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HOUSE BILL 1238

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Sheahan, Ballasiotes, Delvin, Appelwick, O'Brien, Costa, Wensman, Constantine, Mason and Robertson; by request of Supreme Court and Administrator for the Courts

Read first time 01/20/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to pro tempore judges; amending RCW 2.04.240,  
2 2.04.250, 2.06.150, 2.06.160, and 2.10.030; reenacting and amending RCW  
3 41.40.010; and creating a new section.

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

5 **Sec. 1.** RCW 2.04.240 and 1982 c 72 s 1 are each amended to read as  
6 follows:

7 (1) DECLARATION OF POLICY. Whenever necessary for the prompt and  
8 orderly administration of justice, as authorized and empowered by  
9 Article IV, section 2(a), Amendment 38, of the state Constitution, a  
10 majority of the supreme court may appoint any regularly elected and  
11 qualified judge of the court of appeals or the superior court or any  
12 retired judge of a court of record in this state to serve as judge pro  
13 tempore of the supreme court.

14 (2) If the term of a justice of the supreme court expires with  
15 cases or other judicial business pending, the chief justice of the  
16 supreme court may appoint the justice to serve as judge pro tempore of  
17 the supreme court, whenever necessary for the prompt and orderly  
18 administration of justice. The appointment under this subsection may  
19 not exceed sixty days.

1       (3) Before entering upon his or her duties as judge pro tempore of  
2 the supreme court, the appointee shall take and subscribe an oath of  
3 office as provided for in Article IV, section 28 of the state  
4 Constitution.

5       **Sec. 2.** RCW 2.04.250 and 1982 c 72 s 2 are each amended to read as  
6 follows:

7       (1) A judge of the court of appeals or of the superior court  
8 serving as a judge pro tempore of the supreme court as provided in RCW  
9 2.04.240(~~(, as now or hereafter amended,)~~) shall receive, in addition  
10 to his or her regular salary, reimbursement for subsistence, lodging,  
11 and travel expenses in accordance with the rates applicable to state  
12 officers under RCW 43.03.050 and 43.03.060 (~~(as now or hereafter~~  
13 ~~amended)~~)).

14       (2) A retired judge of a court of record in this state serving as  
15 a judge pro tempore of the supreme court as provided in RCW 2.04.240  
16 shall receive, in addition to any retirement pay he or she may be  
17 receiving, the following compensation and expenses:

18       (a) Reimbursement for subsistence, lodging, and travel expenses in  
19 accordance with the rates applicable to state officers under RCW  
20 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~)).

21       (b) During the period of his or her service as a judge pro tempore,  
22 an amount equal to the salary of a regularly elected judge of the court  
23 in which he or she last served for such period diminished by the amount  
24 of retirement pay accrued to him or her for such period.

25       (3) Whenever a superior court judge is appointed to serve as judge  
26 pro tempore of the supreme court and a visiting judge is assigned to  
27 replace him or her, subsistence, lodging, and travel expenses incurred  
28 by such visiting judge as a result of such assignment shall be paid in  
29 accordance with the rates applicable to state officers under RCW  
30 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~), upon  
31 application of such judge from the appropriation of the supreme court.

32       (4) A justice appointed as judge pro tempore of the supreme court  
33 under RCW 2.04.240(2) shall continue to receive compensation in  
34 accordance with the rates applicable to the justice immediately before  
35 the expiration of the term.

36       (5) The provisions of RCW 2.04.240(1) and 2.04.250 (1) through (3)  
37 shall not be construed as impairing or enlarging any right or privilege

1 acquired in any retirement or pension system by any judge or his or her  
2 dependents.

3 **Sec. 3.** RCW 2.06.150 and 1977 ex.s. c 49 s 2 are each amended to  
4 read as follows:

5 (1) Whenever necessary for the prompt and orderly administration of  
6 justice, the chief justice of the supreme court of the state of  
7 Washington may appoint any regularly elected and qualified judge of the  
8 superior court or any retired judge of a court of record in this state  
9 to serve as judge pro tempore of the court of appeals: PROVIDED,  
10 HOWEVER, That no judge pro tempore appointed to serve on the court of  
11 appeals may serve more than ninety days in any one year.

12 (2) If the term of a judge of the court of appeals expires with  
13 cases or other judicial business pending, the chief justice of the  
14 supreme court of the state of Washington, upon the recommendation of  
15 the chief presiding judge of the court of appeals, may appoint the  
16 judge to serve as judge pro tempore of the court of appeals, whenever  
17 necessary for the prompt and orderly administration of justice. The  
18 appointment under this subsection may not exceed sixty days.

19 (3) Before entering upon his or her duties as judge pro tempore of  
20 the court of appeals, the appointee shall take and subscribe an oath of  
21 office as provided for in Article IV, section 28 of the state  
22 Constitution.

23 **Sec. 4.** RCW 2.06.160 and 1981 c 186 s 2 are each amended to read  
24 as follows:

25 (1) A judge of a court of record serving as a judge pro tempore of  
26 the court of appeals, as provided in RCW 2.06.150, shall receive, in  
27 addition to his or her regular salary, reimbursement for subsistence,  
28 lodging, and travel expenses in accordance with the rates applicable to  
29 state officers under RCW 43.03.050 and 43.03.060 (~~as now or hereafter~~  
30 ~~amended~~)).

31 (2) A retired judge of a court of record in this state serving as  
32 a judge pro tempore of the court of appeals, as provided in RCW  
33 2.06.150, shall receive, in addition to any retirement pay he or she  
34 may be receiving, the following compensation and expenses:

35 (a) Reimbursement for subsistence, lodging, and travel expenses in  
36 accordance with the rates applicable to state officers under RCW  
37 43.03.050 and 43.03.060 (~~as now or hereafter amended~~); and

1 (b) During the period of his or her service as judge pro tempore,  
2 he or she shall receive as compensation sixty percent of one-two  
3 hundred and fiftieth of the annual salary of a court of appeals judge  
4 for each day of service: PROVIDED, HOWEVER, That the total amount of  
5 combined compensation received as salary and retirement by any judge in  
6 any calendar year shall not exceed the yearly salary of a full time  
7 judge.

8 (3) Whenever a judge of a court of record is appointed to serve as  
9 judge pro tempore of the court of appeals and a visiting judge is  
10 assigned to replace him or her, subsistence, lodging, and travel  
11 expenses incurred by such visiting judge as a result of such assignment  
12 shall be paid in accordance with the rates applicable to state officers  
13 under RCW 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~), upon  
14 application of such judge from the appropriation of the court of  
15 appeals.

16 (4) A judge appointed as judge pro tempore of the court of appeals  
17 under RCW 2.06.150(2) shall continue to receive compensation in  
18 accordance with the rates applicable to the judge immediately before  
19 the expiration of the term.

20 (5) The provisions of RCW 2.06.150(1) and 2.06.160 (1) through (3)  
21 shall not be construed as impairing or enlarging any right or privilege  
22 acquired in any retirement or pension system by any judge or his or her  
23 dependents.

24 **Sec. 5.** RCW 2.10.030 and 1988 c 109 s 1 are each amended to read  
25 as follows:

26 (1) "Retirement system" means the "Washington judicial retirement  
27 system" provided herein.

28 (2) "Judge" means a person elected or appointed to serve as judge  
29 of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW.  
30 (~~(Said word shall)~~) "Judge" does not include a person serving as a  
31 judge pro tempore except for a judge pro tempore appointed under RCW  
32 2.04.240(2) or 2.06.150(2).

33 (3) "Retirement board" means the "Washington judicial retirement  
34 board" established herein.

35 (4) "Surviving spouse" means the surviving widow or widower of a  
36 judge. (~~(The word shall)~~) "Surviving spouse" does not include the  
37 divorced spouse of a judge.

1 (5) "Retirement fund" means the "Washington judicial retirement  
2 fund" established herein.

3 (6) "Beneficiary" means any person in receipt of a retirement  
4 allowance, disability allowance or any other benefit described herein.

5 (7) "Monthly salary" means the monthly salary of the position held  
6 by the judge.

7 (8) "Service" means all periods of time served as a judge, as  
8 herein defined. Any calendar month at the beginning or end of a term  
9 in which ten or more days are served shall be counted as a full month  
10 of service: PROVIDED, That no more than one month's service may be  
11 granted for any one calendar month. Only months of service will be  
12 counted in the computation of any retirement allowance or other benefit  
13 provided for in this chapter. Years of service shall be determined by  
14 dividing the total months of service by twelve. Any fraction of a year  
15 of service as so determined shall be taken into account in the  
16 computation of such retirement allowance or benefit.

17 (9) "Final average salary" means (a) for a judge in service in the  
18 same court for a minimum of twelve consecutive months preceding the  
19 date of retirement, the salary attached to the position held by the  
20 judge immediately prior to retirement; (b) for any other judge, the  
21 average monthly salary paid over the highest twenty-four month period  
22 in the last ten years of service.

23 (10) "Retirement allowance" for the purpose of applying cost of  
24 living increases or decreases (~~shall~~) includes retirement allowances,  
25 disability allowances and survivorship benefit.

26 (11) "Index" (~~shall~~) means for any calendar year, that year's  
27 annual average consumer price index for urban wage earners and clerical  
28 workers, all items (1957-1959 equal one hundred) -- compiled by the  
29 bureau of labor statistics, United States department of labor.

30 (12) "Accumulated contributions" means the total amount deducted  
31 from the judge's monthly salary pursuant to RCW 2.10.090, together with  
32 the regular interest thereon from July 1, 1988, as determined by the  
33 director of the department of retirement systems.

34 **Sec. 6.** RCW 41.40.010 and 1995 c 345 s 10, 1995 c 286 s 1, and  
35 1995 c 244 s 3 are each reenacted and amended to read as follows:

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

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

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

5 (3) "State treasurer" means the treasurer of the state of  
6 Washington.

7 (4)(a) "Employer" for plan I members, means every branch,  
8 department, agency, commission, board, and office of the state, any  
9 political subdivision or association of political subdivisions of the  
10 state admitted into the retirement system, and legal entities  
11 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
12 term shall also include any labor guild, association, or organization  
13 the membership of a local lodge or division of which is comprised of at  
14 least forty percent employees of an employer (other than such labor  
15 guild, association, or organization) within this chapter. The term may  
16 also include any city of the first class that has its own retirement  
17 system.

18 (b) "Employer" for plan II members, means every branch, department,  
19 agency, commission, board, and office of the state, and any political  
20 subdivision and municipal corporation of the state admitted into the  
21 retirement system, including public agencies created pursuant to RCW  
22 35.63.070, 36.70.060, and 39.34.030.

23 (5) "Member" means any employee included in the membership of the  
24 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045  
25 does not prohibit a person otherwise eligible for membership in the  
26 retirement system from establishing such membership effective when he  
27 or she first entered an eligible position.

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

29 (a) Any person who became a member of the system prior to April 1,  
30 1949;

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

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

38 (d) Any person who first becomes a member through the admission of  
39 an employer into the retirement system on or after April 1, 1951,

1 provided, such person has been in the regular employ of the employer  
2 for at least six months of the twelve-month period preceding the said  
3 admission date;

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

11 (f) Any member who has been a contributor under the system for two  
12 or more years and who has restored all contributions that may have been  
13 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
14 the individual's retirement has rendered five or more years of service  
15 for the state or any political subdivision prior to the time of the  
16 admission of the employer into the system; except that the provisions  
17 relating to the minimum amount of retirement allowance for the member  
18 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
19 apply to the member.

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

22 (8)(a) "Compensation earnable" for plan I members, means salaries  
23 or wages earned during a payroll period for personal services and where  
24 the compensation is not all paid in money, maintenance compensation  
25 shall be included upon the basis of the schedules established by the  
26 member's employer.

27 (i) "Compensation earnable" for plan I members also includes the  
28 following actual or imputed payments, which are not paid for personal  
29 services:

30 (A) Retroactive payments to an individual by an employer on  
31 reinstatement of the employee in a position, or payments by an employer  
32 to an individual in lieu of reinstatement in a position which are  
33 awarded or granted as the equivalent of the salary or wage which the  
34 individual would have earned during a payroll period shall be  
35 considered compensation earnable and the individual shall receive the  
36 equivalent service credit;

37 (B) If a leave of absence is taken by an individual for the purpose  
38 of serving in the state legislature, the salary which would have been  
39 received for the position from which the leave of absence was taken,

1 shall be considered as compensation earnable if the employee's  
2 contribution is paid by the employee and the employer's contribution is  
3 paid by the employer or employee;

4 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
5 72.09.240;

6 (D) Compensation that a member would have received but for a  
7 disability occurring in the line of duty only as authorized by RCW  
8 41.40.038;

9 (E) Compensation that a member receives due to participation in the  
10 leave sharing program only as authorized by RCW 41.04.650 through  
11 41.04.670; and

12 (F) Compensation that a member receives for being in standby  
13 status. For the purposes of this section, a member is in standby  
14 status when not being paid for time actually worked and the employer  
15 requires the member to be prepared to report immediately for work, if  
16 the need arises, although the need may not arise. Standby compensation  
17 is regular salary for the purposes of RCW 41.50.150(2).

18 (ii) "Compensation earnable" does not include:

19 (A) Remuneration for unused sick leave authorized under RCW  
20 41.04.340, 28A.400.210, or 28A.310.490;

21 (B) Remuneration for unused annual leave in excess of thirty days  
22 as authorized by RCW 43.01.044 and 43.01.041.

23 (b) "Compensation earnable" for plan II members, means salaries or  
24 wages earned by a member during a payroll period for personal services,  
25 including overtime payments, and shall include wages and salaries  
26 deferred under provisions established pursuant to sections 403(b),  
27 414(h), and 457 of the United States Internal Revenue Code, but shall  
28 exclude nonmoney maintenance compensation and lump sum or other  
29 payments for deferred annual sick leave, unused accumulated vacation,  
30 unused accumulated annual leave, or any form of severance pay.

31 "Compensation earnable" for plan II members also includes the  
32 following actual or imputed payments, which are not paid for personal  
33 services:

34 (i) Retroactive payments to an individual by an employer on  
35 reinstatement of the employee in a position, or payments by an employer  
36 to an individual in lieu of reinstatement in a position which are  
37 awarded or granted as the equivalent of the salary or wage which the  
38 individual would have earned during a payroll period shall be



1 considered compensation earnable to the extent provided above, and the  
2 individual shall receive the equivalent service credit;

3 (ii) In any year in which a member serves in the legislature, the  
4 member shall have the option of having such member's compensation  
5 earnable be the greater of:

6 (A) The compensation earnable the member would have received had  
7 such member not served in the legislature; or

8 (B) Such member's actual compensation earnable received for  
9 nonlegislative public employment and legislative service combined. Any  
10 additional contributions to the retirement system required because  
11 compensation earnable under ~~((b)(ii)(B))~~ (b)(ii)(A) of this  
12 subsection is greater than compensation earnable under ~~((b)(ii)(A))~~  
13 (b)(ii)(B) of this subsection shall be paid by the member for both  
14 member and employer contributions;

15 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
16 and 72.09.240;

17 (iv) Compensation that a member would have received but for a  
18 disability occurring in the line of duty only as authorized by RCW  
19 41.40.038;

20 (v) Compensation that a member receives due to participation in the  
21 leave sharing program only as authorized by RCW 41.04.650 through  
22 41.04.670; and

23 (vi) Compensation that a member receives for being in standby  
24 status. For the purposes of this section, a member is in standby  
25 status when not being paid for time actually worked and the employer  
26 requires the member to be prepared to report immediately for work, if  
27 the need arises, although the need may not arise. Standby compensation  
28 is regular salary for the purposes of RCW 41.50.150(2).

29 (9)(a) "Service" for plan I members, except as provided in RCW  
30 41.40.088, means periods of employment in an eligible position or  
31 positions for one or more employers rendered to any employer for which  
32 compensation is paid, and includes time spent in office as an elected  
33 or appointed official of an employer. Compensation earnable earned in  
34 full time work for seventy hours or more in any given calendar month  
35 shall constitute one service credit month except as provided in RCW  
36 41.40.088. Compensation earnable earned for less than seventy hours in  
37 any calendar month shall constitute one-quarter service credit month of  
38 service except as provided in RCW 41.40.088. Only service credit  
39 months and one-quarter service credit months shall be counted in the

1 computation of any retirement allowance or other benefit provided for  
2 in this chapter. Any fraction of a year of service shall be taken into  
3 account in the computation of such retirement allowance or benefits.  
4 Time spent in standby status, whether compensated or not, is not  
5 service.

6 (i) Service by a state employee officially assigned by the state on  
7 a temporary basis to assist another public agency, shall be considered  
8 as service as a state employee: PROVIDED, That service to any other  
9 public agency shall not be considered service as a state employee if  
10 such service has been used to establish benefits in any other public  
11 retirement system.

12 (ii) An individual shall receive no more than a total of twelve  
13 service credit months of service during any calendar year. If an  
14 individual is employed in an eligible position by one or more employers  
15 the individual shall receive no more than one service credit month  
16 during any calendar month in which multiple service for seventy or more  
17 hours is rendered.

18 (iii) A school district employee may count up to forty-five days of  
19 sick leave as creditable service solely for the purpose of determining  
20 eligibility to retire under RCW 41.40.180 as authorized by RCW  
21 28A.400.300. For purposes of plan I "forty-five days" as used in RCW  
22 28A.400.300 is equal to two service credit months. Use of less than  
23 forty-five days of sick leave is creditable as allowed under this  
24 subsection as follows:

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

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

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

30 (b) "Service" for plan II members, means periods of employment by  
31 a member in an eligible position or positions for one or more employers  
32 for which compensation earnable is paid. Compensation earnable earned  
33 for ninety or more hours in any calendar month shall constitute one  
34 service credit month except as provided in RCW 41.40.088. Compensation  
35 earnable earned for at least seventy hours but less than ninety hours  
36 in any calendar month shall constitute one-half service credit month of  
37 service. Compensation earnable earned for less than seventy hours in  
38 any calendar month shall constitute one-quarter service credit month of

1 service. Time spent in standby status, whether compensated or not, is  
2 not service.

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

5 (i) Service in any state elective position shall be deemed to be  
6 full time service, except that persons serving in state elective  
7 positions who are members of the teachers' retirement system or law  
8 enforcement officers' and fire fighters' retirement system at the time  
9 of election or appointment to such position may elect to continue  
10 membership in the teachers' retirement system or law enforcement  
11 officers' and fire fighters' retirement system.

12 (ii) A member shall receive a total of not more than twelve service  
13 credit months of service for such calendar year. If an individual is  
14 employed in an eligible position by one or more employers the  
15 individual shall receive no more than one service credit month during  
16 any calendar month in which multiple service for ninety or more hours  
17 is rendered.

18 (iii) Up to forty-five days of sick leave may be creditable as  
19 service solely for the purpose of determining eligibility to retire  
20 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
21 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two  
22 service credit months. Use of less than forty-five days of sick leave  
23 is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

38 (13) "Membership service" means:

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

1 (b) All service after October 1, 1947, to any employer prior to the  
2 time of its admission into the retirement system for which member and  
3 employer contributions, plus interest as required by RCW 41.50.125,  
4 have been paid under RCW 41.40.056 or 41.40.057;

5 (c) Service not to exceed six consecutive months of probationary  
6 service rendered after April 1, 1949, and prior to becoming a member,  
7 in the case of any member, upon payment in full by such member of the  
8 total amount of the employer's contribution to the retirement fund  
9 which would have been required under the law in effect when such  
10 probationary service was rendered if the member had been a member  
11 during such period, except that the amount of the employer's  
12 contribution shall be calculated by the director based on the first  
13 month's compensation earnable as a member;

14 (d) Service not to exceed six consecutive months of probationary  
15 service, rendered after October 1, 1947, and before April 1, 1949, and  
16 prior to becoming a member, in the case of any member, upon payment in  
17 full by such member of five percent of such member's salary during said  
18 period of probationary service, except that the amount of the  
19 employer's contribution shall be calculated by the director based on  
20 the first month's compensation earnable as a member.

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

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

27 (15) "Regular interest" means such rate as the director may  
28 determine.

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

33 (17)(a) "Average final compensation" for plan I members, means the  
34 annual average of the greatest compensation earnable by a member during  
35 any consecutive two year period of service credit months for which  
36 service credit is allowed; or if the member has less than two years of  
37 service credit months then the annual average compensation earnable  
38 during the total years of service for which service credit is allowed.

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

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

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

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

15 (21) "Retirement allowance" means the sum of the annuity and the  
16 pension.

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

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

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

24 (25) "Eligible position" means:

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

31 (b) Any position occupied by an elected official or person  
32 appointed directly by the governor, or appointed by the chief justice  
33 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
34 compensation is paid.

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

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

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

7 (29) "Retiree" means any person in receipt of a retirement  
8 allowance or other benefit provided by this chapter resulting from  
9 service rendered to an employer while a member. A person is in receipt  
10 of a retirement allowance as defined in subsection (21) of this section  
11 or other benefit as provided by this chapter when the department mails,  
12 causes to be mailed, or otherwise transmits the retirement allowance  
13 warrant.

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

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

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

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

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

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

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

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

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

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

37 (40) "Annual increase" means, initially, fifty-nine cents per month  
38 per year of service which amount shall be increased each July 1st by  
39 three percent, rounded to the nearest cent.

1        NEW SECTION.   **Sec. 7.**   This act shall apply to justices and judges  
2 whose terms expire on or after November 7, 1995, and to this extent is  
3 intended to have retroactive application.

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