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HOUSE BILL 2073

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State of Washington

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By Representatives Conway, Cairnes, O'Brien, McDonald, Delvin, DeBolt, Kastama, Miloscia, Campbell, Sullivan, D. Schmidt, Cooper, Mielke, Pennington, Kenney, Bush, Lovick, Hurst, Wood, Clements, Reardon, Barlean, Haigh, Linville, Fisher, Fortunato, Dunshee, Mulliken, Keiser, G. Chandler, Eickmeyer, Lantz, Hatfield, Benson, Romero, Morris, Koster, Quall, Esser, Buck, Kessler, Dickerson, Scott, Anderson, Poulsen, Rockefeller, Voloria, Cody, Constantine, K. Schmidt, Murray, Schindler, Stensen, Edmonds, Schual-Berke, Kagi, Tokuda, Ruderman, Edwards, Skinner, Santos and McIntire

Read first time 02/15/1999. Referred to Committee on Appropriations.

1 AN ACT Relating to retirement under the law enforcement officers'  
2 and fire fighters' retirement system; amending RCW 41.26.430; and  
3 reenacting and amending RCW 41.26.030.

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

5 **Sec. 1.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are  
6 each reenacted and amended to read as follows:

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

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

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

1 which is composed of at least sixty percent law enforcement officers or  
2 fire fighters as defined in this chapter.

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

6 (i) The legislative authority of any city, town, county, or  
7 district;

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

9 (iii) The governing body of any other general authority law  
10 enforcement agency; or

11 (iv) A four-year institution of higher education having a fully  
12 operational fire department as of January 1, 1996.

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

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

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

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

32 (d) The term "law enforcement officer" also includes the executive  
33 secretary of a labor guild, association or organization (which is an  
34 employer under RCW 41.26.030(2)) if that individual has five years  
35 previous membership in the retirement system established in chapter  
36 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to  
37 plan II members; and

38 (e) The term "law enforcement officer" also includes a person  
39 employed on or after January 1, 1993, as a public safety officer or

1 director of public safety, so long as the job duties substantially  
2 involve only either police or fire duties, or both, and no other duties  
3 in a city or town with a population of less than ten thousand. The  
4 provisions of this subsection (3)(e) shall not apply to any public  
5 safety officer or director of public safety who is receiving a  
6 retirement allowance under this chapter as of May 12, 1993.

7 (4) "Fire fighter" means:

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

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

14 (c) Supervisory fire fighter personnel;

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

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

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

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

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

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

37 (7)(a) "Child" or "children" means an unmarried person who is under  
38 the age of eighteen or mentally or physically handicapped as determined

1 by the department, except a handicapped person in the full time care of  
2 a state institution, who is:

3 (i) A natural born child;

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

6 (iii) A posthumous child;

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

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

11 (b) A person shall also be deemed to be a child up to and including  
12 the age of twenty years and eleven months while attending any high  
13 school, college, or vocational or other educational institution  
14 accredited, licensed, or approved by the state, in which it is located,  
15 including the summer vacation months and all other normal and regular  
16 vacation periods at the particular educational institution after which  
17 the child returns to school.

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

24 (9) "Retirement fund" means the "Washington law enforcement  
25 officers' and fire fighters' retirement system fund" as provided for  
26 herein.

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

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

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

35 (12)(a) "Final average salary" for plan I members, means (i) for a  
36 member holding the same position or rank for a minimum of twelve months  
37 preceding the date of retirement, the basic salary attached to such  
38 same position or rank at time of retirement; (ii) for any other member,  
39 including a civil service member who has not served a minimum of twelve

1 months in the same position or rank preceding the date of retirement,  
2 the average of the greatest basic salaries payable to such member  
3 during any consecutive twenty-four month period within such member's  
4 last ten years of service for which service credit is allowed, computed  
5 by dividing the total basic salaries payable to such member during the  
6 selected twenty-four month period by twenty-four; (iii) in the case of  
7 disability of any member, the basic salary payable to such member at  
8 the time of disability retirement; (iv) in the case of a member who  
9 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to  
10 such member at the time of vesting.

11 (b) "Final average salary" for plan II members, means the monthly  
12 average of the member's basic salary for the highest consecutive  
13 ((~~sixty~~)) twenty-four service credit months of service prior to such  
14 member's retirement, termination, or death. Periods constituting  
15 authorized unpaid leaves of absence may not be used in the calculation  
16 of final average salary.

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

22 (b) "Basic salary" for plan II members, means salaries or wages  
23 earned by a member during a payroll period for personal services,  
24 including overtime payments, and shall include wages and salaries  
25 deferred under provisions established pursuant to sections 403(b),  
26 414(h), and 457 of the United States Internal Revenue Code, but shall  
27 exclude lump sum payments for deferred annual sick leave, unused  
28 accumulated vacation, unused accumulated annual leave, or any form of  
29 severance pay. In any year in which a member serves in the legislature  
30 the member shall have the option of having such member's basic salary  
31 be the greater of:

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

34 (ii) Such member's actual basic salary received for nonlegislative  
35 public employment and legislative service combined. Any additional  
36 contributions to the retirement system required because basic salary  
37 under (b)(i) of this subsection is greater than basic salary under  
38 (b)(ii) of this subsection shall be paid by the member for both member  
39 and employer contributions.

1 (14)(a) "Service" for plan I members, means all periods of  
2 employment for an employer as a fire fighter or law enforcement  
3 officer, for which compensation is paid, together with periods of  
4 suspension not exceeding thirty days in duration. For the purposes of  
5 this chapter service shall also include service in the armed forces of  
6 the United States as provided in RCW 41.26.190. Credit shall be  
7 allowed for all service credit months of service rendered by a member  
8 from and after the member's initial commencement of employment as a  
9 fire fighter or law enforcement officer, during which the member worked  
10 for seventy or more hours, or was on disability leave or disability  
11 retirement. Only service credit months of service shall be counted in  
12 the computation of any retirement allowance or other benefit provided  
13 for in this chapter.

14 (i) For members retiring after May 21, 1971 who were employed under  
15 the coverage of a prior pension act before March 1, 1970, "service"  
16 shall also include (A) such military service not exceeding five years  
17 as was creditable to the member as of March 1, 1970, under the member's  
18 particular prior pension act, and (B) such other periods of service as  
19 were then creditable to a particular member under the provisions of RCW  
20 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit  
21 be allowed for any service rendered prior to March 1, 1970, where the  
22 member at the time of rendition of such service was employed in a  
23 position covered by a prior pension act, unless such service, at the  
24 time credit is claimed therefor, is also creditable under the  
25 provisions of such prior act.

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

29 (b) "Service" for plan II members, means periods of employment by  
30 a member for one or more employers for which basic salary is earned for  
31 ninety or more hours per calendar month which shall constitute a  
32 service credit month. Periods of employment by a member for one or  
33 more employers for which basic salary is earned for at least seventy  
34 hours but less than ninety hours per calendar month shall constitute  
35 one-half service credit month. Periods of employment by a member for  
36 one or more employers for which basic salary is earned for less than  
37 seventy hours shall constitute a one-quarter service credit month.

1 Members of the retirement system who are elected or appointed to a  
2 state elective position may elect to continue to be members of this  
3 retirement system.

4 Service credit years of service shall be determined by dividing the  
5 total number of service credit months of service by twelve. Any  
6 fraction of a service credit year of service as so determined shall be  
7 taken into account in the computation of such retirement allowance or  
8 benefits.

9 If a member receives basic salary from two or more employers during  
10 any calendar month, the individual shall receive one service credit  
11 month's service credit during any calendar month in which multiple  
12 service for ninety or more hours is rendered; or one-half service  
13 credit month's service credit during any calendar month in which  
14 multiple service for at least seventy hours but less than ninety hours  
15 is rendered; or one-quarter service credit month during any calendar  
16 month in which multiple service for less than seventy hours is  
17 rendered.

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

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

26 (17) "Actuarial valuation" means a mathematical determination of  
27 the financial condition of a retirement plan. It includes the  
28 computation of the present monetary value of benefits payable to  
29 present members, and the present monetary value of future employer and  
30 employee contributions, giving effect to mortality among active and  
31 retired members and also to the rates of disability, retirement,  
32 withdrawal from service, salary and interest earned on investments.

33 (18) "Disability board" for plan I members means either the county  
34 disability board or the city disability board established in RCW  
35 41.26.110.

36 (19) "Disability leave" means the period of six months or any  
37 portion thereof during which a member is on leave at an allowance equal  
38 to the member's full salary prior to the commencement of disability

1 retirement. The definition contained in this subsection shall apply  
2 only to plan I members.

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

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

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

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

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

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

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

21 (i) The fees of the following:

22 (A) A physician or surgeon licensed under the provisions of chapter  
23 18.71 RCW;

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

26 (C) A chiropractor licensed under the provisions of chapter 18.25  
27 RCW.

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

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

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

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

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

35 (D) Anesthesia and oxygen;

36 (E) Rental of iron lung and other durable medical and surgical  
37 equipment;

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



1 (G) Professional ambulance service when used to transport the  
2 member to or from a hospital when injured by an accident or stricken by  
3 a disease;

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

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

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

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

11 (L) An optometrist licensed under the provisions of chapter 18.53  
12 RCW.

13 (23) "Regular interest" means such rate as the director may  
14 determine.

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

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

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

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

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

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

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

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

37 (32) "General authority law enforcement agency" means any agency,  
38 department, or division of a municipal corporation, political  
39 subdivision, or other unit of local government of this state, and any

1 agency, department, or division of state government, having as its  
2 primary function the detection and apprehension of persons committing  
3 infractions or violating the traffic or criminal laws in general, but  
4 not including the Washington state patrol. Such an agency, department,  
5 or division is distinguished from a limited authority law enforcement  
6 agency having as one of its functions the apprehension or detection of  
7 persons committing infractions or violating the traffic or criminal  
8 laws relating to limited subject areas, including but not limited to,  
9 the state departments of natural resources, fish and wildlife, and  
10 social and health services, the state gambling commission, the state  
11 lottery commission, the state parks and recreation commission, the  
12 state utilities and transportation commission, the state liquor control  
13 board, and the state department of corrections.

14 **Sec. 2.** RCW 41.26.430 and 1993 c 517 s 3 are each amended to read  
15 as follows:

16 (1) NORMAL RETIREMENT. Any member with at least five service  
17 credit years of service who has attained at least age fifty-five shall  
18 be eligible to retire and to receive a retirement allowance computed  
19 according to the provisions of RCW 41.26.420.

20 (2) EARLY RETIREMENT. Any member who has completed at least  
21 ~~((twenty))~~ fifteen service credit years of service and has attained age  
22 fifty shall be eligible to retire and to receive a retirement allowance  
23 computed according to the provisions of RCW 41.26.420, except that a  
24 member retiring pursuant to this subsection shall have the retirement  
25 allowance ~~((actuarially))~~ reduced ~~((to reflect the difference in the~~  
26 ~~number of years between age at retirement and the attainment of age~~  
27 ~~fifty-five))~~ by two percent of itself for each year or fraction thereof  
28 that his or her age is less than fifty-five years.

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