

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2191

54th Legislature
1996 Regular Session

Passed by the House February 8, 1996
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate February 29, 1996
Yeas 45 Nays 1

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 2191** 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 2191

Passed Legislature - 1996 Regular Session

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Cooke, Ogden, Carlson, Sehlin, H. Sommers, Dickerson, Conway and Kessler; by request of Joint Committee on Pension Policy)

Read first time 02/05/96.

1 AN ACT Relating to admitting fire fighters for institutions of
2 higher education into the law enforcement officers' and fire fighters'
3 retirement system; amending RCW 41.26.450; reenacting and amending RCW
4 41.26.030; creating a new section; and decodifying RCW 41.40.093.

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

6 NEW SECTION. **Sec. 1.** (1) An employee who was a member of the
7 public employees' retirement system on or before January 1, 1996, and,
8 on the effective date of this act, is employed by an institution of
9 higher education as a fire fighter as defined in RCW 41.26.030, has the
10 following options:

11 (a) Remain a member of the public employees' retirement system; or

12 (b) Make an irrevocable choice, filed in writing with the
13 department of retirement systems no later than January 1, 1997, to
14 transfer to the law enforcement officers' and fire fighters' retirement
15 system plan II as defined in RCW 41.26.030. An employee transferring
16 membership under this subsection (1)(b) shall be a dual member as
17 provided in RCW 41.54.010 unless the employee exercises the option to
18 transfer service credit under subsection (2) of this section.

1 (2)(a) An employee who transferred membership under subsection
2 (1)(b) of this section may choose to transfer service credit as a fire
3 fighter previously earned under the public employees' retirement
4 system, to the law enforcement officers' and fire fighters' retirement
5 system plan II, by making an irrevocable choice filed in writing with
6 the department of retirement systems within one year of the
7 department's announcement of the ability to make such a transfer.

8 (b) Any fire fighter choosing to transfer under this subsection
9 shall have transferred from the retirement system to the law
10 enforcement officers' and fire fighters' retirement system plan II:

11 (i) All the employee's applicable accumulated contributions and
12 employer contributions attributed to such employee; and (ii) all
13 applicable months of service, as defined in RCW 41.26.030(14)(b),
14 credited to the employee under chapter 41.40 RCW, as though such
15 service was rendered as a member of the law enforcement officers' and
16 fire fighters' retirement system.

17 (c) For the applicable period of service, the employee shall pay
18 the difference between the contributions such employee paid to the
19 retirement system, and the contributions which would have been paid by
20 the employee had the employee been a member of the law enforcement
21 officers' and fire fighters' retirement system, plus interest as
22 determined by the director. This payment shall be made no later than
23 December 31, 1998, or the date of retirement, whichever comes first.
24 If the payment required by this subsection is not paid in full by the
25 deadline, the transferred service credit shall not be used to determine
26 eligibility for benefits nor to calculate benefits under the law
27 enforcement officers' and fire fighters' retirement system. In such
28 case, the additional employee contributions transferred under this
29 subsection, and any payments made under this subsection, shall be
30 refunded to the employee and the employer shall be entitled to a credit
31 for the payments made under (d) of this subsection.

32 (d) For the applicable period of service, the employer shall pay:

33 (i) The difference between the employer contributions paid to the
34 public employees' retirement system, and the combined employer and
35 state contributions which would have been payable to the law
36 enforcement officers' and fire fighters' retirement system; and

37 (ii) An amount sufficient to ensure that the contribution level of
38 current members of the law enforcement officers' and fire fighters'
39 retirement system will not increase due to this transfer.

1 For the purpose of this subsection (2)(d), the state contribution
2 shall not include the contribution related to the amortization of the
3 costs of the law enforcement officers' and fire fighters' retirement
4 system plan I as required by chapter 41.45 RCW.

5 (e) An individual who transfers service credit and contributions
6 under this subsection shall be permanently excluded from the public
7 employees' retirement system for all service as a fire fighter.

8 **Sec. 2.** RCW 41.26.030 and 1994 c 264 s 14 and 1994 c 197 s 5 are
9 each reenacted and amended to read as follows:

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

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

14 (2)(a) "Employer" for plan I members, means the legislative
15 authority of any city, town, county, or district or the elected
16 officials of any municipal corporation that employs any law enforcement
17 officer and/or fire fighter, any authorized association of such
18 municipalities, and, except for the purposes of RCW 41.26.150, any
19 labor guild, association, or organization, which represents the fire
20 fighters or law enforcement officers of at least seven cities of over
21 20,000 population and the membership of each local lodge or division of
22 which is composed of at least sixty percent law enforcement officers or
23 fire fighters as defined in this chapter.

24 (b) "Employer" for plan II members, means the following entities to
25 the extent that the entity employs any law enforcement officer and/or
26 fire fighter:

27 (i) The legislative authority of any city, town, county, or
28 district;

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

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

32 (iv) A four-year institution of higher education having a fully
33 operational fire department as of January 1, 1996.

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

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

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

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

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

22 (e) The term "law enforcement officer" also includes a person
23 employed on or after January 1, 1993, as a public safety officer or
24 director of public safety, so long as the job duties substantially
25 involve only either police or fire duties, or both, and no other duties
26 in a city or town with a population of less than ten thousand. The
27 provisions of this subsection (3)(e) shall not apply to any public
28 safety officer or director of public safety who is receiving a
29 retirement allowance under this chapter as of May 12, 1993.

30 (4) "Fire fighter" means:

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

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

37 (c) Supervisory fire fighter personnel;

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

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

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

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

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

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

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

27 (i) A natural born child;

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

30 (iii) A posthumous child;

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

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

35 (b) A person shall also be deemed to be a child up to and including
36 the age of twenty years and eleven months while attending any high
37 school, college, or vocational or other educational institution
38 accredited, licensed, or approved by the state, in which it is located,
39 including the summer vacation months and all other normal and regular

1 vacation periods at the particular educational institution after which
2 the child returns to school.

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

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

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

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

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

20 (12)(a) "Final average salary" for plan I members, means (i) for a
21 member holding the same position or rank for a minimum of twelve months
22 preceding the date of retirement, the basic salary attached to such
23 same position or rank at time of retirement; (ii) for any other member,
24 including a civil service member who has not served a minimum of twelve
25 months in the same position or rank preceding the date of retirement,
26 the average of the greatest basic salaries payable to such member
27 during any consecutive twenty-four month period within such member's
28 last ten years of service for which service credit is allowed, computed
29 by dividing the total basic salaries payable to such member during the
30 selected twenty-four month period by twenty-four; (iii) in the case of
31 disability of any member, the basic salary payable to such member at
32 the time of disability retirement; (iv) in the case of a member who
33 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
34 such member at the time of vesting.

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

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

6 (b) "Basic salary" for plan II members, means salaries or wages
7 earned by a member during a payroll period for personal services,
8 including overtime payments, and shall include wages and salaries
9 deferred under provisions established pursuant to sections 403(b),
10 414(h), and 457 of the United States Internal Revenue Code, but shall
11 exclude lump sum payments for deferred annual sick leave, unused
12 accumulated vacation, unused accumulated annual leave, or any form of
13 severance pay. In any year in which a member serves in the legislature
14 the member shall have the option of having such member's basic salary
15 be the greater of:

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

18 (ii) Such member's actual basic salary received for nonlegislative
19 public employment and legislative service combined. Any additional
20 contributions to the retirement system required because basic salary
21 under (b)(i) of this subsection is greater than basic salary under
22 (b)(ii) of this subsection shall be paid by the member for both member
23 and employer contributions.

24 (14)(a) "Service" for plan I members, means all periods of
25 employment for an employer as a fire fighter or law enforcement
26 officer, for which compensation is paid, together with periods of
27 suspension not exceeding thirty days in duration. For the purposes of
28 this chapter service shall also include service in the armed forces of
29 the United States as provided in RCW 41.26.190. Credit shall be
30 allowed for all service credit months of service rendered by a member
31 from and after the member's initial commencement of employment as a
32 fire fighter or law enforcement officer, during which the member worked
33 for seventy or more hours, or was on disability leave or disability
34 retirement. Only service credit months of service shall be counted in
35 the computation of any retirement allowance or other benefit provided
36 for in this chapter.

37 (i) For members retiring after May 21, 1971 who were employed under
38 the coverage of a prior pension act before March 1, 1970, "service"
39 shall also include (A) such military service not exceeding five years

1 as was creditable to the member as of March 1, 1970, under the member's
2 particular prior pension act, and (B) such other periods of service as
3 were then creditable to a particular member under the provisions of RCW
4 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
5 be allowed for any service rendered prior to March 1, 1970, where the
6 member at the time of rendition of such service was employed in a
7 position covered by a prior pension act, unless such service, at the
8 time credit is claimed therefor, is also creditable under the
9 provisions of such prior act.

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

13 (b) "Service" for plan II members, means periods of employment by
14 a member for one or more employers for which basic salary is earned for
15 ninety or more hours per calendar month which shall constitute a
16 service credit month. Periods of employment by a member for one or
17 more employers for which basic salary is earned for at least seventy
18 hours but less than ninety hours per calendar month shall constitute
19 one-half service credit month. Periods of employment by a member for
20 one or more employers for which basic salary is earned for less than
21 seventy hours shall constitute a one-quarter service credit month.

22 Members of the retirement system who are elected or appointed to a
23 state elective position may elect to continue to be members of this
24 retirement system.

25 Service credit years of service shall be determined by dividing the
26 total number of service credit months of service by twelve. Any
27 fraction of a service credit year of service as so determined shall be
28 taken into account in the computation of such retirement allowance or
29 benefits.

30 If a member receives basic salary from two or more employers during
31 any calendar month, the individual shall receive one service credit
32 month's service credit during any calendar month in which multiple
33 service for ninety or more hours is rendered; or one-half service
34 credit month's service credit during any calendar month in which
35 multiple service for at least seventy hours but less than ninety hours
36 is rendered; or one-quarter service credit month during any calendar
37 month in which multiple service for less than seventy hours is
38 rendered.

1 (15) "Accumulated contributions" means the employee's contributions
2 made by a member, including any amount paid under RCW 41.50.165(2),
3 plus accrued interest credited thereon.

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

9 (17) "Actuarial valuation" means a mathematical determination of
10 the financial condition of a retirement plan. It includes the
11 computation of the present monetary value of benefits payable to
12 present members, and the present monetary value of future employer and
13 employee contributions, giving effect to mortality among active and
14 retired members and also to the rates of disability, retirement,
15 withdrawal from service, salary and interest earned on investments.

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

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

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

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

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

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

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

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

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

4 (i) The fees of the following:

5 (A) A physician or surgeon licensed under the provisions of chapter
6 18.71 RCW;

7 (B) An (~~osteopath~~ [~~osteopathic~~ ~~physician~~ and ~~surgeon~~])
8 osteopathic physician and surgeon licensed under the provisions of
9 chapter 18.57 RCW;

10 (C) A chiropractor licensed under the provisions of chapter 18.25
11 RCW.

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

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

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

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

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

19 (D) Anesthesia and oxygen;

20 (E) Rental of iron lung and other durable medical and surgical
21 equipment;

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

23 (G) Professional ambulance service when used to transport the
24 member to or from a hospital when injured by an accident or stricken by
25 a disease;

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

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

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

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

33 (L) An optometrist licensed under the provisions of chapter 18.53
34 RCW.

35 (23) "Regular interest" means such rate as the director may
36 determine.

37 (24) "Retiree" for persons who establish membership in the
38 retirement system on or after October 1, 1977, means any member in

1 receipt of a retirement allowance or other benefit provided by this
2 chapter resulting from service rendered to an employer by such member.

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

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

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

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

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

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

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

21 (32) "General authority law enforcement agency" means any agency,
22 department, or division of a municipal corporation, political
23 subdivision, or other unit of local government of this state, and any
24 agency, department, or division of state government, having as its
25 primary function the detection and apprehension of persons committing
26 infractions or violating the traffic or criminal laws in general, but
27 not including the Washington state patrol. Such an agency, department,
28 or division is distinguished from a limited authority law enforcement
29 agency having as one of its functions the apprehension or detection of
30 persons committing infractions or violating the traffic or criminal
31 laws relating to limited subject areas, including but not limited to,
32 the state departments of natural resources, fish and wildlife, and
33 social and health services, the state gambling commission, the state
34 lottery commission, the state parks and recreation commission, the
35 state utilities and transportation commission, the state liquor control
36 board, and the state department of corrections.

37 **Sec. 3.** RCW 41.26.450 and 1993 c 502 s 2 are each amended to read
38 as follows:

1 (1) The required contribution rates to the plan II system for
2 members, employers, and the state of Washington shall be established by
3 the director from time to time as may be necessary upon the advice of
4 the state actuary. The state actuary shall use the aggregate actuarial
5 cost method to calculate contribution rates.

6 (2) Except as provided in subsection (3) of this section, the
7 member, the employer and the state shall each contribute the following
8 shares of the cost of the retirement system:

9	Member	50%
10	Employer	30%
11	State	20%

12 (~~However,~~) (3) Port districts established under Title 53 RCW and
13 institutions of higher education as defined in RCW 28B.10.016 shall
14 contribute both the employer and state shares of the cost of the
15 retirement system for any of their employees who are law enforcement
16 officers. Institutions of higher education shall contribute both the
17 employer and the state shares of the cost of the retirement system for
18 any of their employees who are fire fighters.

19 (4) Effective January 1, 1987, however, no member or employer
20 contributions are required for any calendar month in which the member
21 is not granted service credit.

22 (5) Any adjustments in contribution rates required from time to
23 time for future costs shall likewise be shared proportionally by the
24 members, employers, and the state.

25 (6) Any increase in the contribution rate required as the result of
26 a failure of the state or of an employer to make any contribution
27 required by this section shall be borne in full by the state or by that
28 employer not making the contribution.

29 (7) The director shall notify all employers of any pending
30 adjustment in the required contribution rate and such increase shall be
31 announced at least thirty days prior to the effective date of the
32 change.

33 (8) Members' contributions required by this section shall be
34 deducted from the members basic salary each payroll period. The
35 members contribution and the employers contribution shall be remitted
36 directly to the department within fifteen days following the end of the
37 calendar month during which the payroll period ends. The state's
38 contribution required by this section shall be transferred to the plan

1 II fund from the total contributions transferred by the state treasurer
2 under RCW 41.45.060 and 41.45.070.

3 NEW SECTION. **Sec. 4.** RCW 41.40.093 is decodified.

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