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HOUSE BILL 1857

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By Representatives Conway, Delvin, Cooper, O'Brien, Santos, Cairnes, Veloria, Romero, Regala, Schoesler, Miloscia, Hurst, Keiser, Kenney, Campbell, Edmonds and Thomas

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1 AN ACT Relating to admitting law enforcement officers of the  
2 department of fish and wildlife into the law enforcement officers' and  
3 fire fighters' retirement system; reenacting and amending RCW  
4 41.26.030; and creating a new 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, 1999, and,  
8 on the effective date of this act, is employed by the department of  
9 fish and wildlife as a law enforcement officer as defined in RCW  
10 41.26.030, has the 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, 2000, to  
14 transfer to the law enforcement officers' and fire fighters' retirement  
15 system plan 2 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 law  
3 enforcement officer previously earned under the public employees'  
4 retirement system, to the law enforcement officers' and fire fighters'  
5 retirement system plan 2, by making an irrevocable choice filed in  
6 writing with the department of retirement systems within one year of  
7 the department's announcement of the ability to make such a transfer.

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

17 (c) For the applicable period of service, the employee shall pay  
18 the difference between the contributions such employee paid to the  
19 retirement system, and the contributions which would have been paid by  
20 the employee had the employee been a member of the law enforcement  
21 officers' and fire fighters' retirement system, plus interest as  
22 determined by the director. This payment shall be made no later than  
23 December 31, 2005, or the date of retirement, whichever comes first.  
24 If the payment required by this subsection is not paid in full by the  
25 deadline, the transferred service credit shall not be used to determine  
26 eligibility for benefits nor to calculate benefits under the law  
27 enforcement officers' and fire fighters' retirement system. In such  
28 case, the additional employee contributions transferred under this  
29 subsection, and any payments made under this subsection, shall be  
30 refunded to the employee and the employer shall be entitled to a credit  
31 for the payments made under (d) of this subsection.

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

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

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

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

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

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

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

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

15 (2)(a) "Employer" for plan 1 members, means the legislative  
16 authority of any city, town, county, or district or the elected  
17 officials of any municipal corporation that employs any law enforcement  
18 officer and/or fire fighter, any authorized association of such  
19 municipalities, and, except for the purposes of RCW 41.26.150, any  
20 labor guild, association, or organization, which represents the fire  
21 fighters or law enforcement officers of at least seven cities of over  
22 20,000 population and the membership of each local lodge or division of  
23 which is composed of at least sixty percent law enforcement officers or  
24 fire fighters as defined in this chapter.

25 (b) "Employer" for plan 2 members, means the following entities to  
26 the extent that the entity employs any law enforcement officer and/or  
27 fire fighter:

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

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

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

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

35 (v) The department of fish and wildlife.

36 (3) "Law enforcement officer" beginning January 1, 1994, means any  
37 person who is commissioned and employed by an employer on a full time,

1 fully compensated basis to enforce the criminal laws of the state of  
2 Washington generally, with the following qualifications:

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

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

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

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

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

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

35 (4) "Fire fighter" means:

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

1 (b) Anyone who is actively employed as a full time fire fighter  
2 where the fire department does not have a civil service examination;  
3 (c) Supervisory fire fighter personnel;  
4 (d) Any full time executive secretary of an association of fire  
5 protection districts authorized under RCW 52.12.031. The provisions of  
6 this subsection (4)(d) shall not apply to plan 2 members;  
7 (e) The executive secretary of a labor guild, association or  
8 organization (which is an employer under RCW 41.26.030(2) as now or  
9 hereafter amended), if such individual has five years previous  
10 membership in a retirement system established in chapter 41.16 or 41.18  
11 RCW. The provisions of this subsection (4)(e) shall not apply to plan  
12 2 members;  
13 (f) Any person who is serving on a full time, fully compensated  
14 basis for an employer, as a fire dispatcher, in a department in which,  
15 on March 1, 1970, a dispatcher was required to have passed a civil  
16 service examination for fire fighter; and  
17 (g) Any person who on March 1, 1970, was employed on a full time,  
18 fully compensated basis by an employer, and who on May 21, 1971, was  
19 making retirement contributions under the provisions of chapter 41.16  
20 or 41.18 RCW.  
21 (5) "Department" means the department of retirement systems created  
22 in chapter 41.50 RCW.  
23 (6) "Surviving spouse" means the surviving widow or widower of a  
24 member. "Surviving spouse" shall not include the divorced spouse of a  
25 member except as provided in RCW 41.26.162.  
26 (7)(a) "Child" or "children" means an unmarried person who is under  
27 the age of eighteen or mentally or physically handicapped as determined  
28 by the department, except a handicapped person in the full time care of  
29 a state institution, who is:  
30 (i) A natural born child;  
31 (ii) A stepchild where that relationship was in existence prior to  
32 the date benefits are payable under this chapter;  
33 (iii) A posthumous child;  
34 (iv) A child legally adopted or made a legal ward of a member prior  
35 to the date benefits are payable under this chapter; or  
36 (v) An illegitimate child legitimized prior to the date any  
37 benefits are payable under this chapter.  
38 (b) A person shall also be deemed to be a child up to and including  
39 the age of twenty years and eleven months while attending any high

1 school, college, or vocational or other educational institution  
2 accredited, licensed, or approved by the state, in which it is located,  
3 including the summer vacation months and all other normal and regular  
4 vacation periods at the particular educational institution after which  
5 the child returns to school.

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

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

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

17 (11)(a) "Beneficiary" for plan 1 members, means any person in  
18 receipt of a retirement allowance, disability allowance, death benefit,  
19 or any other benefit described herein.

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

23 (12)(a) "Final average salary" for plan 1 members, means (i) for a  
24 member holding the same position or rank for a minimum of twelve months  
25 preceding the date of retirement, the basic salary attached to such  
26 same position or rank at time of retirement; (ii) for any other member,  
27 including a civil service member who has not served a minimum of twelve  
28 months in the same position or rank preceding the date of retirement,  
29 the average of the greatest basic salaries payable to such member  
30 during any consecutive twenty-four month period within such member's  
31 last ten years of service for which service credit is allowed, computed  
32 by dividing the total basic salaries payable to such member during the  
33 selected twenty-four month period by twenty-four; (iii) in the case of  
34 disability of any member, the basic salary payable to such member at  
35 the time of disability retirement; (iv) in the case of a member who  
36 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to  
37 such member at the time of vesting.

38 (b) "Final average salary" for plan 2 members, means the monthly  
39 average of the member's basic salary for the highest consecutive sixty

1 service credit months of service prior to such member's retirement,  
2 termination, or death. Periods constituting authorized unpaid leaves  
3 of absence may not be used in the calculation of final average salary.

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

9 (b) "Basic salary" for plan 2 members, means salaries or wages  
10 earned by a member during a payroll period for personal services,  
11 including overtime payments, and shall include wages and salaries  
12 deferred under provisions established pursuant to sections 403(b),  
13 414(h), and 457 of the United States Internal Revenue Code, but shall  
14 exclude lump sum payments for deferred annual sick leave, unused  
15 accumulated vacation, unused accumulated annual leave, or any form of  
16 severance pay. In any year in which a member serves in the legislature  
17 the member shall have the option of having such member's basic salary  
18 be the greater of:

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

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

27 (14)(a) "Service" for plan 1 members, means all periods of  
28 employment for an employer as a fire fighter or law enforcement  
29 officer, for which compensation is paid, together with periods of  
30 suspension not exceeding thirty days in duration. For the purposes of  
31 this chapter service shall also include service in the armed forces of  
32 the United States as provided in RCW 41.26.190. Credit shall be  
33 allowed for all service credit months of service rendered by a member  
34 from and after the member's initial commencement of employment as a  
35 fire fighter or law enforcement officer, during which the member worked  
36 for seventy or more hours, or was on disability leave or disability  
37 retirement. Only service credit months of service shall be counted in  
38 the computation of any retirement allowance or other benefit provided  
39 for in this chapter.

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

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

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

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

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

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



1 month in which multiple service for less than seventy hours is  
2 rendered.

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

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

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

18 (18) "Disability board" for plan 1 members means either the county  
19 disability board or the city disability board established in RCW  
20 41.26.110.

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

26 (20) "Disability retirement" for plan 1 members, means the period  
27 following termination of a member's disability leave, during which the  
28 member is in receipt of a disability retirement allowance.

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

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

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

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

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

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

6 (i) The fees of the following:

7 (A) A physician or surgeon licensed under the provisions of chapter  
8 18.71 RCW;

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

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

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

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

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

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

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

20 (D) Anesthesia and oxygen;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (29) "Plan 2" means the law enforcement officers' and fire  
14 fighters' retirement system, plan 2 providing the benefits and funding  
15 provisions covering persons who first became members of the system on  
16 and after October 1, 1977.

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

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

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

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