
ENGROSSED SUBSTITUTE SENATE BILL 5937

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Shin, Rasmussen, Jacobsen, Winsley, Kohl-Welles and McAuliffe; by request of Governor Locke and Superintendent of Public Instruction)

READ FIRST TIME 03/08/01.

1 AN ACT Relating to postretirement employment for teachers'
2 retirement system, public employees' retirement system, and school
3 employees' retirement system retirees; amending RCW 28A.405.900,
4 41.32.570, 41.40.037, 41.32.802, 41.32.860, 41.32.862, 41.35.060,
5 41.40.037, and 41.40.750; adding a new section to chapter 41.40 RCW;
6 creating new sections; providing effective dates; providing expiration
7 dates; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** (1) The department of retirement systems,
10 the office of the superintendent of public instruction, the department
11 of personnel, and the health care authority shall jointly develop
12 publications for use during the 2001-03 biennium to explain options
13 for, and implications of, postretirement employment for members and
14 retirees of the teachers' retirement system plan 1 and the public
15 employees' retirement system plan 1.

16 (2) The publications shall address such issues as: (a) Health
17 insurance coverage upon reemployment; (b) health benefit options upon
18 termination of postretirement employment; (c) sick leave, annual leave,
19 and other compensation practices; (d) options for, and implications of,

1 reentry into active retirement system membership; (e) hiring procedures
2 for retirees; and (f) collective bargaining rights and
3 responsibilities.

4 **Sec. 2.** RCW 28A.405.900 and 1990 c 33 s 404 are each amended to
5 read as follows:

6 Certificated employees subject to the provisions of RCW
7 28A.310.250, 28A.405.010 through 28A.405.240, 28A.405.400 through
8 28A.405.410, 28A.415.250, and 28A.405.900 shall not include those
9 certificated employees hired to replace certificated employees who have
10 been granted sabbatical, regular, or other leave by school districts,
11 and shall not include retirees hired for postretirement employment
12 under the provisions of this act.

13 It is not the intention of the legislature that this section apply
14 to any regularly hired certificated employee or that the legal or
15 constitutional rights of such employee be limited, abridged, or
16 abrogated.

17 **Sec. 3.** RCW 41.32.570 and 1999 c 387 s 1 are each amended to read
18 as follows:

19 (1)(a) If a retiree enters employment with an employer sooner than
20 one calendar month after his or her accrual date, the retiree's monthly
21 retirement allowance will be reduced by five and one-half percent for
22 every seven hours worked during that month. This reduction will be
23 applied each month until the retiree remains absent from employment
24 with an employer for one full calendar month.

25 (b) The benefit reduction provided in (a) of this subsection will
26 accrue for a maximum of one hundred forty hours per month. Any monthly
27 benefit reduction over one hundred percent will be applied to the
28 benefit the retiree is eligible to receive in subsequent months.

29 (2) Any retired teacher or retired administrator who enters service
30 in any public educational institution in Washington state and who has
31 satisfied the break in employment requirement of subsection (1) of this
32 section shall cease to receive pension payments while engaged in such
33 service(~~(: PROVIDED, That service may be rendered up to five hundred~~
34 ~~twenty-five hours per school year without reduction of pension.~~

35 ~~(3) In addition to the five hundred twenty-five hours of service~~
36 ~~permitted under subsection (2) of this section, a retired teacher or~~
37 ~~retired administrator may also serve only as a substitute teacher for~~

1 up to an additional three hundred fifteen hours per school year without
2 reduction of pension if:

3 (a) A school district, which is not a member of a multidistrict
4 substitute cooperative, determines that it has exhausted or can
5 reasonably anticipate that it will exhaust its list of qualified and
6 available substitutes and the school board of the district adopts a
7 resolution to make its substitute teachers who are retired teachers or
8 retired administrators eligible for the extended service once the list
9 of qualified and available substitutes has been exhausted. The
10 resolution by the school district shall state that the services of
11 retired teachers and retired administrators are necessary to address
12 the shortage of qualified and available substitutes. The resolution
13 shall be valid only for the school year in which it is adopted. The
14 district shall forward a copy of the resolution with a list of retired
15 teachers and retired administrators who have been employed as
16 substitute teachers to the department and may notify the retired
17 teachers and retired administrators included on the list of their right
18 to take advantage of the provisions of this subsection; or

19 (b) A multidistrict substitute cooperative determines that the
20 school districts have exhausted or can reasonably anticipate that they
21 will exhaust their list of qualified and available substitutes and each
22 of the school boards adopts a resolution to make their substitute
23 teachers who are retired teachers or retired administrators eligible
24 for the extended service once the list of qualified and available
25 substitutes has been exhausted. The resolutions by each of the school
26 districts shall state that the services of retired teachers and retired
27 administrators are necessary to address the shortage of qualified and
28 available substitutes. The resolutions shall be valid only for the
29 school year in which they are adopted. The cooperative shall forward
30 a copy of the resolutions with a list of retired teachers and retired
31 administrators who have been employed as substitute teachers to the
32 department and may notify the retired teachers and retired
33 administrators included on the list of their right to take advantage of
34 the provisions of this subsection.

35 (4) In addition to the five hundred twenty five hours of service
36 permitted under subsection (2) of this section, a retired administrator
37 or retired teacher may also serve as a substitute administrator up to
38 an additional one hundred five hours per school year without reduction
39 of pension if a school district board of directors adopts a resolution

1 ~~declaring that the services of a retired administrator or retired~~
2 ~~teacher are necessary because it cannot find a replacement~~
3 ~~administrator to fill a vacancy. The resolution shall be valid only~~
4 ~~for the school year in which it is adopted. The district shall forward~~
5 ~~a copy of the resolution with the name of the retired administrator or~~
6 ~~retired teacher who has been employed as a substitute administrator to~~
7 ~~the department.~~

8 ~~(5) In addition to the five hundred twenty five hours of service~~
9 ~~permitted under subsection (2) of this section and the one hundred five~~
10 ~~hours permitted under subsection (4) of this section, a retired~~
11 ~~principal may also serve as a substitute principal up to an additional~~
12 ~~two hundred ten hours per school year without a reduction of pension if~~
13 ~~a school district board of directors adopts a resolution declaring that~~
14 ~~the services of a retired principal are necessary because it cannot~~
15 ~~find a replacement principal to fill a vacancy. The resolution shall~~
16 ~~be valid only for the school year in which it is adopted. The district~~
17 ~~shall forward a copy of the resolution with the name of the retired~~
18 ~~principal who has been employed as a substitute principal to the~~
19 ~~department.~~

20 ~~(6) Subsection (2) of this section shall apply to all persons~~
21 ~~governed by the provisions of plan 1, regardless of the date of their~~
22 ~~retirement, but shall apply only to benefits payable after June 11,~~
23 ~~1986.~~

24 ~~(7) Subsection (3) of this section shall apply to all persons~~
25 ~~governed by the provisions of plan 1, regardless of the date of their~~
26 ~~retirement, but shall only apply to benefits payable after September 1,~~
27 ~~1994)), after the retiree has rendered service for more than one~~
28 ~~thousand five hundred hours in a school year.~~

29 ~~(3) The department shall collect and provide the state actuary with~~
30 ~~information relevant to the use of this section for the joint committee~~
31 ~~on pension policy.~~

32 ~~(4) The legislature reserves the right to amend or repeal this~~
33 ~~section in the future and no member or beneficiary has a contractual~~
34 ~~right to be employed for more than five hundred twenty-five hours per~~
35 ~~year without a reduction of his or her pension.~~

36 **Sec. 4.** RCW 41.40.037 and 1997 c 254 s 14 are each amended to read
37 as follows:

1 (1)(a) If a retiree enters employment with an employer sooner than
2 one calendar month after his or her accrual date, the retiree's monthly
3 retirement allowance will be reduced by five and one-half percent for
4 every eight hours worked during that month. This reduction will be
5 applied each month until the retiree remains absent from employment
6 with an employer for one full calendar month.

7 (b) The benefit reduction provided in (a) of this subsection will
8 accrue for a maximum of one hundred sixty hours per month. Any benefit
9 reduction over one hundred percent will be applied to the benefit the
10 retiree is eligible to receive in subsequent months.

11 (2)(a) A retiree from plan 1 who has satisfied the break in
12 employment requirement of subsection (1) of this section and who enters
13 employment with an employer may continue to receive pension payments
14 while engaged in such service for up to one thousand five hundred hours
15 of service in a calendar year without a reduction of pension.

16 (b) A retiree from plan 2 or plan 3 who has satisfied the break in
17 employment requirement of subsection (1) of this section((7)) may work
18 up to ((five months per)) eight hundred sixty-seven hours in a calendar
19 year in an eligible position, as defined in RCW 41.32.010, 41.35.010,
20 or 41.40.010, or as a fire fighter or law enforcement officer, as
21 defined in RCW 41.26.030, without suspension of his or her benefit.

22 (3) If the retiree opts to reestablish membership under RCW
23 41.40.023(12), he or she terminates his or her retirement status and
24 becomes a member. Retirement benefits shall not accrue during the
25 period of membership and the individual shall make contributions and
26 receive membership credit. Such a member shall have the right to again
27 retire if eligible in accordance with RCW 41.40.180. However, if the
28 right to retire is exercised to become effective before the member has
29 rendered two uninterrupted years of service, the retirement formula and
30 survivor options the member had at the time of the member's previous
31 retirement shall be reinstated.

32 (4) The department shall collect and provide the state actuary with
33 information relevant to the use of this section for the joint committee
34 on pension policy.

35 (5) The legislature reserves the right to amend or repeal this
36 section in the future and no member or beneficiary has a contractual
37 right to be employed for more than five months in a calendar year
38 without a reduction of his or her pension.

1 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act expire June 30,
2 2004.

3 NEW SECTION. **Sec. 6.** Section 4 of this act expires December 31,
4 2004.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.40 RCW
6 to read as follows:

7 Upon attainment of age seventy and one-half, an employed member
8 may, subject to this section, apply for the retirement benefit the
9 member is otherwise eligible to receive. The retirement benefit shall
10 begin to accrue on the first day of the calendar month following the
11 month that a member applies for a retirement benefit and has attained
12 age seventy and one-half. The benefit shall be calculated in
13 accordance with this chapter, except that the member may continue to be
14 employed. Upon retirement the retiree shall no longer be an active
15 member and shall not make contributions, nor receive service credit,
16 for future periods of employment while receiving his or her retirement
17 allowance.

18 NEW SECTION. **Sec. 8.** The office of the state actuary shall review
19 the actuarial impact of the temporary expansion of the postretirement
20 employment limitations provided by sections 3 and 4 of this act. No
21 later than July 1, 2003, the state actuary shall prepare a report for
22 the joint committee on pension policy regarding the fiscal and policy
23 impacts of this act. The joint committee shall solicit information
24 from the superintendent of public instruction, the department of
25 personnel, the office of financial management, the department of
26 retirement systems, and the health care authority regarding the program
27 impacts of this act and shall report to the legislative fiscal
28 committees no later than October 1, 2003, on any proposed changes or
29 improvements to this act. If the state actuary determines the
30 expansion of postretirement options under sections 3 and 4 of this act
31 has resulted in increased costs for the state retirement funds, the
32 joint committee report shall include a proposal for a process to charge
33 those employers who employ retirees pursuant to an extension of
34 sections 3 and 4 of this act for the costs incurred by the retirement
35 funds under the extension.

1 **Sec. 9.** RCW 41.32.802 and 1997 c 254 s 8 are each amended to read
2 as follows:

3 (1)(a) If a retiree enters employment with an employer sooner than
4 one calendar month after his or her accrual date, the retiree's monthly
5 retirement allowance will be reduced by five and one-half percent for
6 every seven hours worked during that month. This reduction will be
7 applied each month until the retiree remains absent from employment
8 with an employer for one full calendar month.

9 (b) The benefit reduction provided in (a) of this subsection will
10 accrue for a maximum of one hundred forty hours per month. Any benefit
11 reduction over one hundred percent will be applied to the benefit the
12 retiree is eligible to receive in subsequent months.

13 (2) A retiree who has satisfied the break in employment requirement
14 of subsection (1) of this section, may work up to (~~five months~~) eight
15 hundred sixty-seven hours per calendar year in an eligible position, as
16 defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter
17 or law enforcement officer, as defined in RCW 41.26.030, without
18 suspension of his or her benefit.

19 (3) If the retiree opts to reestablish membership under RCW
20 41.32.044, he or she terminates his or her retirement status and
21 immediately becomes a member. Retirement benefits shall not accrue
22 during the period of membership and the individual shall make
23 contributions and receive membership credit. Such a member shall have
24 the right to again retire if eligible.

25 **Sec. 10.** RCW 41.32.860 and 1997 c 254 s 7 are each amended to read
26 as follows:

27 (1) Except under RCW 41.32.862, no retiree shall be eligible to
28 receive such retiree's monthly retirement allowance if he or she is
29 employed in an eligible position as defined in RCW 41.40.010 (~~or~~),
30 41.32.010, or 41.35.010, or as a law enforcement officer or fire
31 fighter as defined in RCW 41.26.030.

32 (2) If a retiree's benefits have been suspended under this section,
33 his or her benefits shall be reinstated when the retiree terminates the
34 employment that caused the suspension of benefits. Upon reinstatement,
35 the retiree's benefits shall be actuarially recomputed pursuant to the
36 rules adopted by the department.

1 **Sec. 11.** RCW 41.32.862 and 1997 c 254 s 9 are each amended to read
2 as follows:

3 (1)(a) If a retiree enters employment with an employer sooner than
4 one calendar month after his or her accrual date, the retiree's monthly
5 retirement allowance will be reduced by five and one-half percent for
6 every seven hours worked during that month. This reduction will be
7 applied each month until the retiree remains absent from employment
8 with an employer for one full calendar month.

9 (b) The benefit reduction provided in (a) of this subsection will
10 accrue for a maximum of one hundred forty hours per month. Any benefit
11 reduction over one hundred percent will be applied to the benefit the
12 retiree is eligible to receive in subsequent months.

13 (2) A retiree who has satisfied the break in employment requirement
14 of subsection (1) of this section, may work up to (~~five months~~) eight
15 hundred sixty-seven hours per calendar year in an eligible position, as
16 defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter
17 or law enforcement officer, as defined in RCW 41.26.030, without
18 suspension of his or her benefit.

19 (3) If the retiree opts to reestablish membership under RCW
20 41.32.044, he or she terminates his or her retirement status and
21 immediately becomes a member. Retirement benefits shall not accrue
22 during the period of membership and the individual shall make
23 contributions and receive membership credit. Such a member shall have
24 the right to again retire if eligible.

25 **Sec. 12.** RCW 41.35.060 and 1998 c 341 s 7 are each amended to read
26 as follows:

27 (1)(a) If a retiree enters employment with an employer sooner than
28 one calendar month after his or her accrual date, the retiree's monthly
29 retirement allowance will be reduced by five and one-half percent for
30 every eight hours worked during that month. This reduction will be
31 applied each month until the retiree remains absent from employment
32 with an employer for one full calendar month.

33 (b) The benefit reduction provided in (a) of this subsection will
34 accrue for a maximum of one hundred sixty hours per month. Any benefit
35 reduction over one hundred percent will be applied to the benefit the
36 retiree is eligible to receive in subsequent months.

37 (2) A retiree who has satisfied the break in employment requirement
38 of subsection (1) of this section may work up to (~~five months~~) eight

1 hundred sixty-seven hours per calendar year in an eligible position, as
2 defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter
3 or law enforcement officer, as defined in RCW 41.26.030, without
4 suspension of his or her benefit.

5 (3) If the retiree opts to reestablish membership under RCW
6 41.35.030, he or she terminates his or her retirement status and
7 becomes a member. Retirement benefits shall not accrue during the
8 period of membership and the individual shall make contributions and
9 receive membership credit. Such a member shall have the right to again
10 retire if eligible in accordance with RCW 41.35.420 or 41.35.680.
11 However, if the right to retire is exercised to become effective before
12 the member has rendered two uninterrupted years of service, the
13 retirement formula and survivor options the member had at the time of
14 the member's previous retirement shall be reinstated.

15 **Sec. 13.** RCW 41.40.037 and 1997 c 254 s 14 are each amended to
16 read as follows:

17 (1)(a) If a retiree enters employment with an employer sooner than
18 one calendar month after his or her accrual date, the retiree's monthly
19 retirement allowance will be reduced by five and one-half percent for
20 every eight hours worked during that month. This reduction will be
21 applied each month until the retiree remains absent from employment
22 with an employer for one full calendar month.

23 (b) The benefit reduction provided in (a) of this subsection will
24 accrue for a maximum of one hundred sixty hours per month. Any benefit
25 reduction over one hundred percent will be applied to the benefit the
26 retiree is eligible to receive in subsequent months.

27 (2) A retiree who has satisfied the break in employment requirement
28 of subsection (1) of this section, may work up to (~~five months~~) eight
29 hundred sixty-seven hours per calendar year in an eligible position, as
30 defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter
31 or law enforcement officer, as defined in RCW 41.26.030, without
32 suspension of his or her benefit.

33 (3) If the retiree opts to reestablish membership under RCW
34 41.40.023(12), he or she terminates his or her retirement status and
35 becomes a member. Retirement benefits shall not accrue during the
36 period of membership and the individual shall make contributions and
37 receive membership credit. Such a member shall have the right to again
38 retire if eligible in accordance with RCW 41.40.180. However, if the

1 right to retire is exercised to become effective before the member has
2 rendered two uninterrupted years of service, the retirement formula and
3 survivor options the member had at the time of the member's previous
4 retirement shall be reinstated.

5 **Sec. 14.** RCW 41.40.750 and 1998 c 341 s 113 are each amended to
6 read as follows:

7 (1) Effective September 1, 2000, the membership of all plan 2
8 members currently employed in eligible positions in a school district
9 or educational service district and all plan 2 service credit for such
10 members, is transferred to the Washington school employees' retirement
11 system plan 2. Plan 2 members who have withdrawn their member
12 contributions for prior plan 2 service may restore contributions and
13 service credit to the Washington school employees' retirement system
14 plan 2 as provided under RCW 41.40.740.

15 (2)(a) The membership and previous service credit of a plan 2
16 member not employed in an eligible position on September 1, 2000, will
17 be transferred to the Washington school employees' retirement system
18 plan 2 when he or she becomes employed in an eligible position. Plan
19 2 members not employed in an eligible position on September 1, 2000,
20 who have withdrawn their member contributions for prior plan 2 service
21 may restore contributions and service credit to the Washington school
22 employees' retirement system plan 2 as provided under RCW 41.40.740.

23 (b) The membership and previous service credit of a plan 2 member
24 last employed by a school district or educational service district and
25 retired prior to September 1, 2000, will be transferred to the
26 Washington school employees' retirement system plan 2 if the member
27 opts to reestablish membership.

28 (3) Members who restore contributions and service credit under
29 subsection (1) or (2) of this section shall have their contributions
30 and service credit transferred to the Washington school employees'
31 retirement system.

32 NEW SECTION. **Sec. 15.** Except for sections 13 of this act which
33 takes effect December 31, 2004, this act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 July 1, 2001.

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