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HOUSE BILL 1943

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State of Washington

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1999 Regular Session

By Representatives Ogden, Carlson, H. Sommers, Conway, Lambert,  
D. Sommers, Wolfe, Alexander and Eickmeyer

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1 AN ACT Relating to membership in the public employees' retirement  
2 system for the chief administrative officer of a public utility  
3 district, port district, or a county; amending RCW 41.40.023; and  
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature that  
7 retirement benefits represent a valuable element of the total  
8 compensation and benefits employees receive for their service. The  
9 value of these benefits is contained in the retirement income and cost-  
10 of-living adjustments provided to employees who remain in public  
11 service until retirement. For the majority of public employees, this  
12 requires membership in the public employees' retirement system.

13 The legislature recognizes, however, that certain occupations  
14 display a pattern of interstate mobility which requires retirement  
15 benefits which are highly portable. Incumbents in these occupations  
16 gain little value from membership in the public employees' retirement  
17 system. In order to remove any barrier to employing qualified  
18 personnel in positions with high mobility, membership in the retirement  
19 system should be optional in those occupations.

1       **Sec. 2.** RCW 41.40.023 and 1997 c 254 s 11 are each amended to read  
2 as follows:

3       Membership in the retirement system shall consist of all regularly  
4 compensated employees and appointive and elective officials of  
5 employers, as defined in this chapter, with the following exceptions:

6       (1) Persons in ineligible positions;

7       (2) Employees of the legislature except the officers thereof  
8 elected by the members of the senate and the house and legislative  
9 committees, unless membership of such employees be authorized by the  
10 said committee;

11       (3)(a) Persons holding elective offices or persons appointed  
12 directly by the governor: PROVIDED, That such persons shall have the  
13 option of applying for membership during such periods of employment:  
14 AND PROVIDED FURTHER, That any persons holding or who have held  
15 elective offices or persons appointed by the governor who are members  
16 in the retirement system and who have, prior to becoming such members,  
17 previously held an elective office, and did not at the start of such  
18 initial or successive terms of office exercise their option to become  
19 members, may apply for membership to be effective during such term or  
20 terms of office, and shall be allowed to establish the service credit  
21 applicable to such term or terms of office upon payment of the employee  
22 contributions therefor by the employee with interest as determined by  
23 the director and employer contributions therefor by the employer or  
24 employee with interest as determined by the director: AND PROVIDED  
25 FURTHER, That all contributions with interest submitted by the employee  
26 under this subsection shall be placed in the employee's individual  
27 account in the employee's savings fund and be treated as any other  
28 contribution made by the employee, with the exception that any  
29 contributions submitted by the employee in payment of the employer's  
30 obligation, together with the interest the director may apply to the  
31 employer's contribution, shall not be considered part of the member's  
32 annuity for any purpose except withdrawal of contributions;

33       (b) A member holding elective office who has elected to apply for  
34 membership pursuant to (a) of this subsection and who later wishes to  
35 be eligible for a retirement allowance shall have the option of ending  
36 his or her membership in the retirement system. A member wishing to  
37 end his or her membership under this subsection must file, on a form  
38 supplied by the department, a statement indicating that the member  
39 agrees to irrevocably abandon any claim for service for future periods

1 served as an elected official. A member who receives more than fifteen  
2 thousand dollars per year in compensation for his or her elective  
3 service, adjusted annually for inflation by the director, is not  
4 eligible for the option provided by this subsection (3)(b);

5 (4) Employees holding membership in, or receiving pension benefits  
6 under, any retirement plan operated wholly or in part by an agency of  
7 the state or political subdivision thereof, or who are by reason of  
8 their current employment contributing to or otherwise establishing the  
9 right to receive benefits from any such retirement plan: PROVIDED,  
10 HOWEVER, In any case where the retirement system has in existence an  
11 agreement with another retirement system in connection with exchange of  
12 service credit or an agreement whereby members can retain service  
13 credit in more than one system, such an employee shall be allowed  
14 membership rights should the agreement so provide: AND PROVIDED  
15 FURTHER, That an employee shall be allowed membership if otherwise  
16 eligible while receiving survivor's benefits: AND PROVIDED FURTHER,  
17 That an employee shall not either before or after June 7, 1984, be  
18 excluded from membership or denied service credit pursuant to this  
19 subsection solely on account of: (a) Membership in the plan created  
20 under chapter 2.14 RCW; or (b) enrollment under the relief and  
21 compensation provisions or the pension provisions of the volunteer fire  
22 fighters' relief and pension fund under chapter 41.24 RCW;

23 (5) Patient and inmate help in state charitable, penal, and  
24 correctional institutions;

25 (6) "Members" of a state veterans' home or state soldiers' home;

26 (7) Persons employed by an institution of higher learning or  
27 community college, primarily as an incident to and in furtherance of  
28 their education or training, or the education or training of a spouse;

29 (8) Employees of an institution of higher learning or community  
30 college during the period of service necessary to establish eligibility  
31 for membership in the retirement plans operated by such institutions;

32 (9) Persons rendering professional services to an employer on a  
33 fee, retainer, or contract basis or when the income from these services  
34 is less than fifty percent of the gross income received from the  
35 person's practice of a profession;

36 (10) Persons appointed after April 1, 1963, by the liquor control  
37 board as agency vendors;

38 (11) Employees of a labor guild, association, or organization:  
39 PROVIDED, That elective officials and employees of a labor guild,

1 association, or organization which qualifies as an employer within this  
2 chapter shall have the option of applying for membership;

3 (12) Retirement system retirees: PROVIDED, That following  
4 reemployment in an eligible position, a retiree may elect to  
5 prospectively become a member of the retirement system if otherwise  
6 eligible;

7 (13) Persons employed by or appointed or elected as an official of  
8 a first class city that has its own retirement system: PROVIDED, That  
9 any member elected or appointed to an elective office on or after April  
10 1, 1971, shall have the option of continuing as a member of this system  
11 in lieu of becoming a member of the city system. A member who elects  
12 to continue as a member of this system shall pay the appropriate member  
13 contributions and the city shall pay the employer contributions at the  
14 rates prescribed by this chapter. The city shall also transfer to this  
15 system all of such member's accumulated contributions together with  
16 such further amounts as necessary to equal all employee and employer  
17 contributions which would have been paid into this system on account of  
18 such service with the city and thereupon the member shall be granted  
19 credit for all such service. Any city that becomes an employer as  
20 defined in RCW 41.40.010(4) as the result of an individual's election  
21 under this subsection shall not be required to have all employees  
22 covered for retirement under the provisions of this chapter. Nothing  
23 in this subsection shall prohibit a city of the first class with its  
24 own retirement system from: (a) Transferring all of its current  
25 employees to the retirement system established under this chapter, or  
26 (b) allowing newly hired employees the option of continuing coverage  
27 under the retirement system established by this chapter.

28 Notwithstanding any other provision of this chapter, persons  
29 transferring from employment with a first class city of over four  
30 hundred thousand population that has its own retirement system to  
31 employment with the state department of agriculture may elect to remain  
32 within the retirement system of such city and the state shall pay the  
33 employer contributions for such persons at like rates as prescribed for  
34 employers of other members of such system;

35 (14) Employees who (a) are not citizens of the United States, (b)  
36 do not reside in the United States, and (c) perform duties outside of  
37 the United States;

38 (15) Employees who (a) are not citizens of the United States, (b)  
39 are not covered by chapter 41.48 RCW, (c) are not excluded from

1 membership under this chapter or chapter 41.04 RCW, (d) are residents  
2 of this state, and (e) make an irrevocable election to be excluded from  
3 membership, in writing, which is submitted to the director within  
4 thirty days after employment in an eligible position;

5 (16) Employees who are citizens of the United States and who reside  
6 and perform duties for an employer outside of the United States:  
7 PROVIDED, That unless otherwise excluded under this chapter or chapter  
8 41.04 RCW, the employee may apply for membership (a) within thirty days  
9 after employment in an eligible position and membership service credit  
10 shall be granted from the first day of membership service, and (b)  
11 after this thirty-day period, but membership service credit shall be  
12 granted only if payment is made for the noncredited membership service  
13 under RCW 41.50.165(2), otherwise service shall be from the date of  
14 application;

15 (17) The city manager or chief administrative officer of a city or  
16 town, other than a retiree, who serves at the pleasure of an appointing  
17 authority: PROVIDED, That such persons shall have the option of  
18 applying for membership within thirty days from date of their  
19 appointment to such positions. Persons serving in such positions as of  
20 April 4, 1986, shall continue to be members in the retirement system  
21 unless they notify the director in writing prior to December 31, 1986,  
22 of their desire to withdraw from membership in the retirement system.  
23 A member who withdraws from membership in the system under this section  
24 shall receive a refund of the member's accumulated contributions.

25 Persons serving in such positions who have not opted for membership  
26 within the specified thirty days, may do so by paying the amount  
27 required under RCW 41.50.165(2) for the period from the date of their  
28 appointment to the date of acceptance into membership;

29 (18) Persons serving as: (a) The chief administrative officer of  
30 a public utility district as defined in RCW 54.16.100; (b) the chief  
31 administrative officer of a port district formed under chapter 53.04  
32 RCW; or (c) the chief administrative officer of a county who serves at  
33 the pleasure of an appointing authority: PROVIDED, That such persons  
34 shall have the option of applying for membership within thirty days  
35 from the date of their appointment to such positions. Persons serving  
36 in such positions as of the effective date of this act shall continue  
37 to be members in the retirement system unless they notify the director  
38 in writing prior to December 31, 1999, of their desire to withdraw from  
39 membership in the retirement system. A member who withdraws from

1 membership in the system under this section shall receive a refund of  
2 the member's accumulated contributions.

3 Persons serving in such positions who have not opted for membership  
4 within the specified thirty days, may do so at a later date by paying  
5 the amount required under RCW 41.50.165(2) for the period from the date  
6 of their appointment to the date of acceptance into membership;

7 (19) Persons enrolled in state-approved apprenticeship programs,  
8 authorized under chapter 49.04 RCW, and who are employed by local  
9 governments to earn hours to complete such apprenticeship programs, if  
10 the employee is a member of a union-sponsored retirement plan and is  
11 making contributions to such a retirement plan or if the employee is a  
12 member of a Taft-Hartley retirement plan.

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