
HOUSE BILL 2348

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By Representatives Ruderman, Jarrett, Santos, Upthegrove, McIntire, H. Sommers, Schual-Berke, Conway, Wood, Esser, Kagi and Nixon

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1 AN ACT Relating to housing allowances for nonsupervisory K-12
2 employees; amending RCW 28A.400.200, 84.52.0531, 41.32.010, and
3 41.40.010; adding a new section to chapter 28A.400 RCW; adding a new
4 section to chapter 28A.500 RCW; adding a new section to chapter 84.52
5 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** As the disparity in the cost-of-living
8 between school districts across the state has grown in recent years,
9 the purchasing power of equalized salaries has become more disparate
10 for K-12 employees. A major contributor to these costs is housing.
11 The purpose of this act is to authorize a housing allowance for
12 nonsupervisory public school employees in order to minimize disparities
13 in purchasing power among educational employees across the state.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.400
15 RCW to read as follows:

16 (1) Eligible school districts may provide a housing allowance for
17 nonsupervisory classified and certificated employees.

1 (2) The cost of the housing for each school district and the
2 statewide median shall be determined every four years based on a
3 standard set of housing specifications and on data reported for the
4 most recent annual period for which data are available. The collection
5 of data shall be done by a nationally recognized entity that collects
6 statistically valid housing cost data for federal government agencies
7 and businesses, selected by the superintendent of public instruction
8 and subject to approval by the legislative fiscal committees and the
9 office of financial management. The office of financial management
10 shall contract with the entity selected under this subsection (2) from
11 funds provided for this purpose.

12 (3) The housing allowance levy shall be authorized for school
13 districts having housing costs that exceed the statewide median cost of
14 housing as determined under subsection (2) of this section. The
15 calculation of the maximum levy allowed for a qualifying school
16 district shall be the number of nonsupervisory classified and
17 certificated full-time equivalent employees multiplied by the
18 difference between the district's cost of housing and the median cost
19 of housing statewide. For purposes of this calculation, the difference
20 between the district's cost of housing and the statewide median shall
21 not exceed fifty percent of the median.

22 (4) Individual payment of the housing allowance to nonsupervisory
23 classified and certificated employees is subject to collective
24 bargaining but shall be paid only to actively employed nonsupervisory
25 classified and certificated employees. The housing allowance shall not
26 be considered as within the definition of basic education for the
27 purposes of chapter 28A.150 RCW, nor is it earnable compensation as
28 defined in RCW 41.32.010 or compensation earnable as defined in RCW
29 41.40.010.

30 (5) Local school districts that qualify for a housing allowance
31 levy under subsection (3) of this section may submit to voters an
32 excess general fund levy on real property to support up to and
33 including the maximum housing levy authority determined in subsection
34 (3) of this section. This levy is not subject to the limitations in
35 RCW 84.52.0531. This levy does not qualify a school district for local
36 effort assistance under chapter 28A.500 RCW.

37 (6) The office of the superintendent of public instruction shall
38 administer the housing allowance program and shall adopt rules for
39 implementation.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.500
2 RCW to read as follows:

3 Levies authorized under section 2 of this act shall not be
4 considered in determining a school district's eligibility for local
5 effort assistance under this chapter.

6 **Sec. 4.** RCW 28A.400.200 and 1997 c 141 s 2 are each amended to
7 read as follows:

8 (1) Every school district board of directors shall fix, alter,
9 allow, and order paid salaries and compensation for all district
10 employees in conformance with this section.

11 (2)(a) Salaries for certificated instructional staff shall not be
12 less than the salary provided in the appropriations act in the
13 statewide salary allocation schedule for an employee with a
14 baccalaureate degree and zero years of service; and

15 (b) Salaries for certificated instructional staff with a masters
16 degree shall not be less than the salary provided in the appropriations
17 act in the statewide salary allocation schedule for an employee with a
18 masters degree and zero years of service;

19 (3)(a) The actual average salary paid to basic education and
20 special education certificated instructional staff shall not exceed the
21 district's average basic education and special education program
22 certificated instructional staff salary used for the state basic
23 education allocations for that school year as determined pursuant to
24 RCW 28A.150.410.

25 (b) Fringe benefit contributions for basic education and special
26 education certificated instructional staff shall be included as salary
27 under (a) of this subsection only to the extent that the district's
28 actual average benefit contribution exceeds the amount of the insurance
29 benefits allocation provided per certificated instructional staff unit
30 in the state operating appropriations act in effect at the time the
31 compensation is payable. For purposes of this section, fringe benefits
32 shall not include payment for unused leave for illness or injury under
33 RCW 28A.400.210; employer contributions for old age survivors
34 insurance, workers' compensation, unemployment compensation, and
35 retirement benefits under the Washington state retirement system; or
36 employer contributions for health benefits in excess of the insurance
37 benefits allocation provided per certificated instructional staff unit
38 in the state operating appropriations act in effect at the time the

1 compensation is payable. A school district may not use state funds to
2 provide employer contributions for such excess health benefits.

3 (c) Salary and benefits for certificated instructional staff in
4 programs other than basic education and special education shall be
5 consistent with the salary and benefits paid to certificated
6 instructional staff in the basic education and special education
7 programs.

8 (4) Salaries and benefits for certificated instructional staff may
9 exceed the limitations in subsection (3) of this section only by
10 separate contract for additional time, additional responsibilities, or
11 incentives. Supplemental contracts shall not cause the state to incur
12 any present or future funding obligation. Supplemental contracts shall
13 be subject to the collective bargaining provisions of chapter 41.59 RCW
14 and the provisions of RCW 28A.405.240, shall not exceed one year, and
15 if not renewed shall not constitute adverse change in accordance with
16 RCW 28A.405.300 through 28A.405.380. No district may enter into a
17 supplemental contract under this subsection for the provision of
18 services which are a part of the basic education program required by
19 Article IX, section 3 of the state Constitution.

20 (5) Employee benefit plans offered by any district shall comply
21 with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

22 (6) Housing allowances authorized in section 2 of this act shall
23 not be included as salary under this section and shall not be included
24 in salary limitations.

25 **Sec. 5.** RCW 84.52.0531 and 1997 c 259 s 2 are each amended to read
26 as follows:

27 The maximum dollar amount which may be levied by or for any school
28 district for maintenance and operation support under the provisions of
29 RCW 84.52.053 shall be determined as follows:

30 (1) For excess levies for collection in calendar year 1997, the
31 maximum dollar amount shall be calculated pursuant to the laws and
32 rules in effect in November 1996.

33 (2) For excess levies for collection in calendar year 1998 and
34 thereafter, the maximum dollar amount shall be the sum of (a) plus or
35 minus (b) and (c) of this subsection minus (d) of this subsection:

36 (a) The district's levy base as defined in subsection (3) of this
37 section multiplied by the district's maximum levy percentage as defined
38 in subsection (4) of this section;

1 (b) For districts in a high/nonhigh relationship, the high school
2 district's maximum levy amount shall be reduced and the nonhigh school
3 district's maximum levy amount shall be increased by an amount equal to
4 the estimated amount of the nonhigh payment due to the high school
5 district under RCW 28A.545.030(3) and 28A.545.050 for the school year
6 commencing the year of the levy;

7 (c) For districts in an interdistrict cooperative agreement, the
8 nonresident school district's maximum levy amount shall be reduced and
9 the resident school district's maximum levy amount shall be increased
10 by an amount equal to the per pupil basic education allocation included
11 in the nonresident district's levy base under subsection (3) of this
12 section multiplied by:

13 (i) The number of full-time equivalent students served from the
14 resident district in the prior school year; multiplied by:

15 (ii) The serving district's maximum levy percentage determined
16 under subsection (4) of this section; increased by:

17 (iii) The percent increase per full-time equivalent student as
18 stated in the state basic education appropriation section of the
19 biennial budget between the prior school year and the current school
20 year divided by fifty-five percent;

21 (d) The district's maximum levy amount shall be reduced by the
22 maximum amount of state matching funds for which the district is
23 eligible under RCW 28A.500.010.

24 (3) For excess levies for collection in calendar year 1998 and
25 thereafter, a district's levy base shall be the sum of allocations in
26 (a) through (c) of this subsection received by the district for the
27 prior school year, including allocations for compensation increases,
28 plus the sum of such allocations multiplied by the percent increase per
29 full time equivalent student as stated in the state basic education
30 appropriation section of the biennial budget between the prior school
31 year and the current school year and divided by fifty-five percent. A
32 district's levy base shall not include local school district property
33 tax levies or other local revenues, or state and federal allocations
34 not identified in (a) through (c) of this subsection.

35 (a) The district's basic education allocation as determined
36 pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

37 (b) State and federal categorical allocations for the following
38 programs:

39 (i) Pupil transportation;

1 (ii) Special education;
2 (iii) Education of highly capable students;
3 (iv) Compensatory education, including but not limited to learning
4 assistance, migrant education, Indian education, refugee programs, and
5 bilingual education;
6 (v) Food services; and
7 (vi) Statewide block grant programs; and
8 (c) Any other federal allocations for elementary and secondary
9 school programs, including direct grants, other than federal impact aid
10 funds and allocations in lieu of taxes.

11 (4) A district's maximum levy percentage shall be twenty-two
12 percent in 1998 and twenty-four percent in 1999 and every year
13 thereafter; plus, for qualifying districts, the grandfathered
14 percentage determined as follows:

15 (a) For 1997, the difference between the district's 1993 maximum
16 levy percentage and twenty percent; and

17 (b) For 1998 and thereafter, the percentage calculated as follows:

18 (i) Multiply the grandfathered percentage for the prior year times
19 the district's levy base determined under subsection (3) of this
20 section;

21 (ii) Reduce the result of (b)(i) of this subsection by any levy
22 reduction funds as defined in subsection (5) of this section that are
23 to be allocated to the district for the current school year;

24 (iii) Divide the result of (b)(ii) of this subsection by the
25 district's levy base; and

26 (iv) Take the greater of zero or the percentage calculated in
27 (b)(iii) of this subsection.

28 (5) "Levy reduction funds" shall mean increases in state funds from
29 the prior school year for programs included under subsection (3) of
30 this section: (a) That are not attributable to enrollment changes,
31 compensation increases, or inflationary adjustments; and (b) that are
32 or were specifically identified as levy reduction funds in the
33 appropriations act. If levy reduction funds are dependent on formula
34 factors which would not be finalized until after the start of the
35 current school year, the superintendent of public instruction shall
36 estimate the total amount of levy reduction funds by using prior school
37 year data in place of current school year data. Levy reduction funds
38 shall not include moneys received by school districts from cities or
39 counties.

1 (6) For the purposes of this section, "prior school year" means the
2 most recent school year completed prior to the year in which the levies
3 are to be collected.

4 (7) For the purposes of this section, "current school year" means
5 the year immediately following the prior school year.

6 (8) Funds collected from transportation vehicle fund tax levies
7 shall not be subject to the levy limitations in this section.

8 (9) The limitations in this section do not apply to excess general
9 fund levies for the support of the housing allowance provided for in
10 section 2 of this act.

11 (10) The superintendent of public instruction shall develop rules
12 ((and regulations)) and inform school districts of the pertinent data
13 necessary to carry out the provisions of this section.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 84.52 RCW
15 to read as follows:

16 A levy submitted to voters under section 2 of this act may be
17 submitted as a separate levy, or as part of a maintenance and operation
18 levy if the housing allowance levy is separately identified.

19 **Sec. 7.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to read
20 as follows:

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

23 (1)(a) "Accumulated contributions" for plan 1 members, means the
24 sum of all regular annuity contributions and, except for the purpose of
25 withdrawal at the time of retirement, any amount paid under RCW
26 41.50.165(2) with regular interest thereon.

27 (b) "Accumulated contributions" for plan 2 members, means the sum
28 of all contributions standing to the credit of a member in the member's
29 individual account, including any amount paid under RCW 41.50.165(2),
30 together with the regular interest thereon.

31 (2) "Actuarial equivalent" means a benefit of equal value when
32 computed upon the basis of such mortality tables and regulations as
33 shall be adopted by the director and regular interest.

34 (3) "Annuity" means the moneys payable per year during life by
35 reason of accumulated contributions of a member.

36 (4) "Member reserve" means the fund in which all of the accumulated
37 contributions of members are held.

1 (5)(a) "Beneficiary" for plan 1 members, means any person in
2 receipt of a retirement allowance or other benefit provided by this
3 chapter.

4 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
5 in receipt of a retirement allowance or other benefit provided by this
6 chapter resulting from service rendered to an employer by another
7 person.

8 (6) "Contract" means any agreement for service and compensation
9 between a member and an employer.

10 (7) "Creditable service" means membership service plus prior
11 service for which credit is allowable. This subsection shall apply
12 only to plan 1 members.

13 (8) "Dependent" means receiving one-half or more of support from a
14 member.

15 (9) "Disability allowance" means monthly payments during
16 disability. This subsection shall apply only to plan 1 members.

17 (10)(a) "Earnable compensation" for plan 1 members, means:

18 (i) All salaries and wages paid by an employer to an employee
19 member of the retirement system for personal services rendered during
20 a fiscal year. In all cases where compensation includes maintenance
21 the employer shall fix the value of that part of the compensation not
22 paid in money.

23 (ii) "Earnable compensation" for plan 1 members also includes the
24 following actual or imputed payments, which are not paid for personal
25 services:

26 (A) Retroactive payments to an individual by an employer on
27 reinstatement of the employee in a position, or payments by an employer
28 to an individual in lieu of reinstatement in a position which are
29 awarded or granted as the equivalent of the salary or wages which the
30 individual would have earned during a payroll period shall be
31 considered earnable compensation and the individual shall receive the
32 equivalent service credit.

33 (B) If a leave of absence, without pay, is taken by a member for
34 the purpose of serving as a member of the state legislature, and such
35 member has served in the legislature five or more years, the salary
36 which would have been received for the position from which the leave of
37 absence was taken shall be considered as compensation earnable if the
38 employee's contribution thereon is paid by the employee. In addition,
39 where a member has been a member of the state legislature for five or

1 more years, earnable compensation for the member's two highest
2 compensated consecutive years of service shall include a sum not to
3 exceed thirty-six hundred dollars for each of such two consecutive
4 years, regardless of whether or not legislative service was rendered
5 during those two years.

6 (iii) For members employed less than full time under written
7 contract with a school district, or community college district, in an
8 instructional position, for which the member receives service credit of
9 less than one year in all of the years used to determine the earnable
10 compensation used for computing benefits due under RCW 41.32.497,
11 41.32.498, and 41.32.520, the member may elect to have earnable
12 compensation defined as provided in RCW 41.32.345. For the purposes of
13 this subsection, the term "instructional position" means a position in
14 which more than seventy-five percent of the member's time is spent as
15 a classroom instructor (including office hours), a librarian, or a
16 counselor. Earnable compensation shall be so defined only for the
17 purpose of the calculation of retirement benefits and only as necessary
18 to insure that members who receive fractional service credit under RCW
19 41.32.270 receive benefits proportional to those received by members
20 who have received full-time service credit.

21 (iv) "Earnable compensation" does not include:

22 (A) Remuneration for unused sick leave authorized under RCW
23 41.04.340, 28A.400.210, or 28A.310.490;

24 (B) Remuneration for unused annual leave in excess of thirty days
25 as authorized by RCW 43.01.044 and 43.01.041;

26 (C) Housing allowances authorized in section 2 of this act.

27 (b) "Earnable compensation" for plan 2 and plan 3 members, means
28 salaries or wages earned by a member during a payroll period for
29 personal services, including overtime payments, and shall include wages
30 and salaries deferred under provisions established pursuant to sections
31 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
32 shall exclude lump sum payments for deferred annual sick leave, unused
33 accumulated vacation, unused accumulated annual leave, or any form of
34 severance pay.

35 "Earnable compensation" for plan 2 and plan 3 members also includes
36 the following actual or imputed payments which, except in the case of
37 (b)(ii)(B) of this subsection, are not paid for personal services:

38 (i) Retroactive payments to an individual by an employer on
39 reinstatement of the employee in a position or payments by an employer

1 to an individual in lieu of reinstatement in a position which are
2 awarded or granted as the equivalent of the salary or wages which the
3 individual would have earned during a payroll period shall be
4 considered earnable compensation, to the extent provided above, and the
5 individual shall receive the equivalent service credit.

6 (ii) In any year in which a member serves in the legislature the
7 member shall have the option of having such member's earnable
8 compensation be the greater of:

9 (A) The earnable compensation the member would have received had
10 such member not served in the legislature; or

11 (B) Such member's actual earnable compensation received for
12 teaching and legislative service combined. Any additional
13 contributions to the retirement system required because compensation
14 earnable under (b)(ii)(A) of this subsection is greater than
15 compensation earnable under (b)(ii)(B) of this subsection shall be paid
16 by the member for both member and employer contributions.

17 (11) "Employer" means the state of Washington, the school district,
18 or any agency of the state of Washington by which the member is paid.

19 (12) "Fiscal year" means a year which begins July 1st and ends June
20 30th of the following year.

21 (13) "Former state fund" means the state retirement fund in
22 operation for teachers under chapter 187, Laws of 1923, as amended.

23 (14) "Local fund" means any of the local retirement funds for
24 teachers operated in any school district in accordance with the
25 provisions of chapter 163, Laws of 1917 as amended.

26 (15) "Member" means any teacher included in the membership of the
27 retirement system. Also, any other employee of the public schools who,
28 on July 1, 1947, had not elected to be exempt from membership and who,
29 prior to that date, had by an authorized payroll deduction, contributed
30 to the member reserve.

31 (16) "Membership service" means service rendered subsequent to the
32 first day of eligibility of a person to membership in the retirement
33 system: PROVIDED, That where a member is employed by two or more
34 employers the individual shall receive no more than one service credit
35 month during any calendar month in which multiple service is rendered.
36 The provisions of this subsection shall apply only to plan 1 members.

37 (17) "Pension" means the moneys payable per year during life from
38 the pension reserve.

1 (18) "Pension reserve" is a fund in which shall be accumulated an
2 actuarial reserve adequate to meet present and future pension
3 liabilities of the system and from which all pension obligations are to
4 be paid.

5 (19) "Prior service" means service rendered prior to the first date
6 of eligibility to membership in the retirement system for which credit
7 is allowable. The provisions of this subsection shall apply only to
8 plan 1 members.

9 (20) "Prior service contributions" means contributions made by a
10 member to secure credit for prior service. The provisions of this
11 subsection shall apply only to plan 1 members.

12 (21) "Public school" means any institution or activity operated by
13 the state of Washington or any instrumentality or political subdivision
14 thereof employing teachers, except the University of Washington and
15 Washington State University.

16 (22) "Regular contributions" means the amounts required to be
17 deducted from the compensation of a member and credited to the member's
18 individual account in the member reserve. This subsection shall apply
19 only to plan 1 members.

20 (23) "Regular interest" means such rate as the director may
21 determine.

22 (24)(a) "Retirement allowance" for plan 1 members, means monthly
23 payments based on the sum of annuity and pension, or any optional
24 benefits payable in lieu thereof.

25 (b) "Retirement allowance" for plan 2 and plan 3 members, means
26 monthly payments to a retiree or beneficiary as provided in this
27 chapter.

28 (25) "Retirement system" means the Washington state teachers'
29 retirement system.

30 (26)(a) "Service" for plan 1 members means the time during which a
31 member has been employed by an employer for compensation.

32 (i) If a member is employed by two or more employers the individual
33 shall receive no more than one service credit month during any calendar
34 month in which multiple service is rendered.

35 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
36 sick leave may be creditable as service solely for the purpose of
37 determining eligibility to retire under RCW 41.32.470.

38 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
39 state retirement system that covers teachers in public schools may be

1 applied solely for the purpose of determining eligibility to retire
2 under RCW 41.32.470.

3 (b) "Service" for plan 2 and plan 3 members, means periods of
4 employment by a member for one or more employers for which earnable
5 compensation is earned subject to the following conditions:

6 (i) A member employed in an eligible position or as a substitute
7 shall receive one service credit month for each month of September
8 through August of the following year if he or she earns earnable
9 compensation for eight hundred ten or more hours during that period and
10 is employed during nine of those months, except that a member may not
11 receive credit for any period prior to the member's employment in an
12 eligible position except as provided in RCW 41.32.812 and 41.50.132;

13 (ii) If a member is employed either in an eligible position or as
14 a substitute teacher for nine months of the twelve month period between
15 September through August of the following year but earns earnable
16 compensation for less than eight hundred ten hours but for at least six
17 hundred thirty hours, he or she will receive one-half of a service
18 credit month for each month of the twelve month period;

19 (iii) All other members in an eligible position or as a substitute
20 teacher shall receive service credit as follows:

21 (A) A service credit month is earned in those calendar months where
22 earnable compensation is earned for ninety or more hours;

23 (B) A half-service credit month is earned in those calendar months
24 where earnable compensation is earned for at least seventy hours but
25 less than ninety hours; and

26 (C) A quarter-service credit month is earned in those calendar
27 months where earnable compensation is earned for less than seventy
28 hours.

29 (iv) Any person who is a member of the teachers' retirement system
30 and who is elected or appointed to a state elective position may
31 continue to be a member of the retirement system and continue to
32 receive a service credit month for each of the months in a state
33 elective position by making the required member contributions.

34 (v) When an individual is employed by two or more employers the
35 individual shall only receive one month's service credit during any
36 calendar month in which multiple service for ninety or more hours is
37 rendered.

38 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
39 sick leave may be creditable as service solely for the purpose of

1 determining eligibility to retire under RCW 41.32.470. For purposes of
2 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
3 to two service credit months. Use of less than forty-five days of sick
4 leave is creditable as allowed under this subsection as follows:

5 (A) Less than eleven days equals one-quarter service credit month;

6 (B) Eleven or more days but less than twenty-two days equals one-
7 half service credit month;

8 (C) Twenty-two days equals one service credit month;

9 (D) More than twenty-two days but less than thirty-three days
10 equals one and one-quarter service credit month;

11 (E) Thirty-three or more days but less than forty-five days equals
12 one and one-half service credit month.

13 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
14 state retirement system that covers teachers in public schools may be
15 applied solely for the purpose of determining eligibility to retire
16 under RCW 41.32.470.

17 (viii) The department shall adopt rules implementing this
18 subsection.

19 (27) "Service credit year" means an accumulation of months of
20 service credit which is equal to one when divided by twelve.

21 (28) "Service credit month" means a full service credit month or an
22 accumulation of partial service credit months that are equal to one.

23 (29) "Teacher" means any person qualified to teach who is engaged
24 by a public school in an instructional, administrative, or supervisory
25 capacity. The term includes state, educational service district, and
26 school district superintendents and their assistants and all employees
27 certificated by the superintendent of public instruction; and in
28 addition thereto any full time school doctor who is employed by a
29 public school and renders service of an instructional or educational
30 nature.

31 (30) "Average final compensation" for plan 2 and plan 3 members,
32 means the member's average earnable compensation of the highest
33 consecutive sixty service credit months prior to such member's
34 retirement, termination, or death. Periods constituting authorized
35 leaves of absence may not be used in the calculation of average final
36 compensation except under RCW 41.32.810(2).

37 (31) "Retiree" means any person who has begun accruing a retirement
38 allowance or other benefit provided by this chapter resulting from
39 service rendered to an employer while a member.

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

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

4 (34) "State elective position" means any position held by any
5 person elected or appointed to statewide office or elected or appointed
6 as a member of the legislature.

7 (35) "State actuary" or "actuary" means the person appointed
8 pursuant to RCW 44.44.010(2).

9 (36) "Substitute teacher" means:

10 (a) A teacher who is hired by an employer to work as a temporary
11 teacher, except for teachers who are annual contract employees of an
12 employer and are guaranteed a minimum number of hours; or

13 (b) Teachers who either (i) work in ineligible positions for more
14 than one employer or (ii) work in an ineligible position or positions
15 together with an eligible position.

16 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
17 through September 1, 1991, means a position which normally requires two
18 or more uninterrupted months of creditable service during September
19 through August of the following year.

20 (b) "Eligible position" for plan 2 and plan 3 on and after
21 September 1, 1991, means a position that, as defined by the employer,
22 normally requires five or more months of at least seventy hours of
23 earnable compensation during September through August of the following
24 year.

25 (c) For purposes of this chapter an employer shall not define
26 "position" in such a manner that an employee's monthly work for that
27 employer is divided into more than one position.

28 (d) The elected position of the superintendent of public
29 instruction is an eligible position.

30 (38) "Plan 1" means the teachers' retirement system, plan 1
31 providing the benefits and funding provisions covering persons who
32 first became members of the system prior to October 1, 1977.

33 (39) "Plan 2" means the teachers' retirement system, plan 2
34 providing the benefits and funding provisions covering persons who
35 first became members of the system on and after October 1, 1977, and
36 prior to July 1, 1996.

37 (40) "Plan 3" means the teachers' retirement system, plan 3
38 providing the benefits and funding provisions covering persons who

1 first become members of the system on and after July 1, 1996, or who
2 transfer under RCW 41.32.817.

3 (41) "Index" means, for any calendar year, that year's annual
4 average consumer price index, Seattle, Washington area, for urban wage
5 earners and clerical workers, all items compiled by the bureau of labor
6 statistics, United States department of labor.

7 (42) "Index A" means the index for the year prior to the
8 determination of a postretirement adjustment.

9 (43) "Index B" means the index for the year prior to index A.

10 (44) "Index year" means the earliest calendar year in which the
11 index is more than sixty percent of index A.

12 (45) "Adjustment ratio" means the value of index A divided by index
13 B.

14 (46) "Annual increase" means, initially, fifty-nine cents per month
15 per year of service which amount shall be increased each July 1st by
16 three percent, rounded to the nearest cent.

17 (47) "Member account" or "member's account" for purposes of plan 3
18 means the sum of the contributions and earnings on behalf of the member
19 in the defined contribution portion of plan 3.

20 (48) "Separation from service or employment" occurs when a person
21 has terminated all employment with an employer.

22 (49) "Employed" or "employee" means a person who is providing
23 services for compensation to an employer, unless the person is free
24 from the employer's direction and control over the performance of work.
25 The department shall adopt rules and interpret this subsection
26 consistent with common law.

27 **Sec. 8.** RCW 41.40.010 and 2000 c 247 s 102 are each amended to
28 read as follows:

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

31 (1) "Retirement system" means the public employees' retirement
32 system provided for in this chapter.

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

35 (3) "State treasurer" means the treasurer of the state of
36 Washington.

37 (4)(a) "Employer" for plan 1 members, means every branch,
38 department, agency, commission, board, and office of the state, any

1 political subdivision or association of political subdivisions of the
2 state admitted into the retirement system, and legal entities
3 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
4 term shall also include any labor guild, association, or organization
5 the membership of a local lodge or division of which is comprised of at
6 least forty percent employees of an employer (other than such labor
7 guild, association, or organization) within this chapter. The term may
8 also include any city of the first class that has its own retirement
9 system.

10 (b) "Employer" for plan 2 and plan 3 members, means every branch,
11 department, agency, commission, board, and office of the state, and any
12 political subdivision and municipal corporation of the state admitted
13 into the retirement system, including public agencies created pursuant
14 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
15 31, 2000, school districts and educational service districts will no
16 longer be employers for the public employees' retirement system plan 2.

17 (5) "Member" means any employee included in the membership of the
18 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
19 does not prohibit a person otherwise eligible for membership in the
20 retirement system from establishing such membership effective when he
21 or she first entered an eligible position.

22 (6) "Original member" of this retirement system means:

23 (a) Any person who became a member of the system prior to April 1,
24 1949;

25 (b) Any person who becomes a member through the admission of an
26 employer into the retirement system on and after April 1, 1949, and
27 prior to April 1, 1951;

28 (c) Any person who first becomes a member by securing employment
29 with an employer prior to April 1, 1951, provided the member has
30 rendered at least one or more years of service to any employer prior to
31 October 1, 1947;

32 (d) Any person who first becomes a member through the admission of
33 an employer into the retirement system on or after April 1, 1951,
34 provided, such person has been in the regular employ of the employer
35 for at least six months of the twelve-month period preceding the said
36 admission date;

37 (e) Any member who has restored all contributions that may have
38 been withdrawn as provided by RCW 41.40.150 and who on the effective
39 date of the individual's retirement becomes entitled to be credited

1 with ten years or more of membership service except that the provisions
2 relating to the minimum amount of retirement allowance for the member
3 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
4 apply to the member;

5 (f) Any member who has been a contributor under the system for two
6 or more years and who has restored all contributions that may have been
7 withdrawn as provided by RCW 41.40.150 and who on the effective date of
8 the individual's retirement has rendered five or more years of service
9 for the state or any political subdivision prior to the time of the
10 admission of the employer into the system; except that the provisions
11 relating to the minimum amount of retirement allowance for the member
12 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
13 apply to the member.

14 (7) "New member" means a person who becomes a member on or after
15 April 1, 1949, except as otherwise provided in this section.

16 (8)(a) "Compensation earnable" for plan 1 members, means salaries
17 or wages earned during a payroll period for personal services and where
18 the compensation is not all paid in money, maintenance compensation
19 shall be included upon the basis of the schedules established by the
20 member's employer.

21 (i) "Compensation earnable" for plan 1 members also includes the
22 following actual or imputed payments, which are not paid for personal
23 services:

24 (A) Retroactive payments to an individual by an employer on
25 reinstatement of the employee in a position, or payments by an employer
26 to an individual in lieu of reinstatement in a position which are
27 awarded or granted as the equivalent of the salary or wage which the
28 individual would have earned during a payroll period shall be
29 considered compensation earnable and the individual shall receive the
30 equivalent service credit;

31 (B) If a leave of absence is taken by an individual for the purpose
32 of serving in the state legislature, the salary which would have been
33 received for the position from which the leave of absence was taken,
34 shall be considered as compensation earnable if the employee's
35 contribution is paid by the employee and the employer's contribution is
36 paid by the employer or employee;

37 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
38 72.09.240;

1 (D) Compensation that a member would have received but for a
2 disability occurring in the line of duty only as authorized by RCW
3 41.40.038;

4 (E) Compensation that a member receives due to participation in the
5 leave sharing program only as authorized by RCW 41.04.650 through
6 41.04.670; and

7 (F) Compensation that a member receives for being in standby
8 status. For the purposes of this section, a member is in standby
9 status when not being paid for time actually worked and the employer
10 requires the member to be prepared to report immediately for work, if
11 the need arises, although the need may not arise.

12 (ii) "Compensation earnable" does not include:

13 (A) Remuneration for unused sick leave authorized under RCW
14 41.04.340, 28A.400.210, or 28A.310.490;

15 (B) Remuneration for unused annual leave in excess of thirty days
16 as authorized by RCW 43.01.044 and 43.01.041;

17 (C) Housing allowances authorized in section 2 of this act.

18 (b) "Compensation earnable" for plan 2 and plan 3 members, means
19 salaries or wages earned by a member during a payroll period for
20 personal services, including overtime payments, and shall include wages
21 and salaries deferred under provisions established pursuant to sections
22 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
23 shall exclude nonmoney maintenance compensation and lump sum or other
24 payments for deferred annual sick leave, unused accumulated vacation,
25 unused accumulated annual leave, or any form of severance pay.

26 "Compensation earnable" for plan 2 and plan 3 members also includes
27 the following actual or imputed payments, which are not paid for
28 personal services:

29 (i) Retroactive payments to an individual by an employer on
30 reinstatement of the employee in a position, or payments by an employer
31 to an individual in lieu of reinstatement in a position which are
32 awarded or granted as the equivalent of the salary or wage which the
33 individual would have earned during a payroll period shall be
34 considered compensation earnable to the extent provided above, and the
35 individual shall receive the equivalent service credit;

36 (ii) In any year in which a member serves in the legislature, the
37 member shall have the option of having such member's compensation
38 earnable be the greater of:

1 (A) The compensation earnable the member would have received had
2 such member not served in the legislature; or

3 (B) Such member's actual compensation earnable received for
4 nonlegislative public employment and legislative service combined. Any
5 additional contributions to the retirement system required because
6 compensation earnable under (b)(ii)(A) of this subsection is greater
7 than compensation earnable under (b)(ii)(B) of this subsection shall be
8 paid by the member for both member and employer contributions;

9 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
10 and 72.09.240;

11 (iv) Compensation that a member would have received but for a
12 disability occurring in the line of duty only as authorized by RCW
13 41.40.038;

14 (v) Compensation that a member receives due to participation in the
15 leave sharing program only as authorized by RCW 41.04.650 through
16 41.04.670; and

17 (vi) Compensation that a member receives for being in standby
18 status. For the purposes of this section, a member is in standby
19 status when not being paid for time actually worked and the employer
20 requires the member to be prepared to report immediately for work, if
21 the need arises, although the need may not arise.

22 (9)(a) "Service" for plan 1 members, except as provided in RCW
23 41.40.088, means periods of employment in an eligible position or
24 positions for one or more employers rendered to any employer for which
25 compensation is paid, and includes time spent in office as an elected
26 or appointed official of an employer. Compensation earnable earned in
27 full time work for seventy hours or more in any given calendar month
28 shall constitute one service credit month except as provided in RCW
29 41.40.088. Compensation earnable earned for less than seventy hours in
30 any calendar month shall constitute one-quarter service credit month of
31 service except as provided in RCW 41.40.088. Only service credit
32 months and one-quarter service credit months shall be counted in the
33 computation of any retirement allowance or other benefit provided for
34 in this chapter. Any fraction of a year of service shall be taken into
35 account in the computation of such retirement allowance or benefits.
36 Time spent in standby status, whether compensated or not, is not
37 service.

38 (i) Service by a state employee officially assigned by the state on
39 a temporary basis to assist another public agency, shall be considered

1 as service as a state employee: PROVIDED, That service to any other
2 public agency shall not be considered service as a state employee if
3 such service has been used to establish benefits in any other public
4 retirement system.

5 (ii) An individual shall receive no more than a total of twelve
6 service credit months of service during any calendar year. If an
7 individual is employed in an eligible position by one or more employers
8 the individual shall receive no more than one service credit month
9 during any calendar month in which multiple service for seventy or more
10 hours is rendered.

11 (iii) A school district employee may count up to forty-five days of
12 sick leave as creditable service solely for the purpose of determining
13 eligibility to retire under RCW 41.40.180 as authorized by RCW
14 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
15 28A.400.300 is equal to two service credit months. Use of less than
16 forty-five days of sick leave is creditable as allowed under this
17 subsection as follows:

18 (A) Less than twenty-two days equals one-quarter service credit
19 month;

20 (B) Twenty-two days equals one service credit month;

21 (C) More than twenty-two days but less than forty-five days equals
22 one and one-quarter service credit month.

23 (b) "Service" for plan 2 and plan 3 members, means periods of
24 employment by a member in an eligible position or positions for one or
25 more employers for which compensation earnable is paid. Compensation
26 earnable earned for ninety or more hours in any calendar month shall
27 constitute one service credit month except as provided in RCW
28 41.40.088. Compensation earnable earned for at least seventy hours but
29 less than ninety hours in any calendar month shall constitute one-half
30 service credit month of service. Compensation earnable earned for less
31 than seventy hours in any calendar month shall constitute one-quarter
32 service credit month of service. Time spent in standby status, whether
33 compensated or not, is not service.

34 Any fraction of a year of service shall be taken into account in
35 the computation of such retirement allowance or benefits.

36 (i) Service in any state elective position shall be deemed to be
37 full time service, except that persons serving in state elective
38 positions who are members of the Washington school employees'
39 retirement system, teachers' retirement system, or law enforcement

1 officers' and fire fighters' retirement system at the time of election
2 or appointment to such position may elect to continue membership in the
3 Washington school employees' retirement system, teachers' retirement
4 system, or law enforcement officers' and fire fighters' retirement
5 system.

6 (ii) A member shall receive a total of not more than twelve service
7 credit months of service for such calendar year. If an individual is
8 employed in an eligible position by one or more employers the
9 individual shall receive no more than one service credit month during
10 any calendar month in which multiple service for ninety or more hours
11 is rendered.

12 (iii) Up to forty-five days of sick leave may be creditable as
13 service solely for the purpose of determining eligibility to retire
14 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
15 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
16 to two service credit months. Use of less than forty-five days of sick
17 leave is creditable as allowed under this subsection as follows:

18 (A) Less than eleven days equals one-quarter service credit month;

19 (B) Eleven or more days but less than twenty-two days equals one-
20 half service credit month;

21 (C) Twenty-two days equals one service credit month;

22 (D) More than twenty-two days but less than thirty-three days
23 equals one and one-quarter service credit month;

24 (E) Thirty-three or more days but less than forty-five days equals
25 one and one-half service credit month.

26 (10) "Service credit year" means an accumulation of months of
27 service credit which is equal to one when divided by twelve.

28 (11) "Service credit month" means a month or an accumulation of
29 months of service credit which is equal to one.

30 (12) "Prior service" means all service of an original member
31 rendered to any employer prior to October 1, 1947.

32 (13) "Membership service" means:

33 (a) All service rendered, as a member, after October 1, 1947;

34 (b) All service after October 1, 1947, to any employer prior to the
35 time of its admission into the retirement system for which member and
36 employer contributions, plus interest as required by RCW 41.50.125,
37 have been paid under RCW 41.40.056 or 41.40.057;

38 (c) Service not to exceed six consecutive months of probationary
39 service rendered after April 1, 1949, and prior to becoming a member,

1 in the case of any member, upon payment in full by such member of the
2 total amount of the employer's contribution to the retirement fund
3 which would have been required under the law in effect when such
4 probationary service was rendered if the member had been a member
5 during such period, except that the amount of the employer's
6 contribution shall be calculated by the director based on the first
7 month's compensation earnable as a member;

8 (d) Service not to exceed six consecutive months of probationary
9 service, rendered after October 1, 1947, and before April 1, 1949, and
10 prior to becoming a member, in the case of any member, upon payment in
11 full by such member of five percent of such member's salary during said
12 period of probationary service, except that the amount of the
13 employer's contribution shall be calculated by the director based on
14 the first month's compensation earnable as a member.

15 (14)(a) "Beneficiary" for plan 1 members, means any person in
16 receipt of a retirement allowance, pension or other benefit provided by
17 this chapter.

18 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
19 in receipt of a retirement allowance or other benefit provided by this
20 chapter resulting from service rendered to an employer by another
21 person.

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

24 (16) "Accumulated contributions" means the sum of all contributions
25 standing to the credit of a member in the member's individual account,
26 including any amount paid under RCW 41.50.165(2), together with the
27 regular interest thereon.

28 (17)(a) "Average final compensation" for plan 1 members, means the
29 annual average of the greatest compensation earnable by a member during
30 any consecutive two year period of service credit months for which
31 service credit is allowed; or if the member has less than two years of
32 service credit months then the annual average compensation earnable
33 during the total years of service for which service credit is allowed.

34 (b) "Average final compensation" for plan 2 and plan 3 members,
35 means the member's average compensation earnable of the highest
36 consecutive sixty months of service credit months prior to such
37 member's retirement, termination, or death. Periods constituting
38 authorized leaves of absence may not be used in the calculation of
39 average final compensation except under RCW 41.40.710(2).

1 (18) "Final compensation" means the annual rate of compensation
2 earnable by a member at the time of termination of employment.

3 (19) "Annuity" means payments for life derived from accumulated
4 contributions of a member. All annuities shall be paid in monthly
5 installments.

6 (20) "Pension" means payments for life derived from contributions
7 made by the employer. All pensions shall be paid in monthly
8 installments.

9 (21) "Retirement allowance" means the sum of the annuity and the
10 pension.

11 (22) "Employee" or "employed" means a person who is providing
12 services for compensation to an employer, unless the person is free
13 from the employer's direction and control over the performance of work.
14 The department shall adopt rules and interpret this subsection
15 consistent with common law.

16 (23) "Actuarial equivalent" means a benefit of equal value when
17 computed upon the basis of such mortality and other tables as may be
18 adopted by the director.

19 (24) "Retirement" means withdrawal from active service with a
20 retirement allowance as provided by this chapter.

21 (25) "Eligible position" means:

22 (a) Any position that, as defined by the employer, normally
23 requires five or more months of service a year for which regular
24 compensation for at least seventy hours is earned by the occupant
25 thereof. For purposes of this chapter an employer shall not define
26 "position" in such a manner that an employee's monthly work for that
27 employer is divided into more than one position;

28 (b) Any position occupied by an elected official or person
29 appointed directly by the governor, or appointed by the chief justice
30 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
31 compensation is paid.

32 (26) "Ineligible position" means any position which does not
33 conform with the requirements set forth in subsection (25) of this
34 section.

35 (27) "Leave of absence" means the period of time a member is
36 authorized by the employer to be absent from service without being
37 separated from membership.

1 (28) "Totally incapacitated for duty" means total inability to
2 perform the duties of a member's employment or office or any other work
3 for which the member is qualified by training or experience.

4 (29) "Retiree" means any person who has begun accruing a retirement
5 allowance or other benefit provided by this chapter resulting from
6 service rendered to an employer while a member.

7 (30) "Director" means the director of the department.

8 (31) "State elective position" means any position held by any
9 person elected or appointed to statewide office or elected or appointed
10 as a member of the legislature.

11 (32) "State actuary" or "actuary" means the person appointed
12 pursuant to RCW 44.44.010(2).

13 (33) "Plan 1" means the public employees' retirement system, plan
14 1 providing the benefits and funding provisions covering persons who
15 first became members of the system prior to October 1, 1977.

16 (34) "Plan 2" means the public employees' retirement system, plan
17 2 providing the benefits and funding provisions covering persons who
18 first became members of the system on and after October 1, 1977, and
19 are not included in plan 3.

20 (35) "Plan 3" means the public employees' retirement system, plan
21 3 providing the benefits and funding provisions covering persons who:

22 (a) First become a member on or after:

23 (i) March 1, 2002, and are employed by a state agency or institute
24 of higher education and who did not choose to enter plan 2; or

25 (ii) September 1, 2002, and are employed by other than a state
26 agency or institute of higher education and who did not choose to enter
27 plan 2; or

28 (b) Transferred to plan 3 under RCW 41.40.795.

29 (36) "Index" means, for any calendar year, that year's annual
30 average consumer price index, Seattle, Washington area, for urban wage
31 earners and clerical workers, all items, compiled by the bureau of
32 labor statistics, United States department of labor.

33 (37) "Index A" means the index for the year prior to the
34 determination of a postretirement adjustment.

35 (38) "Index B" means the index for the year prior to index A.

36 (39) "Index year" means the earliest calendar year in which the
37 index is more than sixty percent of index A.

38 (40) "Adjustment ratio" means the value of index A divided by index
39 B.

1 (41) "Annual increase" means, initially, fifty-nine cents per month
2 per year of service which amount shall be increased each July 1st by
3 three percent, rounded to the nearest cent.

4 (42) "Separation from service" occurs when a person has terminated
5 all employment with an employer.

6 (43) "Member account" or "member's account" for purposes of plan 3
7 means the sum of the contributions and earnings on behalf of the member
8 in the defined contribution portion of plan 3.

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