
SENATE BILL 5732

State of Washington

56th Legislature

1999 Regular Session

By Senators Goings, Winsley, T. Sheldon, Honeyford, Eide, Fairley, Kline, Franklin, Prentice, Heavey, Roach, Costa, Gardner, Oke, Rasmussen and Kohl-Welles

Read first time 02/04/1999. Referred to Committee on Ways & Means.

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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