
HOUSE BILL 1366

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By Representatives Cooke, Sterk, O'Brien, Robertson, Conway, Kenney, Gombosky, Schoesler, Cooper, Sheldon, Mason, Keiser, Kessler and Thompson

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1 AN ACT Relating to admitting fish and wildlife enforcement officers
2 into the law enforcement officers' and fire fighters' retirement
3 system; reenacting and amending RCW 41.26.030; and creating a new
4 section.

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, 1997, and,
8 on the effective date of this act, is employed by the department of
9 fish and wildlife as a fish and wildlife enforcement officer 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, 1998, 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 fish
3 and wildlife enforcement officer previously earned under the public
4 employees' retirement system, to the law enforcement officers' and fire
5 fighters' retirement system plan II, by making an irrevocable choice
6 filed in writing with the department of retirement systems within one
7 year of the department's announcement of the ability to make such a
8 transfer.

9 (b) Any fish and wildlife enforcement officer choosing to transfer
10 under this subsection shall have transferred from the retirement system
11 to the law enforcement officers' and fire fighters' retirement system
12 plan II: (i) All the employee's applicable accumulated contributions
13 and employer contributions attributed to such employee; and (ii) all
14 applicable months of service, as defined in RCW 41.26.030(14)(b),
15 credited to the employee under chapter 41.40 RCW, as though such
16 service was rendered as a member of the law enforcement officers' and
17 fire fighters' retirement system.

18 (c) For the applicable period of service, the employee shall pay
19 the difference between the contributions such employee paid to the
20 retirement system, and the contributions which would have been paid by
21 the employee had the employee been a member of the law enforcement
22 officers' and fire fighters' retirement system, plus interest as
23 determined by the director. This payment shall be made no later than
24 December 31, 2002, or the date of retirement, whichever comes first.
25 If the payment required by this subsection is not paid in full by the
26 deadline, the transferred service credit shall not be used to determine
27 eligibility for benefits nor to calculate benefits under the law
28 enforcement officers' and fire fighters' retirement system. In such
29 case, the additional employee contributions transferred under this
30 subsection, and any payments made under this subsection, shall be
31 refunded to the employee and the employer shall be entitled to a credit
32 for the payments made under (d) of this subsection.

33 (d) For the applicable period of service, the employer shall pay:
34 (i) The difference between the employer contributions paid to the
35 public employees' retirement system, and the combined employer and
36 state contributions which would have been payable to the law
37 enforcement officers' and fire fighters' retirement system; and

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

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

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

11 **Sec. 2.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are
12 each reenacted and amended to read as follows:

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

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

17 (2)(a) "Employer" for plan I members, means the legislative
18 authority of any city, town, county, or district or the elected
19 officials of any municipal corporation that employs any law enforcement
20 officer and/or fire fighter, any authorized association of such
21 municipalities, and, except for the purposes of RCW 41.26.150, any
22 labor guild, association, or organization, which represents the fire
23 fighters or law enforcement officers of at least seven cities of over
24 20,000 population and the membership of each local lodge or division of
25 which is composed of at least sixty percent law enforcement officers or
26 fire fighters as defined in this chapter.

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

30 (i) The legislative authority of any city, town, county, or
31 district;

32 (ii) The elected officials of any municipal corporation;

33 (iii) The governing body of any other general authority law
34 enforcement agency; (~~or~~)

35 (iv) A four-year institution of higher education having a fully
36 operational fire department as of January 1, 1996; or

37 (v) The department of fish and wildlife.

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

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

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

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

20 (d) The term "law enforcement officer" also includes the executive
21 secretary of a labor guild, association or organization (which is an
22 employer under RCW 41.26.030(2)) if that individual has five years
23 previous membership in the retirement system established in chapter
24 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
25 plan II members; ((and))

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

34 (f) The term "law enforcement officer" also includes a person
35 employed on or after the effective date of this act by the department
36 of fish and wildlife as a fish and wildlife enforcement officer.

37 (4) "Fire fighter" means:

38 (a) Any person who is serving on a full time, fully compensated
39 basis as a member of a fire department of an employer and who is

1 serving in a position which requires passing a civil service
2 examination for fire fighter, and who is actively employed as such;

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

5 (c) Supervisory fire fighter personnel;

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

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

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

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

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

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

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

32 (i) A natural born child;

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

35 (iii) A posthumous child;

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

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

1 (b) A person shall also be deemed to be a child up to and including
2 the age of twenty years and eleven months while attending any high
3 school, college, or vocational or other educational institution
4 accredited, licensed, or approved by the state, in which it is located,
5 including the summer vacation months and all other normal and regular
6 vacation periods at the particular educational institution after which
7 the child returns to school.

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

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

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

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

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

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

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

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

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

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

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

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

1 the computation of any retirement allowance or other benefit provided
2 for in this chapter.

3 (i) For members retiring after May 21, 1971 who were employed under
4 the coverage of a prior pension act before March 1, 1970, "service"
5 shall also include (A) such military service not exceeding five years
6 as was creditable to the member as of March 1, 1970, under the member's
7 particular prior pension act, and (B) such other periods of service as
8 were then creditable to a particular member under the provisions of RCW
9 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
10 be allowed for any service rendered prior to March 1, 1970, where the
11 member at the time of rendition of such service was employed in a
12 position covered by a prior pension act, unless such service, at the
13 time credit is claimed therefor, is also creditable under the
14 provisions of such prior act.

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

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

27 Members of the retirement system who are elected or appointed to a
28 state elective position may elect to continue to be members of this
29 retirement system.

30 Service credit years of service shall be determined by dividing the
31 total number of service credit months of service by twelve. Any
32 fraction of a service credit year of service as so determined shall be
33 taken into account in the computation of such retirement allowance or
34 benefits.

35 If a member receives basic salary from two or more employers during
36 any calendar month, the individual shall receive one service credit
37 month's service credit during any calendar month in which multiple
38 service for ninety or more hours is rendered; or one-half service
39 credit month's service credit during any calendar month in which

1 multiple service for at least seventy hours but less than ninety hours
2 is rendered; or one-quarter service credit month during any calendar
3 month in which multiple service for less than seventy hours is
4 rendered.

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

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

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

20 (18) "Disability board" for plan I members means either the county
21 disability board or the city disability board established in RCW
22 41.26.110.

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

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

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

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

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

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

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

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

9 (i) The fees of the following:

10 (A) A physician or surgeon licensed under the provisions of chapter
11 18.71 RCW;

12 (B) An osteopathic physician and surgeon licensed under the
13 provisions of chapter 18.57 RCW;

14 (C) A chiropractor licensed under the provisions of chapter 18.25
15 RCW.

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

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

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

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

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

23 (D) Anesthesia and oxygen;

24 (E) Rental of iron lung and other durable medical and surgical
25 equipment;

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

27 (G) Professional ambulance service when used to transport the
28 member to or from a hospital when injured by an accident or stricken by
29 a disease;

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

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

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

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

37 (L) An optometrist licensed under the provisions of chapter 18.53
38 RCW.

1 (23) "Regular interest" means such rate as the director may
2 determine.

3 (24) "Retiree" for persons who establish membership in the
4 retirement system on or after October 1, 1977, means any member in
5 receipt of a retirement allowance or other benefit provided by this
6 chapter resulting from service rendered to an employer by such member.

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

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

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

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

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

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

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

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

1 state utilities and transportation commission, the state liquor control
2 board, and the state department of corrections.

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