
SENATE BILL 5147

State of Washington

57th Legislature

2001 Regular Session

By Senators Winsley, Carlson, Long, Franklin, Honeyford and Fraser;
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 correcting statutes pertaining to the public
2 employees' and school employees' retirement systems; amending RCW
3 41.34.060, 41.35.010, and 41.04.270; reenacting and amending RCW
4 41.45.061; decodifying RCW 41.54.050; and providing an effective
5 date.

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

7 **Sec. 1.** RCW 41.45.061 and 2000 c 247 s 506 and 2000 c 230 s 2 are
8 each reenacted and amended to read as follows:

9 (1) The required contribution rate for members of the plan 2
10 teachers' retirement system shall be fixed at the rates in effect
11 on July 1, 1996, subject to the following:

12 (a) Beginning September 1, 1997, except as provided in (b) of
13 this subsection, the employee contribution rate shall not exceed
14 the employer plan 2 and 3 rates adopted under RCW 41.45.060 and
15 41.45.070 for the teachers' retirement system;

16 (b) In addition, the employee contribution rate for plan 2
17 shall be increased by fifty percent of the contribution rate
18 increase caused by any plan 2 benefit increase passed after July
19 1, 1996;

1 (c) In addition, the employee contribution rate for plan 2
2 shall not be increased as a result of any distributions pursuant
3 to section 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

4 (2) The required contribution rate for members of the school
5 employees' retirement system plan 2 shall ~~((be fixed at the rates~~
6 ~~in effect on September 1, 2000, for members of the public~~
7 ~~employees' retirement system plan 2, subject to the following:~~

8 ~~(a) Except as provided in (b) of this subsection, the member~~
9 ~~contribution rate shall not exceed)) equal the school employees'~~
10 ~~retirement system employer plan 2 and 3 contribution rate adopted~~
11 ~~under RCW 41.45.060 and 41.45.070((+)), except as provided in~~
12 ~~subsection (3) of this section.~~

13 ~~((+b))~~ (3) The member contribution rate for the school
14 employees' retirement system plan 2 shall be increased by fifty
15 percent of the contribution rate increase caused by any plan 2
16 benefit increase passed after September 1, 2000.

17 ~~((+3))~~ (4) The required contribution rate for members of the
18 public employees' retirement system plan 2 shall be set at the
19 same rate as the employer combined plan 2 and plan 3 rate.

20 ~~((+4))~~ (5) The required contribution rate for members of the
21 law enforcement officers' and fire fighters' retirement system
22 plan 2 shall be set at fifty percent of the cost of the retirement
23 system.

24 ~~((+5))~~ (6) The employee contribution rates for plan 2 under
25 subsections (3) and (4) of this section shall not include any
26 increase as a result of any distributions pursuant to RCW
27 41.31A.020 and 41.31A.030.

28 ~~((+6))~~ (7) The required plan 2 and 3 contribution rates for
29 employers shall be adopted in the manner described in RCW
30 41.45.060.

31 **Sec. 2.** RCW 41.34.060 and 2000 c 247 s 404 are each amended to
32 read as follows:

33 (1) Except as provided in subsection (3) of this section, the
34 member's account shall be invested by the state investment board.
35 In order to reduce transaction costs and address liquidity issues,
36 based upon recommendations of the state investment board, the
37 department may require members to provide up to ninety days'

1 notice prior to moving funds from the state investment board
2 portfolio to self-directed investment options provided under
3 subsection (3) of this section.

4 (a) For members of the retirement system as provided for in
5 chapter 41.32 RCW of plan 3, investment shall be in the same
6 portfolio as that of the teachers' retirement system combined plan
7 2 and 3 fund under RCW 41.50.075(2).

8 (b) For members of the retirement system as provided for in
9 chapter 41.35 RCW of plan 3, investment shall be in the same
10 portfolio as that of the school employees' retirement system
11 combined plan 2 and 3 fund under RCW 41.50.075(4).

12 (c) For members of the retirement system as provided for in
13 chapter 41.40 RCW of plan 3, investment shall be in the same
14 portfolio as that of the public employees' retirement system
15 combined plan 2 and 3 fund under RCW 41.50.075(3).

16 (2) The state investment board shall declare monthly unit
17 values for the portfolios or funds, or portions thereof, utilized
18 under subsection (1)(a) (~~and~~), (b), and (c) of this section. The
19 declared values shall be an approximation of portfolio or fund
20 values, based on internal procedures of the state investment
21 board. Such declared unit values and internal procedures shall be
22 in the sole discretion of the state investment board. The state
23 investment board may delegate any of the powers and duties under
24 this subsection, including discretion, pursuant to RCW 43.33A.030.
25 Member accounts shall be credited by the department with a rate of
26 return based on changes to such unit values.

27 (3) Members may elect to self-direct their investments as set
28 forth in RCW 41.34.130 and 43.33A.190.

29 **Sec. 3.** RCW 41.35.010 and 1998 c 341 s 2 are each amended to read
30 as follows:

31 The definitions in this section apply throughout this chapter,
32 unless the context clearly requires otherwise:

33 (1) "Retirement system" means the Washington school employees'
34 retirement system provided for in this chapter.

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

1 (3) "State treasurer" means the treasurer of the state of
2 Washington.

3 (4) "Employer," for plan 2 and plan 3 members, means a school
4 district or an educational service district.

5 (5) "Member" means any employee included in the membership of
6 the retirement system, as provided for in RCW 41.35.030.

7 (6)(a) "Compensation earnable" for plan 2 and plan 3 members,
8 means salaries or wages earned by a member during a payroll period
9 for personal services, including overtime payments, and shall
10 include wages and salaries deferred under provisions established
11 pursuant to sections 403(b), 414(h), and 457 of the United States
12 internal revenue code, but shall exclude nonmoney maintenance
13 compensation and lump sum or other payments for deferred annual
14 sick leave, unused accumulated vacation, unused accumulated annual
15 leave, or any form of severance pay.

16 (b) "Compensation earnable" for plan 2 and plan 3 members also
17 includes the following actual or imputed payments, which are not
18 paid for personal services:

19 (i) Retroactive payments to an individual by an employer on
20 reinstatement of the employee in a position, or payments by an
21 employer to an individual in lieu of reinstatement, which are
22 awarded or granted as the equivalent of the salary or wage which
23 the individual would have earned during a payroll period shall be
24 considered compensation earnable to the extent provided in this
25 subsection, and the individual shall receive the equivalent
26 service credit;

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

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

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

1 (iii) Assault pay only as authorized by RCW 27.04.100,
2 72.01.045, and 72.09.240;

3 (iv) Compensation that a member would have received but for a
4 disability occurring in the line of duty only as authorized by RCW
5 41.40.038;

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

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

14 (7) "Service" for plan 2 and plan 3 members means periods of
15 employment by a member in an eligible position or positions for
16 one or more employers for which compensation earnable is paid.
17 Compensation earnable earned for ninety or more hours in any
18 calendar month shall constitute one service credit month except as
19 provided in RCW 41.35.180. Compensation earnable earned for at
20 least seventy hours but less than ninety hours in any calendar
21 month shall constitute one-half service credit month of service.
22 Compensation earnable earned for less than seventy hours in any
23 calendar month shall constitute one-quarter service credit month
24 of service. Time spent in standby status, whether compensated or
25 not, is not service.

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

28 (a) Service in any state elective position shall be deemed to
29 be full-time service.

30 (b) A member shall receive a total of not more than twelve
31 service credit months of service for such calendar year. If an
32 individual is employed in an eligible position by one or more
33 employers the individual shall receive no more than one service
34 credit month during any calendar month in which multiple service
35 for ninety or more hours is rendered.

36 (c) For purposes of plan 2 and 3 "forty-five days" as used in
37 RCW 28A.400.300 is equal to two service credit months. Use of

1 less than forty-five days of sick leave is creditable as allowed
2 under this subsection as follows:

3 (i) Less than eleven days equals one-quarter service credit
4 month;

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

7 (iii) Twenty-two days equals one service credit month;

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

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

12 (8) "Service credit year" means an accumulation of months of
13 service credit which is equal to one when divided by twelve.

14 (9) "Service credit month" means a month or an accumulation of
15 months of service credit which is equal to one.

16 (10) "Membership service" means all service rendered as a
17 member.

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

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

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

28 (14) "Average final compensation" for plan 2 and plan 3 members
29 means the member's average compensation earnable of the highest
30 consecutive sixty months of service credit months prior to such
31 member's retirement, termination, or death. Periods constituting
32 authorized leaves of absence may not be used in the calculation of
33 average final compensation except under RCW 41.40.710(2).

34 (15) "Final compensation" means the annual rate of compensation
35 earnable by a member at the time of termination of employment.

36 (16) "Annuity" means payments for life derived from accumulated
37 contributions of a member. All annuities shall be paid in monthly
38 installments.

1 (17) "Pension" means payments for life derived from
2 contributions made by the employer. All pensions shall be paid in
3 monthly installments.

4 (18) "Retirement allowance" for plan 2 and plan 3 members means
5 monthly payments to a retiree or beneficiary as provided in this
6 chapter.

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

12 (20) "Actuarial equivalent" means a benefit of equal value when
13 computed upon the basis of such mortality and other tables as may
14 be adopted by the director.

15 (21) "Retirement" means withdrawal from active service with a
16 retirement allowance as provided by this chapter.

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

24 (23) "Ineligible position" means any position which does not
25 conform with the requirements set forth in subsection (22) of this
26 section.

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

30 ~~(25) ("Totally incapacitated for duty" means total inability
31 to perform the duties of a member's employment or office or any
32 other work for which the member is qualified by training or
33 experience.~~

34 ~~(26))~~ "Retiree" means any person who has begun accruing a
35 retirement allowance or other benefit provided by this chapter
36 resulting from service rendered to an employer while a member.

37 ~~((27))~~ (26) "Director" means the director of the department.

1 (~~(28)~~) (27) "State elective position" means any position held
2 by any person elected or appointed to statewide office or elected
3 or appointed as a member of the legislature.

4 (~~(29)~~) (28) "State actuary" or "actuary" means the person
5 appointed pursuant to RCW 44.44.010(2).

6 (~~(30)~~) (29) "Plan 2" means the Washington school employees'
7 retirement system plan 2 providing the benefits and funding
8 provisions covering persons who first became members of the public
9 employees' retirement system on and after October 1, 1977, and
10 transferred to the Washington school employees' retirement system
11 under RCW 41.40.750.

12 (~~(31)~~) (30) "Plan 3" means the Washington school employees'
13 retirement system plan 3 providing the benefits and funding
14 provisions covering persons who first became members of the system
15 on and after September 1, 2000, or who transfer from plan 2 under
16 RCW 41.35.510.

17 (~~(32)~~) (31) "Index" means, for any calendar year, that year's
18 annual average consumer price index, Seattle, Washington area, for
19 urban wage earners and clerical workers, all items, compiled by
20 the bureau of labor statistics, United States department of labor.

21 (~~(33)~~) (32) "Index A" means the index for the year prior to
22 the determination of a postretirement adjustment.

23 (~~(34)~~) (33) "Index B" means the index for the year prior to
24 index A.

25 (~~(35)~~) (34) "Adjustment ratio" means the value of index A
26 divided by index B.

27 (~~(36)~~) (35) "Separation from service" occurs when a person
28 has terminated all employment with an employer.

29 (~~(37)~~) (36) "Member account" or "member's account" for
30 purposes of plan 3 means the sum of the contributions and earnings
31 on behalf of the member in the defined contribution portion of
32 plan 3.

33 (~~(38)~~) (37) "Classified employee" means an employee of a
34 school district or an educational service district who is not
35 eligible for membership in the teachers' retirement system
36 established under chapter 41.32 RCW.

37

1 **Sec. 4.** RCW 41.04.270 and 1988 c 195 s 5 are each amended to read
2 as follows:

3 (1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26,
4 41.28, 41.32, 41.35, 41.40, or 43.43 RCW to the contrary, on and
5 after March 19, 1976, any member or former member who (a) receives
6 a retirement allowance earned by said former member as deferred
7 compensation from any public retirement system authorized by the
8 general laws of this state, or (b) is eligible to receive a
9 retirement allowance from any public retirement system listed in
10 RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary
11 of a disability allowance from any public retirement system listed
12 in RCW 41.50.030 shall be estopped from becoming a member of or
13 accruing any contractual rights whatsoever in any other public
14 retirement system listed in RCW 41.50.030: PROVIDED, That (a) and
15 (b) of this subsection shall not apply to persons who have
16 accumulated less than fifteen years service credit in any such
17 system.

18 (2) Nothing in this section is intended to apply to any
19 retirement system except those listed in RCW 41.50.030 and the
20 city employee retirement systems for Seattle, Tacoma, and
21 Spokane. Subsection (1)(b) of this section does not apply to a
22 dual member as defined in RCW 41.54.010.

23 NEW SECTION. **Sec. 5.** RCW 41.54.050 (Election to establish
24 membership in public employees' retirement system) is decodified.

25 NEW SECTION. **Sec. 6.** Sections 1 and 2 of this act take effect
26 March 1, 2002.

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