
SENATE BILL 5171

State of Washington

55th Legislature

1997 Regular Session

By Senators Roach, Goings, McCaslin, Oke and Winsley; by request of Supreme Court

Read first time 01/17/97. 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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