
SENATE BILL 5892

State of Washington 56th Legislature 1999 Regular Session

By Senators Gardner, Costa and Goings

Read first time 02/15/1999. Referred to Committee on Ways & Means.

1 AN ACT Relating to retirement benefits for fire fighters; amending
2 RCW 41.40.094; reenacting and amending RCW 41.26.030; and adding a new
3 section to chapter 41.40 RCW.

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 1 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 2 members, means the following entities to
4 the extent that the entity employs (~~(any law enforcement officer and/or~~
5 ~~fire fighter)~~) a person who is eligible to be a member under subsection
6 (8) of this section:

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

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

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

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

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

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

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

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

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

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

9 (4) "Fire fighter" means:

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

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

16 (c) Supervisory fire fighter personnel;

17 (d) Any full time executive secretary of an association of fire
18 protection districts authorized under RCW 52.12.031. The provisions of
19 this subsection (4)(d) shall not apply to plan 2 members;

20 (e) The executive secretary of a labor guild, association or
21 organization (which is an employer under RCW 41.26.030(2) as now or
22 hereafter amended), if such individual has five years previous
23 membership in a retirement system established in chapter 41.16 or 41.18
24 RCW. The provisions of this subsection (4)(e) shall not apply to plan
25 2 members;

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

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

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

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

1 (7)(a) "Child" or "children" means an unmarried person who is under
2 the age of eighteen or mentally or physically handicapped as determined
3 by the department, except a handicapped person in the full time care of
4 a state institution, who is:

5 (i) A natural born child;

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

8 (iii) A posthumous child;

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

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

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

20 (8) "Member" or "employee" means ~~((any))~~:

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

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

28 (c) A trained airport fire fighter whose employment in that
29 capacity began after January 1, 1999, or a trained airport fire fighter
30 who elects to become a member in accordance with section 2 of this act.
31 A trained airport fire fighter means any person who has specific fire
32 fighter training and serves as a fire fighter at an international
33 airport.

34 (9) "Retirement fund" means the "Washington law enforcement
35 officers' and fire fighters' retirement system fund" as provided for
36 herein.

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

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

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

7 ~~((12))~~ (11)(a) "Final average salary" for plan 1 members, means
8 (i) for a member holding the same position or rank for a minimum of
9 twelve months preceding the date of retirement, the basic salary
10 attached to such same position or rank at time of retirement; (ii) for
11 any other member, including a civil service member who has not served
12 a minimum of twelve months in the same position or rank preceding the
13 date of retirement, the average of the greatest basic salaries payable
14 to such member during any consecutive twenty-four month period within
15 such member's last ten years of service for which service credit is
16 allowed, computed by dividing the total basic salaries payable to such
17 member during the selected twenty-four month period by twenty-four;
18 (iii) in the case of disability of any member, the basic salary payable
19 to such member at the time of disability retirement; (iv) in the case
20 of a member who hereafter vests pursuant to RCW 41.26.090, the basic
21 salary payable to such member at the time of vesting.

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

27 ~~((13))~~ (12)(a) "Basic salary" for plan 1 members, means the basic
28 monthly rate of salary or wages, including longevity pay but not
29 including overtime earnings or special salary or wages, upon which
30 pension or retirement benefits will be computed and upon which employer
31 contributions and salary deductions will be based.

32 (b) "Basic salary" for plan 2 members, means salaries or wages
33 earned by a member during a payroll period for personal services,
34 including overtime payments, and shall include wages and salaries
35 deferred under provisions established pursuant to sections 403(b),
36 414(h), and 457 of the United States Internal Revenue Code, but shall
37 exclude lump sum payments for deferred annual sick leave, unused
38 accumulated vacation, unused accumulated annual leave, or any form of
39 severance pay. In any year in which a member serves in the legislature

1 the member shall have the option of having such member's basic salary
2 be the greater of:

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

5 (ii) Such member's actual basic salary received for nonlegislative
6 public employment and legislative service combined. Any additional
7 contributions to the retirement system required because basic salary
8 under (b)(i) of this subsection is greater than basic salary under
9 (b)(ii) of this subsection shall be paid by the member for both member
10 and employer contributions.

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

24 (i) For members retiring after May 21, 1971 who were employed under
25 the coverage of a prior pension act before March 1, 1970, "service"
26 shall also include (A) such military service not exceeding five years
27 as was creditable to the member as of March 1, 1970, under the member's
28 particular prior pension act, and (B) such other periods of service as
29 were then creditable to a particular member under the provisions of RCW
30 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
31 be allowed for any service rendered prior to March 1, 1970, where the
32 member at the time of rendition of such service was employed in a
33 position covered by a prior pension act, unless such service, at the
34 time credit is claimed therefor, is also creditable under the
35 provisions of such prior act.

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

1 (b) "Service" for plan 2 members, means periods of employment by a
2 member for one or more employers for which basic salary is earned for
3 ninety or more hours per calendar month which shall constitute a
4 service credit month. Periods of employment by a member for one or
5 more employers for which basic salary is earned for at least seventy
6 hours but less than ninety hours per calendar month shall constitute
7 one-half service credit month. Periods of employment by a member for
8 one or more employers for which basic salary is earned for less than
9 seventy hours shall constitute a one-quarter service credit month.

10 Members of the retirement system who are elected or appointed to a
11 state elective position may elect to continue to be members of this
12 retirement system.

13 Service credit years of service shall be determined by dividing the
14 total number of service credit months of service by twelve. Any
15 fraction of a service credit year of service as so determined shall be
16 taken into account in the computation of such retirement allowance or
17 benefits.

18 If a member receives basic salary from two or more employers during
19 any calendar month, the individual shall receive one service credit
20 month's service credit during any calendar month in which multiple
21 service for ninety or more hours is rendered; or one-half service
22 credit month's service credit during any calendar month in which
23 multiple service for at least seventy hours but less than ninety hours
24 is rendered; or one-quarter service credit month during any calendar
25 month in which multiple service for less than seventy hours is
26 rendered.

27 (~~(15)~~) (14) "Accumulated contributions" means the employee's
28 contributions made by a member, including any amount paid under RCW
29 41.50.165(2), plus accrued interest credited thereon.

30 (~~(16)~~) (15) "Actuarial reserve" means a method of financing a
31 pension or retirement plan wherein reserves are accumulated as the
32 liabilities for benefit payments are incurred in order that sufficient
33 funds will be available on the date of retirement of each member to pay
34 the member's future benefits during the period of retirement.

35 (~~(17)~~) (16) "Actuarial valuation" means a mathematical
36 determination of the financial condition of a retirement plan. It
37 includes the computation of the present monetary value of benefits
38 payable to present members, and the present monetary value of future
39 employer and employee contributions, giving effect to mortality among

1 active and retired members and also to the rates of disability,
2 retirement, withdrawal from service, salary and interest earned on
3 investments.

4 (~~(18)~~) (17) "Disability board" for plan 1 members means either
5 the county disability board or the city disability board established in
6 RCW 41.26.110.

7 (~~(19)~~) (18) "Disability leave" means the period of six months or
8 any portion thereof during which a member is on leave at an allowance
9 equal to the member's full salary prior to the commencement of
10 disability retirement. The definition contained in this subsection
11 shall apply only to plan 1 members.

12 (~~(20)~~) (19) "Disability retirement" for plan 1 members, means the
13 period following termination of a member's disability leave, during
14 which the member is in receipt of a disability retirement allowance.

15 (~~(21)~~) (20) "Position" means the employment held at any
16 particular time, which may or may not be the same as civil service
17 rank.

18 (~~(22)~~) (21) "Medical services" for plan 1 members, shall include
19 the following as minimum services to be provided. Reasonable charges
20 for these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

31 (i) The fees of the following:

32 (A) A physician or surgeon licensed under the provisions of chapter
33 18.71 RCW;

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

36 (C) A chiropractor licensed under the provisions of chapter 18.25
37 RCW.

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

4 (iii) The charges for the following medical services and supplies:
5 (A) Drugs and medicines upon a physician's prescription;
6 (B) Diagnostic x-ray and laboratory examinations;
7 (C) X-ray, radium, and radioactive isotopes therapy;
8 (D) Anesthesia and oxygen;
9 (E) Rental of iron lung and other durable medical and surgical
10 equipment;
11 (F) Artificial limbs and eyes, and casts, splints, and trusses;
12 (G) Professional ambulance service when used to transport the
13 member to or from a hospital when injured by an accident or stricken by
14 a disease;
15 (H) Dental charges incurred by a member who sustains an accidental
16 injury to his or her teeth and who commences treatment by a legally
17 licensed dentist within ninety days after the accident;
18 (I) Nursing home confinement or hospital extended care facility;
19 (J) Physical therapy by a registered physical therapist;
20 (K) Blood transfusions, including the cost of blood and blood
21 plasma not replaced by voluntary donors;
22 (L) An optometrist licensed under the provisions of chapter 18.53
23 RCW.

24 (~~(23)~~) (22) "Regular interest" means such rate as the director
25 may determine.

26 (~~(24)~~) (23) "Retiree" for persons who establish membership in the
27 retirement system on or after October 1, 1977, means any member in
28 receipt of a retirement allowance or other benefit provided by this
29 chapter resulting from service rendered to an employer by such member.

30 (~~(25)~~) (24) "Director" means the director of the department.

31 (~~(26)~~) (25) "State actuary" or "actuary" means the person
32 appointed pursuant to RCW 44.44.010(2).

33 (~~(27)~~) (26) "State elective position" means any position held by
34 any person elected or appointed to state-wide office or elected or
35 appointed as a member of the legislature.

36 (~~(28)~~) (27) "Plan 1" means the law enforcement officers' and fire
37 fighters' retirement system, plan 1 providing the benefits and funding
38 provisions covering persons who first became members of the system
39 prior to October 1, 1977.

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

5 (~~(30)~~) (29) "Service credit year" means an accumulation of months
6 of service credit which is equal to one when divided by twelve.

7 (~~(31)~~) (30) "Service credit month" means a full service credit
8 month or an accumulation of partial service credit months that are
9 equal to one.

10 (~~(32)~~) (31) "General authority law enforcement agency" means any
11 agency, department, or division of a municipal corporation, political
12 subdivision, or other unit of local government of this state, and any
13 agency, department, or division of state government, having as its
14 primary function the detection and apprehension of persons committing
15 infractions or violating the traffic or criminal laws in general, but
16 not including the Washington state patrol. Such an agency, department,
17 or division is distinguished from a limited authority law enforcement
18 agency having as one of its functions the apprehension or detection of
19 persons committing infractions or violating the traffic or criminal
20 laws relating to limited subject areas, including but not limited to,
21 the state departments of natural resources, fish and wildlife, and
22 social and health services, the state gambling commission, the state
23 lottery commission, the state parks and recreation commission, the
24 state utilities and transportation commission, the state liquor control
25 board, and the state department of corrections.

26 NEW SECTION. Sec. 2. A new section is added to chapter 41.40 RCW
27 to read as follows:

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

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

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

36 (2)(a) An employee who transferred membership under subsection
37 (1)(b) of this section may choose to transfer service credit as a
38 trained airport fire fighter previously earned under the retirement

1 system, to the law enforcement officers' and fire fighters' retirement
2 system plan 2, by filing a written election with the department no
3 later than January 1, 2000, and making the payments required by this
4 subsection.

5 (b) A trained airport fire fighter who chooses to transfer service
6 credit under this subsection shall pay, for the applicable period of
7 service, the difference between the contributions the employee paid to
8 the retirement system, and the contributions which would have been paid
9 by the employee had the employee been a member of the law enforcement
10 officers' and fire fighters' retirement system, plus interest as
11 determined by the director. This payment must be made no later than
12 five years from the date in subsection (1)(b) of this section or the
13 date of retirement, whichever comes first.

14 (c) Upon completion of the payment required in (b) of this
15 subsection, the employee shall transfer from the retirement system to
16 the law enforcement officers' and fire fighters' retirement system plan
17 2: (i) All of the employee's applicable accumulated contributions and
18 employer contributions attributed to such employee; and (ii) all
19 applicable months of service, as defined in RCW 41.26.030(13)(b),
20 credited to the employee under this chapter for service as a trained
21 airport fire fighter, as though such service was rendered as a member
22 of the law enforcement officers' and fire fighters' retirement system.

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

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

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, the state contribution shall
37 not include the contribution related to the amortization of the costs
38 of the law enforcement officers' and fire fighters' retirement system
39 plan 1 as required by chapter 41.45 RCW.

1 **Sec. 3.** RCW 41.40.094 and 1996 c 38 s 1 are each amended to read
2 as follows:

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

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

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

15 (2)(a) An employee who transferred membership under subsection
16 (1)(b) of this section may choose to transfer service credit as a fire
17 fighter previously earned under the public employees' retirement
18 system, to the law enforcement officers' and fire fighters' retirement
19 system plan 2, by making an irrevocable choice filed in writing with
20 the department of retirement systems within one year of the
21 department's announcement of the ability to make such a transfer.

22 (b) Any fire fighter choosing to transfer under this subsection
23 shall have transferred from the retirement system to the law
24 enforcement officers' and fire fighters' retirement system plan 2: (i)
25 All the employee's applicable accumulated contributions and employer
26 contributions attributed to such employee; and (ii) all applicable
27 months of service, as defined in RCW 41.26.030(14)(b), credited to the
28 employee under chapter 41.40 RCW, as though such service was rendered
29 as a member of the law enforcement officers' and fire fighters'
30 retirement system.

31 (c) For the applicable period of service, the employee shall pay
32 the difference between the contributions such employee paid to the
33 retirement system, and the contributions which would have been paid by
34 the employee had the employee been a member of the law enforcement
35 officers' and fire fighters' retirement system, plus interest as
36 determined by the director. This payment shall be made no later than
37 December 31, (~~(1998)~~) 2001, or the date of retirement, whichever comes
38 first. If the payment required by this subsection is not paid in full
39 by the deadline, the transferred service credit shall not be used to

1 determine eligibility for benefits nor to calculate benefits under the
2 law enforcement officers' and fire fighters' retirement system. In
3 such case, the additional employee contributions transferred under this
4 subsection, and any payments made under this subsection, shall be
5 refunded to the employee and the employer shall be entitled to a credit
6 for the payments made under (d) of this subsection.

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

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

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

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

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

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