

2 EHB 2073 - S AMD - 525
3 By Senator West

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5 On page 3, after line 32, insert the following:

6 "Sec. 3. RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are
7 each reenacted and amended to read as follows:

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

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

12 (2)(a) "Employer" for plan 1 members, means the legislative
13 authority of any city, town, county, or district or the elected
14 officials of any municipal corporation that employs any law enforcement
15 officer and/or fire fighter, any authorized association of such
16 municipalities, and, except for the purposes of RCW 41.26.150, any
17 labor guild, association, or organization, which represents the fire
18 fighters or law enforcement officers of at least seven cities of over
19 20,000 population and the membership of each local lodge or division of
20 which is composed of at least sixty percent law enforcement officers or
21 fire fighters as defined in this chapter.

22 (b) "Employer" for plan 2 members, means the following entities to
23 the extent that the entity employs (~~any law enforcement officer and/or~~
24 ~~fire fighter~~) a person who is eligible to be a member under subsection
25 (8) of this section:

26 (i) The legislative authority of any city, town, county, (~~or~~)
27 district, or municipal corporation;

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

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

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

33 (3) "Law enforcement officer" beginning January 1, 1994, means any
34 person who is commissioned and employed by an employer on a full time,
35 fully compensated basis to enforce the criminal laws of the state of
36 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)) if that individual has five years
19 previous membership in the retirement system established in chapter
20 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
21 plan 2 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 2 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 2 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" or "employee" means ~~((any))~~:

4 (a) A fire fighter, law enforcement officer, or other person ~~((as~~
5 ~~would apply))~~ qualified under subsection~~((s))~~ (3) or (4) of this
6 section whose membership is transferred to the Washington law
7 enforcement officers' and fire fighters' retirement system on or after
8 March 1, 1970~~((, and every))~~;

9 (b) Law enforcement officers and fire fighters who ~~((is))~~ are
10 employed in that capacity on or after ~~((such date))~~ March 1, 1970; and

11 (c) A trained airport fire fighter whose employment in that
12 capacity began after January 1, 1999, or a trained airport fire fighter
13 who elects to become a member in accordance with section 4 of this act.
14 A trained airport fire fighter means any person who has specific fire
15 fighter training and serves as a fire fighter at an international
16 airport.

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

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

22 ~~((11))~~(a) "Beneficiary" for plan 1 members, means any person in
23 receipt of a retirement allowance, disability allowance, death benefit,
24 or any other benefit described herein.

25 (b) "Beneficiary" for plan 2 members, means any person in receipt
26 of a retirement allowance or other benefit provided by this chapter
27 resulting from service rendered to an employer by another person.

28 ~~((12))~~ (11)(a) "Final average salary" for plan 1 members, means
29 (i) for a member holding the same position or rank for a minimum of
30 twelve months preceding the date of retirement, the basic salary
31 attached to such same position or rank at time of retirement; (ii) for
32 any other member, including a civil service member who has not served
33 a minimum of twelve months in the same position or rank preceding the
34 date of retirement, the average of the greatest basic salaries payable
35 to such member during any consecutive twenty-four month period within
36 such member's last ten years of service for which service credit is
37 allowed, computed by dividing the total basic salaries payable to such
38 member during the selected twenty-four month period by twenty-four;
39 (iii) in the case of disability of any member, the basic salary payable

1 to such member at the time of disability retirement; (iv) in the case
2 of a member who hereafter vests pursuant to RCW 41.26.090, the basic
3 salary payable to such member at the time of vesting.

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

9 (~~((13))~~) (12)(a) "Basic salary" for plan 1 members, means the basic
10 monthly rate of salary or wages, including longevity pay but not
11 including overtime earnings or special salary or wages, upon which
12 pension or retirement benefits will be computed and upon which employer
13 contributions and salary deductions will be based.

14 (b) "Basic salary" for plan 2 members, means salaries or wages
15 earned by a member during a payroll period for personal services,
16 including overtime payments, and shall include wages and salaries
17 deferred under provisions established pursuant to sections 403(b),
18 414(h), and 457 of the United States Internal Revenue Code, but shall
19 exclude lump sum payments for deferred annual sick leave, unused
20 accumulated vacation, unused accumulated annual leave, or any form of
21 severance pay. In any year in which a member serves in the legislature
22 the member shall have the option of having such member's basic salary
23 be the greater of:

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

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

32 (~~((14))~~) (13)(a) "Service" for plan 1 members, means all periods of
33 employment for an employer as a fire fighter or law enforcement
34 officer, for which compensation is paid, together with periods of
35 suspension not exceeding thirty days in duration. For the purposes of
36 this chapter service shall also include service in the armed forces of
37 the United States as provided in RCW 41.26.190. Credit shall be
38 allowed for all service credit months of service rendered by a member
39 from and after the member's initial commencement of employment as a

1 fire fighter or law enforcement officer, during which the member worked
2 for seventy or more hours, or was on disability leave or disability
3 retirement. Only service credit months of service shall be counted in
4 the computation of any retirement allowance or other benefit provided
5 for in this chapter.

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

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

21 (b) "Service" for plan 2 members, means periods of employment by a
22 member for one or more employers for which basic salary is earned for
23 ninety or more hours per calendar month which shall constitute a
24 service credit month. Periods of employment by a member for one or
25 more employers for which basic salary is earned for at least seventy
26 hours but less than ninety hours per calendar month shall constitute
27 one-half service credit month. Periods of employment by a member for
28 one or more employers for which basic salary is earned for less than
29 seventy hours shall constitute a one-quarter service credit month.

30 Members of the retirement system who are elected or appointed to a
31 state elective position may elect to continue to be members of this
32 retirement system.

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

38 If a member receives basic salary from two or more employers during
39 any calendar month, the individual shall receive one service credit

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

8 ~~((15))~~ (14) "Accumulated contributions" means the employee's
9 contributions made by a member, including any amount paid under RCW
10 41.50.165(2), plus accrued interest credited thereon.

11 ~~((16))~~ (15) "Actuarial reserve" means a method of financing a
12 pension or retirement plan wherein reserves are accumulated as the
13 liabilities for benefit payments are incurred in order that sufficient
14 funds will be available on the date of retirement of each member to pay
15 the member's future benefits during the period of retirement.

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

24 ~~((18))~~ (17) "Disability board" for plan 1 members means either
25 the county disability board or the city disability board established in
26 RCW 41.26.110.

27 ~~((19))~~ (18) "Disability leave" means the period of six months or
28 any portion thereof during which a member is on leave at an allowance
29 equal to the member's full salary prior to the commencement of
30 disability retirement. The definition contained in this subsection
31 shall apply only to plan 1 members.

32 ~~((20))~~ (19) "Disability retirement" for plan 1 members, means the
33 period following termination of a member's disability leave, during
34 which the member is in receipt of a disability retirement allowance.

35 ~~((21))~~ (20) "Position" means the employment held at any
36 particular time, which may or may not be the same as civil service
37 rank.

1 (~~(22)~~) (21) "Medical services" for plan 1 members, shall include
2 the following as minimum services to be provided. Reasonable charges
3 for these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

14 (i) The fees of the following:

15 (A) A physician or surgeon licensed under the provisions of chapter
16 18.71 RCW;

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

19 (C) A chiropractor licensed under the provisions of chapter 18.25
20 RCW.

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

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

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

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

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

28 (D) Anesthesia and oxygen;

29 (E) Rental of iron lung and other durable medical and surgical
30 equipment;

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

32 (G) Professional ambulance service when used to transport the
33 member to or from a hospital when injured by an accident or stricken by
34 a disease;

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

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

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

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

3 (L) An optometrist licensed under the provisions of chapter 18.53
4 RCW.

5 (~~(23)~~) (22) "Regular interest" means such rate as the director
6 may determine.

7 (~~(24)~~) (23) "Retiree" for persons who establish membership in the
8 retirement system on or after October 1, 1977, means any member in
9 receipt of a retirement allowance or other benefit provided by this
10 chapter resulting from service rendered to an employer by such member.

11 (~~(25)~~) (24) "Director" means the director of the department.

12 (~~(26)~~) (25) "State actuary" or "actuary" means the person
13 appointed pursuant to RCW 44.44.010(2).

14 (~~(27)~~) (26) "State elective position" means any position held by
15 any person elected or appointed to state-wide office or elected or
16 appointed as a member of the legislature.

17 (~~(28)~~) (27) "Plan 1" means the law enforcement officers' and fire
18 fighters' retirement system, plan 1 providing the benefits and funding
19 provisions covering persons who first became members of the system
20 prior to October 1, 1977.

21 (~~(29)~~) (28) "Plan 2" means the law enforcement officers' and fire
22 fighters' retirement system, plan 2 providing the benefits and funding
23 provisions covering persons who first became members of the system on
24 and after October 1, 1977.

25 (~~(30)~~) (29) "Service credit year" means an accumulation of months
26 of service credit which is equal to one when divided by twelve.

27 (~~(31)~~) (30) "Service credit month" means a full service credit
28 month or an accumulation of partial service credit months that are
29 equal to one.

30 (~~(32)~~) (31) "General authority law enforcement agency" means any
31 agency, department, or division of a municipal corporation, political
32 subdivision, or other unit of local government of this state, and any
33 agency, department, or division of state government, having as its
34 primary function the detection and apprehension of persons committing
35 infractions or violating the traffic or criminal laws in general, but
36 not including the Washington state patrol. Such an agency, department,
37 or division is distinguished from a limited authority law enforcement
38 agency having as one of its functions the apprehension or detection of
39 persons committing infractions or violating the traffic or criminal

1 laws relating to limited subject areas, including but not limited to,
2 the state departments of natural resources, fish and wildlife, and
3 social and health services, the state gambling commission, the state
4 lottery commission, the state parks and recreation commission, the
5 state utilities and transportation commission, the state liquor control
6 board, and the state department of corrections.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.40 RCW
8 to read as follows:

9 (1) An employee who was a member of the retirement system on or
10 before January 1, 1999, and on the effective date of this section, is
11 employed as a trained airport fire fighter has the following options:

12 (a) The employee may remain a member of the retirement system; or

13 (b) The employee may make an election, filed in writing with the
14 department of retirement systems no later than January 1, 2000, to
15 transfer to the law enforcement officers' and fire fighters' retirement
16 system plan 2 as defined in RCW 41.26.030.

17 (2)(a) An employee who transferred membership under subsection
18 (1)(b) of this section may choose to transfer service credit as a
19 trained airport fire fighter previously earned under the retirement
20 system, to the law enforcement officers' and fire fighters' retirement
21 system plan 2, by filing a written election with the department no
22 later than January 1, 2000, and making the payments required by this
23 subsection.

24 (b) A trained airport fire fighter who chooses to transfer service
25 credit under this subsection shall pay, for the applicable period of
26 service, the difference between the contributions the employee paid to
27 the retirement system, and the contributions which would have been paid
28 by the employee had the employee been a member of the law enforcement
29 officers' and fire fighters' retirement system, plus interest as
30 determined by the director. This payment must be made no later than
31 five years from the date in subsection (1)(b) of this section or the
32 date of retirement, whichever comes first.

33 (c) Upon completion of the payment required in (b) of this
34 subsection, the employee shall transfer from the retirement system to
35 the law enforcement officers' and fire fighters' retirement system plan
36 2: (i) All of the employee's applicable accumulated contributions and
37 employer contributions attributed to such employee; and (ii) all
38 applicable months of service, as defined in RCW 41.26.030(13)(b),

1 credited to the employee under this chapter for service as a trained
2 airport fire fighter, as though such service was rendered as a member
3 of the law enforcement officers' and fire fighters' retirement system.

4 (d) Upon transfer of service credit and contributions under this
5 subsection, the employee is permanently excluded from membership in the
6 retirement system for all service as a trained airport fire fighter.

7 (e) Upon a member's submission of a written election under (a) of
8 this subsection, the employer shall pay, for the applicable period of
9 service:

10 (i) The difference between the employer contributions paid to the
11 public employees' retirement system, and the combined employer and
12 state contributions which would have been payable to the law
13 enforcement officers' and fire fighters' retirement system; and

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

17 For the purpose of this subsection, the state contribution shall
18 not include the contribution related to the amortization of the costs
19 of the law enforcement officers' and fire fighters' retirement system
20 plan 1 as required by chapter 41.45 RCW.

21 **Sec. 5.** RCW 41.40.094 and 1996 c 38 s 1 are each amended to read
22 as follows:

23 (1) An employee who was a member of the public employees'
24 retirement system on or before January 1, 1996, and, on June 6, 1996,
25 is employed by an institution of higher education as a fire fighter as
26 defined in RCW 41.26.030, has the following options:

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

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

35 (2)(a) An employee who transferred membership under subsection
36 (1)(b) of this section may choose to transfer service credit as a fire
37 fighter previously earned under the public employees' retirement
38 system, to the law enforcement officers' and fire fighters' retirement

1 system plan 2, by making an irrevocable choice filed in writing with
2 the department of retirement systems within one year of the
3 department's announcement of the ability to make such a transfer.

4 (b) Any fire fighter choosing to transfer under this subsection
5 shall have transferred from the retirement system to the law
6 enforcement officers' and fire fighters' retirement system plan 2: (i)
7 All the employee's applicable accumulated contributions and employer
8 contributions attributed to such employee; and (ii) all applicable
9 months of service, as defined in RCW 41.26.030(14)(b), credited to the
10 employee under chapter 41.40 RCW, as though such service was rendered
11 as a member of the law enforcement officers' and fire fighters'
12 retirement system.

13 (c) For the applicable period of service, the employee shall pay
14 the difference between the contributions such employee paid to the
15 retirement system, and the contributions which would have been paid by
16 the employee had the employee been a member of the law enforcement
17 officers' and fire fighters' retirement system, plus interest as
18 determined by the director. This payment shall be made no later than
19 December 31, (~~(1998)~~) 2001, or the date of retirement, whichever comes
20 first. If the payment required by this subsection is not paid in full
21 by the deadline, the transferred service credit shall not be used to
22 determine eligibility for benefits nor to calculate benefits under the
23 law enforcement officers' and fire fighters' retirement system. In
24 such case, the additional employee contributions transferred under this
25 subsection, and any payments made under this subsection, shall be
26 refunded to the employee and the employer shall be entitled to a credit
27 for the payments made under (d) of this subsection.

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

29 (i) The difference between the employer contributions paid to the
30 public employees' retirement system, and the combined employer and
31 state contributions which would have been payable to the law
32 enforcement officers' and fire fighters' retirement system; and

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

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

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

4 EHB 2073 - S AMD - 525
5 By Senator West

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7 On page 1, on line 2 of the title, after "system;" strike the
8 remainder of the title and insert "amending RCW 41.26.430, 41.26.470,
9 and 41.40.094; reenacting and amending RCW 41.26.030; and adding a new
10 section to chapter 41.40 RCW."

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