confined to a single fire
24 department or law enforcement agency nor a single municipality in this
25 state to entitle such ((fire fighter)) participant to a pension:
26 PROVIDED, That the ((fire fighter)) participant has been duly enrolled
27 in a fire department or law enforcement agency of a municipality which
28 has elected to make provisions for the retirement of its ((fire
29 fighters)) participants at the time he or she becomes eligible for such
30 pension as in this chapter provided, and has paid all fees prescribed.
31 To be eligible to the full pension a ((fire fighter)) participant must
32 have an aggregate of twenty-five years service, have made twenty-five
33 annual payments into the fund, and be sixty-five years of age at the
34 time the ((fire fighter)) participant commences drawing the pension
35 provided for by this chapter, all of which twenty-five years service
36 must have been in the fire department or law enforcement agency of a
37 municipality or municipalities which have elected to make provisions

1 for the retirement of its (~~volunteer fire fighters~~) participants:
2 PROVIDED, HOWEVER, That nothing herein contained shall require any
3 (~~fire fighter~~) participant having twenty-five years active service to
4 continue as a fire fighter or reserve officer and no (~~fire fighter~~)
5 participant who has completed twenty-five years of active service for
6 which annual pension fees have been paid and who continues as a fire
7 fighter or reserve officer shall be required to pay any additional
8 annual pension fees.

9 **Sec. 13.** RCW 41.24.240 and 1989 c 360 s 26 and 1989 c 91 s 21 are
10 each reenacted and amended to read as follows:

11 The right of any person to any future payment under the provisions
12 of this chapter shall not be transferable or assignable at law or in
13 equity, and none of the moneys paid or payable or the rights existing
14 under this chapter, shall be subject to execution, levy, attachment,
15 garnishment, or other legal process, or to the operation of any
16 bankruptcy or insolvency law. This section shall not be applicable to
17 any child support collection action taken under chapter 26.18, 26.23,
18 or 74.20A RCW. Benefits under this chapter shall be payable to a
19 spouse or ex-spouse to the extent expressly provided for in any court
20 decree of dissolution or legal separation or in any court order or
21 court-approved property settlement agreement incident to any court
22 decree of dissolution or legal separation.

23 Nothing in this chapter shall be construed to deprive any (~~fire~~
24 ~~fighter~~) participant, eligible to receive a pension hereunder, from
25 receiving a pension under any other act to which that (~~fire fighter~~)
26 participant may become eligible by reason of services other than or in
27 addition to his or her services (~~as a fire fighter~~) under this
28 chapter.

29 NEW SECTION. **Sec. 14.** Sections 2, 4, 6, 8, and 10 of this act are
30 each added to chapter 41.24 RCW.

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