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SENATE BILL 5146

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State of Washington

57th Legislature

2001 Regular Session

By Senators Franklin, Winsley, Honeyford, Carlson, Long, Fraser, Kohl-Welles, Rasmussen and Haugen; by request of Joint Committee on Pension Policy

Read first time 01/12/2001. Referred to Committee on Ways & Means.

1 AN ACT Relating to reducing the law enforcement officers' and fire  
2 fighters' retirement system plan 2 disability actuarial reduction age  
3 from fifty-five to fifty-three; amending RCW 41.26.470 and 41.26.470;  
4 creating a new section; providing an effective date; and providing an  
5 expiration date.

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

7 **Sec. 1.** RCW 41.26.470 and 1999 c 135 s 1 are each amended to read  
8 as follows:

9 (1) A member of the retirement system who becomes totally  
10 incapacitated for continued employment by an employer as determined by  
11 the director shall be eligible to receive an allowance under the  
12 provisions of RCW 41.26.410 through 41.26.550. Such member shall  
13 receive a monthly disability allowance computed as provided for in RCW  
14 41.26.420 and shall have such allowance actuarially reduced to reflect  
15 the difference in the number of years between age at disability and the  
16 attainment of age (~~fifty-five~~) fifty-three.

17 (2) Any member who receives an allowance under the provisions of  
18 this section shall be subject to such comprehensive medical  
19 examinations as required by the department. If such medical

1 examinations reveal that such a member has recovered from the  
2 incapacitating disability and the member is no longer entitled to  
3 benefits under Title 51 RCW, the retirement allowance shall be canceled  
4 and the member shall be restored to duty in the same civil service  
5 rank, if any, held by the member at the time of retirement or, if  
6 unable to perform the duties of the rank, then, at the member's  
7 request, in such other like or lesser rank as may be or become open and  
8 available, the duties of which the member is then able to perform. In  
9 no event shall a member previously drawing a disability allowance be  
10 returned or be restored to duty at a salary or rate of pay less than  
11 the current salary attached to the rank or position held by the member  
12 at the date of the retirement for disability. If the department  
13 determines that the member is able to return to service, the member is  
14 entitled to notice and a hearing. Both the notice and the hearing  
15 shall comply with the requirements of chapter 34.05 RCW, the  
16 Administrative Procedure Act.

17 (3) Those members subject to this chapter who became disabled in  
18 the line of duty on or after July 23, 1989, and who receive benefits  
19 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW  
20 41.04.535 shall receive or continue to receive service credit subject  
21 to the following:

22 (a) No member may receive more than one month's service credit in  
23 a calendar month.

24 (b) No service credit under this section may be allowed after a  
25 member separates or is separated without leave of absence.

26 (c) Employer contributions shall be paid by the employer at the  
27 rate in effect for the period of the service credited.

28 (d) Employee contributions shall be collected by the employer and  
29 paid to the department at the rate in effect for the period of service  
30 credited.

31 (e) State contributions shall be as provided in RCW 41.26.450.

32 (f) Contributions shall be based on the regular compensation which  
33 the member would have received had the disability not occurred.

34 (g) The service and compensation credit under this section shall be  
35 granted for a period not to exceed six consecutive months.

36 (h) Should the legislature revoke the service credit authorized  
37 under this section or repeal this section, no affected employee is  
38 entitled to receive the credit as a matter of contractual right.

1 (4)(a) If the recipient of a monthly retirement allowance under  
2 this section dies before the total of the retirement allowance paid to  
3 the recipient equals the amount of the accumulated contributions at the  
4 date of retirement, then the balance shall be paid to the member's  
5 estate, or such person or persons, trust, or organization as the  
6 recipient has nominated by written designation duly executed and filed  
7 with the director, or, if there is no such designated person or persons  
8 still living at the time of the recipient's death, then to the  
9 surviving spouse, or, if there is neither such designated person or  
10 persons still living at the time of his or her death nor a surviving  
11 spouse, then to his or her legal representative.

12 (b) If a recipient of a monthly retirement allowance under this  
13 section died before April 27, 1989, and before the total of the  
14 retirement allowance paid to the recipient equaled the amount of his or  
15 her accumulated contributions at the date of retirement, then the  
16 department shall pay the balance of the accumulated contributions to  
17 the member's surviving spouse or, if there is no surviving spouse, then  
18 in equal shares to the member's children. If there is no surviving  
19 spouse or children, the department shall retain the contributions.

20 (5) Should the disability retirement allowance of any disability  
21 beneficiary be canceled for any cause other than reentrance into  
22 service or retirement for service, he or she shall be paid the excess,  
23 if any, of the accumulated contributions at the time of retirement over  
24 all payments made on his or her behalf under this chapter.

25 **Sec. 2.** RCW 41.26.470 and 2000 c 247 s 1104 are each amended to  
26 read as follows:

27 (1) A member of the retirement system who becomes totally  
28 incapacitated for continued employment by an employer as determined by  
29 the director shall be eligible to receive an allowance under the  
30 provisions of RCW 41.26.410 through 41.26.550. Such member shall  
31 receive a monthly disability allowance computed as provided for in RCW  
32 41.26.420 and shall have such allowance actuarially reduced to reflect  
33 the difference in the number of years between age at disability and the  
34 attainment of age (~~(fifty-five)~~) fifty-three.

35 (2) Any member who receives an allowance under the provisions of  
36 this section shall be subject to such comprehensive medical  
37 examinations as required by the department. If such medical  
38 examinations reveal that such a member has recovered from the

1 incapacitating disability and the member is no longer entitled to  
2 benefits under Title 51 RCW, the retirement allowance shall be canceled  
3 and the member shall be restored to duty in the same civil service  
4 rank, if any, held by the member at the time of retirement or, if  
5 unable to perform the duties of the rank, then, at the member's  
6 request, in such other like or lesser rank as may be or become open and  
7 available, the duties of which the member is then able to perform. In  
8 no event shall a member previously drawing a disability allowance be  
9 returned or be restored to duty at a salary or rate of pay less than  
10 the current salary attached to the rank or position held by the member  
11 at the date of the retirement for disability. If the department  
12 determines that the member is able to return to service, the member is  
13 entitled to notice and a hearing. Both the notice and the hearing  
14 shall comply with the requirements of chapter 34.05 RCW, the  
15 Administrative Procedure Act.

16 (3) Those members subject to this chapter who became disabled in  
17 the line of duty on or after July 23, 1989, and who receive benefits  
18 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW  
19 41.04.535 shall receive or continue to receive service credit subject  
20 to the following:

21 (a) No member may receive more than one month's service credit in  
22 a calendar month.

23 (b) No service credit under this section may be allowed after a  
24 member separates or is separated without leave of absence.

25 (c) Employer contributions shall be paid by the employer at the  
26 rate in effect for the period of the service credited.

27 (d) Employee contributions shall be collected by the employer and  
28 paid to the department at the rate in effect for the period of service  
29 credited.

30 (e) State contributions shall be as provided in RCW 41.45.060 and  
31 41.45.067.

32 (f) Contributions shall be based on the regular compensation which  
33 the member would have received had the disability not occurred.

34 (g) The service and compensation credit under this section shall be  
35 granted for a period not to exceed six consecutive months.

36 (h) Should the legislature revoke the service credit authorized  
37 under this section or repeal this section, no affected employee is  
38 entitled to receive the credit as a matter of contractual right.

1 (4)(a) If the recipient of a monthly retirement allowance under  
2 this section dies before the total of the retirement allowance paid to  
3 the recipient equals the amount of the accumulated contributions at the  
4 date of retirement, then the balance shall be paid to the member's  
5 estate, or such person or persons, trust, or organization as the  
6 recipient has nominated by written designation duly executed and filed  
7 with the director, or, if there is no such designated person or persons  
8 still living at the time of the recipient's death, then to the  
9 surviving spouse, or, if there is neither such designated person or  
10 persons still living at the time of his or her death nor a surviving  
11 spouse, then to his or her legal representative.

12 (b) If a recipient of a monthly retirement allowance under this  
13 section died before April 27, 1989, and before the total of the  
14 retirement allowance paid to the recipient equaled the amount of his or  
15 her accumulated contributions at the date of retirement, then the  
16 department shall pay the balance of the accumulated contributions to  
17 the member's surviving spouse or, if there is no surviving spouse, then  
18 in equal shares to the member's children. If there is no surviving  
19 spouse or children, the department shall retain the contributions.

20 (5) Should the disability retirement allowance of any disability  
21 beneficiary be canceled for any cause other than reentrance into  
22 service or retirement for service, he or she shall be paid the excess,  
23 if any, of the accumulated contributions at the time of retirement over  
24 all payments made on his or her behalf under this chapter.

25 NEW SECTION. **Sec. 3.** Any member of the retirement system that  
26 first received an allowance under RCW 41.26.470 after September 1,  
27 2000, that was actuarially reduced from age fifty-five shall have their  
28 allowance recalculated to reflect an actuarial reduction from age  
29 fifty-three.

30 NEW SECTION. **Sec. 4.** Section 1 of this act expires March 1, 2002.

31 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect March 1,  
32 2002.

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