
SENATE BILL 6166

State of Washington**57th Legislature****2001 Regular Session****By** Senators Brown, Snyder, Long, Fraser, Rossi, Constantine, Spanel and B. Sheldon

Read first time 03/28/2001. Referred to Committee on Ways & Means.

1 AN ACT Relating to termination and restatement of plan 1 of the law
2 enforcement officers' and fire fighters' retirement system; amending
3 RCW 41.26.010, 41.26.040, 41.26.061, 44.44.040, 48.62.031, 48.62.051,
4 2.10.155, 26.09.138, 36.28A.010, 41.04.205, 41.04.270, 41.04.350,
5 41.04.400, 41.05.320, 41.18.210, 41.20.170, 41.20.175, 41.24.400,
6 41.32.800, 41.32.860, 41.35.230, 41.40.690, 41.40.850, 41.45.010,
7 41.45.010, 41.45.020, 41.45.050, 41.45.050, 41.45.070, 41.48.030,
8 41.48.050, 41.50.030, 41.50.055, 41.50.075, 41.50.075, 41.50.080,
9 41.50.090, 41.50.110, 41.50.112, 41.50.150, 41.50.255, 41.50.500,
10 41.50.500, 41.50.670, 43.84.092, 43.84.092, 43.79A.040, 46.52.130, and
11 72.72.060; reenacting and amending RCW 41.26.030, 6.15.020, 41.45.020,
12 41.45.060, 41.45.070, and 41.56.030; adding new chapters to Title 41
13 RCW; creating new sections; repealing RCW 41.26.005, 41.26.035,
14 41.26.045, 41.26.046, 41.26.047, 41.26.075, 41.26.080, 41.26.090,
15 41.26.100, 41.26.110, 41.26.115, 41.26.120, 41.26.125, 41.26.130,
16 41.26.135, 41.26.140, 41.26.150, 41.26.160, 41.26.161, 41.26.162,
17 41.26.170, 41.26.190, 41.26.192, 41.26.194, 41.26.195, 41.26.197,
18 41.26.200, 41.26.211, 41.26.221, 41.26.240, 41.26.250, 41.26.260,
19 41.26.270, 41.26.281, 41.26.3901, 41.26.3902, 41.26.3903, and
20 41.26.410; providing effective dates; providing an expiration date; and
21 declaring an emergency.

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

2 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND DECLARATION. Plan
3 1 of the Washington law enforcement officers' and fire fighters'
4 retirement system (LEOFF plan 1) has been closed to new members for
5 nearly a quarter of a century. During that time, LEOFF plan 1 has
6 achieved full funding and has assets which exceed all projected future
7 liabilities and has a surplus approaching one billion dollars. In
8 recognition of the contributions of working fire fighters and police
9 officers to LEOFF plan 1, it is the purpose of this chapter, in part,
10 to provide for an enhanced retirement benefit to LEOFF plan 1 members
11 which is managed and developed by the fire fighters and police officers
12 themselves.

13 LEOFF plan 1 also provides substantial postretirement health and
14 long-term care benefits. The financial burden of this benefit, which
15 is an integral part of LEOFF plan 1, falls exclusively on the cities,
16 counties, and fire districts that employed the retired fire fighters
17 and police officers. In recognition of the fiscal burdens facing these
18 political subdivisions, it is appropriate to provide an additional
19 source of funding to ensure the integrity of the benefit without
20 undermining the financial stability of the employing governments.

21 The supreme court of the state of Washington, in the 1956 decision
22 *Bakenhus v. City of Seattle*, established that the fire fighters and
23 police officers, active and retired, have a constitutionally protected
24 contractual right to a secure retirement benefit, funded on a sound
25 actuarial basis. While members have a constitutionally protected right
26 to the pension benefits that are provided as part of their contract of
27 employment, there is no such right in surplus assets which are
28 unnecessary to the actuarial soundness of the retirement plan.

29 The state retains the inherent power to terminate a retirement plan
30 and, upon the dedication of sufficient resources to ensure the
31 actuarial soundness of the benefits promised, is entitled to a
32 reversion of the surplus assets upon termination of the plan.

33 The legislature has determined that, in order to accomplish the
34 foregoing goals and objectives, it is in the best interest of the
35 members and beneficiaries of LEOFF plan 1 that the plan be terminated
36 and that a restated retirement plan with enhanced benefits be created.
37 It is further determined to be in the best interest of the health,
38 safety, and welfare of the citizens of the state that surplus assets

1 remaining after adequate actuarial provision for the obligated
2 retirement benefits revert to the state and be allocated for the
3 purposes outlined in this chapter.

4 It is the intent of the legislature that the LEOFF plan 1
5 termination be performed in accordance with the applicable provisions
6 of the federal internal revenue code and in recognition of the contract
7 rights of the members and beneficiaries of the plan to an actuarially
8 sound retirement program.

9 The legislature reserves the right to make such amendments and
10 modifications as may be necessary in the future to accomplish the goals
11 of this section, without any diminution of the rights and benefits of
12 the beneficiaries as they existed prior to July 1, 2001.

13 NEW SECTION. **Sec. 2.** TERMINATION OF LEOFF PLAN 1. Plan 1 of the
14 Washington law enforcement officers' and fire fighters' retirement
15 system (LEOFF plan 1) is hereby terminated. During the transition
16 between the termination of LEOFF plan 1 and the establishment of the
17 restated law enforcement officers' and fire fighters' retirement
18 system, all plan 1 benefits previously approved shall continue without
19 interruption.

20 NEW SECTION. **Sec. 3.** RESTATED LAW ENFORCEMENT OFFICERS' AND FIRE
21 FIGHTERS' RETIREMENT SYSTEM ESTABLISHED. The restated law enforcement
22 officers' and fire fighters' retirement system is hereby established as
23 provided in this chapter, to include the restated law enforcement
24 officers' and fire fighters' defined benefit retirement plan and the
25 restated law enforcement officers' and fire fighters' defined
26 contribution plan.

27 NEW SECTION. **Sec. 4.** RESTATED LAW ENFORCEMENT OFFICERS' AND FIRE
28 FIGHTERS' DEFINED BENEFIT RETIREMENT FUND ESTABLISHED. The restated
29 law enforcement officers' and fire fighters' defined benefit retirement
30 fund is created in the custody of the state treasurer. The fund shall
31 consist of assets transferred from the Washington law enforcement
32 officers' and fire fighters' system plan 1 retirement fund, investment
33 earnings, and other amounts deposited to the fund. The state treasurer
34 shall transfer to the defined benefit retirement fund an amount equal
35 to the present value of the fully projected liabilities of plan 1 of
36 the Washington law enforcement officers' and fire fighters' retirement

1 system as of December 31, 2000. The pension funding council shall
2 adopt the calculation of the present value amount, based on the advice
3 of the state actuary, the long-term economic assumptions in effect on
4 July 1, 2001, under chapter 41.45 RCW, and such other actuarial
5 analysis as the council may deem appropriate. The transfer of these
6 assets shall occur as soon as practical after July 1, 2001.

7 Expenditures from the restated law enforcement officers' and fire
8 fighters' defined benefit retirement fund may be used only for the
9 purposes of this chapter. Only the director of retirement systems or
10 the director's designee may authorize expenditures from the fund. No
11 appropriation is required for expenditures.

12 NEW SECTION. **Sec. 5.** STATE SURPLUS ASSETS RESERVE FUND
13 ESTABLISHED. (1) The state surplus assets reserve fund is created in
14 the state treasury. By January 1, 2002, the state surplus assets
15 reserve fund shall receive all assets of the Washington law enforcement
16 officers' and fire fighters' system plan 1 retirement fund remaining
17 after (a) the distribution to the restated law enforcement officers'
18 and fire fighters' defined benefit retirement fund required by section
19 4 of this act; (b) the transfer to the restated law enforcement
20 officers' and fire fighters' defined contribution plan fund required by
21 section 6 of this act; and (c) the distribution to the law enforcement
22 officers' and fire fighters' medical benefits risk pool under section
23 8 of this act and chapter 41.--- RCW (sections 301 through 311 of this
24 act).

25 (2) Sufficient assets shall be maintained in the state surplus
26 assets reserve fund at all times to ensure the actuarial soundness of
27 the defined benefits of the restated law enforcement officers' and fire
28 fighters' defined benefit retirement plan without the necessity of
29 further employee or employer contributions. Any actuarial shortfall in
30 the defined benefit plan shall be offset first from the assets of the
31 state surplus assets reserve fund. The state investment board shall
32 develop an investment policy, taking into account the purposes of the
33 reserve fund and the preservation of capital for the purpose of
34 accomplishing the objective of this section.

35 (3) The office of the state actuary shall perform an annual
36 actuarial valuation of the restated law enforcement officers' and fire
37 fighters' defined benefit plan to determine its continued actuarial
38 soundness. Such sums shall be transferred by the legislature from the

1 state surplus assets reserve fund as may be necessary from time to time
2 to maintain the actuarial soundness of the defined benefit plan.

3 (4) The remaining assets of the reserve fund shall be retained as
4 a budget reserve subject to the actuarial needs of the restated law
5 enforcement officers' and fire fighters' defined benefit plan. No
6 appropriation shall be made from the reserve fund for any fiscal year
7 unless the office of the state actuary has certified that the restated
8 law enforcement officers' and fire fighters' defined benefit plan
9 remains fully funded on a sound actuarial basis.

10 NEW SECTION. **Sec. 6.** THE RESTATED LAW ENFORCEMENT OFFICERS' AND
11 FIRE FIGHTERS' DEFINED CONTRIBUTION PLAN. The restated law enforcement
12 officers' and fire fighters' defined contribution plan fund is created
13 in the custody of the state treasurer. The fund shall consist of
14 twelve percent of those assets of the Washington law enforcement
15 officers' and fire fighters' system plan 1 retirement fund remaining in
16 the plan 1 fund subsequent to the transfer to the defined benefit
17 retirement fund required by section 4 of this act. The transfer of
18 these assets shall occur as soon as practical after July 1, 2001. Only
19 the director of retirement systems or the director's designee may
20 authorize expenditures from the defined contribution plan fund. No
21 appropriation is required for expenditures.

22 The defined contribution plan shall be developed and managed by a
23 council of advisors as provided in this section.

24 (1) The council of advisors shall consist of seven persons.

25 (a) Two members of the council of advisors shall be retired law
26 enforcement members of the retirement system established by this
27 chapter and one member shall be an active law enforcement member of the
28 retirement system, to be appointed by the governor, following
29 consultation with the president of the Washington state council of
30 police and sheriffs.

31 (b) Two members of the council of advisors shall be retired fire
32 fighter members of the retirement system established by this chapter
33 and one member shall be an active fire fighter who is a member of the
34 retirement system, to be appointed by the governor, following
35 consultation with the president of the Washington state council of fire
36 fighters.

1 (c) One member of the council of advisors shall be appointed by the
2 governor and shall have experience in defined contribution plan
3 administration.

4 (2) Members of the council shall serve terms of three years.
5 However, the governor may stagger the terms of the initial appointees
6 to the council so that approximately one-third of the members' terms
7 expire each year. Members of the council shall continue to hold office
8 until their successors are appointed, with no limit on the number of
9 terms that may be served. In the event of a vacancy on the council, a
10 replacement member shall be appointed in the same manner as the person
11 whom he or she shall replace.

12 (3) Members of the council shall be compensated for their service
13 under RCW 43.03.240 and shall be reimbursed for travel expenses as
14 provided in RCW 43.03.050 and 43.03.060.

15 (4) When the number of active employees in the retirement system
16 established by this chapter falls below two hundred, the council seats
17 held by active employees, upon the expiration of the then-current
18 terms, shall become retired member seats.

19 (5) The department of retirement systems shall provide technical
20 and design advice to the council of advisors and shall assist in the
21 creation of a defined contribution program for the active and retired
22 members of the plan. The state investment board shall advise the
23 council of advisors on the selection of any third party administrative
24 and investment advisors for a program of member-directed investments.
25 The council of advisors shall be responsible for advising the
26 department of retirement systems and the state investment board on
27 participant preferences to be reflected in the program design,
28 investment features, and implementation. There shall be no
29 discrimination in the formulation of benefits or the distribution of
30 assets among the active and retired members of the plan. The state
31 investment board and the council of advisors shall jointly develop an
32 investment policy for the collective assets of the defined contribution
33 plan taking into account the financial needs and interests of the
34 active and retired members, a reasonable rate of investment growth, and
35 the need for preservation of capital.

36 (6) An affirmative vote of five members of the council of advisors
37 is required to approve any action in the creation or implementation of
38 the defined contribution plan. No benefit may be established by the
39 council of advisors which creates an actuarial liability on the part of

1 the active or retired members or beneficiaries of the retirement
2 system, the employers of the members of the system, or the state of
3 Washington.

4 (7) The council is authorized to adopt rules as may be necessary or
5 reasonable and exercise all powers and perform all duties as prescribed
6 by this section.

7 (8) Upon the establishment of the member-directed investment
8 options and any third party administration, the council of advisors
9 shall cause the equitable distribution of the collective funds to
10 eligible beneficiaries. The manner and timing of the distribution
11 shall be determined in the discretion of the council of advisors. No
12 distribution or transfer of assets to members or beneficiaries shall be
13 made prior to July 1, 2003. Following the transfer of all collectively
14 held assets to the members or beneficiaries, the council of advisors
15 shall, jointly with the state investment board and the department of
16 retirement systems, have a continuing duty to monitor the efficiency of
17 any third party administration of the defined contribution plan and the
18 continued performance of the member-directed investment providers. The
19 council of advisors shall meet as may be necessary for the
20 accomplishment of this purpose.

21 (9) No property interest in the defined contribution plan benefits
22 provided for in this section shall be deemed to have existed until the
23 actual transfer of money from the collective funds of the defined
24 contribution plan to the individual account of a member or beneficiary.
25 No community property interest exists for any marriage dissolved prior
26 to the date of the transfer to the individual account of a member or
27 beneficiary.

28 NEW SECTION. **Sec. 7.** INVESTMENT OF FUNDS. (1) The state
29 investment board has the full power to invest, reinvest, manage,
30 contract, sell, or exchange investment money in (a) the restated law
31 enforcement officers' and fire fighters' defined benefit retirement
32 fund, (b) the restated law enforcement officers' and fire fighters'
33 defined contribution plan fund, and (c) the state surplus assets
34 reserve fund. All investment and operating costs of the state
35 investment board and the state treasurer associated with these funds
36 shall be paid under RCW 43.08.190, 43.33A.160, 43.79A.040, and
37 43.84.160. With the exception of these expenses, the earnings from the
38 investment of the funds shall be retained by the funds.

1 (2) All investments made by the state investment board shall be
2 made with the exercise of that degree of judgment and care under RCW
3 43.33A.140 and the investment policy established by the state
4 investment board.

5 (3) As deemed appropriate by the state investment board, money in
6 the funds may be commingled for investment with other funds under the
7 investment authority of the board.

8 NEW SECTION. **Sec. 8.** TRANSFER TO LEOFF MEDICAL BENEFITS RISK
9 POOL. As soon as practical after July 1, 2001, the state treasurer
10 shall transfer from the Washington law enforcement officers' and fire
11 fighters' system plan 1 retirement fund to the law enforcement
12 officers' and fire fighters' medical benefits risk pool under chapter
13 41.--- RCW (sections 301 through 311 of this act) an amount equal to
14 the distribution to the restated law enforcement officers' and fire
15 fighters' defined contribution plan fund required by section 6 of this
16 act. The distribution shall be for the exclusive purposes of chapter
17 41.--- RCW (sections 301 through 311 of this act).

18 **PART I**

19 **AMENDMENTS TO CHAPTER 41.26 RCW**

20 **Sec. 101.** RCW 41.26.010 and 1969 ex.s. c 209 s 1 are each amended
21 to read as follows:

22 This chapter shall be known and cited as the "Washington Law
23 Enforcement Officers' and Fire Fighters' Retirement System--Plan 2
24 Act".

25 **Sec. 102.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are
26 each reenacted and amended to read as follows:

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

29 (1) "Retirement system" means the "Washington law enforcement
30 officers' and fire fighters' retirement system plan 2" provided herein.

31 (2) ~~((a) "Employer" for plan 1 members, means the legislative~~
32 ~~authority of any city, town, county, or district or the elected~~
33 ~~officials of any municipal corporation that employs any law enforcement~~
34 ~~officer and/or fire fighter, any authorized association of such~~
35 ~~municipalities, and, except for the purposes of RCW 41.26.150, any~~

1 ~~labor guild, association, or organization, which represents the fire~~
2 ~~fighters or law enforcement officers of at least seven cities of over~~
3 ~~20,000 population and the membership of each local lodge or division of~~
4 ~~which is composed of at least sixty percent law enforcement officers or~~
5 ~~fire fighters as defined in this chapter.~~

6 ~~(b))~~ "Employer" ~~((for plan 2 members,))~~ means the following
7 entities to the extent that the entity employs any law enforcement
8 officer and/or fire fighter:

9 ~~((i))~~ (a) The legislative authority of any city, town, county, or
10 district;

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

12 ~~((iii))~~ (c) The governing body of any other general authority law
13 enforcement agency; or

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

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

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

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

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

35 (d) ~~((The term "law enforcement officer" also includes the~~
36 ~~executive secretary of a labor guild, association or organization~~
37 ~~(which is an employer under RCW 41.26.030(2)) if that individual has~~
38 ~~five years previous membership in the retirement system established in~~

1 ~~chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not~~
2 ~~apply to plan 2 members; and~~

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

11 (4) "Fire fighter" means:

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

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

18 (c) Supervisory fire fighter personnel; and

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

22 ~~(e) The executive secretary of a labor guild, association or~~
23 ~~organization (which is an employer under RCW 41.26.030(2) as now or~~
24 ~~hereafter amended), if such individual has five years previous~~
25 ~~membership in a retirement system established in chapter 41.16 or 41.18~~
26 ~~RCW. The provisions of this subsection (4)(e) shall not apply to plan~~
27 ~~2 members;~~

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

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

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

1 (6) "Surviving spouse" means the surviving widow or widower of a
2 member. (~~("Surviving spouse" shall not include the divorced spouse of~~
3 ~~a member except as provided in RCW 41.26.162.)~~)

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

8 (i) A natural born child;

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

11 (iii) A posthumous child;

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

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

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

23 (8) "Member" means any fire fighter, law enforcement officer, or
24 other person as would apply under subsection(~~(s)~~) (3) or (4) of this
25 section (~~((whose membership is transferred to the Washington law~~
26 ~~enforcement officers' and fire fighters' retirement system on or after~~
27 ~~March 1, 1970, and every law enforcement officer and fire fighter))~~) who
28 is employed in that capacity on or after (~~(such date)~~) October 1, 1977.

29 (9) "Retirement fund" means the "Washington law enforcement
30 officers' and fire fighters' (~~(retirement)~~) system plan 2 retirement
31 fund" as provided for (~~(herein)~~) in RCW 41.50.075.

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

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

37 (~~(b))~~) "Beneficiary" (~~((for plan 2 members,))~~) means any person in
38 receipt of a retirement allowance or other benefit provided by this

1 chapter resulting from service rendered to an employer by another
2 person.

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

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

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

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

1 ~~((i))~~ (a) The basic salary the member would have received had
2 such member not served in the legislature; or

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

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

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

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

37 ~~(b)) "Service" ((for plan 2 members,)) means periods of employment~~
38 ~~by a member for one or more employers for which basic salary is earned~~
39 ~~for ninety or more hours per calendar month which shall constitute a~~

1 service credit month. Periods of employment by a member for one or
2 more employers for which basic salary is earned for at least seventy
3 hours but less than ninety hours per calendar month shall constitute
4 one-half service credit month. Periods of employment by a member for
5 one or more employers for which basic salary is earned for less than
6 seventy hours shall constitute a one-quarter service credit month.

7 Members of the retirement system who are elected or appointed to a
8 state elective position may elect to continue to be members of this
9 retirement system.

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

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

24 (15) "Accumulated contributions" means the employee's contributions
25 made by a member, including any amount paid under RCW 41.50.165(2),
26 plus accrued interest credited thereon.

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

32 (17) "Actuarial valuation" means a mathematical determination of
33 the financial condition of a retirement plan. It includes the
34 computation of the present monetary value of benefits payable to
35 present members, and the present monetary value of future employer and
36 employee contributions, giving effect to mortality among active and
37 retired members and also to the rates of disability, retirement,
38 withdrawal from service, salary and interest earned on investments.

1 (18) (~~"Disability board" for plan 1 members means either the~~
2 ~~county disability board or the city disability board established in RCW~~
3 ~~41.26.110.~~

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

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

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

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

17 (a) ~~Hospital expenses: These are the charges made by a hospital,~~
18 ~~in its own behalf, for~~

19 (i) ~~Board and room not to exceed semiprivate room rate unless~~
20 ~~private room is required by the attending physician due to the~~
21 ~~condition of the patient.~~

22 (ii) ~~Necessary hospital services, other than board and room,~~
23 ~~furnished by the hospital.~~

24 (b) ~~Other medical expenses: The following charges are considered~~
25 ~~"other medical expenses", provided that they have not been considered~~
26 ~~as "hospital expenses".~~

27 (i) ~~The fees of the following:~~

28 (A) ~~A physician or surgeon licensed under the provisions of chapter~~
29 ~~18.71 RCW;~~

30 (B) ~~An osteopathic physician and surgeon licensed under the~~
31 ~~provisions of chapter 18.57 RCW;~~

32 (C) ~~A chiropractor licensed under the provisions of chapter 18.25~~
33 ~~RCW.~~

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

37 (iii) ~~The charges for the following medical services and supplies:~~

38 (A) ~~Drugs and medicines upon a physician's prescription;~~

39 (B) ~~Diagnostic x ray and laboratory examinations;~~

- 1 ~~(C) X-ray, radium, and radioactive isotopes therapy;~~
2 ~~(D) Anesthesia and oxygen;~~
3 ~~(E) Rental of iron lung and other durable medical and surgical~~
4 ~~equipment;~~
5 ~~(F) Artificial limbs and eyes, and casts, splints, and trusses;~~
6 ~~(G) Professional ambulance service when used to transport the~~
7 ~~member to or from a hospital when injured by an accident or stricken by~~
8 ~~a disease;~~
9 ~~(H) Dental charges incurred by a member who sustains an accidental~~
10 ~~injury to his or her teeth and who commences treatment by a legally~~
11 ~~licensed dentist within ninety days after the accident;~~
12 ~~(I) Nursing home confinement or hospital extended care facility;~~
13 ~~(J) Physical therapy by a registered physical therapist;~~
14 ~~(K) Blood transfusions, including the cost of blood and blood~~
15 ~~plasma not replaced by voluntary donors;~~
16 ~~(L) An optometrist licensed under the provisions of chapter 18.53~~
17 ~~RCW.~~

18 ~~(23))~~ (19) "Regular interest" means such rate as the director may
19 determine.

20 ~~((24))~~ (20) "Retiree" ~~((for persons who establish membership in~~
21 ~~the retirement system on or after October 1, 1977,))~~ means any member
22 in receipt of a retirement allowance or other benefit provided by this
23 chapter resulting from service rendered to an employer by such member.

24 ~~((25))~~ (21) "Director" means the director of the department.

25 ~~((26))~~ (22) "State actuary" or "actuary" means the person
26 appointed pursuant to RCW 44.44.010(2).

27 ~~((27))~~ (23) "State elective position" means any position held by
28 any person elected or appointed to statewide office or elected or
29 appointed as a member of the legislature.

30 ~~((28))~~ (24) "Plan 1" means the law enforcement officers' and fire
31 fighters' retirement system, plan 1 providing the benefits and funding
32 provisions covering persons who first became members of the system
33 prior to October 1, 1977, which plan was terminated effective July 1,
34 2001, and members transferred to the retirement system established by
35 chapter 41.26A RCW.

36 ~~((29))~~ (25) "Plan 2" means the law enforcement officers' and fire
37 fighters' retirement system, plan 2 providing the benefits and funding
38 provisions covering persons who first became members of the system on
39 and after October 1, 1977.

1 (~~(30)~~) (26) "Service credit year" means an accumulation of months
2 of service credit which is equal to one when divided by twelve.

3 (~~(31)~~) (27) "Service credit month" means a full service credit
4 month or an accumulation of partial service credit months that are
5 equal to one.

6 (~~(32)~~) (28) "General authority law enforcement agency" means any
7 agency, department, or division of a municipal corporation, political
8 subdivision, or other unit of local government of this state, and any
9 agency, department, or division of state government, having as its
10 primary function the detection and apprehension of persons committing
11 infractions or violating the traffic or criminal laws in general, but
12 not including the Washington state patrol. Such an agency, department,
13 or division is distinguished from a limited authority law enforcement
14 agency having as one of its functions the apprehension or detection of
15 persons committing infractions or violating the traffic or criminal
16 laws relating to limited subject areas, including but not limited to,
17 the state departments of natural resources, fish and wildlife, and
18 social and health services, the state gambling commission, the state
19 lottery commission, the state parks and recreation commission, the
20 state utilities and transportation commission, the state liquor control
21 board, and the state department of corrections.

22 **Sec. 103.** RCW 41.26.040 and 1991 c 35 s 15 are each amended to
23 read as follows:

24 The Washington law enforcement officers' and fire fighters'
25 retirement system plan 2 is hereby created for fire fighters and law
26 enforcement officers.

27 (1) (~~(Notwithstanding RCW 41.26.030(8),~~) All fire fighters and law
28 enforcement officers employed as such on or after (~~March 1, 1970~~)
29 October 1, 1977, on a full time fully compensated basis in this state
30 shall be members of the retirement system established by this chapter
31 with respect to all periods of service as such, to the exclusion of any
32 pension system existing under any prior act.

33 (2) (~~Any employee serving as a law enforcement officer or fire~~
34 ~~fighter on March 1, 1970, who is then making retirement contributions~~
35 ~~under any prior act shall have his membership transferred to the system~~
36 ~~established by this chapter as of such date. Upon retirement for~~
37 ~~service or for disability, or death, of any such employee, his~~
38 ~~retirement benefits earned under this chapter shall be computed and~~

1 paid. In addition, his benefits under the prior retirement act to
2 which he was making contributions at the time of this transfer shall be
3 computed as if he had not transferred. For the purpose of such
4 computations, the employee's creditability of service and eligibility
5 for service or disability retirement and survivor and all other
6 benefits shall continue to be as provided in such prior retirement act,
7 as if transfer of membership had not occurred. The excess, if any, of
8 the benefits so computed, giving full value to survivor benefits, over
9 the benefits payable under this chapter shall be paid whether or not
10 the employee has made application under the prior act. If the
11 employee's prior retirement system was the Washington public employees'
12 retirement system, payment of such excess shall be made by that system;
13 if the employee's prior retirement system was the statewide city
14 employees' retirement system, payment of such excess shall be made by
15 the employer which was the member's employer when his transfer of
16 membership occurred: PROVIDED, That any death in line of duty lump sum
17 benefit payment shall continue to be the obligation of that system as
18 provided in RCW 41.44.210; in the case of all other prior retirement
19 systems, payment of such excess shall be made by the employer which was
20 the member's employer when his transfer of membership occurred.

21 (3)) All funds held by any firemen's or policemen's relief and
22 pension fund shall remain in that fund for the purpose of paying the
23 obligations of the fund. The municipality shall continue to levy the
24 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be
25 used for the purpose of paying the benefits provided in chapters 41.16
26 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to
27 be paid from whatever financial sources the city has been using for
28 this purpose.

29 **Sec. 104.** RCW 41.26.061 and 1997 c 103 s 1 are each amended to
30 read as follows:

31 A member shall not receive a disability retirement benefit under
32 RCW ((41.26.120, 41.26.125, 41.26.130, or)) 41.26.470 if the disability
33 is the result of criminal conduct by the member committed after April
34 21, 1997.

35 **PART II**

36 **CHAPTER 41.26A RCW: RESTATED LEOFF RETIREMENT SYSTEM**

1 NEW SECTION. **Sec. 201.** APPLICATION OF CHAPTER. This chapter
2 applies to members of the restated law enforcement officers' and fire
3 fighters' retirement system. Membership in the system is limited to
4 those persons who were members of plan 1 of the law enforcement
5 officers' and fire fighters' retirement system under chapter 41.26 RCW
6 prior to July 1, 2001.

7 NEW SECTION. **Sec. 202.** DEFINITIONS. The definitions in this
8 section apply throughout this chapter unless the context clearly
9 requires otherwise.

10 (1) "Retirement system" means the restated law enforcement
11 officers' and fire fighters' retirement system.

12 (2) "Employer" means the legislative authority of any city, town,
13 county, or district or the elected officials of any municipal
14 corporation that employs any law enforcement officer and/or fire
15 fighter, any authorized association of such municipalities, and, except
16 for the purposes of section 225 of this act, any labor guild,
17 association, or organization, which represents the fire fighters or law
18 enforcement officers of at least seven cities of over twenty thousand
19 population and the membership of each local lodge or division of which
20 is composed of at least sixty percent law enforcement officers or fire
21 fighters as defined in this chapter.

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

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

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

35 (c) Only such full-time commissioned law enforcement personnel as
36 have been appointed to offices, positions, or ranks in the police
37 department which have been specifically created or otherwise expressly
38 provided for and designated by city charter provision or by ordinance

1 enacted by the legislative body of the city shall be considered city
2 police officers;

3 (d) The term "law enforcement officer" also includes the executive
4 secretary of a labor guild, association, or organization (which is an
5 employer under this section) if that individual has five years previous
6 membership in the retirement system established in chapter 41.20 RCW;
7 and

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

16 (4) "Fire fighter" means:

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

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

23 (c) Supervisory fire fighter personnel;

24 (d) Any full-time executive secretary of an association of fire
25 protection districts authorized under RCW 52.12.031;

26 (e) The executive secretary of a labor guild, association, or
27 organization (which is an employer under this section), if such
28 individual has five years previous membership in a retirement system
29 established in chapter 41.16 or 41.18 RCW;

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

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

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

1 (6) "Surviving spouse" means the surviving widow or widower of a
2 member. "Surviving spouse" shall not include the divorced spouse of a
3 member except as provided in section 228 of this act.

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

8 (i) A natural born child;

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

11 (iii) A posthumous child;

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

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

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

23 (8) "Member" means any fire fighter, law enforcement officer, or
24 other person as would apply under subsection (3) or (4) of this section
25 whose membership is transferred to the Washington law enforcement
26 officers' and fire fighters' retirement system on or after March 1,
27 1970, and every law enforcement officer and fire fighter who is
28 employed in that capacity on or after such date.

29 (9) "Retirement fund" means the restated law enforcement officers'
30 and fire fighters' defined benefit retirement fund.

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

33 (11) "Beneficiary" means any person in receipt of a retirement
34 allowance, disability allowance, death benefit, or any other benefit
35 described herein.

36 (12) "Final average salary" means (a) for a member holding the same
37 position or rank for a minimum of twelve months preceding the date of
38 retirement, the basic salary attached to such same position or rank at
39 time of retirement; (b) for any other member, including a civil service

1 member who has not served a minimum of twelve months in the same
2 position or rank preceding the date of retirement, the average of the
3 greatest basic salaries payable to such member during any consecutive
4 twenty-four month period within such member's last ten years of service
5 for which service credit is allowed, computed by dividing the total
6 basic salaries payable to such member during the selected twenty-four
7 month period by twenty-four; (c) in the case of disability of any
8 member, the basic salary payable to such member at the time of
9 disability retirement; (d) in the case of a member who hereafter vests
10 pursuant to section 216 of this act, the basic salary payable to such
11 member at the time of vesting.

12 (13) "Basic salary" means the basic monthly rate of salary or
13 wages, including longevity pay but not including overtime earnings or
14 special salary or wages, upon which pension or retirement benefits will
15 be computed and upon which employer contributions and salary deductions
16 will be based.

17 (14) "Service" means all periods of employment for an employer as
18 a fire fighter or law enforcement officer, for which compensation is
19 paid, together with periods of suspension not exceeding thirty days in
20 duration. For the purposes of this chapter service also includes
21 service in the armed forces of the United States as provided in section
22 230 of this act. Credit shall be allowed for all service credit months
23 of service rendered by a member from and after the member's initial
24 commencement of employment as a fire fighter or law enforcement
25 officer, during which the member worked for seventy or more hours, or
26 was on disability leave or disability retirement. Only service credit
27 months of service shall be counted in the computation of any retirement
28 allowance or other benefit provided for in this chapter.

29 (a) For members retiring after May 21, 1971, who were employed
30 under the coverage of a prior pension act before March 1, 1970,
31 "service" also includes (i) such military service not exceeding five
32 years as was creditable to the member as of March 1, 1970, under the
33 member's particular prior pension act, and (ii) such other periods of
34 service as were then creditable to a particular member under the
35 provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no
36 event shall credit be allowed for any service rendered prior to March
37 1, 1970, where the member at the time of rendition of such service was
38 employed in a position covered by a prior pension act, unless such

1 service, at the time credit is claimed therefor, is also creditable
2 under the provisions of such prior act.

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

6 (15) "Accumulated contributions" means the employee's contributions
7 made by a member, including any amount paid under RCW 41.50.165(2),
8 plus accrued interest credited thereon.

9 (16) "Actuarial reserve" means a method of financing a pension or
10 retirement plan wherein reserves are accumulated as the liabilities for
11 benefit payments are incurred in order that sufficient funds will be
12 available on the date of retirement of each member to pay the member's
13 future benefits during the period of retirement.

14 (17) "Actuarial valuation" means a mathematical determination of
15 the financial condition of a retirement plan. It includes the
16 computation of the present monetary value of benefits payable to
17 present members, and the present monetary value of future employer and
18 employee contributions, giving effect to mortality among active and
19 retired members and also to the rates of disability, retirement,
20 withdrawal from service, salary and interest earned on investments.

21 (18) "Disability board" means either the county disability board or
22 the city disability board established in section 218 of this act.

23 (19) "Disability leave" means the period of six months or any
24 portion thereof during which a member is on leave at an allowance equal
25 to the member's full salary prior to the commencement of disability
26 retirement.

27 (20) "Disability retirement" means the period following termination
28 of a member's disability leave, during which the member is in receipt
29 of a disability retirement allowance.

30 (21) "Position" means the employment held at any particular time,
31 which may or may not be the same as civil service rank.

32 (22) "Medical services" include the following as minimum services
33 to be provided. Reasonable charges for these services shall be paid in
34 accordance with section 225 of this act.

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

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

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

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

6 (i) The fees of the following:

7 (A) A physician or surgeon licensed under the provisions of chapter
8 18.71 RCW;

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

11 (C) A chiropractor licensed under the provisions of chapter 18.25
12 RCW.

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

16 (iii) The charges for the following medical services and supplies:

17 (A) Drugs and medicines upon a physician's prescription;

18 (B) Diagnostic x-ray and laboratory examinations;

19 (C) X-ray, radium, and radioactive isotopes therapy;

20 (D) Anesthesia and oxygen;

21 (E) Rental of iron lung and other durable medical and surgical
22 equipment;

23 (F) Artificial limbs and eyes, and casts, splints, and trusses;

24 (G) Professional ambulance service when used to transport the
25 member to or from a hospital when injured by an accident or stricken by
26 a disease;

27 (H) Dental charges incurred by a member who sustains an accidental
28 injury to his or her teeth and who commences treatment by a legally
29 licensed dentist within ninety days after the accident;

30 (I) Nursing home confinement or hospital extended care facility;

31 (J) Physical therapy by a registered physical therapist;

32 (K) Blood transfusions, including the cost of blood and blood
33 plasma not replaced by voluntary donors;

34 (L) An optometrist licensed under the provisions of chapter 18.53
35 RCW.

36 (23) "Regular interest" means such rate as the director may
37 determine.

38 (24) "Director" means the director of the department.

1 (25) "State actuary" or "actuary" means the person appointed
2 pursuant to RCW 44.44.010(2).

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

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

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

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

26 NEW SECTION. **Sec. 203.** SYSTEM CREATED--MEMBERSHIP--FUNDS. The
27 restated law enforcement officers' and fire fighters' retirement system
28 is hereby created for fire fighters and law enforcement officers.

29 (1) Notwithstanding section 202(8) of this act, all fire fighters
30 and law enforcement officers employed as such on or after March 1,
31 1970, on a full-time fully compensated basis in this state shall be
32 members of the retirement system established by this chapter with
33 respect to all periods of service as such, to the exclusion of any
34 pension system existing under any prior act.

35 (2) Any employee serving as a law enforcement officer or fire
36 fighter on March 1, 1970, who is then making retirement contributions
37 under any prior act shall have his or her membership transferred to the
38 system established by this chapter as of such date. Upon retirement

1 for service or for disability, or death, of any such employee, his or
2 her retirement benefits earned under this chapter shall be computed and
3 paid. In addition, his or her benefits under the prior retirement act
4 to which he or she was making contributions at the time of this
5 transfer shall be computed as if he or she had not transferred. For
6 the purpose of such computations, the employee's creditability of
7 service and eligibility for service or disability retirement and
8 survivor and all other benefits shall continue to be as provided in
9 such prior retirement act, as if transfer of membership had not
10 occurred. The excess, if any, of the benefits so computed, giving full
11 value to survivor benefits, over the benefits payable under this
12 chapter shall be paid whether or not the employee has made application
13 under the prior act. If the employee's prior retirement system was the
14 Washington public employees' retirement system, payment of such excess
15 shall be made by that system; if the employee's prior retirement system
16 was the statewide city employees' retirement system, payment of such
17 excess shall be made by the employer which was the member's employer
18 when his or her transfer of membership occurred: PROVIDED, That any
19 death in line of duty lump sum benefit payment shall continue to be the
20 obligation of that system as provided in RCW 41.44.210; in the case of
21 all other prior retirement systems, payment of such excess shall be
22 made by the employer which was the member's employer when his or her
23 transfer of membership occurred.

24 (3) All funds held by any firemen's or policemen's relief and
25 pension fund shall remain in that fund for the purpose of paying the
26 obligations of the fund. The municipality shall continue to levy the
27 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be
28 used for the purpose of paying the benefits provided in chapters 41.16
29 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to
30 be paid from whatever financial sources the city has been using for
31 this purpose.

32 NEW SECTION. **Sec. 204.** "MINIMUM MEDICAL AND HEALTH STANDARDS"
33 DEFINED. The term "minimum medical and health standards" means minimum
34 medical and health standards adopted by the department under this
35 chapter.

36 NEW SECTION. **Sec. 205.** MINIMUM MEDICAL AND HEALTH STANDARDS.
37 Notwithstanding any other provision of law after February 19, 1974, no

1 law enforcement officer or fire fighter, may become eligible for
2 coverage in the pension system established by this chapter until the
3 individual has met and has been certified as having met minimum medical
4 and health standards: PROVIDED, That an elected sheriff or an
5 appointed chief of police or fire chief, shall not be required to meet
6 the age standard: PROVIDED FURTHER, That in cities and towns having
7 not more than two law enforcement officers and/or not more than two
8 fire fighters and if one or more of such persons do not meet the
9 minimum medical and health standards as required by the provisions of
10 this chapter, then such person or persons may join any other pension
11 system that the city has available for its other employees: AND
12 PROVIDED FURTHER, That for one year after February 19, 1974, any such
13 medical or health standard now existing or hereinafter adopted, insofar
14 as it establishes a maximum age beyond which an applicant is to be
15 deemed ineligible for coverage, shall be waived as to any applicant for
16 employment or reemployment who is otherwise eligible except for his or
17 her age, who has been a member of any one or more of the retirement
18 systems created by chapter 41.20 RCW and who has restored all
19 contributions which he or she has previously withdrawn from any such
20 system or systems.

21 NEW SECTION. **Sec. 206.** MINIMUM MEDICAL AND HEALTH
22 STANDARDS--BOARD TO ADOPT--PUBLICATION AND DISTRIBUTION--EMPLOYER
23 CERTIFICATION PROCEDURES. The department shall adopt minimum medical
24 and health standards for membership coverage into the retirement
25 system. In adopting such standards the department shall consider
26 existing standards recommended by the international association of
27 chiefs of police and the international association of fire fighters,
28 and shall adopt equal or higher standards, together with appropriate
29 standards and procedures to ensure uniform compliance with this
30 chapter. The standards when adopted shall be published and distributed
31 to each employer, and each employer shall adopt certification
32 procedures and such other procedures as are required to ensure that no
33 law enforcement officer or fire fighter receives membership coverage
34 unless and until he or she has actually met minimum medical and health
35 standards: PROVIDED, That an elected sheriff or an appointed chief of
36 police, fire chief, or director of public safety shall not be required
37 to meet the age standard. The department may amend the minimum medical
38 and health standards as experience indicates, even if the standards as

1 so amended are lower or less rigid than those recommended by the
2 international associations mentioned above. The cost of the medical
3 examination contemplated by this section is to be paid by the employer.

4 NEW SECTION. **Sec. 207.** MINIMUM MEDICAL AND HEALTH
5 STANDARDS--EXEMPTIONS--EMPLOYER MAY ADOPT HIGHER STANDARDS. Nothing in
6 sections 204 through 206 of this act shall apply to any fire fighters
7 or law enforcement officers who are employed as such on or before
8 August 1, 1971, as long as they continue in such employment; nor to
9 promotional appointments after becoming a member in the police or fire
10 department of any employer nor to the reemployment of a law enforcement
11 officer or fire fighter by the same or a different employer within six
12 months after the termination of his or her employment, nor to the
13 reinstatement of a law enforcement officer or fire fighter who has been
14 on military or disability leave, disability retirement status, or leave
15 of absence status. Nothing in this chapter shall be deemed to prevent
16 any employer from adopting higher medical and health standards than
17 those which are adopted by the department.

18 NEW SECTION. **Sec. 208.** SPECIAL DEATH BENEFIT--DEATH IN THE COURSE
19 OF EMPLOYMENT. (1) A one hundred fifty thousand dollar death benefit
20 shall be paid to the member's estate, or such person or persons, trust
21 or organization as the member shall have nominated by written
22 designation duly executed and filed with the department. If there be
23 no such designated person or persons still living at the time of the
24 member's death, such member's death benefit shall be paid to the
25 member's surviving spouse as if in fact such spouse had been nominated
26 by written designation, or if there be no such surviving spouse, then
27 to such member's legal representatives.

28 (2) The benefit under this section shall be paid only where death
29 occurs as a result of injuries sustained in the course of employment.
30 The determination of eligibility for the benefit shall be made
31 consistent with Title 51 RCW by the department of labor and industries.
32 The department of labor and industries shall notify the department of
33 retirement systems by order under RCW 51.52.050.

34 NEW SECTION. **Sec. 209.** EXEMPTION FROM JUDICIAL PROCESS,
35 TAXES--EXCEPTIONS--DEDUCTION FOR INSURANCE UPON REQUEST. (1) Subject
36 to subsections (2) and (3) of this section, the right of a person to a

1 retirement allowance, disability allowance, or death benefit, to the
2 return of accumulated contributions, the retirement, disability, or
3 death allowance itself, any optional benefit, any other right accrued
4 or accruing to any person under the provisions of this chapter, and the
5 moneys in the fund created under this chapter, are hereby exempt from
6 any state, county, municipal, or other local tax and shall not be
7 subject to execution, garnishment, attachment, the operation of
8 bankruptcy or insolvency laws, or any other process of law whatsoever,
9 and shall be unassignable.

10 (2) On the written request of any person eligible to receive
11 benefits under this section, the department may deduct from such
12 payments the premiums for life, health, or other insurance. The
13 request on behalf of any child or children shall be made by the legal
14 guardian of such child or children. The department may provide for
15 such persons one or more plans of group insurance, through contracts
16 with regularly constituted insurance carriers or health care service
17 contractors.

18 (3) Subsection (1) of this section shall not prohibit the
19 department from complying with (a) a wage assignment order for child
20 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
21 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
22 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
23 benefits assignment order issued by the department, (e) a court order
24 directing the department to pay benefits directly to an obligee under
25 a dissolution order as defined in RCW 41.50.500(3) which fully complies
26 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
27 order expressly authorized by federal law.

28 NEW SECTION. **Sec. 210.** NO BOND REQUIRED ON APPEAL TO COURT. No
29 bond of any kind shall be required of a claimant appealing to the
30 superior court, the court of appeals, or the supreme court from a
31 decision of the director affecting such claimant's right to retirement
32 or disability benefits.

33 NEW SECTION. **Sec. 211.** BENEFIT CALCULATION--LIMITATION. (1) The
34 annual compensation taken into account in calculating retiree benefits
35 under this system shall not exceed the limits imposed by section
36 401(a)(17) of the federal internal revenue code for qualified trusts.

1 (2) The department shall adopt rules as necessary to implement this
2 section.

3 NEW SECTION. **Sec. 212.** ESTABLISHING, RESTORING SERVICE CREDIT.

4 Notwithstanding any provision to the contrary, persons who fail to:

5 (1) Establish allowable membership service not previously credited;

6 (2) Restore all or a part of that previously credited membership
7 service represented by withdrawn contributions; or

8 (3) Restore service credit represented by a lump sum payment in
9 lieu of benefits, before the deadline established by statute, may do so
10 under the conditions set forth in RCW 41.50.165.

11 NEW SECTION. **Sec. 213.** DISABILITY RETIREMENT--CRIMINAL CONDUCT.

12 A member shall not receive a disability retirement benefit under
13 sections 220 through 222 of this act if the disability is the result of
14 criminal conduct by the member committed after April 21, 1997.

15 NEW SECTION. **Sec. 214.** FALSIFICATION--PENALTY. Any employer,

16 member, or beneficiary who knowingly makes false statements or
17 falsifies or permits to be falsified any record or records of the
18 retirement system in an attempt to defraud the retirement system, is
19 guilty of a felony.

20 NEW SECTION. **Sec. 215.** FUNDING TOTAL LIABILITY OF SYSTEM. No

21 employer or member contribution is required. The total liability of
22 the retirement system is funded as provided in sections 4 and 5 of this
23 act.

24 NEW SECTION. **Sec. 216.** RETIREMENT FOR SERVICE. Retirement of a

25 member for service shall be made by the department as follows:

26 (1) Any member having five or more service credit years of service
27 and having attained the age of fifty years shall be eligible for a
28 service retirement allowance and shall be retired upon the member's
29 written request effective the first day following the date upon which
30 the member is separated from service.

31 (2) Any member having five or more service credit years of service,
32 who terminates his or her employment with any employer, may leave his
33 or her contributions in the fund. Any employee who so elects, upon
34 attaining age fifty, shall be eligible to apply for and receive a

1 service retirement allowance based on his or her years of service,
2 commencing on the first day following his or her attainment of age
3 fifty.

4 (3) Any member selecting optional vesting under subsection (2) of
5 this section with less than twenty service credit years of service
6 shall not be covered by the provisions of section 225 of this act, and
7 the member's survivors shall not be entitled to the benefits of section
8 226 of this act unless his or her death occurs after he or she has
9 attained the age of fifty years. Those members selecting this optional
10 vesting with twenty or more years service shall not be covered by the
11 provisions of section 225 of this act until the attainment of the age
12 of fifty years. A member selecting this optional vesting, with less
13 than twenty service credit years of service credit, who dies prior to
14 attaining the age of fifty years, shall have paid from the restated law
15 enforcement officers' and fire fighters' defined benefit retirement
16 fund, to such member's surviving spouse, if any, otherwise to such
17 beneficiary as the member shall have designated in writing, or if no
18 such designation has been made, to the personal representative of his
19 or her estate, a lump sum which is equal to the amount of such member's
20 accumulated contributions plus accrued interest. If the vested member
21 has twenty or more service credit years of service credit the surviving
22 spouse or children shall then become eligible for the benefits of
23 section 226 of this act regardless of the member's age at the time of
24 his or her death, to the exclusion of the lump sum amount provided by
25 this subsection.

26 (4) Any member who has attained the age of sixty years shall be
27 retired on the first day of the calendar month next succeeding that in
28 which said member shall have attained the age of sixty and may not
29 thereafter be employed as a law enforcement officer or fire fighter:
30 PROVIDED, That for any member who is elected or appointed to the office
31 of sheriff, chief of police, or fire chief, his or her election or
32 appointment shall be considered as a waiver of the age sixty provision
33 for retirement and nonemployment for whatever number of years remain in
34 his or her present term of office and any succeeding periods for which
35 he or she may be so elected or appointed. The provisions of this
36 subsection shall not apply to any member who is employed as a law
37 enforcement officer or fire fighter on March 1, 1970.

1 NEW SECTION. **Sec. 217.** ALLOWANCE ON RETIREMENT FOR SERVICE. A
2 member upon retirement for service shall receive a monthly retirement
3 allowance computed according to his or her completed creditable service
4 credit years of service as follows: Five years but under ten years,
5 one-twelfth of one percent of his or her final average salary for each
6 month of service; ten years but under twenty years, one-twelfth of one
7 and one-half percent of his or her final average salary for each month
8 of service; and twenty years and over one-twelfth of two percent of his
9 or her final average salary for each month of service: PROVIDED, That
10 the recipient of a retirement allowance who shall return to service as
11 a law enforcement officer or fire fighter shall be considered to have
12 terminated his or her retirement status and he or she shall immediately
13 become a member of the retirement system with the status of membership
14 he or she had as of the date of retirement. Retirement benefits shall
15 be suspended during the period of his or her return to service and he
16 or she shall make contributions and receive service credit. Such a
17 member shall have the right to again retire at any time and his or her
18 retirement allowance shall be recomputed, and paid, based upon
19 additional service rendered and any change in final average salary:
20 PROVIDED FURTHER, That no retirement allowance paid pursuant to this
21 section shall exceed sixty percent of final average salary, except as
22 such allowance may be increased by virtue of section 238 of this act.

23 NEW SECTION. **Sec. 218.** CITY AND COUNTY DISABILITY BOARDS
24 AUTHORIZED. (1) All claims for disability shall be acted upon and
25 either approved or disapproved by either type of disability board
26 created under this section.

27 (a) Each city having a population of twenty thousand or more shall
28 establish a disability board having jurisdiction over all members
29 employed by the cities and composed of the following five members: Two
30 members of the city legislative body to be appointed by the mayor, one
31 active or retired fire fighter to be elected by the fire fighters
32 employed by or retired from the city, one active or retired law
33 enforcement officer to be elected by the law enforcement officers
34 employed by or retired from the city, and one member from the public at
35 large who resides within the city to be appointed by the other four
36 members designated in this subsection. Retired members who are subject
37 to the jurisdiction of the board have both the right to elect and the
38 right to be elected under this section. Each of the elected members

1 shall serve a two-year term. The members appointed pursuant to this
2 subsection shall serve for two-year terms: PROVIDED, That cities of
3 the first class only, shall retain existing firemen's pension boards
4 established pursuant to RCW 41.16.020 and existing boards of trustees
5 of the relief and pension fund of the police department as established
6 pursuant to RCW 41.20.010 which such boards shall have authority to act
7 upon and approve or disapprove claims for disability by fire fighters
8 or law enforcement officers as provided under this chapter. No
9 disability boards shall be established under the authority of this
10 subsection (1)(a) after December 31, 2001.

11 (b) Each county shall establish a disability board having
12 jurisdiction over all members residing in the county and not employed
13 by a city in which a disability board is established. The county
14 disability board so created shall be composed of five members to be
15 chosen as follows: One member of the legislative body of the county to
16 be appointed by the county legislative body, one member of a city or
17 town legislative body located within the county which does not contain
18 a city disability board established pursuant to (a) of this subsection
19 to be chosen by a majority of the mayors of such cities and towns
20 within the county which does not contain a city disability board, one
21 fire fighter or retired fire fighter to be elected by the fire fighters
22 employed or retired in the county who are not employed by or retired
23 from a city in which a disability board is established, one law
24 enforcement officer or retired law enforcement officer to be elected by
25 the law enforcement officers employed in or retired from the county who
26 are not employed by or retired from a city in which a disability board
27 is established, and one member from the public at large who resides
28 within the county but does not reside within a city in which a city
29 disability board is established, to be appointed by the other four
30 members designated in this subsection. However, in counties with a
31 population less than sixty thousand, the member of the disability board
32 appointed by a majority of the mayors of the cities and towns within
33 the county that do not contain a city disability board must be a
34 resident of one of the cities and towns but need not be a member of a
35 city or town legislative body. Retired members who are subject to the
36 jurisdiction of the board have both the right to elect and the right to
37 be elected under this section. All members appointed or elected
38 pursuant to this subsection shall serve for two-year terms.

1 (2) The members of both the county and city disability boards shall
2 not receive compensation for their service upon the boards but the
3 members shall be reimbursed by their respective county or city for all
4 expenses incidental to such service as to the amount authorized by law.

5 (3) The disability boards authorized for establishment by this
6 section shall perform all functions, exercise all powers, and make all
7 such determinations as specified in this chapter.

8 NEW SECTION. **Sec. 219.** DIRECTOR TO ADOPT RULES GOVERNING
9 DISABILITY BOARDS. (1) The director shall adopt rules, in accordance
10 with chapter 34.05 RCW, under which each disability board shall execute
11 its disability retirement duties under this chapter. The rules shall
12 include, but not be limited to, the following:

13 (a) Standards governing the type and manner of presentation of
14 medical, employability, and other evidence before disability boards;
15 and

16 (b) Standards governing the necessity and frequency of medical and
17 employability reexaminations of persons receiving disability benefits.

18 (2) If the director determines that an order or determination of a
19 disability board was not processed in accordance with the rules
20 established under this section, the director may remand the order or
21 determination for further proceedings consistent with the rules.

22 NEW SECTION. **Sec. 220.** RETIREMENT FOR DISABILITY INCURRED IN THE
23 LINE OF DUTY. Any member, regardless of age or years of service, may
24 be retired by the disability board, subject to approval by the
25 director, for any disability incurred in the line of duty which has
26 been continuous since his or her discontinuance of service and which
27 renders the member unable to continue service. No disability
28 retirement allowance shall be paid until the expiration of a period of
29 six months after the discontinuance of service during which period the
30 member, if found to be physically or mentally unfit for duty by the
31 disability board following receipt of his or her application for
32 disability retirement, shall be granted a disability leave by the
33 disability board and shall receive an allowance equal to the full
34 monthly salary and shall continue to receive all other benefits
35 provided to active employees from the employer for such period.
36 However, if, at any time during the initial six-month period, the
37 disability board finds the beneficiary is no longer disabled, the

1 disability leave allowance shall be canceled and the member shall be
2 restored to duty in the same rank or position, if any, held by the
3 beneficiary at the time the member became disabled. Applications for
4 disability retirement shall be processed in accordance with the
5 following procedures:

6 (1) Any member who believes he or she is or is believed to be
7 physically or mentally disabled shall be examined by such medical
8 authority as the disability board shall employ, upon application of the
9 member, or a person acting in his or her behalf, stating that the
10 member is disabled, either physically or mentally: PROVIDED, That no
11 such application shall be considered unless the member or someone in
12 his or her behalf, in case of the incapacity of a member, shall have
13 filed the application within a period of one year from and after the
14 discontinuance of service of the member.

15 (2) If the examination shows, to the satisfaction of the disability
16 board, that the member is physically or mentally disabled from the
17 further performance of duty, that such disability was incurred in the
18 line of duty, and that such disability has been continuous from the
19 discontinuance of service, the disability board shall enter its written
20 decision and order, accompanied by appropriate findings of fact and by
21 conclusions evidencing compliance with this chapter, granting the
22 member a disability retirement allowance; otherwise, if the member is
23 not found by the disability board to be so disabled, the application
24 shall be denied pursuant to a similar written decision and order,
25 subject to appeal to the director in accordance with section 235 of
26 this act: PROVIDED, That in any order granting a duty disability
27 retirement allowance, the disability board shall make a finding that
28 the disability was incurred in line of duty.

29 (3) Every order of a disability board granting a duty disability
30 retirement allowance shall immediately be reviewed by the director
31 except the finding that the disability was incurred in the line of
32 duty. The director may affirm the decision of the disability board or
33 remand the case for further proceedings, or the director may reverse
34 the decision of the disability board if the director finds the
35 disability board's findings, inferences, conclusions, or decisions are:

- 36 (a) In violation of constitutional provisions;
- 37 (b) In excess of the statutory authority or jurisdiction of the
38 disability board;
- 39 (c) Made upon unlawful procedure;

- 1 (d) Affected by other error of law;
- 2 (e) Clearly erroneous in view of the entire record as submitted and
- 3 the public policy contained in this chapter; or
- 4 (f) Arbitrary or capricious.

5 (4) Every member who can establish, to the disability board, that
6 he or she is physically or mentally disabled from the further
7 performance of duty, that such disability was incurred in the line of
8 duty, and that such disability will be in existence for a period of at
9 least six months may waive the six-month period of disability leave and
10 be immediately granted a duty disability retirement allowance, subject
11 to the approval of the director as provided in subsection (3) of this
12 section.

13 NEW SECTION. **Sec. 221.** RETIREMENT FOR DISABILITY NOT INCURRED IN
14 THE LINE OF DUTY. Any member, regardless of age or years of service,
15 may be retired by the disability board, subject to approval by the
16 director as provided in this section, for any disability not incurred
17 in the line of duty which has been continuous since discontinuance of
18 service and which renders the member unable to continue service. No
19 disability retirement allowance may be paid until the expiration of a
20 period of six months after the discontinuance of service during which
21 period the member, if found to be physically or mentally unfit for duty
22 by the disability board following receipt of the member's application
23 for disability retirement, shall be granted a disability leave by the
24 disability board and shall receive an allowance equal to the member's
25 full monthly salary and shall continue to receive all other benefits
26 provided to active employees from the member's employer for the period.
27 However, if, at any time during the initial six-month period, the
28 disability board finds the beneficiary is no longer disabled, the
29 disability leave allowance shall be canceled and the member shall be
30 restored to duty in the same rank or position, if any, held by the
31 member at the time the member became disabled. Applications for
32 disability retirement shall be processed in accordance with the
33 following procedures:

34 (1) Any member who believes he or she is, or is believed to be,
35 physically or mentally disabled shall be examined by such medical
36 authority as the disability board shall employ, upon application of the
37 member, or a person acting in the member's behalf, stating that the
38 member is disabled, either physically or mentally: PROVIDED, That no

1 such application shall be considered unless the member or someone
2 acting in the member's behalf, in case of the incapacity of a member,
3 has filed the application within a period of one year from and after
4 the discontinuance of service of the member.

5 (2) If the examination shows, to the satisfaction of the disability
6 board, that the member is physically or mentally disabled from the
7 further performance of duty, that such disability was not incurred in
8 the line of duty, and that such disability had been continuous from the
9 discontinuance of service, the disability board shall enter its written
10 decision and order, accompanied by appropriate findings of fact and by
11 conclusions evidencing compliance with this chapter, granting the
12 member a disability retirement allowance. Otherwise, if the member is
13 not found by the disability board to be so disabled, the application
14 shall be denied pursuant to a similar written decision and order,
15 subject to appeal to the director in accordance with section 235 of
16 this act: PROVIDED, That in any order granting a nonduty disability
17 retirement allowance, the disability board shall make a finding that
18 the disability was not incurred in the line of duty.

19 (3) Every order of a disability board granting a nonduty disability
20 retirement allowance shall immediately be reviewed by the director
21 except the finding that the disability was not incurred in the line of
22 duty. The director may affirm the decision of the disability board or
23 remand the case for further proceedings, or the director may reverse
24 the decision of the disability board if the director finds the
25 disability board's findings, inferences, conclusions, or decisions are:

- 26 (a) In violation of constitutional provisions;
- 27 (b) In excess of the statutory authority or jurisdiction of the
28 disability board;
- 29 (c) Made upon unlawful procedure;
- 30 (d) Affected by other error of law;
- 31 (e) Clearly erroneous in view of the entire record as submitted and
32 the public policy contained in this chapter; or
- 33 (f) Arbitrary or capricious.

34 (4) Every member who can establish to the disability board that the
35 member is physically or mentally disabled from the further performance
36 of duty, that such disability was not incurred in the line of duty, and
37 that such disability will be in existence for a period of at least six
38 months, may waive the six-month period of disability leave and be
39 immediately granted a nonduty disability retirement allowance, subject

1 to the approval of the director as provided in subsection (3) of this
2 section.

3 NEW SECTION. **Sec. 222.** ALLOWANCE ON RETIREMENT FOR DISABILITY.

4 (1) Upon retirement for disability a member shall be entitled to
5 receive a monthly retirement allowance computed as follows: (a) A
6 basic amount of fifty percent of final average salary at time of
7 disability retirement, and (b) an additional five percent of final
8 average salary for each child as defined in section 202(7) of this act,
9 (c) the combined total of (a) and (b) of this subsection shall not
10 exceed a maximum of sixty percent of final average salary.

11 (2) A disabled member shall begin receiving the disability
12 retirement allowance as of the expiration of his or her six-month
13 period of disability leave or, if his or her application was filed
14 after the sixth month of discontinuance of service but prior to the
15 one-year time limit, the member's disability retirement allowance shall
16 be retroactive to the end of the sixth month.

17 (3) Benefits under this section will be payable until the member
18 recovers from the disability or dies. If at the time that the
19 disability ceases the member is over the age of fifty, he or she shall
20 then receive either disability retirement allowance or retirement for
21 service allowance, whichever is greater.

22 (4) Benefits under this section for a disability that is incurred
23 while in other employment will be reduced by any amount the member
24 receives or is entitled to receive from workers' compensation, social
25 security, group insurance, other pension plan, or any other similar
26 source provided by another employer on account of the same disability.

27 (5) A member retired for disability shall be subject to periodic
28 examinations by a physician approved by the disability board prior to
29 attainment of age fifty, pursuant to rules adopted by the director
30 under section 219 of this act. Examinations of members who retired for
31 disability prior to July 26, 1981, shall not exceed two medical
32 examinations per year.

33 NEW SECTION. **Sec. 223.** CESSATION OF DISABILITY--DETERMINATION.

34 (1) A disabled member who believes that his or her disability has
35 ceased in accordance with section 222(3) of this act may make
36 application to the disability board which originally found the member
37 to be disabled, for a determination that the disability has ceased.

1 (2) Every order of a disability board determining that a member's
2 disability has ceased pursuant to section 222(3) of this act shall
3 immediately be reviewed by the director. The director may affirm the
4 decision of the disability board or remand the case for further
5 proceedings if the director finds the disability board's findings,
6 inferences, conclusions, or decisions are:

7 (a) In violation of constitutional provisions;

8 (b) In excess of the statutory authority or jurisdiction of the
9 disability board;

10 (c) Made upon unlawful procedure;

11 (d) Affected by other error of law;

12 (e) Clearly erroneous in view of the entire record as submitted and
13 the public policy contained in this chapter; or

14 (f) Arbitrary or capricious.

15 (3) Determinations of whether a disability has ceased under section
16 222(3) of this act and this section shall be made in accordance with
17 the same procedures and standards governing other cancellations of
18 disability retirement.

19 NEW SECTION. **Sec. 224.** REEXAMINATIONS OF DISABILITY
20 BENEFICIARIES--REENTRY--APPEAL. (1) Upon the basis of reexaminations
21 of members on disability retirement as provided in section 222 of this
22 act, the disability board shall determine whether such disability
23 beneficiary is still unable to perform his or her duties either
24 physically or mentally for service in the department where he or she
25 was employed.

26 (2) If the disability board determines that the beneficiary is not
27 so incapacitated the retirement allowance shall be canceled and the
28 member shall be restored to duty in the same civil service rank, if
29 any, held by the beneficiary at the time of his or her retirement or if
30 unable to perform the duties of that rank, then, at his or her request,
31 in such other like or lesser rank as may be or become open and
32 available, the duties of which he or she is then able to perform. In
33 no event, shall a beneficiary previously drawing a disability allowance
34 be returned or be restored to duty at a salary or rate of pay less than
35 the current salary attached to the rank or position held by the
36 beneficiary at the date of retirement for disability. If the
37 disability board determines that the beneficiary is able to return to
38 service he or she shall be entitled to notice and a hearing, both the

1 notice and the hearing shall comply with the requirements of chapter
2 34.05 RCW.

3 (3) Should a disability beneficiary reenter service and be eligible
4 for membership in the retirement system, the retirement allowance shall
5 be canceled and he or she shall immediately become a member of the
6 retirement system.

7 (4) Should any disability beneficiary under age fifty refuse to
8 submit to examination, the retirement allowance shall be discontinued
9 until withdrawal of such refusal, and should such refusal continue for
10 one year or more, the retirement allowance shall be canceled.

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

16 (6) Any person feeling aggrieved by an order of a disability board
17 determining that a beneficiary's disability has not ceased, pursuant to
18 section 222(3) of this act has the right to appeal the order or
19 determination to the director. The director shall have no jurisdiction
20 to entertain the appeal unless a notice of appeal is filed with the
21 director within thirty days following the rendition of the order by the
22 disability board. A copy of the notice of appeal shall be served upon
23 the director and the applicable disability board and, within ninety
24 days thereof, the disability board shall certify its decision and order
25 which shall include findings of fact and conclusions of law, together
26 with a transcript of all proceedings in connection therewith, to the
27 director for review. Upon review of the record, the director may
28 affirm the order of the disability board or may remand the case for
29 further proceedings if the director finds that the disability board's
30 findings, inferences, conclusions, or decisions are:

31 (a) In violation of constitutional provisions;

32 (b) In excess of the statutory authority or jurisdiction of the
33 disability board;

34 (c) Made upon unlawful procedure;

35 (d) Affected by other error of law;

36 (e) Clearly erroneous in view of the entire record as submitted and
37 the public policy contained in this chapter; or

38 (f) Arbitrary or capricious.

1 NEW SECTION. **Sec. 225.** SICKNESS OR DISABILITY BENEFITS--MEDICAL
2 SERVICES. (1) Whenever any active member, or any member hereafter
3 retired, on account of service, sickness, or disability, not caused or
4 brought on by dissipation or abuse, of which the disability board shall
5 be judge, is confined in any hospital or in home, and whether or not so
6 confined, requires medical services, the employer shall pay for the
7 active or retired member the necessary medical services not payable
8 from some other source as provided for in subsection (2) of this
9 section. In the case of active or retired fire fighters the employer
10 may make the payments provided for in this section from the firemen's
11 pension fund established pursuant to RCW 41.16.050 where the fund had
12 been established prior to March 1, 1970. If this pension fund is
13 depleted, the employer shall have the obligation to pay all benefits
14 payable under chapters 41.16 and 41.18 RCW.

15 (a) The disability board in all cases may have the active or
16 retired member suffering from such sickness or disability examined at
17 any time by a licensed physician or physicians, to be appointed by the
18 disability board, for the purpose of ascertaining the nature and extent
19 of the sickness or disability, the physician or physicians to report to
20 the disability board the result of the examination within three days
21 thereafter. Any active or retired member who refuses to submit to such
22 examination or examinations shall forfeit all rights to benefits under
23 this section for the period of the refusal.

24 (b) The disability board shall designate the medical services
25 available to any sick or disabled member.

26 (2) The medical services payable under this section will be reduced
27 by any amount received or eligible to be received by the member under
28 workers' compensation, social security including the changes
29 incorporated under Public Law 89-97, insurance provided by another
30 employer, other pension plan, or any other similar source. Failure to
31 apply for coverage if otherwise eligible under the provisions of Public
32 Law 89-97 shall not be deemed a refusal of payment of benefits thereby
33 enabling collection of charges under the provisions of this chapter.

34 (3) Upon making the payments provided for in subsection (1) of this
35 section, the employer shall be subrogated to all rights of the member
36 against any third party who may be held liable for the member's
37 injuries or for payment of the cost of medical services in connection
38 with a member's sickness or disability to the extent necessary to
39 recover the amount of payments made by the employer.

1 (4) Any employer under this chapter, either singly, or jointly with
2 any other such employer or employers through an association thereof as
3 provided for in chapter 48.21 RCW, may provide for all or part of one
4 or more plans of group hospitalization and medical aid insurance to
5 cover any of its employees who are members of the restated law
6 enforcement officers' and fire fighters' retirement system, and/or
7 retired former employees who were, before retirement, members of the
8 retirement system, through contracts with regularly constituted
9 insurance carriers, with health maintenance organizations as defined in
10 chapter 48.46 RCW, or with health care service contractors as defined
11 in chapter 48.44 RCW. Benefits payable under the plan or plans shall
12 be deemed to be amounts received or eligible to be received by the
13 active or retired member under subsection (2) of this section.

14 (5) Any employer, jointly with any other employer or employers of
15 the state, may participate in the medical benefits risk pool
16 established under chapter 41.--- RCW (sections 301 through 311 of this
17 act).

18 (6) Any employer under this chapter may, at its discretion, elect
19 to reimburse a retired former employee under this chapter for premiums
20 the retired former employee has paid for medical insurance that
21 supplements medicare, including premiums the retired former employee
22 has paid for medicare part B coverage.

23 NEW SECTION. **Sec. 226.** DEATH BENEFITS--DUTY CONNECTED. (1) In
24 the event of the duty connected death of any member who is in active
25 service, or who has vested under section 216 of this act with twenty or
26 more service credit years of service, or who is on duty connected
27 disability leave or retired for duty connected disability, the
28 surviving spouse shall become entitled to receive a monthly allowance
29 equal to fifty percent of the final average salary at the date of death
30 if active, or the amount of retirement allowance the vested member
31 would have received at age fifty, or the amount of the retirement
32 allowance such retired member was receiving at the time of death if
33 retired for duty connected disability. The amount of this allowance
34 will be increased five percent of final average salary for each child
35 as defined in section 202(7) of this act, subject to a maximum combined
36 allowance of sixty percent of final average salary: PROVIDED, That if
37 the child or children is or are in the care of a legal guardian,
38 payment of the increase attributable to each child will be made to the

1 child's legal guardian or, in the absence of a legal guardian and if
2 the member has created a trust for the benefit of the child or
3 children, payment of the increase attributable to each child will be
4 made to the trust.

5 (2) If at the time of the duty connected death of a vested member
6 with twenty or more service credit years of service as provided in
7 subsection (1) of this section or a member retired for duty connected
8 disability, the surviving spouse has not been lawfully married to such
9 member for one year prior to retirement or separation from service if
10 a vested member, the surviving spouse shall not be eligible to receive
11 the benefits under this section: PROVIDED, That if a member dies as a
12 result of a disability incurred in the line of duty, then if he or she
13 was married at the time he or she was disabled, the surviving spouse
14 shall be eligible to receive the benefits under this section.

15 (3) If there be no surviving spouse eligible to receive benefits at
16 the time of such member's duty connected death, then the child or
17 children of such member shall receive a monthly allowance equal to
18 thirty percent of final average salary for one child and an additional
19 ten percent for each additional child subject to a maximum combined
20 payment, under this subsection, of sixty percent of final average
21 salary. When there cease to be any eligible children as defined in
22 section 202(7) of this act, there shall be paid to the legal heirs of
23 the member the excess, if any, of accumulated contributions of the
24 member at the time of death over all payments made to survivors on his
25 or her behalf under this chapter: PROVIDED, That payments under this
26 subsection to children shall be prorated equally among the children, if
27 more than one. If the member has created a trust for the benefit of
28 the child or children, the payment shall be made to the trust.

29 (4) In the event that there is no surviving spouse eligible to
30 receive benefits under this section, and that there be no child or
31 children eligible to receive benefits under this section, then the
32 accumulated contributions shall be paid to the estate of the member.

33 (5) If a surviving spouse receiving benefits under the provisions
34 of this section thereafter dies and there are children as defined in
35 section 202(7) of this act, payment to the spouse shall cease and the
36 child or children shall receive the benefits as provided in subsection
37 (3) of this section.

1 (6) The payment provided by this section shall become due the day
2 following the date of death and payments shall be retroactive to that
3 date.

4 NEW SECTION. **Sec. 227.** DEATH BENEFITS--NONDUTY CONNECTED. (1) In
5 the event of the nonduty connected death of any member who is in active
6 service, or who has vested under section 216 of this act with twenty or
7 more service credit years of service, or who is on disability leave or
8 retired, whether for nonduty connected disability or service, the
9 surviving spouse shall become entitled to receive a monthly allowance
10 equal to fifty percent of the final average salary at the date of death
11 if active, or the amount of retirement allowance the vested member
12 would have received at age fifty, or the amount of the retirement
13 allowance such retired member was receiving at the time of death if
14 retired for service or nonduty connected disability. The amount of
15 this allowance will be increased five percent of final average salary
16 for each child as defined in section 202(7) of this act, subject to a
17 maximum combined allowance of sixty percent of final average salary:
18 PROVIDED, That if the child or children is or are in the care of a
19 legal guardian, payment of the increase attributable to each child will
20 be made to the child's legal guardian or, in the absence of a legal
21 guardian and if the member has created a trust for the benefit of the
22 child or children, payment of the increase attributable to each child
23 will be made to the trust.

24 (2) If at the time of the death of a vested member with twenty or
25 more service credit years of service as provided in subsection (1) of
26 this section or a member retired for service or disability, the
27 surviving spouse has not been lawfully married to such member for one
28 year prior to retirement or separation from service if a vested member,
29 the surviving spouse shall not be eligible to receive the benefits
30 under this section.

31 (3) If there be no surviving spouse eligible to receive benefits at
32 the time of such member's death, then the child or children of such
33 member shall receive a monthly allowance equal to thirty percent of
34 final average salary for one child and an additional ten percent for
35 each additional child subject to a maximum combined payment, under this
36 subsection, of sixty percent of final average salary. When there cease
37 to be any eligible children as defined in section 202(7) of this act,
38 there shall be paid to the legal heirs of the member the excess, if

1 any, of accumulated contributions of the member at the time of death
2 over all payments made to survivors on his or her behalf under this
3 chapter: PROVIDED, That payments under this subsection to children
4 shall be prorated equally among the children, if more than one. If the
5 member has created a trust for the benefit of the child or children,
6 the payment shall be made to the trust.

7 (4) In the event that there is no surviving spouse eligible to
8 receive benefits under this section, and that there be no child or
9 children eligible to receive benefits under this section, then the
10 accumulated contributions shall be paid to the estate of the member.

11 (5) If a surviving spouse receiving benefits under the provisions
12 of this section thereafter dies and there are children as defined in
13 section 202(7) of this act, payment to the spouse shall cease and the
14 child or children shall receive the benefits as provided in subsection
15 (3) of this section.

16 (6) The payment provided by this section shall become due the day
17 following the date of death and payments shall be retroactive to that
18 date.

19 NEW SECTION. **Sec. 228.** EX SPOUSE QUALIFYING AS SURVIVING SPOUSE--
20 WHEN. (1) An ex spouse of a retiree shall qualify as surviving spouse
21 under section 226 of this act if the ex spouse:

22 (a) Has been provided benefits under any currently effective court
23 decree of dissolution or legal separation or in any court order or
24 court-approved property settlement agreement incident to any court
25 decree of dissolution or legal separation entered after the member's
26 retirement and prior to December 31, 1979; and

27 (b) Was married to the retiree for at least thirty years, including
28 at least twenty years prior to the member's retirement or separation
29 from service if a vested member.

30 (2) If two or more persons are eligible for a surviving spouse
31 benefit under this subsection, benefits shall be divided between the
32 surviving spouses based on the percentage of total service credit the
33 member accrued during each marriage.

34 (3) This section shall apply retroactively.

35 NEW SECTION. **Sec. 229.** REFUND OF CONTRIBUTIONS ON DISCONTINUANCE
36 OF SERVICE--REENTRY. (1) Should service of a member be discontinued
37 except by death, disability, or retirement, the member shall, upon

1 application therefor, be paid the accumulated contributions within
2 sixty days after the day of application and the rights to all benefits
3 as a member shall cease: PROVIDED, That any member with at least five
4 years' service may elect the provisions of section 216(2) of this act.

5 (2) Any member whose contributions have been paid in accordance
6 with subsection (1) of this section and who reenters the service of an
7 employer shall upon the restoration of withdrawn contributions, which
8 restoration must be completed within a total period of five years of
9 service following resumption of employment, then receive credit toward
10 retirement for the period of previous service which these contributions
11 are to cover.

12 (3) If the member fails to meet the time limitations of subsection
13 (2) of this section, the member may make the payment required under RCW
14 41.50.165(2) prior to retirement. The member shall then receive credit
15 toward retirement for the period of previous service that the withdrawn
16 contributions cover.

17 NEW SECTION. **Sec. 230.** CREDIT FOR MILITARY SERVICE. Each person
18 affected by this chapter who at the time of entering the armed services
19 was a member of this system or plan 1 under chapter 41.26 RCW, and has
20 honorably served in the armed services of the United States, shall have
21 added to the period of service as computed under this chapter, the
22 period of service in the armed forces: PROVIDED, That such credited
23 service shall not exceed five years.

24 NEW SECTION. **Sec. 231.** CREDIT FOR SERVICE UNDER PRIOR PENSION
25 SYSTEM--RESTORATION OF WITHDRAWN CONTRIBUTIONS. If a member of this
26 retirement system served as a law enforcement officer or fire fighter
27 under a prior pension system and that service is not creditable to this
28 retirement system because the member withdrew his or her contributions
29 plus accrued interest from the prior pension system, the member's prior
30 service as a law enforcement officer shall be credited to this
31 retirement system if the member pays to the retirement system the
32 amount under RCW 41.50.165(2) prior to retirement.

33 NEW SECTION. **Sec. 232.** CREDIT FOR SERVICE UNDER PRIOR PENSION
34 SYSTEM--SERVICE NOT COVERED UNDER PRIOR SYSTEM. If a member's prior
35 service as a law enforcement officer or fire fighter under a prior
36 pension system is not creditable because, although employed in a

1 position covered by a prior pension act, the member had not yet become
2 a member of the pension system governed by the act, the member's prior
3 service as a law enforcement officer or fire fighter shall be
4 creditable if the member pays to the plan the amount set forth under
5 RCW 41.50.165(2) prior to retirement.

6 NEW SECTION. **Sec. 233.** TRANSFER OF SERVICE CREDIT FROM OTHER
7 RETIREMENT SYSTEM--IRREVOCABLE ELECTION ALLOWED. Any member of the
8 teachers' retirement system plans 1, 2, or 3, the public employees'
9 retirement system plans 1 or 2, or the Washington state patrol
10 retirement system who has previously established service credit in the
11 restated law enforcement officers' and fire fighters' retirement system
12 may make an irrevocable election to have such service transferred to
13 their current retirement system and plan subject to the following
14 conditions:

15 (1) If the individual is employed by an employer in an eligible
16 position, as of July 1, 1997, the election to transfer service must be
17 filed in writing with the department no later than July 1, 1998. If
18 the individual is not employed by an employer in an eligible position,
19 as of July 1, 1997, the election to transfer service must be filed in
20 writing with the department no later than one year from the date they
21 are employed by an employer in an eligible position.

22 (2) An individual transferring service under this section forfeits
23 the rights to all benefits as a member of the restated law enforcement
24 officers' and fire fighters' retirement system and will be permanently
25 excluded from membership.

26 (3) Any individual choosing to transfer service under this section
27 will have transferred to their current retirement system and plan: (a)
28 All the individual's accumulated contributions; (b) an amount
29 sufficient to ensure that the employer contribution rate in the
30 individual's current system and plan will not increase due to the
31 transfer; and (c) all applicable months of service, as defined in
32 section 202(14) of this act.

33 (4) If an individual has withdrawn contributions from the law
34 enforcement officers' and fire fighters' retirement system plan 1 or
35 the plan established by this chapter, the individual may restore the
36 contributions, together with interest as determined by the director,
37 and recover the service represented by the contributions for the sole
38 purpose of transferring service under this section. The contributions

1 must be restored before the transfer can occur and the restoration must
2 be completed within the time limitations specified in subsection (1) of
3 this section.

4 (5) Any service transferred under this section does not apply to
5 the eligibility requirements for military service credit as defined in
6 RCW 41.40.170(3) or 43.43.260(3).

7 (6) If an individual does not meet the time limitations of
8 subsection (1) of this section, the individual may elect to restore any
9 withdrawn contributions and transfer service under this section by
10 paying the amount required under subsection (3)(b) of this section less
11 any employee contributions transferred.

12 NEW SECTION. Sec. 234. SERVICE CREDIT FOR PAID LEAVE OF ABSENCE--
13 APPLICATION TO ELECTED OFFICIALS OF LABOR ORGANIZATIONS. (1) A member
14 who is on a paid leave of absence authorized by a member's employer
15 shall continue to receive service credit as provided under this
16 chapter.

17 (2) A member who receives compensation from an employer while on an
18 authorized leave of absence to serve as an elected official of a labor
19 organization, and whose employer is reimbursed by the labor
20 organization for the compensation paid to the member during the period
21 of absence, may also be considered to be on a paid leave of absence.
22 This subsection shall only apply if the member's leave of absence is
23 authorized by a collective bargaining agreement that provides that the
24 member retains seniority rights with the employer during the period of
25 leave. The basic salary reported for a member who establishes service
26 credit under this subsection may not be greater than the salary paid to
27 the highest paid job class covered by the collective bargaining
28 agreement.

29 NEW SECTION. Sec. 235. APPEAL TO DIRECTOR. Any person feeling
30 aggrieved by any order or determination of a disability board denying
31 disability leave or disability retirement, or canceling a previously
32 granted disability retirement allowance, shall have the right to appeal
33 the order or determination to the director. The director shall have no
34 jurisdiction to entertain the appeal unless a notice of appeal is filed
35 with the director within thirty days following the rendition of the
36 order by the applicable disability board. A copy of the notice of
37 appeal shall be served upon the director and the applicable disability

1 board and, within ninety days thereof, the disability board shall
2 certify its decision and order which shall include findings of fact and
3 conclusions of law, together with a transcript of all proceedings in
4 connection therewith, to the director for review. Upon review of the
5 record, the director may affirm the order of the disability board or
6 may remand the case for such further proceedings as he or she may
7 direct, in accordance with such rules of procedure as the director
8 shall adopt.

9 NEW SECTION. **Sec. 236.** NOTICE FOR HEARING REQUIRED PRIOR TO
10 PETITIONING FOR JUDICIAL REVIEW. Any person aggrieved by any final
11 decision of the director must, before petitioning for judicial review,
12 file with the director by mail or personally within sixty days from the
13 day the decision was communicated to the person, a notice for a
14 hearing. The notice of hearing shall set forth in full detail the
15 grounds upon which such person considers such decision unjust or
16 unlawful and shall include every issue to be considered, and it must
17 contain a detailed statement of facts upon which such person relies in
18 support thereof. Such persons shall be deemed to have waived all
19 objections or irregularities concerning the matter on which such appeal
20 is taken other than those specifically set forth in the notice of
21 hearing or appearing in the records of the retirement system.

22 NEW SECTION. **Sec. 237.** HEARING--CONDUCT. A hearing shall be held
23 by the director, or the director's duly authorized representative, in
24 the county of the residence of the claimant at a time and place
25 designated by the director. Such hearing shall be de novo and shall
26 conform to the provisions of chapter 34.05 RCW. The disability board
27 and the department shall be entitled to appear in all such proceedings
28 and introduce testimony in support of the decision. Judicial review of
29 any final decision by the director shall be governed by the provisions
30 of chapter 34.05 RCW.

31 NEW SECTION. **Sec. 238.** INCREASES OR DECREASES IN RETIREMENT
32 ALLOWANCES TO BE DETERMINED BY DEPARTMENT IN ACCORDANCE WITH CONSUMER
33 PRICE INDEX. For purposes of this section:

34 (1) "Index" means, for any calendar year, that year's average
35 consumer price index for the Seattle, Washington area for urban wage
36 earners and clerical workers, all items (1957-1959=100), compiled by

1 the bureau of labor statistics of the United States department of
2 labor;

3 (2) "Retirement allowance" means the retirement allowance provided
4 for in sections 217 and 222 of this act, and the monthly allowance
5 provided for in section 226 of this act.

6 On April 1st of each year, every retirement allowance which has
7 been in effect for more than one year shall be adjusted to that dollar
8 amount which exceeds its original dollar amount by the percentage
9 difference which the department finds to exist between the index for
10 the previous calendar year and the index for the calendar year prior to
11 the effective retirement date of the person to whom, or on behalf of
12 whom, such retirement allowance is being paid.

13 For the purposes of this section, "basic allowance" means that
14 portion of a total retirement allowance, and any cost-of-living
15 adjustment thereon, attributable to a member (individually) and shall
16 not include the increased amounts attributable to the existence of a
17 child or children. In those cases where a child ceases to be qualified
18 as an eligible child, so as to lessen the total allowance, the
19 allowance shall, at that time, be reduced to the basic allowance plus
20 the amount attributable for the appropriate number of eligible
21 children. In those cases where a child qualifies as an eligible child
22 subsequent to the retirement of a member so as to increase the total
23 allowance payable, such increased allowance shall at the time of the
24 next and appropriate subsequent cost-of-living adjustments, be
25 considered the original dollar amount of the allowance.

26 NEW SECTION. **Sec. 239.** INCREASE IN PRESENTLY PAYABLE BENEFITS FOR
27 SERVICE OR DISABILITY AUTHORIZED. All benefits presently payable
28 pursuant to the provisions of RCW 41.20.050, 41.20.060, and 41.20.080
29 as such RCW sections existed prior to the effective date of the
30 amendment of such RCW sections by sections 1, 2, 3, chapter 191, Laws
31 of 1961 to persons who retired prior to the effective date of the 1961
32 amendatory act, shall be increased annually as provided in this
33 section. The local pension board shall meet subsequent to March 31st
34 but prior to June 30th of each year for the purpose of adjusting
35 benefit allowances payable pursuant to RCW 41.20.050, 41.20.060, and
36 41.20.080. The local board shall determine the increase in the
37 consumer price index between January 1st and December 31st of the
38 previous year and increase in dollar amount the benefits payable

1 subsequent to July 1st of the year in which the board makes such
2 determination by a dollar amount proportionate to the increase in the
3 consumer price index: PROVIDED, That regardless of the change in the
4 consumer price index, such increase shall be at least two percent each
5 year such adjustment is made.

6 Each year effective with the July payment all benefits specified in
7 this section, shall be increased as authorized by this section. This
8 benefit increase shall be paid monthly as part of the regular pension
9 payment and shall be cumulative.

10 For the purpose of this section, "consumer price index" means, for
11 any calendar year, the consumer price index for the Seattle, Washington
12 area as compiled by the bureau of labor statistics of the United States
13 department of labor.

14 NEW SECTION. **Sec. 240.** INCREASE IN CERTAIN PRESENTLY PAYABLE
15 DEATH BENEFITS AUTHORIZED. All benefits presently payable pursuant to
16 the provisions of RCW 41.20.085 which are not related to the amount of
17 current salary attached to the position held by the deceased member
18 shall be increased annually in the same manner and to the same extent
19 as provided for pursuant to section 239 of this act.

20 NEW SECTION. **Sec. 241.** DECLARATION OF POLICY RESPECTING BENEFITS
21 FOR INJURY OR DEATH--CIVIL ACTIONS ABOLISHED. The legislature of the
22 state of Washington hereby declares that the relationship between
23 members of the restated law enforcement officers' and fire fighters'
24 retirement system and their governmental employers is similar to that
25 of workers to their employers and that the sure and certain relief
26 granted by this chapter is desirable, and as beneficial to such law
27 enforcement officers and fire fighters as workers' compensation
28 coverage is to persons covered by Title 51 RCW. The legislature
29 further declares that removal of law enforcement officers and fire
30 fighters from workers' compensation coverage under Title 51 RCW
31 necessitates the (1) continuance of sure and certain relief for
32 personal injuries incurred in the course of employment or occupational
33 disease, which the legislature finds to be accomplished by the
34 provisions of this chapter and (2) protection for the governmental
35 employer from actions at law; and to this end the legislature further
36 declares that the benefits and remedies conferred by this chapter upon
37 law enforcement officers and fire fighters covered under this chapter

1 shall be to the exclusion of any other remedy, proceeding, or
2 compensation for personal injuries or sickness, caused by the
3 governmental employer except as otherwise provided by this chapter; and
4 to that end all civil actions and civil causes of actions by such law
5 enforcement officers and fire fighters against their governmental
6 employers for personal injuries or sickness are hereby abolished,
7 except as otherwise provided in this chapter.

8 NEW SECTION. **Sec. 242.** CAUSE OF ACTION FOR INJURY OR DEATH, WHEN.
9 If injury or death results to a member from the intentional or
10 negligent act or omission of a member's governmental employer, the
11 member, the widow, widower, child, or dependent of the member shall
12 have the privilege to benefit under this chapter and also have cause of
13 action against the governmental employer as otherwise provided by law,
14 for any excess of damages over the amount received or receivable under
15 this chapter.

16 NEW SECTION. **Sec. 243.** Sections 1 through 8 and 201 through 242
17 of this act constitute a new chapter in Title 41 RCW, to be designated
18 chapter 41.26A RCW.

19 **PART III**

20 **LEOFF MEDICAL BENEFITS RISK POOL**

21 NEW SECTION. **Sec. 301.** The purpose of this chapter is to
22 establish a risk assumption program whereby employers of active and
23 retired members of the restated law enforcement officers' and fire
24 fighters' retirement system under chapter 41.26A RCW voluntarily enter
25 into membership in a risk pool for the purpose of sharing the
26 noninsured medical costs of long-term care and major medical services
27 for retired members of the retirement system. Such long-term care and
28 major medical services are those required under chapter 41.26A RCW and
29 approved by city and county disability boards.

30 NEW SECTION. **Sec. 302.** The definitions in this section apply to
31 this chapter unless the context clearly requires otherwise.

32 (1) "Actuary" means the state actuary, office of the state actuary.

33 (2) "Beneficiary" means any person in receipt of a retirement
34 allowance or disability allowance who is eligible for medical services

1 under the restated law enforcement officers' and fire fighters'
2 retirement system under chapter 41.26A RCW.

3 (3) "Director" means the director, office of community development,
4 department of community, trade, and economic development.

5 (4) "Employer" means the legislative authority of any city, town,
6 county, or district or the elected officials of any municipal
7 corporation that employs any member of the restated law enforcement
8 officers' and fire fighters' retirement system, or any authorized
9 association of such municipalities.

10 (5) "Executive board" means the law enforcement officers' and fire
11 fighters' risk pool executive board.

12 (6) "Long-term care" means those medically necessary services
13 required under section 202(22) of this act, authorized under section
14 225 of this act, and received in a facility for skilled nursing care,
15 intermediate care, custodial care, hospice care, day care, in-home
16 nursing care, or other in-home care or services. For purposes of
17 expenditures from the medical account, long-term care only includes
18 qualified long-term care services as defined in internal revenue code
19 section 7702B(2), and qualified long-term care insurance contract as
20 defined in internal revenue code section 7702B(b).

21 (7) "Medical costs" means those costs incurred in the provision of
22 the medically necessary medical services required under section 202(22)
23 of this act and authorized under section 225 of this act. For purposes
24 of expenditures from the medical account, medical costs only include
25 cost of medical care as defined in internal revenue code section
26 213(d).

27 (8) "Risk assumption" means a decision to absorb the entity's
28 financial exposure to a risk of loss without the creation of a formal
29 program of advance funding of anticipated losses.

30 (9) "Risk pool" means the long-term care and medical costs risk
31 pool created for the law enforcement officers' and fire fighters'
32 medical benefits risk pool.

33 (10) "State risk manager" means the risk manager, risk management
34 division, department of general administration.

35 NEW SECTION. **Sec. 303.** (1) There is hereby established the law
36 enforcement officers' and fire fighters' medical benefits risk pool.

1 (2) The risk pool is a risk assumption insurance program for the
2 sole purpose of employers sharing the noninsured medical costs of long-
3 term care and medical costs for beneficiaries.

4 (3) An employer's participation and withdrawal from the risk pool
5 is subject to rules established by the executive board.

6 NEW SECTION. Sec. 304. (1) The law enforcement officers' and fire
7 fighters' risk pool executive board is hereby established.

8 (2)(a) The membership of the executive board shall consist of nine
9 persons as follows:

10 (i) The chair is appointed by the governor for a four-year term of
11 office. The chair shall be familiar with risk pool operation, medical,
12 and long-term care matters but shall not have been employed as a law
13 enforcement officer or fire fighter or served on a law enforcement
14 officers' and fire fighters' disability board; and

15 (ii) Eight others selected by the governor from lists of
16 recommended persons made by their respective organizations as follows:

17 (A) Two persons representing counties, one of which is an elected
18 official;

19 (B) Two persons representing cities and towns, one of which is an
20 elected official;

21 (C) Two persons representing fire protection districts, one of
22 which is an elected commissioner;

23 (D) One person representing law enforcement officers; and

24 (E) One person representing fire fighters.

25 (b) If a member vacates his or her position, the governor shall
26 select a person from a list recommended by his or her respective
27 organization to replace the vacating member for the remainder of the
28 term of office for the vacated position.

29 (3) One position of the county, city, and town, and fire protection
30 district groups and the law enforcement officer position have an
31 initial term of two years and four years thereafter. The remaining
32 positions have terms of four years.

33 (4) A vice-chair shall be elected at the first meeting of the
34 executive board and every two years thereafter. Upon the absence of
35 the chair, the vice-chair shall act in his or her place.

36 (5) The executive board shall meet at least quarterly and shall
37 maintain minutes of each meeting and any records as may be necessary,
38 which are public records.

1 (6) The chair and four other members constitute a quorum.

2 (7) The members of the executive board shall not receive
3 compensation for their service upon the executive board but shall be
4 reimbursed for all expenses incidental to such service as to the amount
5 authorized by either RCW 42.24.090 or 43.03.050 and 43.03.060,
6 whichever is applicable.

7 NEW SECTION. **Sec. 305.** The duties of the executive board are as
8 follows:

9 (1) Establish the basis of membership in the risk pool;

10 (2) Define and establish the benefits to be reimbursed by the risk
11 pool;

12 (3) Authorize distribution of moneys from the risk pool account
13 consistent with the provisions of rules and regulations established by
14 the internal revenue service;

15 (4) Determine, with the assistance of the actuary, employer
16 premiums to the risk pool, which shall include administrative expenses
17 of the office of community development;

18 (5) Authorize reimbursement for medical and long-term care costs,
19 required under section 202(22) of this act and authorized under section
20 225 of this act that are not covered by standard medical insurance
21 policies. The board shall adopt rules governing these reimbursements
22 consistent with the provisions of the internal revenue code and rules
23 and regulations established by the internal revenue service;

24 (6) Purchase reinsurance as necessary; and

25 (7) Adopt rules under chapter 34.05 RCW.

26 NEW SECTION. **Sec. 306.** The director shall:

27 (1) Appoint other staff as necessary for the operation of the risk
28 pool; fix their compensation within the limits provided by law; and
29 prescribe their duties;

30 (2) Enter into contracts necessary for the operation of the risk
31 pool, including risk management, claims, and administrative services;

32 (3) Adopt rules under chapter 34.05 RCW pertaining to the risk pool
33 operation;

34 (4) Provide staff support to the executive board; and

35 (5) Perform those other duties and responsibilities required to
36 implement the medical benefits risk pool established in section 303 of
37 this act.

1 NEW SECTION. **Sec. 307.** Funding for the risk pool account,
2 established in section 311 of this act, shall come from three sources:
3 (1) Employer premiums; (2) surplus assets which are transferred from
4 the Washington law enforcement officers' and fire fighters' system plan
5 1 retirement fund under section 8 of this act; and (3) investment
6 earnings.

7 NEW SECTION. **Sec. 308.** The state risk manager shall adopt rules
8 governing the implementation, management, and operation of the risk
9 pool in consultation with the health and welfare advisory board under
10 RCW 48.62.051. All rules shall be appropriate for the type of program
11 and class of risk covered. The state risk manager's rules shall
12 include:

13 (1) Standards for the implementation, management, operation, and
14 solvency of the risk pool, including the necessity and frequency of
15 actuarial analyses and claims audits;

16 (2) Standards for claims management procedures;

17 (3) Standards for contracts between the risk pool and private
18 businesses including standards for contracts between third-party
19 administrators and the risk pool; and

20 (4) Standards for an annual report with the state risk manager and
21 state auditor including, but not limited to:

22 (a) Copies of all the insurance coverage documents;

23 (b) A description of the program structure;

24 (c) An actuarial analysis, if required;

25 (d) A list of contractors and service providers;

26 (e) The financial and loss experience of the program; and

27 (f) Such other information as required by rule of the state risk
28 manager.

29 NEW SECTION. **Sec. 309.** The risk pool may not engage in an act or
30 practice that in any respect significantly differs from the management
31 and operation plan that formed the basis for the state risk manager's
32 approval unless the risk pool first notifies the state risk manager in
33 writing and obtains the state risk manager's approval. The state risk
34 manager shall approve or disapprove the proposed change within sixty
35 days of receipt of the notice. If the state risk manager denies a
36 requested change, the risk manager shall specify in detail the reasons
37 for denial and the manner in which the risk pool would fail to meet the

1 requirements of this chapter or any rules adopted in accordance with
2 this chapter.

3 NEW SECTION. **Sec. 310.** (1) The state risk manager shall establish
4 and charge an investigation fee in an amount necessary to cover the
5 costs for the initial review and approval of the risk pool. The fee
6 must accompany the initial submission of the plan of operation and
7 management.

8 (2) The costs of subsequent reviews and investigations shall be
9 charged to the risk pool being reviewed or investigated in accordance
10 with the actual time and expenses incurred in the review or
11 investigation.

12 (3) The risk pool shall pay any required fee or assessment required
13 by the health and welfare advisory board under RCW 48.62.051.

14 NEW SECTION. **Sec. 311.** (1) The law enforcement officers' and fire
15 fighters' medical benefits risk pool account is hereby established in
16 the custody of the state treasurer.

17 (2) The account shall consist of such money as is directed by law
18 for deposit in the account, and such other money not subject to
19 appropriation that the law enforcement officers' and fire fighters'
20 risk pool executive board authorizes to be deposited in the account.
21 Any money deposited in the account, the use of which has been
22 restricted by law, may only be expended in accordance with those
23 restrictions.

24 (3) The director, office of community development, department of
25 community, trade, and economic development, or the director's designee,
26 may make disbursements from the account.

27 (4) Only those funds within this account necessary for the
28 administration of the law enforcement officers' and fire fighters'
29 medical benefits risk pool by the office of community development are
30 subject to legislative appropriation.

31 NEW SECTION. **Sec. 312.** Sections 301 through 311 of this act
32 constitute a new chapter in Title 41 RCW.

33 **Sec. 313.** RCW 44.44.040 and 1987 c 25 s 3 are each amended to read
34 as follows:

1 The office of the state actuary shall have the following powers and
2 duties:

3 (1) Perform all actuarial services for the department of retirement
4 systems, including all studies required by law, the state board for
5 volunteer fire fighters and reserve officers, and the law enforcement
6 officers' and fire fighters' risk pool executive board. Reimbursement
7 for such services shall be made to the state actuary pursuant to the
8 provisions of RCW 39.34.130 as now or hereafter amended.

9 (2) Advise the legislature and the governor regarding pension
10 benefit provisions, and funding policies and investment policies of the
11 state investment board.

12 (3) Consult with the legislature and the governor concerning
13 determination of actuarial assumptions used by the department of
14 retirement systems.

15 (4) Prepare a report, to be known as the actuarial fiscal note, on
16 each pension bill introduced in the legislature which briefly explains
17 the financial impact of the bill. The actuarial fiscal note shall
18 include: (a) The statutorily required contribution for the biennium
19 and the following twenty-five years; (b) the biennial cost of the
20 increased benefits if these exceed the required contribution; and (c)
21 any change in the present value of the unfunded accrued benefits. An
22 actuarial fiscal note shall also be prepared for all amendments which
23 are offered in committee or on the floor of the house of
24 representatives or the senate to any pension bill. However, a majority
25 of the members present may suspend the requirement for an actuarial
26 fiscal note for amendments offered on the floor of the house of
27 representatives or the senate.

28 (5) Provide such actuarial services to the legislature as may be
29 requested from time to time.

30 (6) Provide staff and assistance to the committee established under
31 (~~RCW 46.44.050~~) RCW 44.44.050.

32 (7) Provide assistance as required under section 305 of this act.

33 **Sec. 314.** RCW 48.62.031 and 1991 sp.s. c 30 s 3 are each amended
34 to read as follows:

35 (1) The governing body of a local government entity may
36 individually self-insure, may join or form a self-insurance program
37 together with other entities, and may jointly purchase insurance or
38 reinsurance with other entities for property and liability risks, and

1 health and welfare benefits only as permitted under this chapter. In
2 addition, the entity or entities may contract for or hire personnel to
3 provide risk management, claims, and administrative services in
4 accordance with this chapter.

5 (2) The governing body of a local government entity individually
6 may join or form a risk assumption program together with other
7 entities, and may jointly purchase insurance or reinsurance with other
8 entities for health and welfare benefits only as permitted under this
9 chapter. In addition, the entity or entities may contract for or hire
10 personnel to provide risk management, claims, and administrative
11 services in accordance with this chapter.

12 (3) The agreement to form a joint self-insurance or risk assumption
13 program shall be made under chapter 39.34 RCW.

14 ~~((+3))~~ (4) Every individual and joint self-insurance program and
15 a health and welfare risk assumption program is subject to audit by the
16 state auditor.

17 ~~((+4))~~ (5) If provided for in the agreement or contract
18 established under chapter 39.34 RCW, a joint self-insurance or risk
19 assumption program may, in conformance with this chapter:

20 (a) Contract or otherwise provide for risk management and loss
21 control services;

22 (b) Contract or otherwise provide legal counsel for the defense of
23 claims and other legal services;

24 (c) Consult with the state insurance commissioner and the state
25 risk manager;

26 (d) Jointly purchase insurance and reinsurance coverage in such
27 form and amount as the program's participants agree by contract; and

28 (e) Possess any other powers and perform all other functions
29 reasonably necessary to carry out the purposes of this chapter.

30 ~~((+5))~~ (6) A local government entity or a health and welfare risk
31 assumption program that has decided to assume a risk of loss must have
32 available for inspection by the state auditor a written report
33 indicating the class of risk or risks the governing body of the entity
34 has decided to assume.

35 ~~((+6))~~ (7) Every joint self-insurance or risk assumption program
36 governed by this chapter shall appoint the risk manager as its attorney
37 to receive service of, and upon whom shall be served, all legal process
38 issued against it in this state upon causes of action arising in this
39 state.

1 (a) Service upon the risk manager as attorney shall constitute
2 service upon the program. Service upon joint insurance programs
3 subject to chapter 30, Laws of 1991 1st sp. sess. can be had only by
4 service upon the risk manager. At the time of service, the plaintiff
5 shall pay to the risk manager a fee to be set by the risk manager,
6 taxable as costs in the action.

7 (b) With the initial filing for approval with the risk manager,
8 each joint self-insurance program shall designate by name and address
9 the person to whom the risk manager shall forward legal process so
10 served upon him or her. The joint self-insurance program may change
11 such person by filing a new designation.

12 (c) The appointment of the risk manager as attorney shall be
13 irrevocable, shall bind any successor in interest or to the assets or
14 liabilities of the joint self-insurance program, and shall remain in
15 effect as long as there is in force in this state any contract made by
16 the joint self-insurance program or liabilities or duties arising
17 therefrom.

18 (d) The risk manager shall keep a record of the day and hour of
19 service upon him or her of all legal process. A copy of the process,
20 by registered mail with return receipt requested, shall be sent by the
21 risk manager, to the person designated for the purpose by the joint
22 self-insurance or risk assumption program in its most recent such
23 designation filed with the risk manager. No proceedings shall be had
24 against the joint self-insurance or risk assumption program, and the
25 program shall not be required to appear, plead, or answer, until the
26 expiration of forty days after the date of service upon the risk
27 manager.

28 **Sec. 315.** RCW 48.62.051 and 1991 sp.s. c 30 s 5 are each amended
29 to read as follows:

30 (1) The health and welfare advisory board is created consisting of
31 the insurance commissioner and the state risk manager, or their
32 designees, as ex officio members and six members appointed by the
33 governor on the basis of their experience and knowledge pertaining to
34 local government self-insured health and welfare benefits programs.
35 The board shall include one city management representative; one county
36 management representative; two management representatives from local
37 government self-insured health and welfare programs; and two

1 representatives of statewide employee organizations representing local
2 government employees.

3 (2) The board shall assist the state risk manager in:

4 (a) Adopting rules governing the operation and management of both
5 individual and joint self-insured health and welfare benefits programs
6 and the law enforcement officers' and fire fighters' medical benefits
7 risk pool;

8 (b) Reviewing and approving the creation of both individual and
9 joint self-insured health and welfare benefits programs;

10 (c) Reviewing annual reports filed by health and welfare benefits
11 programs and in recommending that corrective action be taken by the
12 programs when necessary; and

13 (d) Responding to concerns of the state auditor related to the
14 management and operation of health and welfare benefits programs.

15 (3) The board shall annually elect a chair and a vice-chair from
16 its members. The board shall meet at least quarterly at such times as
17 the state risk manager may fix. The board members who are appointed
18 shall serve without compensation from the state but shall suffer no
19 loss because of absence from their regular employment. Members of the
20 board who are not public employees shall be compensated in accordance
21 with RCW 43.03.240.

22 (4) A majority of the board constitutes a quorum for the
23 transaction of business.

24 (5) The board shall keep public records of its proceedings.

25 PART IV

26 MISCELLANEOUS AMENDATORY SECTIONS

27 **Sec. 401.** RCW 2.10.155 and 1990 c 274 s 14 are each amended to
28 read as follows:

29 (1) No judge shall be eligible to receive the judge's monthly
30 service or disability retirement allowance if the retired judge is
31 employed:

32 (a) For more than eight hundred ten hours in a calendar year as a
33 pro tempore judge; or

34 (b) In an eligible position as defined in RCW 41.40.010 or
35 41.32.010, or as a law enforcement officer or fire fighter as defined
36 in RCW 41.26.030 or section 202 of this act.

1 (2) Subsection (1) of this section notwithstanding, a previously
2 elected judge of the superior court who retired before June 7, 1990,
3 leaving a pending case in which the judge had made discretionary
4 rulings may hear the pending case as a judge pro tempore without having
5 his or her retirement allowance suspended.

6 (3) If a retired judge's benefits have been suspended under this
7 section, his or her benefits shall be reinstated when the retiree
8 terminates the employment that caused his or her benefits to be
9 suspended. Upon reinstatement, the retired judge's benefits shall be
10 actuarially recomputed pursuant to the rules adopted by the department.

11 (4) The department shall adopt rules implementing this section.

12 **Sec. 402.** RCW 6.15.020 and 1999 c 81 s 1 and 1999 c 42 s 603 are
13 each reenacted and amended to read as follows:

14 (1) It is the policy of the state of Washington to ensure the well-
15 being of its citizens by protecting retirement income to which they are
16 or may become entitled. For that purpose generally and pursuant to the
17 authority granted to the state of Washington under 11 U.S.C. Sec.
18 522(b)(2), the exemptions in this section relating to retirement
19 benefits are provided.

20 (2) Unless otherwise provided by federal law, any money received by
21 any citizen of the state of Washington as a pension from the government
22 of the United States, whether the same be in the actual possession of
23 such person or be deposited or loaned, shall be exempt from execution,
24 attachment, garnishment, or seizure by or under any legal process
25 whatever, and when a debtor dies, or absconds, and leaves his or her
26 family any money exempted by this subsection, the same shall be exempt
27 to the family as provided in this subsection. This subsection shall
28 not apply to child support collection actions issued under chapter
29 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

30 (3) The right of a person to a pension, annuity, or retirement
31 allowance or disability allowance, or death benefits, or any optional
32 benefit, or any other right accrued or accruing to any citizen of the
33 state of Washington under any employee benefit plan, and any fund
34 created by such a plan or arrangement, shall be exempt from execution,
35 attachment, garnishment, or seizure by or under any legal process
36 whatever. This subsection shall not apply to child support collection
37 actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise
38 permitted by federal law. This subsection shall permit benefits under

1 any such plan or arrangement to be payable to a spouse, former spouse,
2 child, or other dependent of a participant in such plan to the extent
3 expressly provided for in a qualified domestic relations order that
4 meets the requirements for such orders under the plan, or, in the case
5 of benefits payable under a plan described in sections 403(b) or 408 of
6 the internal revenue code of 1986, as amended, or section 409 of such
7 code as in effect before January 1, 1984, to the extent provided in any
8 order issued by a court of competent jurisdiction that provides for
9 maintenance or support. This subsection shall not prohibit actions
10 against an employee benefit plan, or fund for valid obligations
11 incurred by the plan or fund for the benefit of the plan or fund.

12 (4) For the purposes of this section, the term "employee benefit
13 plan" means any plan or arrangement that is described in RCW 49.64.020,
14 including any Keogh plan, whether funded by a trust or by an annuity
15 contract, and in sections 401(a) or 403(a) of the internal revenue code
16 of 1986, as amended; or that is a tax-sheltered annuity described in
17 section 403(b) of such code or an individual retirement account
18 described in section 408 of such code; or a Roth individual retirement
19 account described in section 408A of such code; or a medical savings
20 account described in section 220 of such code; or an education
21 individual retirement account described in section 530 of such code; or
22 a retirement bond described in section 409 of such code as in effect
23 before January 1, 1984. The term "employee benefit plan" also means
24 any rights accruing on account of money paid currently or in advance
25 for purchase of tuition units under the advanced college tuition
26 payment program in chapter 28B.95 RCW. The term "employee benefit
27 plan" shall not include any employee benefit plan that is established
28 or maintained for its employees by the government of the United States,
29 by the state of Washington under chapter 2.10, 2.12, 41.26, 41.26A,
30 41.32, 41.34, 41.35, 41.40 or 43.43 RCW or RCW 41.50.770, or by any
31 agency or instrumentality of the government of the United States.

32 (5) An employee benefit plan shall be deemed to be a spendthrift
33 trust, regardless of the source of funds, the relationship between the
34 trustee or custodian of the plan and the beneficiary, or the ability of
35 the debtor to withdraw or borrow or otherwise become entitled to
36 benefits from the plan before retirement. This subsection shall not
37 apply to child support collection actions issued under chapter 26.18,
38 26.23, or 74.20A RCW, if otherwise permitted by federal law. This
39 subsection shall permit benefits under any such plan or arrangement to

1 be payable to a spouse, former spouse, child, or other dependent of a
2 participant in such plan to the extent expressly provided for in a
3 qualified domestic relations order that meets the requirements for such
4 orders under the plan, or, in the case of benefits payable under a plan
5 described in sections 403(b) or 408 of the internal revenue code of
6 1986, as amended, or section 409 of such code as in effect before
7 January 1, 1984, to the extent provided in any order issued by a court
8 of competent jurisdiction that provides for maintenance or support.

9 (6) Unless contrary to applicable federal law, nothing contained in
10 subsection (3), (4), or (5) of this section shall be construed as a
11 termination or limitation of a spouse's community property interest in
12 an individual retirement account held in the name of or on account of
13 the other spouse, the account holder spouse. At the death of the
14 nonaccount holder spouse, the nonaccount holder spouse may transfer or
15 distribute the community property interest of the nonaccount holder
16 spouse in the account holder spouse's individual retirement account to
17 the nonaccount holder spouse's estate, testamentary trust, inter vivos
18 trust, or other successor or successors pursuant to the last will of
19 the nonaccount holder spouse or the law of intestate succession, and
20 that distributee may, but shall not be required to, obtain an order of
21 a court of competent jurisdiction, including a nonjudicial dispute
22 resolution agreement entered into pursuant to RCW 11.96.170 or other
23 order entered under chapter 11.96A RCW, to confirm the distribution.
24 For purposes of subsection (3) of this section, the distributee of the
25 nonaccount holder spouse's community property interest in an individual
26 retirement account shall be considered a person entitled to the full
27 protection of subsection (3) of this section. The nonaccount holder
28 spouse's consent to a beneficiary designation by the account holder
29 spouse with respect to an individual retirement account shall not,
30 absent clear and convincing evidence to the contrary, be deemed a
31 release, gift, relinquishment, termination, limitation, or transfer of
32 the nonaccount holder spouse's community property interest in an
33 individual retirement account. For purposes of this subsection, the
34 term "nonaccount holder spouse" means the spouse of the person in whose
35 name the individual retirement account is maintained. The term
36 "individual retirement account" includes an individual retirement
37 account and an individual retirement annuity both as described in
38 section 408 of the internal revenue code of 1986, as amended, a Roth
39 individual retirement account as described in section 408A of the

1 internal revenue code of 1986, as amended, and an individual retirement
2 bond as described in section 409 of the internal revenue code as in
3 effect before January 1, 1984. As used in this subsection, an order of
4 a court of competent jurisdiction includes an agreement, as that term
5 is used under RCW 11.96A.220.

6 **Sec. 403.** RCW 26.09.138 and 1991 c 365 s 24 are each amended to
7 read as follows:

8 (1) Any obligee of a court order or decree establishing a spousal
9 maintenance obligation may seek a mandatory benefits assignment order
10 under chapter 41.50 RCW if any spousal maintenance payment is more than
11 fifteen days past due and the total of such past due payments is equal
12 to or greater than one hundred dollars, or if the obligor requests a
13 withdrawal of accumulated contributions from the department of
14 retirement systems.

15 (2) Any court order or decree establishing a spousal maintenance
16 obligation may state that, if any spousal maintenance payment is more
17 than fifteen days past due and the total of such past due payments is
18 equal to or greater than one hundred dollars, or if the obligor
19 requests a withdrawal of accumulated contributions from the department
20 of retirement systems, the obligee may seek a mandatory benefits
21 assignment order under chapter 41.50 RCW without prior notice to the
22 obligor. Any such court order or decree may also, or in the
23 alternative, contain a provision that would allow the department to
24 make a direct payment of all or part of a withdrawal of accumulated
25 contributions pursuant to RCW 41.50.550(3). Failure to include this
26 provision does not affect the validity of the court order or decree
27 establishing the spousal maintenance, nor does such failure affect the
28 general applicability of RCW 41.50.500 through 41.50.650 to such
29 obligations.

30 (3) The remedies in RCW 41.50.530 through 41.50.630 are the
31 exclusive provisions of law enforceable against the department of
32 retirement systems in connection with any action for enforcement of a
33 spousal maintenance obligation ordered pursuant to a divorce,
34 dissolution, or legal separation, and no other remedy ordered by a
35 court under this chapter shall be enforceable against the department of
36 retirement systems for collection of spousal maintenance.

37 (4)(a) Nothing in this section regarding mandatory assignment of
38 benefits to enforce a spousal maintenance obligation shall abridge the

1 right of an ex spouse to receive direct payment of retirement benefits
2 payable pursuant to: (i) A court decree of dissolution or legal
3 separation; or (ii) any court order or court-approved property
4 settlement agreement; or (iii) incident to any court decree of
5 dissolution or legal separation, if such dissolution orders fully
6 comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW
7 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, (~~41.26.180~~)
8 41.26.053, section 209 of this act, 41.32.052, 41.40.052, or 43.43.310
9 as those statutes existed before July 1, 1987, and as those statutes
10 exist on and after July 28, 1991.

11 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)
12 were entered between July 1, 1987, and July 28, 1991, shall be entitled
13 to receive direct payments of retirement benefits to satisfy court-
14 ordered property divisions if the dissolution orders filed with the
15 department comply or are amended to comply with RCW 41.50.670 through
16 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, (~~41.26.180~~)
17 41.26.053, section 209 of this act, 41.32.052, 41.40.052, or 43.43.310.

18 **Sec. 404.** RCW 36.28A.010 and 1975 1st ex.s. c 172 s 1 are each
19 amended to read as follows:

20 The Washington association of sheriffs and police chiefs is hereby
21 declared to be a combination of units of local government: PROVIDED,
22 That such association shall not be considered an "employer" within the
23 meaning of RCW 41.26.030(2), section 202 of this act, or 41.40.010(4):
24 PROVIDED FURTHER, That no compensation received as an employee of the
25 association shall be considered salary for purposes of the provisions
26 of any retirement system created pursuant to the general laws of this
27 state: PROVIDED FURTHER, That such association shall not qualify for
28 inclusion under the unallocated two mills of the property tax of any
29 political subdivision: PROVIDED FURTHER, That the association shall
30 not have the authority to assess any excess levy or bond measure.

31 **Sec. 405.** RCW 41.04.205 and 1995 1st sp.s. c 6 s 8 are each
32 amended to read as follows:

33 (1) Notwithstanding the provisions of RCW 41.04.180, the employees,
34 with their dependents, of any county, municipality, or other political
35 subdivision of this state shall be eligible to participate in any
36 insurance or self-insurance program for employees administered under
37 chapter 41.05 RCW if the legislative authority of any such county,

1 municipality, or other political subdivisions of this state determines,
2 subject to collective bargaining under applicable statutes, a transfer
3 to an insurance or self-insurance program administered under chapter
4 41.05 RCW should be made. In the event of a special district employee
5 transfer pursuant to this section, members of the governing authority
6 shall be eligible to be included in such transfer if such members are
7 authorized by law as of June 25, 1976, to participate in the insurance
8 program being transferred from and subject to payment by such members
9 of all costs of insurance for members.

10 (2) When the legislative authority of a county, municipality, or
11 other political subdivision determines to so transfer, the state health
12 care authority shall:

13 (a) Establish the conditions for participation; and

14 (b) Have the sole right to reject the application.

15 Approval of the application by the state health care authority
16 shall effect a transfer of the employees involved to the insurance,
17 self-insurance, or health care program applied for.

18 (3) Any application of this section to members of the law
19 enforcement officers' and fire fighters' retirement system under
20 chapter 41.26 or 41.26A RCW is subject to chapter 41.56 RCW.

21 (4) School districts may voluntarily transfer, except that all
22 eligible employees in a bargaining unit of a school district may
23 transfer only as a unit and all nonrepresented employees in a district
24 may transfer only as a unit.

25 **Sec. 406.** RCW 41.04.270 and 1988 c 195 s 5 are each amended to
26 read as follows:

27 (1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26,
28 41.26A, 41.28, 41.32, 41.40, or 43.43 RCW to the contrary, on and after
29 March 19, 1976, any member or former member who (a) receives a
30 retirement allowance earned by said former member as deferred
31 compensation from any public retirement system authorized by the
32 general laws of this state, or (b) is eligible to receive a retirement
33 allowance from any public retirement system listed in RCW 41.50.030,
34 but chooses not to apply, or (c) is the beneficiary of a disability
35 allowance from any public retirement system listed in RCW 41.50.030
36 shall be estopped from becoming a member of or accruing any contractual
37 rights whatsoever in any other public retirement system listed in RCW
38 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not

1 apply to persons who have accumulated less than fifteen years service
2 credit in any such system.

3 (2) Nothing in this section is intended to apply to any retirement
4 system except those listed in RCW 41.50.030 and the city employee
5 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)
6 of this section does not apply to a dual member as defined in RCW
7 41.54.010.

8 **Sec. 407.** RCW 41.04.350 and 1979 ex.s. c 159 s 1 are each amended
9 to read as follows:

10 (1) Notwithstanding any other provisions of law, no employee of the
11 state of Washington or any of its political subdivisions or any
12 institution supported in total or in part by the state or any of its
13 political subdivisions, other than employees covered by chapters 41.26,
14 41.26A, and 43.43 RCW, shall be compelled to retire solely on the basis
15 of age prior to attaining seventy years of age.

16 (2) All compulsory retirement provisions relating to public
17 employees, other than employees covered by chapters 41.26, 41.26A, and
18 43.43 RCW, may be waived for individuals attaining seventy years of age
19 by the individual's employer.

20 **Sec. 408.** RCW 41.04.400 and 1984 c 184 s 22 are each amended to
21 read as follows:

22 It is the purpose of RCW 41.04.405 through 41.04.430 to govern the
23 retirement rights of persons whose employment status is altered when:

24 (1) Two or more units of local government of this state, at least one
25 of which is a first class city with its own retirement system, enter
26 into an agreement for the consolidated performance of a governmental
27 service, activity, or undertaking; (2) the service, activity, or
28 undertaking is to be performed either by one of the participating
29 local governmental units or by a newly established separate legal
30 entity; and (3) the employees of the participating local governmental
31 units are not all members of the same Washington public retirement
32 system.

33 RCW 41.04.405 through 41.04.430 are not intended to and do not
34 govern retirement rights of any members of the retirement systems
35 established by chapter 41.16, 41.18, 41.20, (~~or~~) 41.26, or 41.26A
36 RCW, or of employees described in RCW 35.58.265, 35.58.390, or
37 70.08.070. To the extent there is any conflict between RCW 41.04.405

1 through 41.04.430 and RCW 41.04.110, the provisions of RCW 41.04.405
2 through 41.04.430 shall govern.

3 **Sec. 409.** RCW 41.05.320 and 1995 1st sp.s. c 6 s 13 are each
4 amended to read as follows:

5 (1) Elected officials and all permanent employees of the state are
6 eligible to participate in the benefits contribution plan and
7 contribute amount(s) by agreement with the authority. The authority
8 may adopt rules to permit participation in the plan by temporary
9 employees of the state.

10 (2) Persons eligible under subsection (1) of this section may enter
11 into benefits contribution agreements with the state.

12 (3)(a) In the initial year of the medical flexible spending
13 arrangement or cafeteria plan, if authorized, an eligible person may
14 become a participant after the adoption of the plan and before its
15 effective date by agreeing to have a portion of his or her gross salary
16 contributed and deposited into a health care and other benefits account
17 to be used for reimbursement of expenses covered by the plan.

18 (b) After the initial year of the medical flexible spending
19 arrangement or cafeteria plan, if authorized, an eligible person may
20 become a participant for a full plan year, with annual benefit
21 selection for each new plan year made before the beginning of the plan
22 year, as determined by the authority, or upon becoming eligible.

23 (c) Once an eligible person elects to participate and the amount of
24 gross salary that he or she shall contribute and the benefit for which
25 the funds are to be used during the plan year is determined, the
26 agreement shall be irrevocable and may not be amended during the plan
27 year except as provided in (d) of this subsection. Prior to making an
28 election to participate in the (~~benefit[s]~~) benefits contribution
29 plan, the eligible person shall be informed in writing of all the
30 benefits and contributions that will occur as a result of such
31 election.

32 (d) The authority shall provide in the benefits contribution plan
33 that a participant may enroll, terminate, or change his or her election
34 after the plan year has begun if there is a significant change in a
35 participant's status, as provided by 26 U.S.C. Sec. 125 and the
36 regulations adopted under that section and defined by the authority.

37 (4) The authority shall establish as part of the benefits
38 contribution plan the procedures for and effect of withdrawal from the

1 plan by reason of retirement, death, leave of absence, or termination
2 of employment. To the extent possible under federal law, the authority
3 shall protect participants from forfeiture of rights under the plan.

4 (5) Any contribution under the benefits contribution plan shall
5 continue to be included as reportable compensation for the purpose of
6 computing the state retirement and pension benefits earned by the
7 employee pursuant to chapters 41.26, 41.26A, 41.32, 41.40, and 43.43
8 RCW.

9 **Sec. 410.** RCW 41.18.210 and 1974 ex.s. c 148 s 1 are each amended
10 to read as follows:

11 Any former employee of a department of a city of the first class,
12 who (1) was a member of the employees' retirement system of such city,
13 and (2) is now employed within the fire department of such city, may
14 transfer his former membership credit from the city employees'
15 retirement system to the fireman's pension system created by chapters
16 41.16 and 41.18 RCW by filing a written request with the board of
17 administration and the municipal fireman's pension board, respectively.

18 Upon the receipt of such request, the transfer of membership to the
19 city's fireman's pension system shall be made, together with a transfer
20 of all accumulated contributions credited to such member. The board of
21 administration shall transmit to the municipal fireman's pension board
22 a record of service credited to such member which shall be computed and
23 credited to such member as a part of his period of employment in the
24 city's fireman's pension system. For the purpose of the transfer
25 contemplated by this section, those affected individuals who have
26 formerly withdrawn funds from the city employees' retirement system
27 shall be allowed to restore contributions withdrawn from that
28 retirement system directly to the fireman's pension system and receive
29 credit in the fireman's pension system for their former membership
30 service in the prior system.

31 Any employee so transferring shall have all the rights, benefits,
32 and privileges that he would have been entitled to had he been a member
33 of the city's fireman's pension system from the beginning of his
34 employment with the city.

35 No person so transferring shall thereafter be entitled to any other
36 public pension, except that provided by chapter 41.26 or 41.26A RCW or
37 social security, which is based upon such service with the city.

1 The right of any employee to file a written request for transfer of
2 membership as set forth in this section shall expire December 31, 1974.

3 **Sec. 411.** RCW 41.20.170 and 1973 c 143 s 2 are each amended to
4 read as follows:

5 Any former employee of a department of a city of the first class
6 who (1) was a member of the employees' retirement system of such city,
7 and (2) is now employed within the police department of such city, may
8 transfer his or her membership from the city employees' retirement
9 system to the city's police relief and pension fund system by filing a
10 written request with the board of administration and the board of
11 trustees, respectively, of the two systems.

12 Upon the receipt of such request, the transfer of membership to the
13 city's police relief and pension fund system shall be made, together
14 with a transfer of all accumulated contributions credited to such
15 member. The board of administration of the city's employees'
16 retirement system shall transmit to the board of trustees of the city's
17 police relief and pension fund system a record of service credited to
18 such member which shall be computed and credited to such member as a
19 part of his or her period of employment in the city's police relief and
20 pension fund system. For the purpose of the transfer contemplated by
21 this section, the affected individuals shall be allowed to restore
22 withdrawn contributions to the city employees' retirement system and
23 reinstate their membership service records.

24 Any employee so transferring shall have all the rights, benefits
25 and privileges that he or she would have been entitled to had he or she
26 been a member of the city's police relief and pension fund system from
27 the beginning of his or her employment with the city.

28 No person so transferring shall thereafter be entitled to any other
29 public pension, except that provided by chapter 41.26 or 41.26A RCW or
30 social security, which is based upon service with the city.

31 The right of any employee to file a written request for transfer of
32 membership as set forth herein shall expire December 31, 1973.

33 **Sec. 412.** RCW 41.20.175 and 1974 ex.s. c 148 s 2 are each amended
34 to read as follows:

35 A former employee of a fire department of a city of the first class
36 who (1) was a member of the fireman's pension system created by
37 chapters 41.16 or 41.18 RCW, and (2) is now employed within the police

1 department of such city, will be regarded as having received membership
2 service credit for such service to the fire department in the city's
3 police and relief pension system at the time he recovers such service
4 credit by paying withdrawn contributions to the Washington law
5 enforcement officers' and fire fighters' retirement system pursuant to
6 RCW 41.26.030(~~((+14))~~) or section 202 of this act.

7 **Sec. 413.** RCW 41.24.400 and 1999 c 148 s 31 are each amended to
8 read as follows:

9 (1) Except as provided in subsection (2) of this section, any
10 municipality may make provision by appropriate legislation and payment
11 of fees required by RCW 41.24.030(1) solely for the purpose of enabling
12 any reserve officer to enroll under the retirement pension provisions
13 of this chapter or fees required under RCW 41.24.030(1) to pay for the
14 costs of extending the relief provisions of this chapter to its reserve
15 officers.

16 (2) A reserve officer is not eligible to receive a benefit under
17 the retirement provisions of this chapter for service under chapter
18 41.26, 41.26A, 41.32, or 41.40 RCW.

19 (3) Every municipality shall make provisions for the collection and
20 payment of the fees required under this chapter, and shall continue to
21 make provisions for all reserve officers who come under this chapter as
22 long as they continue to be employed as reserve officers.

23 (4) Except as provided under RCW 41.24.450, a reserve officer is
24 not eligible to receive a benefit under the relief provisions of this
25 chapter.

26 **Sec. 414.** RCW 41.32.800 and 1998 c 341 s 605 are each amended to
27 read as follows:

28 (1) Except as provided in RCW 41.32.802, no retiree under the
29 provisions of plan 2 shall be eligible to receive such retiree's
30 monthly retirement allowance if he or she is employed in an eligible
31 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
32 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
33 section 202 of this act.

34 If a retiree's benefits have been suspended under this section, his
35 or her benefits shall be reinstated when the retiree terminates the
36 employment that caused his or her benefits to be suspended. Upon

1 reinstatement, the retiree's benefits shall be actuarially recomputed
2 pursuant to the rules adopted by the department.

3 (2) The department shall adopt rules implementing this section.

4 **Sec. 415.** RCW 41.32.860 and 1997 c 254 s 7 are each amended to
5 read as follows:

6 (1) Except under RCW 41.32.862, no retiree shall be eligible to
7 receive such retiree's monthly retirement allowance if he or she is
8 employed in an eligible position as defined in RCW 41.40.010 or
9 41.32.010, or as a law enforcement officer or fire fighter as defined
10 in RCW 41.26.030 or section 202 of this act.

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

16 **Sec. 416.** RCW 41.35.230 and 1998 c 341 s 24 are each amended to
17 read as follows:

18 (1) Except as provided in RCW 41.35.060, no retiree under the
19 provisions of plan 2 shall be eligible to receive such retiree's
20 monthly retirement allowance if he or she is employed in an eligible
21 position as defined in RCW 41.35.010, RCW 41.40.010 or 41.32.010, or as
22 a law enforcement officer or fire fighter as defined in RCW 41.26.030
23 or section 202 of this act, except that a retiree who ends his or her
24 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
25 not subject to this section if the retiree's only employment is as an
26 elective official.

27 (2) If a retiree's benefits have been suspended under this section,
28 his or her benefits shall be reinstated when the retiree terminates the
29 employment that caused his or her benefits to be suspended. Upon
30 reinstatement, the retiree's benefits shall be actuarially recomputed
31 pursuant to the rules adopted by the department.

32 (3) The department shall adopt rules implementing this section.

33 **Sec. 417.** RCW 41.40.690 and 1998 c 341 s 606 are each amended to
34 read as follows:

35 (1) Except as provided in RCW 41.40.037, no retiree under the
36 provisions of plan 2 shall be eligible to receive such retiree's

1 monthly retirement allowance if he or she is employed in an eligible
2 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
3 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
4 section 202 of this act, except that a retiree who ends his or her
5 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
6 not subject to this section if the retiree's only employment is as an
7 elective official of a city or town.

8 (2) If a retiree's benefits have been suspended under this section,
9 his or her benefits shall be reinstated when the retiree terminates the
10 employment that caused his or her benefits to be suspended. Upon
11 reinstatement, the retiree's benefits shall be actuarially recomputed
12 pursuant to the rules adopted by the department.

13 (3) The department shall adopt rules implementing this section.

14 **Sec. 418.** RCW 41.40.850 and 2000 c 247 s 315 are each amended to
15 read as follows:

16 (1) Except as provided in RCW 41.40.037, no retiree under the
17 provisions of plan 3 shall be eligible to receive such retiree's
18 monthly retirement allowance if he or she is employed in an eligible
19 position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a
20 law enforcement officer or fire fighter as defined in RCW 41.26.030 or
21 section 202 of this act, except that a retiree who ends his or her
22 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is
23 not subject to this section if the retiree's only employment is as an
24 elective official of a city or town.

25 (2) If a retiree's benefits have been suspended under this section,
26 his or her benefits shall be reinstated when the retiree terminates the
27 employment that caused his or her benefits to be suspended. Upon
28 reinstatement, the retiree's benefits shall be actuarially recomputed
29 pursuant to the rules adopted by the department.

30 (3) The department shall adopt rules implementing this section.

31 **Sec. 419.** RCW 41.45.010 and 1998 c 341 s 401 are each amended to
32 read as follows:

33 It is the intent of the legislature to provide a dependable and
34 systematic process for funding the benefits provided to members and
35 retirees of the public employees' retirement system, chapter 41.40 RCW;
36 the teachers' retirement system, chapter 41.32 RCW; the law enforcement
37 officers' and fire fighters' retirement systems, chapter 41.26 and

1 41.26A RCW; the school employees' retirement system, chapter 41.35 RCW;
2 and the Washington state patrol retirement system, chapter 43.43 RCW.

3 The funding processes established by this chapter (~~(is)~~) are
4 intended to achieve the following goals:

5 (1) To continue to fully fund the public employees' retirement
6 system plan 2, the teachers' retirement system plans 2 and 3, the
7 school employees' retirement system plans 2 and 3, and the law
8 enforcement officers' and fire fighters' retirement system plan 2 as
9 provided by law;

10 (2) To fully amortize the total costs of the public employees'
11 retirement system plan 1(~~(7)~~) and the teachers' retirement system plan
12 1(~~(7 and the law enforcement officers' and fire fighters' retirement~~
13 ~~system plan 1)~~) not later than June 30, 2024;

14 (3) To maintain the sound actuarially funding of the restated law
15 enforcement officers' and fire fighters' retirement system;

16 (4) To enable taxpayers and retirement system members to benefit
17 from favorable actuarial experience and investment returns by means of
18 contribution rate reductions for plan 2 members and employers, and by
19 a return of surplus assets from the termination of the law enforcement
20 officers' and fire fighters' retirement system plan 1 to employees,
21 employers, and the state;

22 (5) To establish predictable long-term employer contribution rates
23 which will remain a relatively constant proportion of the future state
24 budgets; and

25 (~~(4)~~) (6) To fund, to the extent feasible, benefit increases for
26 plan 1 members and all benefits for plan 2 and 3 members over the
27 working lives of those members so that the cost of those benefits are
28 paid by the taxpayers who receive the benefit of those members'
29 service.

30 **Sec. 420.** RCW 41.45.010 and 2000 c 247 s 501 are each amended to
31 read as follows:

32 It is the intent of the legislature to provide a dependable and
33 systematic process for funding the benefits provided to members and
34 retirees of the public employees' retirement system, chapter 41.40 RCW;
35 the teachers' retirement system, chapter 41.32 RCW; the law enforcement
36 officers' and fire fighters' retirement systems, chapter 41.26 and
37 41.26A RCW; the school employees' retirement system, chapter 41.35 RCW;
38 and the Washington state patrol retirement system, chapter 43.43 RCW.

1 The funding processes established by this chapter (~~is~~) are
2 intended to achieve the following goals:

3 (1) To continue to fully fund the public employees' retirement
4 system plans 2 and 3, the teachers' retirement system plans 2 and 3,
5 the school employees' retirement system plans 2 and 3, and the law
6 enforcement officers' and fire fighters' retirement system plan 2 as
7 provided by law;

8 (2) To fully amortize the total costs of the public employees'
9 retirement system plan 1(~~7~~) and the teachers' retirement system plan
10 1(~~7~~ and the law enforcement officers' and fire fighters' retirement
11 system plan 1)) not later than June 30, 2024;

12 (3) To maintain the sound actuarial funding of the restated law
13 enforcement officers' and fire fighters' retirement system;

14 (4) To enable taxpayers and retirement system members to benefit
15 from favorable actuarial experience and investment returns by means of
16 contribution rate reductions for plan 2 members and employers, and by
17 a return of surplus assets from the termination of the law enforcement
18 officers' and fire fighters' retirement system plan 1 to employees,
19 employers, and the state;

20 (5) To establish predictable long-term employer contribution rates
21 which will remain a relatively constant proportion of the future state
22 budgets; and

23 (~~4~~) (6) To fund, to the extent feasible, benefit increases for
24 plan 1 members and all benefits for plan 2 and 3 members over the
25 working lives of those members so that the cost of those benefits are
26 paid by the taxpayers who receive the benefit of those members'
27 service.

28 **Sec. 421.** RCW 41.45.020 and 1998 c 341 s 402 and 1998 c 283 s 1
29 are each reenacted and amended to read as follows:

30 As used in this chapter, the following terms have the meanings
31 indicated unless the context clearly requires otherwise.

32 (1) "Council" means the pension funding council created in RCW
33 41.45.100.

34 (2) "Department" means the department of retirement systems.

35 (3) "Restated law enforcement officers' and fire fighters'
36 retirement system (plan 1)" and "law enforcement officers' and fire
37 fighters' retirement system plan 2" mean the benefits and funding
38 provisions under chapter 41.26A and 41.26 RCW, respectively.

1 (4) "Public employees' retirement system plan 1" and "public
2 employees' retirement system plan 2" mean the benefits and funding
3 provisions under chapter 41.40 RCW.

4 (5) "Teachers' retirement system plan 1," "teachers' retirement
5 system plan 2," and "teachers' retirement system plan 3" mean the
6 benefits and funding provisions under chapter 41.32 RCW.

7 (6) "School employees' retirement system plan 2" and "school
8 employees' retirement system plan 3" mean the benefits and funding
9 provisions under chapter 41.35 RCW.

10 (7) "Washington state patrol retirement system" means the
11 retirement benefits provided under chapter 43.43 RCW.

12 (8) "Unfunded liability" means the unfunded actuarial accrued
13 liability of a retirement system.

14 (9) "Actuary" or "state actuary" means the state actuary employed
15 under chapter 44.44 RCW.

16 (10) "State retirement systems" means the retirement systems listed
17 in RCW 41.50.030.

18 (11) "Work group" means the pension funding work group created in
19 RCW 41.45.120.

20 (12) "Classified employee" means a member of the Washington school
21 employees' retirement system plan 2 or plan 3 as defined in RCW
22 41.35.010.

23 (13) "Teacher" means a member of the teachers' retirement system as
24 defined in RCW 41.32.010(15).

25 **Sec. 422.** RCW 41.45.020 and 2000 c 247 s 502 are each amended to
26 read as follows:

27 As used in this chapter, the following terms have the meanings
28 indicated unless the context clearly requires otherwise.

29 (1) "Council" means the pension funding council created in RCW
30 41.45.100.

31 (2) "Department" means the department of retirement systems.

32 (3) "Restated law enforcement officers' and fire fighters'
33 retirement system ((plan 1))" and "law enforcement officers' and fire
34 fighters' retirement system plan 2" mean the benefits and funding
35 provisions under chapter 41.26A and 41.26 RCW, respectively.

36 (4) "Public employees' retirement system plan 1," "public
37 employees' retirement system plan 2," and "public employees' retirement

1 system plan 3" mean the benefits and funding provisions under chapter
2 41.40 RCW.

3 (5) "Teachers' retirement system plan 1," "teachers' retirement
4 system plan 2," and "teachers' retirement system plan 3" mean the
5 benefits and funding provisions under chapter 41.32 RCW.

6 (6) "School employees' retirement system plan 2" and "school
7 employees' retirement system plan 3" mean the benefits and funding
8 provisions under chapter 41.35 RCW.

9 (7) "Washington state patrol retirement system" means the
10 retirement benefits provided under chapter 43.43 RCW.

11 (8) "Unfunded liability" means the unfunded actuarial accrued
12 liability of a retirement system.

13 (9) "Actuary" or "state actuary" means the state actuary employed
14 under chapter 44.44 RCW.

15 (10) "State retirement systems" means the retirement systems listed
16 in RCW 41.50.030.

17 (11) "Work group" means the pension funding work group created in
18 RCW 41.45.120.

19 (12) "Classified employee" means a member of the Washington school
20 employees' retirement system plan 2 or plan 3 as defined in RCW
21 41.35.010.

22 (13) "Teacher" means a member of the teachers' retirement system as
23 defined in RCW 41.32.010(15).

24 **Sec. 423.** RCW 41.45.050 and 1998 c 341 s 403 are each amended to
25 read as follows:

26 (1) Employers of members of the public employees' retirement
27 system, the teachers' retirement system, the school employees'
28 retirement system, and the Washington state patrol retirement system
29 shall make contributions to those systems based on the rates
30 established in RCW 41.45.060 and 41.45.070.

31 (2) The state shall make contributions to the law enforcement
32 officers' and fire fighters' retirement system plan 2 based on the
33 rates established in RCW 41.45.060 and 41.45.070. The state treasurer
34 shall transfer the required contributions each month on the basis of
35 salary data provided by the department. The state shall make
36 contributions pursuant to section 5 of this act to maintain the sound
37 actuarial status of the restated law enforcement officers' and fire
38 fighters' defined benefit retirement plan.

1 (3) The department shall bill employers, and the state shall make
2 contributions to the law enforcement officers' and fire fighters'
3 retirement system plan 2, using the combined rates established in RCW
4 41.45.060 and 41.45.070 regardless of the level of pension funding
5 provided in the biennial budget. Any member of an affected retirement
6 system may, by mandamus or other appropriate proceeding, require the
7 transfer and payment of funds as directed in this section.

8 (4) The contributions received for the public employees' retirement
9 system shall be allocated between the public employees' retirement
10 system plan 1 fund and public employees' retirement system plan 2 fund
11 as follows: The contributions necessary to fully fund the public
12 employees' retirement system plan 2 employer contribution required by
13 RCW 41.40.650 shall first be deposited in the public employees'
14 retirement system plan 2 fund. All remaining public employees'
15 retirement system employer contributions shall be deposited in the
16 public employees' retirement system plan 1 fund.

17 (5) The contributions received for the teachers' retirement system
18 shall be allocated between the plan 1 fund and the combined plan 2 and
19 plan 3 fund as follows: The contributions necessary to fully fund the
20 combined plan 2 and plan 3 employer contribution shall first be
21 deposited in the combined plan 2 and plan 3 fund. All remaining
22 teachers' retirement system employer contributions shall be deposited
23 in the plan 1 fund.

24 (6) The contributions received for the school employees' retirement
25 system shall be allocated between the public employees' retirement
26 system plan 1 fund and the school employees' retirement system combined
27 plan 2 and plan 3 fund as follows: The contributions necessary to
28 fully fund the combined plan 2 and plan 3 employer contribution shall
29 first be deposited in the combined plan 2 and plan 3 fund. All
30 remaining school employees' retirement system employer contributions
31 shall be deposited in the public employees' retirement system plan 1
32 fund.

33 (7) The contributions received under RCW 41.26.450 for the law
34 enforcement officers' and fire fighters' retirement system shall be
35 allocated (~~between the law enforcement officers' and fire fighters'~~
36 ~~retirement system plan 1 and~~) to the law enforcement officers' and
37 fire fighters' retirement system plan 2 fund (~~as follows:—The~~
38 ~~contributions necessary to fully fund the law enforcement officers' and~~
39 ~~fire fighters' retirement system plan 2 employer contributions shall be~~

1 ~~first deposited in the law enforcement officers' and fire fighters'~~
2 ~~retirement system plan 2 fund. All remaining law enforcement officers'~~
3 ~~and fire fighters' retirement system employer contributions shall be~~
4 ~~deposited in the law enforcement officers' and fire fighters'~~
5 ~~retirement system plan 1 fund)).~~

6 (8) The funding of the restated law enforcement officers' and fire
7 fighters' defined benefit retirement plan shall be provided pursuant to
8 section 5 of this act.

9 **Sec. 424.** RCW 41.45.050 and 2000 c 247 s 503 are each amended to
10 read as follows:

11 (1) Employers of members of the public employees' retirement
12 system, the teachers' retirement system, the school employees'
13 retirement system, and the Washington state patrol retirement system
14 shall make contributions to those systems based on the rates
15 established in RCW 41.45.060 and 41.45.070.

16 (2) The state shall make contributions to the law enforcement
17 officers' and fire fighters' retirement system plan 2 based on the
18 rates established in RCW 41.45.060 and 41.45.070. The state treasurer
19 shall transfer the required contributions each month on the basis of
20 salary data provided by the department. The state shall make
21 contributions pursuant to section 5 of this act to maintain the sound
22 actuarial status of the restated law enforcement officers' and fire
23 fighters' defined benefit retirement plan.

24 (3) The department shall bill employers, and the state shall make
25 contributions to the law enforcement officers' and fire fighters'
26 retirement system plan 2, using the combined rates established in RCW
27 41.45.060 and 41.45.070 regardless of the level of pension funding
28 provided in the biennial budget. Any member of an affected retirement
29 system may, by mandamus or other appropriate proceeding, require the
30 transfer and payment of funds as directed in this section.

31 (4) The contributions received for the public employees' retirement
32 system shall be allocated between the public employees' retirement
33 system plan 1 fund and the public employees' retirement system combined
34 plan 2 and plan 3 fund as follows: The contributions necessary to
35 fully fund the public employees' retirement system combined plan 2 and
36 plan 3 employer contribution shall first be deposited in the public
37 employees' retirement system combined plan 2 and plan 3 fund. All
38 remaining public employees' retirement system employer contributions

1 shall be deposited in the public employees' retirement system plan 1
2 fund.

3 (5) The contributions received for the teachers' retirement system
4 shall be allocated between the plan 1 fund and the combined plan 2 and
5 plan 3 fund as follows: The contributions necessary to fully fund the
6 combined plan 2 and plan 3 employer contribution shall first be
7 deposited in the combined plan 2 and plan 3 fund. All remaining
8 teachers' retirement system employer contributions shall be deposited
9 in the plan 1 fund.

10 (6) The contributions received for the school employees' retirement
11 system shall be allocated between the public employees' retirement
12 system plan 1 fund and the school employees' retirement system combined
13 plan 2 and plan 3 fund as follows: The contributions necessary to
14 fully fund the combined plan 2 and plan 3 employer contribution shall
15 first be deposited in the combined plan 2 and plan 3 fund. All
16 remaining school employees' retirement system employer contributions
17 shall be deposited in the public employees' retirement system plan 1
18 fund.

19 (7) The contributions received under RCW 41.45.060, 41.45.061, and
20 41.45.067 for the law enforcement officers' and fire fighters'
21 retirement system shall be allocated (~~((between the law enforcement
22 officers' and fire fighters' retirement system plan 1 and))~~ to the law
23 enforcement officers' and fire fighters' retirement system plan 2 fund
24 (~~(as follows: The contributions necessary to fully fund the law
25 enforcement officers' and fire fighters' retirement system plan 2
26 employer contributions shall be first deposited in the law enforcement
27 officers' and fire fighters' retirement system plan 2 fund. All
28 remaining law enforcement officers' and fire fighters' retirement
29 system employer contributions shall be deposited in the law enforcement
30 officers' and fire fighters' retirement system plan 1 fund))~~)).

31 (8) The funding of the restated law enforcement officers' and fire
32 fighters' defined benefit retirement plan shall be provided pursuant to
33 section 5 of this act.

34 **Sec. 425.** RCW 41.45.060 and 2000 2nd sp.s. c 1 s 905 and 2000 c
35 247 s 504 are each reenacted and amended to read as follows:

36 (1) The state actuary shall provide actuarial valuation results
37 based on the assumptions adopted under RCW 41.45.030.

1 (2) Not later than September 30, 1998, and every two years
2 thereafter, consistent with the assumptions adopted under RCW
3 41.45.030, the council shall adopt and may make changes to:

4 (a) A basic state contribution rate for the law enforcement
5 officers' and fire fighters' retirement system plan 2;

6 (b) Basic employer contribution rates for the public employees'
7 retirement system, the teachers' retirement system, and the Washington
8 state patrol retirement system to be used in the ensuing biennial
9 period; and

10 (c) A basic employer contribution rate for the school employees'
11 retirement system for funding the public employees' retirement system
12 plan 1.

13 For the 1999-2001 fiscal biennium, the rates adopted by the council
14 shall be effective for the period designated in section 902, chapter 1,
15 Laws of 2000 2nd sp. sess. and RCW 41.45.0602.

16 (3) The employer and state contribution rates adopted by the
17 council shall be the level percentages of pay that are needed:

18 (a) To fully amortize the total costs of the public employees'
19 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
20 ~~law enforcement officers' and fire fighters' retirement system plan~~
21 ~~1,7~~)) and the unfunded liability of the Washington state patrol
22 retirement system not later than June 30, 2024, except as provided in
23 subsection (5) of this section;

24 (b) To also continue to fully fund the public employees' retirement
25 system plans 2 and 3, the teachers' retirement system plans 2 and 3,
26 the school employees' retirement system plans 2 and 3, and the law
27 enforcement officers' and fire fighters' retirement system plan 2 in
28 accordance with RCW 41.45.061, 41.45.067, and this section; and

29 (c) For the law enforcement officers' and fire fighters' system
30 plan 2, the rate charged to employers, except as provided in RCW
31 41.26.450, shall be thirty percent of the cost of the retirement system
32 and the rate charged to the state shall be twenty percent of the cost
33 of the retirement system.

34 (4) The aggregate actuarial cost method shall be used to calculate
35 a combined plan 2 and 3 employer contribution rate.

36 (5) An amount equal to the amount of extraordinary investment gains
37 as defined in RCW 41.31.020 shall be used to shorten the amortization
38 period for the public employees' retirement system plan 1 and the
39 teachers' retirement system plan 1.

1 (6) The council shall immediately notify the directors of the
2 office of financial management and department of retirement systems of
3 the state and employer contribution rates adopted.

4 (7) The director of the department of retirement systems shall
5 collect those rates adopted by the council.

6 **Sec. 426.** RCW 41.45.070 and 1998 c 340 s 10 and 1998 c 341 s 406
7 are each reenacted and amended to read as follows:

8 (1) In addition to the basic employer contribution rate established
9 in RCW 41.45.060, the department shall also charge employers of public
10 employees' retirement system, teachers' retirement system, school
11 employees' retirement system, or Washington state patrol retirement
12 system members an additional supplemental rate to pay for the cost of
13 additional benefits, if any, granted to members of those systems.
14 Except as provided in subsections (6) and (7) of this section, the
15 supplemental contribution rates required by this section shall be
16 calculated by the state actuary and shall be charged regardless of
17 language to the contrary contained in the statute which authorizes
18 additional benefits.

19 (2) In addition to the basic state contribution rate established in
20 RCW 41.45.060 for the law enforcement officers' and fire fighters'
21 retirement system plan 2 the department shall also establish a
22 supplemental rate to pay for the cost of additional benefits, if any,
23 granted to members of the law enforcement officers' and fire fighters'
24 retirement system plan 2. Except as provided in subsection (6) of this
25 section, this supplemental rate shall be calculated by the state
26 actuary and the state treasurer shall transfer the additional required
27 contributions regardless of language to the contrary contained in the
28 statute which authorizes the additional benefits.

29 (3) The supplemental rate charged under this section to fund
30 benefit increases provided to active members of the public employees'
31 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
32 ~~law enforcement officers' and fire fighters' retirement system plan~~
33 ~~1, 7~~)) and Washington state patrol retirement system, shall be calculated
34 as the level percentage of all members' pay needed to fund the cost of
35 the benefit not later than June 30, 2024.

36 (4) The supplemental rate charged under this section to fund
37 benefit increases provided to active and retired members of the public
38 employees' retirement system plan 2, the teachers' retirement system

1 plan 2 and plan 3, the school employees' retirement system plan 2 and
2 plan 3, or the law enforcement officers' and fire fighters' retirement
3 system plan 2, shall be calculated as the level percentage of all
4 members' pay needed to fund the cost of the benefit, as calculated
5 under RCW 41.40.650 or 41.26.450, respectively.

6 (5) The supplemental rate charged under this section to fund
7 postretirement adjustments which are provided on a nonautomatic basis
8 to current retirees shall be calculated as the percentage of pay needed
9 to fund the adjustments as they are paid to the retirees. The
10 supplemental rate charged under this section to fund automatic
11 postretirement adjustments for active or retired members of the public
12 employees' retirement system plan 1 and the teachers' retirement system
13 plan 1 shall be calculated as the level percentage of pay needed to
14 fund the cost of the automatic adjustments not later than June 30,
15 2024.

16 (6) A supplemental rate shall not be charged to pay for the cost of
17 additional benefits granted to members pursuant to chapter 340, Laws of
18 1998.

19 (7) A supplemental rate shall not be charged to pay for the cost of
20 additional benefits granted to members pursuant to chapter 41.31A RCW;
21 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,
22 Laws of 1998.

23 **Sec. 427.** RCW 41.45.070 and 2000 c 247 s 505 are each amended to
24 read as follows:

25 (1) In addition to the basic employer contribution rate established
26 in RCW 41.45.060, the department shall also charge employers of public
27 employees' retirement system, teachers' retirement system, school
28 employees' retirement system, or Washington state patrol retirement
29 system members an additional supplemental rate to pay for the cost of
30 additional benefits, if any, granted to members of those systems.
31 Except as provided in subsections (6) and (7) of this section, the
32 supplemental contribution rates required by this section shall be
33 calculated by the state actuary and shall be charged regardless of
34 language to the contrary contained in the statute which authorizes
35 additional benefits.

36 (2) In addition to the basic state contribution rate established in
37 RCW 41.45.060 for the law enforcement officers' and fire fighters'
38 retirement system plan 2 the department shall also establish a

1 supplemental rate to pay for the cost of additional benefits, if any,
2 granted to members of the law enforcement officers' and fire fighters'
3 retirement system plan 2. Except as provided in subsection (6) of this
4 section, this supplemental rate shall be calculated by the state
5 actuary and the state treasurer shall transfer the additional required
6 contributions regardless of language to the contrary contained in the
7 statute which authorizes the additional benefits.

8 (3) The supplemental rate charged under this section to fund
9 benefit increases provided to active members of the public employees'
10 retirement system plan 1, the teachers' retirement system plan 1, (~~the~~
11 ~~law enforcement officers' and fire fighters' retirement system plan~~
12 ~~1,7~~)) and Washington state patrol retirement system, shall be calculated
13 as the level percentage of all members' pay needed to fund the cost of
14 the benefit not later than June 30, 2024.

15 (4) The supplemental rate charged under this section to fund
16 benefit increases provided to active and retired members of the public
17 employees' retirement system plan 2 and plan 3, the teachers'
18 retirement system plan 2 and plan 3, the school employees' retirement
19 system plan 2 and plan 3, or the law enforcement officers' and fire
20 fighters' retirement system plan 2, shall be calculated as the level
21 percentage of all members' pay needed to fund the cost of the benefit,
22 as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

23 (5) The supplemental rate charged under this section to fund
24 postretirement adjustments which are provided on a nonautomatic basis
25 to current retirees shall be calculated as the percentage of pay needed
26 to fund the adjustments as they are paid to the retirees. The
27 supplemental rate charged under this section to fund automatic
28 postretirement adjustments for active or retired members of the public
29 employees' retirement system plan 1 and the teachers' retirement system
30 plan 1 shall be calculated as the level percentage of pay needed to
31 fund the cost of the automatic adjustments not later than June 30,
32 2024.

33 (6) A supplemental rate shall not be charged to pay for the cost of
34 additional benefits granted to members pursuant to chapter 340, Laws of
35 1998.

36 (7) A supplemental rate shall not be charged to pay for the cost of
37 additional benefits granted to members pursuant to chapter 41.31A RCW;
38 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,
39 Laws of 1998.

1 **Sec. 428.** RCW 41.48.030 and 1971 ex.s. c 257 s 19 are each amended
2 to read as follows:

3 (1) The governor is hereby authorized to enter on behalf of the
4 state into an agreement with the secretary of health, education, and
5 welfare consistent with the terms and provisions of this chapter, for
6 the purpose of extending the benefits of the federal old-age and
7 survivors insurance system to employees of the state or any political
8 subdivision not members of an existing retirement system, or to members
9 of a retirement system established by the state or by a political
10 subdivision thereof or by an institution of higher learning with
11 respect to services specified in such agreement which constitute
12 "employment" as defined in RCW 41.48.020. Such agreement may contain
13 such provisions relating to coverage, benefits, contributions,
14 effective date, modification and termination of the agreement,
15 administration, and other appropriate provisions as the governor and
16 secretary of health, education, and welfare shall agree upon, but,
17 except as may be otherwise required by or under the social security act
18 as to the services to be covered, such agreement shall provide in
19 effect that--

20 (a) Benefits will be provided for employees whose services are
21 covered by the agreement (and their dependents and survivors) on the
22 same basis as though such services constituted employment within the
23 meaning of title II of the social security act;

24 (b) The state will pay to the secretary of the treasury, at such
25 time or times as may be prescribed under the social security act,
26 contributions with respect to wages (as defined in RCW 41.48.020),
27 equal to the sum of the taxes which would be imposed by the federal
28 insurance contributions act if the services covered by the agreement
29 constituted employment within the meaning of that act;

30 (c) Such agreement shall be effective with respect to services in
31 employment covered by the agreement or modification thereof performed
32 after a date specified therein but in no event may it be effective with
33 respect to any such services performed prior to the first day of the
34 calendar year immediately preceding the calendar year in which such
35 agreement or modification of the agreement is accepted by the secretary
36 of health, education and welfare.

37 (d) All services which constitute employment as defined in RCW
38 41.48.020 and are performed in the employ of the state by employees of
39 the state, shall be covered by the agreement;

1 (e) All services which (i) constitute employment as defined in RCW
2 41.48.020, (ii) are performed in the employ of a political subdivision
3 of the state, and (iii) are covered by a plan which is in conformity
4 with the terms of the agreement and has been approved by the governor
5 under RCW 41.48.050, shall be covered by the agreement; and

6 (f) As modified, the agreement shall include all services described
7 in either paragraph (d) or paragraph (e) of this subsection and
8 performed by individuals to whom section 218(c)(3)(C) of the social
9 security act is applicable, and shall provide that the service of any
10 such individual shall continue to be covered by the agreement in case
11 he thereafter becomes eligible to be a member of a retirement system;
12 and

13 (g) As modified, the agreement shall include all services described
14 in either paragraph (d) or paragraph (e) of this subsection and
15 performed by individuals in positions covered by a retirement system
16 with respect to which the governor has issued a certificate to the
17 secretary of health, education, and welfare pursuant to subsection (5)
18 of this section.

19 (h) Law enforcement officers and firemen of each political
20 subdivision of this state who are covered by the Washington law
21 enforcement officers' and fire fighters' retirement systems ((Act
22 ~~chapter 209, Laws of 1969 ex. sess.~~)) under chapters 41.26 and 41.26A
23 RCW as now in existence or hereafter amended shall constitute a
24 separate "coverage group" for purposes of the agreement entered into
25 under this section and for purposes of section 218 of the social
26 security act. To the extent that the agreement between this state and
27 the federal secretary of health, education, and welfare in existence on
28 the date of adoption of this subsection is inconsistent with this
29 subsection, the governor shall seek to modify the inconsistency.

30 (2) Any instrumentality jointly created by this state and any other
31 state or states is hereby authorized, upon the granting of like
32 authority by such other state or states, (a) to enter into an agreement
33 with the secretary of health, education, and welfare whereby the
34 benefits of the federal old-age and survivors insurance system shall be
35 extended to employees of such instrumentality, (b) to require its
36 employees to pay (and for that purpose to deduct from their wages)
37 contributions equal to the amounts which they would be required to pay
38 under RCW 41.48.040(1) if they were covered by an agreement made
39 pursuant to subsection (1) of this section, and (c) to make payments to

1 the secretary of the treasury in accordance with such agreement,
2 including payments from its own funds, and otherwise to comply with
3 such agreements. Such agreement shall, to the extent practicable, be
4 consistent with the terms and provisions of subsection (1) and other
5 provisions of this chapter.

6 (3) The governor is empowered to authorize a referendum, and to
7 designate an agency or individual to supervise its conduct, in
8 accordance with the requirements of section 218(d)(3) of the social
9 security act, and subsection (4) of this section on the question of
10 whether service in all positions covered by a retirement system
11 established by the state or by a political subdivision thereof should
12 be excluded from or included under an agreement under this chapter. If
13 a retirement system covers positions of employees of the state of
14 Washington, of the institutions of higher learning, and positions of
15 employees of one or more of the political subdivisions of the state,
16 then for the purpose of the referendum as provided herein, there may be
17 deemed to be a separate retirement system with respect to employees of
18 the state, or any one or more of the political subdivisions, or
19 institutions of higher learning and the governor shall authorize a
20 referendum upon request of the subdivisions' or institutions' of higher
21 learning governing body: PROVIDED HOWEVER, That if a referendum of
22 state employees generally fails to produce a favorable majority vote
23 then the governor may authorize a referendum covering positions of
24 employees in any state department who are compensated in whole or in
25 part from grants made to this state under title III of the federal
26 social security act: PROVIDED, That any city or town affiliated with
27 the statewide city employees retirement system organized under chapter
28 41.44 RCW may at its option agree to a plan submitted by the board of
29 trustees of said statewide city employees retirement system for
30 inclusion under an agreement under this chapter if the referendum to be
31 held as provided herein indicates a favorable result: PROVIDED
32 FURTHER, That the teachers' retirement system be considered one system
33 for the purpose of the referendum except as applied to the several
34 colleges of education. The notice of referendum required by section
35 218(d)(3)(C) of the social security act to be given to employees shall
36 contain or shall be accompanied by a statement, in such form and such
37 detail as the agency or individual designated to supervise the
38 referendum shall deem necessary and sufficient, to inform the employees
39 of the rights which will accrue to them and their dependents and

1 survivors, and the liabilities to which they will be subject, if their
2 services are included under an agreement under this chapter.

3 (4) The governor, before authorizing a referendum, shall require
4 the following conditions to be met:

5 (a) The referendum shall be by secret written ballot on the
6 question of whether service in positions covered by such retirement
7 system shall be excluded from or included under the agreement between
8 the governor and the secretary of health, education, and welfare
9 provided for in RCW 41.48.030(1);

10 (b) An opportunity to vote in such referendum shall be given and
11 shall be limited to eligible employees;

12 (c) Not less than ninety days' notice of such referendum shall be
13 given to all such employees;

14 (d) Such referendum shall be conducted under the supervision (of
15 the governor or) of an agency or individual designated by the governor;

16 (e) The proposal for coverage shall be approved only if a majority
17 of the eligible employees vote in favor of including services in such
18 positions under the agreement;

19 (f) The state legislature, in the case of a referendum affecting
20 the rights and liabilities of state employees covered under the state
21 employees' retirement system and employees under the teachers'
22 retirement system, and in all other cases the local legislative
23 authority or governing body, shall have specifically approved the
24 proposed plan and approved any necessary structural adjustment to the
25 existing system to conform with the proposed plan.

26 (5) Upon receiving satisfactory evidence that with respect to any
27 such referendum the conditions specified in subsection (4) of this
28 section and section 218(d)(3) of the social security act have been met,
29 the governor shall so certify to the secretary of health, education,
30 and welfare.

31 (6) If the legislative body of any political subdivision of this
32 state certifies to the governor that a referendum has been held under
33 the terms of RCW 41.48.050(1)(i) and gives notice to the governor of
34 termination of social security for any coverage group of the political
35 subdivision, the governor shall give two years advance notice in
36 writing to the federal department of health, education, and welfare of
37 such termination of the agreement entered into under this section with
38 respect to said coverage group.

1 **Sec. 429.** RCW 41.48.050 and 1981 c 119 s 1 are each amended to
2 read as follows:

3 (1) Each political subdivision of the state is hereby authorized to
4 submit for approval by the governor a plan for extending the benefits
5 of title II of the social security act, in conformity with the
6 applicable provisions of such act, to those employees of such political
7 subdivisions who are not covered by an existing pension or retirement
8 system. Each pension or retirement system established by the state or
9 a political subdivision thereof is hereby authorized to submit for
10 approval by the governor a plan for extending the benefits of title II
11 of the social security act, in conformity with applicable provisions of
12 such act, to members of such pension or retirement system. Each such
13 plan and any amendment thereof shall be approved by the governor if he
14 finds that such plan, or such plan as amended, is in conformity with
15 such requirements as are provided in regulations of the governor,
16 except that no such plan shall be approved unless--

17 (a) It is in conformity with the requirements of the social
18 security act and with the agreement entered into under RCW 41.48.030;

19 (b) It provides that all services which constitute employment as
20 defined in RCW 41.48.020 and are performed in the employ of the
21 political subdivision by employees thereof, shall be covered by the
22 plan;

23 (c) It specifies the source or sources from which the funds
24 necessary to make the payments required by paragraph (a) of subsection
25 (3) and by subsection (4) of this section are expected to be derived
26 and contains reasonable assurance that such sources will be adequate
27 for such purposes;

28 (d) It provides that in the plan of coverage for members of the
29 state teachers' retirement system or for state employee members of the
30 state employees' retirement system, there shall be no additional cost
31 to or involvement of the state until such plan has received prior
32 approval by the legislature;

33 (e) It provides for such methods of administration of the plan by
34 the political subdivision as are found by the governor to be necessary
35 for the proper and efficient administration of the plan;

36 (f) It provides that the political subdivision will make such
37 reports, in such form and containing such information, as the governor
38 may from time to time require and comply with such provisions as the
39 governor or the secretary of health, education, and welfare may from

1 time to time find necessary to assure the correctness and verification
2 of such reports; and

3 (g) It authorizes the governor to terminate the plan in its
4 entirety, in his discretion, if he finds that there has been a failure
5 to comply substantially with any provision contained in such plan, such
6 termination to take effect at the expiration of such notice and on such
7 conditions as may be provided by regulations of the governor and may be
8 consistent with the provisions of the social security act.

9 (h) It provides that law enforcement officers and fire fighters of
10 each political subdivision of this state who are covered by the
11 Washington law enforcement officers' and fire fighters' retirement
12 systems (~~(Act (chapter 209, Laws of 1969 ex. sess.))~~) under chapters
13 41.26 and 41.26A RCW as now in existence or hereafter amended shall
14 constitute a separate "coverage group" for purposes of the plan or
15 agreement entered into under this section and for purposes of section
16 216 of the social security act. To the extent that the plan or
17 agreement entered into between the state and any political subdivision
18 of this state is inconsistent with this subsection, the governor shall
19 seek to modify the inconsistency.

20 (i) It provides that the plan or agreement may be terminated by any
21 political subdivision as to any such coverage group upon giving at
22 least two years advance notice in writing to the governor, effective at
23 the end of the calendar quarter specified in the notice. It shall
24 specify that before notice of such termination is given, a referendum
25 shall be held among the members of the coverage group under the
26 following conditions:

27 (i) The referendum shall be conducted under the supervision of the
28 legislative body of the political subdivision.

29 (ii) Not less than sixty days' notice of such referendum shall be
30 given to members of the coverage group.

31 (iii) An opportunity to vote by secret ballot in such referendum
32 shall be given and shall be limited to all members of the coverage
33 group.

34 (iv) The proposal for termination shall be approved only if a
35 majority of the coverage group vote in favor of termination.

36 (v) If a majority of the coverage group vote in favor of
37 termination, the legislative body of the political subdivision shall
38 certify the results of the referendum to the governor and give notice
39 of termination of such coverage group.

1 (2) The governor shall not finally refuse to approve a plan
2 submitted by a political subdivision under subsection (1), and shall
3 not terminate an approved plan, without reasonable notice and
4 opportunity for hearing to the political subdivision affected thereby.

5 (3)(a) Each political subdivision as to which a plan has been
6 approved under this section shall pay into the contribution (~~(fund)~~)
7 account, with respect to wages (as defined in RCW 41.48.020), at such
8 time or times as the governor may by regulation prescribe,
9 contributions in the amounts and at the rates specified in the
10 applicable agreement entered into by the governor under RCW 41.48.030.

11 (b) Each political subdivision required to make payments under
12 paragraph (a) of this subsection is authorized, in consideration of the
13 employee's retention in, or entry upon, employment after enactment of
14 this chapter, to impose upon each of its employees, as to services
15 which are covered by an approved plan, a contribution with respect to
16 his wages (as defined in RCW 41.48.020), not exceeding the amount of
17 employee tax which is imposed by the federal insurance contributions
18 act, and to deduct the amount of such contribution from his wages as
19 and when paid. Contributions so collected shall be paid into the OASI
20 contribution (~~(fund)~~) account in partial discharge of the liability of
21 such political subdivision or instrumentality under paragraph (a) of
22 this subsection. Failure to deduct such contribution shall not relieve
23 the employee or employer of liability therefor.

24 (4) Delinquent reports and payments due under paragraph (f) of
25 subsection (1) and paragraph (a) of subsection (3) of this section will
26 be subject to an added interest charge of six percent per year or, if
27 higher, the rate chargeable to the state by the secretary by virtue of
28 federal law, if the late report or payment contributes to any federal
29 penalty for late filing of reports or for late deposit of
30 contributions. Delinquent contributions, interest and penalties may be
31 recovered by civil action or may, at the request of the governor, be
32 deducted from any other moneys payable to the political subdivision by
33 any department or agency of the state.

34 **Sec. 430.** RCW 41.50.030 and 1998 c 341 s 501 are each amended to
35 read as follows:

36 (1) As soon as possible but not more than one hundred and eighty
37 days after March 19, 1976, there is transferred to the department of

1 retirement systems, except as otherwise provided in this chapter, all
2 powers, duties, and functions of:

3 (a) The Washington public employees' retirement system;

4 (b) The Washington state teachers' retirement system;

5 (c) The Washington law enforcement officers' and fire fighters'
6 retirement system;

7 (d) The Washington state patrol retirement system;

8 (e) The Washington judicial retirement system; and

9 (f) The state treasurer with respect to the administration of the
10 judges' retirement fund imposed pursuant to chapter 2.12 RCW.

11 (2) On July 1, 1996, there is transferred to the department all
12 powers, duties, and functions of the deferred compensation committee.

13 (3) The department shall administer chapter 41.34 RCW.

14 (4) The department shall administer the Washington school
15 employees' retirement system created under chapter 41.35 RCW.

16 (5) The department shall administer the restated law enforcement
17 officers' and fire fighters' retirement system under chapter 41.26A
18 RCW.

19 **Sec. 431.** RCW 41.50.055 and 1991 c 35 s 16 are each amended to
20 read as follows:

21 The administration of the Washington law enforcement officers' and
22 fire fighters' retirement systems ~~((is))~~ under chapters 41.26 and
23 41.26A RCW are hereby vested in the director of retirement systems, and
24 the director shall:

25 (1) Keep in convenient form such data as shall be deemed necessary
26 for actuarial evaluation purposes;

27 (2) As of March 1, 1970, and at least every two years thereafter,
28 through the state actuary, make an actuarial valuation as to the
29 mortality and service experience of the beneficiaries under this
30 chapter and the various accounts created for the purpose of showing the
31 financial status of the retirement fund;

32 (3) Adopt for the Washington law enforcement officers' and fire
33 fighters' retirement systems the mortality tables and such other tables
34 as shall be deemed necessary;

35 (4) Keep a record of all its proceedings, which shall be open to
36 inspection by the public;

37 (5) From time to time adopt such rules and regulations not
38 inconsistent with chapters 41.26 and 41.26A RCW, for the administration

1 of the provisions of this chapter, for the administration of the funds
2 created by this chapter and chapter 41.26A RCW and the several accounts
3 thereof, and for the transaction of the business of the system;

4 (6) Prepare and publish annually a financial statement showing the
5 condition of the Washington law enforcement officers' and fire
6 fighters' funds and the various accounts thereof, and setting forth
7 such other facts, recommendations and data as may be of use in the
8 advancement of knowledge concerning the Washington law enforcement
9 officers' and fire fighters' retirement systems, and furnish a copy
10 thereof to each employer, and to such members as may request copies
11 thereof;

12 (7) Perform such other functions as are required for the execution
13 of the provisions of chapters 41.26 and 41.26A RCW;

14 (8) Fix the amount of interest to be credited at a rate which shall
15 be based upon the net annual earnings of the Washington law enforcement
16 officers' and fire fighters' funds for the preceding twelve-month
17 period and from time to time make any necessary changes in such rate;

18 (9) Pay from the department of retirement systems expense fund the
19 expenses incurred in administration of the Washington law enforcement
20 officers' and fire fighters' retirement systems from those funds
21 appropriated for that purpose;

22 (10) Perform any other duties prescribed elsewhere in chapter 41.26
23 or 41.26A RCW;

24 (11) Issue decisions relating to appeals initiated pursuant to RCW
25 41.16.145 and 41.18.104 as now or hereafter amended and shall be
26 authorized to order increased benefits pursuant to RCW 41.16.145 and
27 41.18.104 as now or hereafter amended.

28 **Sec. 432.** RCW 41.50.075 and 1998 c 341 s 503 are each amended to
29 read as follows:

30 (1) ~~((Two funds are))~~ A fund is hereby created and established in
31 the state treasury to be known as ~~((the Washington law enforcement
32 officers' and fire fighters' system plan 1 retirement fund, and))~~ the
33 Washington law enforcement officers' and fire fighters' system plan 2
34 retirement fund which shall consist of all moneys paid into ~~((them))~~
35 the fund in accordance with the provisions of this chapter and chapter
36 41.26 RCW, whether such moneys take the form of cash, securities, or
37 other assets. The ~~((plan 1 fund shall consist of all moneys paid to
38 finance the benefits provided to members of the law enforcement~~

1 ~~officers' and fire fighters' retirement system plan 1, and the)) plan~~
2 2 fund shall consist of all moneys paid to finance the benefits
3 provided to members of the law enforcement officers' and fire fighters'
4 retirement system plan 2.

5 (2) All of the assets of the Washington state teachers' retirement
6 system shall be credited according to the purposes for which they are
7 held, to two funds to be maintained in the state treasury, namely, the
8 teachers' retirement system plan 1 fund and the teachers' retirement
9 system combined plan 2 and 3 fund. The plan 1 fund shall consist of
10 all moneys paid to finance the benefits provided to members of the
11 Washington state teachers' retirement system plan 1, and the combined
12 plan 2 and 3 fund shall consist of all moneys paid to finance the
13 benefits provided to members of the Washington state teachers'
14 retirement system plan 2 and 3.

15 (3) There is hereby established in the state treasury two separate
16 funds, namely the public employees' retirement system plan 1 fund and
17 the public employees' retirement system plan 2 fund. The plan 1 fund
18 shall consist of all moneys paid to finance the benefits provided to
19 members of the public employees' retirement system plan 1, and the plan
20 2 fund shall consist of all moneys paid to finance the benefits
21 provided to members of the public employees' retirement system plan 2.

22 (4) There is hereby established in the state treasury the school
23 employees' retirement system combined plan 2 and 3 fund. The combined
24 plan 2 and 3 fund shall consist of all moneys paid to finance the
25 benefits provided to members of the school employees' retirement system
26 plan 2 and plan 3.

27 **Sec. 433.** RCW 41.50.075 and 2000 c 247 s 601 are each amended to
28 read as follows:

29 (1) ~~((Two funds are))~~ A fund is hereby created and established in
30 the state treasury to be known as ~~((the Washington law enforcement~~
31 ~~officers' and fire fighters' system plan 1 retirement fund, and))~~ the
32 Washington law enforcement officers' and fire fighters' system plan 2
33 retirement fund which shall consist of all moneys paid into ~~((them))~~
34 the fund in accordance with the provisions of this chapter and chapter
35 41.26 RCW, whether such moneys take the form of cash, securities, or
36 other assets. The ~~((plan 1 fund shall consist of all moneys paid to~~
37 ~~finance the benefits provided to members of the law enforcement~~
38 ~~officers' and fire fighters' retirement system plan 1, and the))~~ plan

1 2 fund shall consist of all moneys paid to finance the benefits
2 provided to members of the law enforcement officers' and fire fighters'
3 retirement system plan 2.

4 (2) All of the assets of the Washington state teachers' retirement
5 system shall be credited according to the purposes for which they are
6 held, to two funds to be maintained in the state treasury, namely, the
7 teachers' retirement system plan 1 fund and the teachers' retirement
8 system combined plan 2 and 3 fund. The plan 1 fund shall consist of
9 all moneys paid to finance the benefits provided to members of the
10 Washington state teachers' retirement system plan 1, and the combined
11 plan 2 and 3 fund shall consist of all moneys paid to finance the
12 benefits provided to members of the Washington state teachers'
13 retirement system plan 2 and 3.

14 (3) There is hereby established in the state treasury two separate
15 funds, namely the public employees' retirement system plan 1 fund and
16 the public employees' retirement system combined plan 2 and plan 3
17 fund. The plan 1 fund shall consist of all moneys paid to finance the
18 benefits provided to members of the public employees' retirement system
19 plan 1, and the combined plan 2 and plan 3 fund shall consist of all
20 moneys paid to finance the benefits provided to members of the public
21 employees' retirement system plans 2 and 3.

22 (4) There is hereby established in the state treasury the school
23 employees' retirement system combined plan 2 and 3 fund. The combined
24 plan 2 and 3 fund shall consist of all moneys paid to finance the
25 benefits provided to members of the school employees' retirement system
26 plan 2 and plan 3.

27 (5) The department shall administer the funds established under the
28 restated law enforcement officers' and fire fighters' retirement system
29 under chapter 41.26A RCW, including:

30 (a) The restated law enforcement officers' and fire fighters'
31 defined benefit retirement fund;

32 (b) The restated law enforcement officers' and fire fighters'
33 defined contribution plan fund; and

34 (c) The state surplus assets reserve fund.

35 **Sec. 434.** RCW 41.50.080 and 1998 c 341 s 504 are each amended to
36 read as follows:

37 The state investment board shall provide for the investment of all
38 funds of the Washington public employees' retirement system, the

1 teachers' retirement system, the school employees' retirement system,
2 the Washington law enforcement officers' and fire fighters' retirement
3 systems under chapters 41.26 and 41.26A RCW, the Washington state
4 patrol retirement system, the Washington judicial retirement system,
5 and the judges' retirement fund, pursuant to RCW 43.84.150, and may
6 sell or exchange investments acquired in the exercise of that
7 authority.

8 **Sec. 435.** RCW 41.50.090 and 1985 c 102 s 6 are each amended to
9 read as follows:

10 (1) Except as otherwise provided in this section, on the effective
11 date of transfer as provided in RCW 41.50.030, the department shall
12 succeed to and is vested with all powers, duties, and functions now or
13 by any concurrent act of this 1976 legislature vested in the individual
14 retirement boards set forth in RCW 41.50.030 relating to the
15 administration of their various retirement systems, including but not
16 limited to the power to appoint a staff and define the duties thereof:
17 PROVIDED, That actuarial services required by the department shall be
18 performed by the state actuary as provided in RCW 44.44.040.

19 (2) The department shall keep each retirement board fully informed
20 on the administration of the corresponding retirement system, and shall
21 furnish any information requested by a retirement board.

22 (3) Rules proposed by the director under RCW 2.10.070, 41.50.055,
23 41.32.025, or 41.40.020 shall be submitted to the appropriate
24 retirement boards for review prior to adoption. After receiving
25 approval of the members of the appropriate board, such rules shall
26 become effective as provided by the administrative procedure act,
27 chapter 34.05 RCW.

28 (4) Each retirement board shall continue to perform all functions
29 as are vested in it by law with respect to applications for benefits
30 paid upon either temporary or permanent disability, with such staff
31 assistance from the department as may be required. The director shall
32 perform those functions with respect to disability benefits as are
33 vested in him or her by ((RCW ~~41.26.120~~, ~~41.26.125~~, and ~~41.26.200~~))
34 chapter 41.26A RCW.

35 **Sec. 436.** RCW 41.50.110 and 1998 c 341 s 508 are each amended to
36 read as follows:

1 (1) Except as provided by RCW 41.50.255 and subsection (6) of this
2 section, all expenses of the administration of the department and the
3 expenses of administration of the retirement systems created in
4 chapters 2.10, 2.12, 41.26, 41.26A, 41.32, 41.40, 41.34, 41.35, and
5 43.43 RCW shall be paid from the department of retirement systems
6 expense fund.

7 (2) In order to reimburse the department of retirement systems
8 expense fund on an equitable basis the department shall ascertain and
9 report to each employer, as defined in RCW 41.26.030, section 202 of
10 this act, 41.32.010, 41.35.010, or 41.40.010, the sum necessary to
11 defray its proportional share of the entire expense of the
12 administration of the retirement system that the employer participates
13 in during the ensuing biennium or fiscal year whichever may be
14 required. Such sum is to be computed in an amount directly
15 proportional to the estimated entire expense of the administration as
16 the ratio of monthly salaries of the employer's members bears to the
17 total salaries of all members in the entire system. It shall then be
18 the duty of all such employers to include in their budgets or otherwise
19 provide the amounts so required.

20 (3) The department shall compute and bill each employer, as defined
21 in RCW 41.26.030, section 202 of this act, 41.32.010, 41.35.010, or
22 41.40.010, at the end of each month for the amount due for that month
23 to the department of retirement systems expense fund and the same shall
24 be paid as are its other obligations. Such computation as to each
25 employer shall be made on a percentage rate of salary established by
26 the department. However, the department may at its discretion
27 establish a system of billing based upon calendar year quarters in
28 which event the said billing shall be at the end of each such quarter.

29 (4) The director may adjust the expense fund contribution rate for
30 each system at any time when necessary to reflect unanticipated costs
31 or savings in administering the department.

32 (5) An employer who fails to submit timely and accurate reports to
33 the department may be assessed an additional fee related to the
34 increased costs incurred by the department in processing the deficient
35 reports. Fees paid under this subsection shall be deposited in the
36 retirement system expense fund.

37 (a) Every six months the department shall determine the amount of
38 an employer's fee by reviewing the timeliness and accuracy of the
39 reports submitted by the employer in the preceding six months. If

1 those reports were not both timely and accurate the department may
2 prospectively assess an additional fee under this subsection.

3 (b) An additional fee assessed by the department under this
4 subsection shall not exceed fifty percent of the standard fee.

5 (c) The department shall adopt rules implementing this section.

6 (6) Expenses other than those under RCW 41.34.060(~~(+2)~~) (3) shall
7 be paid pursuant to subsection (1) of this section.

8 **Sec. 437.** RCW 41.50.112 and 2000 c 247 s 1107 are each amended to
9 read as follows:

10 Employers, as defined in RCW 41.26.030, section 202 of this act,
11 41.32.010, 41.34.020, 41.35.010, and 41.40.010, must report all member
12 data to the department in a format designed and communicated by the
13 department. Employers failing to comply with this reporting
14 requirement shall be assessed an additional fee as defined under RCW
15 41.50.110(5).

16 **Sec. 438.** RCW 41.50.150 and 1998 c 341 s 509 are each amended to
17 read as follows:

18 (1) The employer of any employee whose retirement benefits are
19 based in part on excess compensation, as defined in this section,
20 shall, upon receipt of a billing from the department, pay into the
21 appropriate retirement system the present value at the time of the
22 employee's retirement of the total estimated cost of all present and
23 future benefits from the retirement system attributable to the excess
24 compensation. The state actuary shall determine the estimated cost
25 using the same method and procedure as is used in preparing fiscal note
26 costs for the legislature. However, the director may in the director's
27 discretion decline to bill the employer if the amount due is less than
28 fifty dollars. Accounts unsettled within thirty days of the receipt of
29 the billing shall be assessed an interest penalty of one percent of the
30 amount due for each month or fraction thereof beyond the original
31 thirty-day period.

32 (2) "Excess compensation," as used in this section, includes the
33 following payments, if used in the calculation of the employee's
34 retirement allowance:

35 (a) A cash out of unused annual leave in excess of two hundred
36 forty hours of such leave. "Cash out" for purposes of this subsection
37 means:

- 1 (i) Any payment in lieu of an accrual of annual leave; or
2 (ii) Any payment added to salary or wages, concurrent with a
3 reduction of annual leave;
4 (b) A cash out of any other form of leave;
5 (c) A payment for, or in lieu of, any personal expense or
6 transportation allowance to the extent that payment qualifies as
7 reportable compensation in the member's retirement system;
8 (d) The portion of any payment, including overtime payments, that
9 exceeds twice the regular daily or hourly rate of pay; and
10 (e) Any termination or severance payment.

11 (3) This section applies to the retirement systems listed in RCW
12 41.50.030 and to retirements occurring on or after March 15, 1984.
13 Nothing in this section is intended to amend or determine the meaning
14 of any definition in chapter 2.10, 2.12, 41.26, 41.26A, 41.32, 41.40,
15 41.35, or 43.43 RCW or to determine in any manner what payments are
16 includable in the calculation of a retirement allowance under such
17 chapters.

18 (4) An employer is not relieved of liability under this section
19 because of the death of any person either before or after the billing
20 from the department.

21 **Sec. 439.** RCW 41.50.255 and 1998 c 341 s 511 are each amended to
22 read as follows:

23 The director is authorized to pay from the interest earnings of the
24 trust funds of the public employees' retirement system, the teachers'
25 retirement system, the Washington state patrol retirement system, the
26 Washington judicial retirement system, the judges' retirement system,
27 the school district employees' retirement system, or the law
28 enforcement officers' and fire fighters' retirement systems under
29 chapter 41.26 and 41.26A RCW lawful obligations of the appropriate
30 system for legal expenses and medical expenses which expenses are
31 primarily incurred for the purpose of protecting the appropriate trust
32 fund or are incurred in compliance with statutes governing such funds.

33 The term "legal expense" includes, but is not limited to, legal
34 services provided through the legal services revolving fund, fees for
35 expert witnesses, travel expenses, fees for court reporters, cost of
36 transcript preparation, and reproduction of documents.

37 The term "medical costs" includes, but is not limited to, expenses
38 for the medical examination or reexamination of members or retirees,

1 the costs of preparation of medical reports, and fees charged by
2 medical professionals for attendance at discovery proceedings or
3 hearings.

4 The director may also pay from the interest earnings of the trust
5 funds specified in this section costs incurred in investigating fraud
6 and collecting overpayments, including expenses incurred to review and
7 investigate cases of possible fraud against the trust funds and
8 collection agency fees and other costs incurred in recovering
9 overpayments. Recovered funds must be returned to the appropriate
10 trust funds.

11 **Sec. 440.** RCW 41.50.500 and 1998 c 341 s 512 are each amended to
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout RCW 41.50.500 through 41.50.650,
15 41.50.670 through 41.50.720, and 26.09.138.

16 (1) "Benefits" means periodic retirement payments or a withdrawal
17 of accumulated contributions.

18 (2) "Disposable benefits" means that part of the benefits of an
19 individual remaining after the deduction from those benefits of any
20 amount required by law to be withheld. The term "required by law to be
21 withheld" does not include any deduction elective to the member.

22 (3) "Dissolution order" means any judgment, decree, or order of
23 spousal maintenance, property division, or court-approved property
24 settlement incident to a decree of divorce, dissolution, invalidity, or
25 legal separation issued by the superior court of the state of
26 Washington or a judgment, decree, or other order of spousal support
27 issued by a court of competent jurisdiction in another state or
28 country, that has been registered or otherwise made enforceable in this
29 state.

30 (4) "Mandatory benefits assignment order" means an order issued to
31 the department of retirement systems pursuant to RCW 41.50.570 to
32 withhold and deliver benefits payable to an obligor under chapter 2.10,
33 2.12, 41.26, 41.26A, 41.32, 41.40, 41.35, or 43.43 RCW.

34 (5) "Obligee" means an ex spouse or spouse to whom a duty of
35 spousal maintenance or property division obligation is owed.

36 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
37 maintenance or a property division obligation.

1 (7) "Periodic retirement payments" means periodic payments of
2 retirement allowances, including but not limited to service retirement
3 allowances, disability retirement allowances, and survivors'
4 allowances. The term does not include a withdrawal of accumulated
5 contributions.

6 (8) "Property division obligation" means any outstanding court-
7 ordered property division or court-approved property settlement
8 obligation incident to a decree of divorce, dissolution, or legal
9 separation.

10 (9) "Standard allowance" means a benefit payment option selected
11 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),
12 41.40.188(1)(a), 41.40.660(1), or 41.35.220 that ceases upon the death
13 of the retiree. Standard allowance also means the benefit allowance
14 provided under RCW 2.10.110, 2.10.130, 43.43.260, (~~41.26.100,~~
15 ~~41.26.130(1)(a)~~) section 217 of this act, section 222(1)(a) of this
16 act, or chapter 2.12 RCW. Standard allowance also means the maximum
17 retirement allowance available under RCW 41.32.530(1) following member
18 withdrawal of accumulated contributions, if any.

19 (10) "Withdrawal of accumulated contributions" means a lump sum
20 payment to a retirement system member of all or a part of the member's
21 accumulated contributions, including accrued interest, at the request
22 of the member including any lump sum amount paid upon the death of the
23 member.

24 **Sec. 441.** RCW 41.50.500 and 2000 c 247 s 603 are each amended to
25 read as follows:

26 Unless the context clearly requires otherwise, the definitions in
27 this section apply throughout RCW 41.50.500 through 41.50.650,
28 41.50.670 through 41.50.720, and 26.09.138.

29 (1) "Benefits" means periodic retirement payments or a withdrawal
30 of accumulated contributions.

31 (2) "Disposable benefits" means that part of the benefits of an
32 individual remaining after the deduction from those benefits of any
33 amount required by law to be withheld. The term "required by law to be
34 withheld" does not include any deduction elective to the member.

35 (3) "Dissolution order" means any judgment, decree, or order of
36 spousal maintenance, property division, or court-approved property
37 settlement incident to a decree of divorce, dissolution, invalidity, or
38 legal separation issued by the superior court of the state of

1 Washington or a judgment, decree, or other order of spousal support
2 issued by a court of competent jurisdiction in another state or
3 country, that has been registered or otherwise made enforceable in this
4 state.

5 (4) "Mandatory benefits assignment order" means an order issued to
6 the department of retirement systems pursuant to RCW 41.50.570 to
7 withhold and deliver benefits payable to an obligor under chapter 2.10,
8 2.12, 41.26, 41.26A, 41.32, 41.40, 41.35, or 43.43 RCW.

9 (5) "Obligee" means an ex spouse or spouse to whom a duty of
10 spousal maintenance or property division obligation is owed.

11 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
12 maintenance or a property division obligation.

13 (7) "Periodic retirement payments" means periodic payments of
14 retirement allowances, including but not limited to service retirement
15 allowances, disability retirement allowances, and survivors'
16 allowances. The term does not include a withdrawal of accumulated
17 contributions.

18 (8) "Property division obligation" means any outstanding court-
19 ordered property division or court-approved property settlement
20 obligation incident to a decree of divorce, dissolution, or legal
21 separation.

22 (9) "Standard allowance" means a benefit payment option selected
23 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),
24 41.40.188(1)(a), 41.40.660(1), 41.40.845(1)(a), or 41.35.220 that
25 ceases upon the death of the retiree. Standard allowance also means
26 the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260,
27 ((41.26.100, ~~41.26.130(1)(a))~~) section 217 of this act, section
28 222(1)(a) of this act, or chapter 2.12 RCW. Standard allowance also
29 means the maximum retirement allowance available under RCW 41.32.530(1)
30 following member withdrawal of accumulated contributions, if any.

31 (10) "Withdrawal of accumulated contributions" means a lump sum
32 payment to a retirement system member of all or a part of the member's
33 accumulated contributions, including accrued interest, at the request
34 of the member including any lump sum amount paid upon the death of the
35 member.

36 **Sec. 442.** RCW 41.50.670 and 1998 c 341 s 513 are each amended to
37 read as follows:

1 (1) Nothing in this chapter regarding mandatory assignment of
2 benefits to enforce a spousal maintenance obligation shall abridge the
3 right of an obligee to direct payments of retirement benefits to
4 satisfy a property division obligation ordered pursuant to a court
5 decree of dissolution or legal separation or any court order or court-
6 approved property settlement agreement incident to any court decree of
7 dissolution or legal separation as provided in RCW 2.10.180, 2.12.090,
8 41.04.310, 41.04.320, 41.04.330, 41.26.053, section 209 of this act,
9 41.32.052, 41.35.100, 41.34.070(~~((3))~~) (4), 41.40.052, 43.43.310, or
10 26.09.138, as those statutes existed before July 1, 1987, and as those
11 statutes exist on and after July 28, 1991. The department shall pay
12 benefits under this chapter in a lump sum or as a portion of periodic
13 retirement payments as expressly provided by the dissolution order. A
14 dissolution order may not order the department to pay a periodic
15 retirement payment or lump sum unless that payment is specifically
16 authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.26A,
17 41.32, 41.35, 41.34, 41.40, or 43.43 RCW, as applicable.

18 (2) The department shall pay directly to an obligee the amount of
19 periodic retirement payments or lump sum payment, as appropriate,
20 specified in the dissolution order if the dissolution order filed with
21 the department pursuant to subsection (1) of this section includes a
22 provision that states in the following form:

23 If (the obligor) receives periodic retirement payments
24 as defined in RCW 41.50.500, the department of retirement systems shall
25 pay to (the obligee) dollars from such payments
26 or . . . percent of such payments. If the obligor's debt is expressed
27 as a percentage of his or her periodic retirement payment and the
28 obligee does not have a survivorship interest in the obligor's benefit,
29 the amount received by the obligee shall be the percentage of the
30 periodic retirement payment that the obligor would have received had he
31 or she selected a standard allowance.

32 If (the obligor) requests or has requested a withdrawal
33 of accumulated contributions as defined in RCW 41.50.500, or becomes
34 eligible for a lump sum death benefit, the department of retirement
35 systems shall pay to (the obligee) dollars plus
36 interest at the rate paid by the department of retirement systems on
37 member contributions. Such interest to accrue from the date of this
38 order's entry with the court of record.

1 (3) This section does not require a member to select a standard
2 allowance upon retirement nor does it require the department to
3 recalculate the amount of a retiree's periodic retirement payment based
4 on a change in survivor option.

5 (4) A court order under this section may not order the department
6 to pay more than seventy-five percent of an obligor's periodic
7 retirement payment to an obligee.

8 (5) Persons whose court decrees were entered between July 1, 1987,
9 and July 28, 1991, shall also be entitled to receive direct payments of
10 retirement benefits to satisfy court-ordered property divisions if the
11 dissolution orders comply or are modified to comply with this section
12 and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180,
13 2.12.090, 41.26.053, section 209 of this act, 41.32.052, 41.35.100,
14 41.34.070, 41.40.052, 43.43.310, and 26.09.138.

15 (6) The obligee must file a copy of the dissolution order with the
16 department within ninety days of that order's entry with the court of
17 record.

18 (7) A division of benefits pursuant to a dissolution order under
19 this section shall be based upon the obligor's gross benefit prior to
20 any deductions. If the department is required to withhold a portion of
21 the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of
22 that amount plus the amount owed to the obligee exceeds the total
23 benefit, the department shall satisfy the withholding requirements
24 under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee.
25 The provisions of this subsection do not apply to amounts withheld
26 pursuant to 26 U.S.C. Sec. 3402(i).

27 **Sec. 443.** RCW 41.56.030 and 2000 c 23 s 1 and 2000 c 19 s 1 are
28 each reenacted and amended to read as follows:

29 As used in this chapter:

30 (1) "Public employer" means any officer, board, commission,
31 council, or other person or body acting on behalf of any public body
32 governed by this chapter, or any subdivision of such public body. For
33 the purposes of this section, the public employer of district court or
34 superior court employees for wage-related matters is the respective
35 county legislative authority, or person or body acting on behalf of the
36 legislative authority, and the public employer for nonwage-related
37 matters is the judge or judge's designee of the respective district
38 court or superior court.

1 (2) "Public employee" means any employee of a public employer
2 except any person (a) elected by popular vote, or (b) appointed to
3 office pursuant to statute, ordinance or resolution for a specified
4 term of office as a member of a multimember board, commission, or
5 committee, whether appointed by the executive head or body of the
6 public employer, or (c) whose duties as deputy, administrative
7 assistant or secretary necessarily imply a confidential relationship to
8 (i) the executive head or body of the applicable bargaining unit, or
9 (ii) any person elected by popular vote, or (iii) any person appointed
10 to office pursuant to statute, ordinance or resolution for a specified
11 term of office as a member of a multimember board, commission, or
12 committee, whether appointed by the executive head or body of the
13 public employer, or (d) who is a court commissioner or a court
14 magistrate of superior court, district court, or a department of a
15 district court organized under chapter 3.46 RCW, or (e) who is a
16 personal assistant to a district court judge, superior court judge, or
17 court commissioner, or (f) excluded from a bargaining unit under RCW
18 41.56.201(2)(a). For the purpose of (e) of this subsection, no more
19 than one assistant for each judge or commissioner may be excluded from
20 a bargaining unit.

21 (3) "Bargaining representative" means any lawful organization which
22 has as one of its primary purposes the representation of employees in
23 their employment relations with employers.

24 (4) "Collective bargaining" means the performance of the mutual
25 obligations of the public employer and the exclusive bargaining
26 representative to meet at reasonable times, to confer and negotiate in
27 good faith, and to execute a written agreement with respect to
28 grievance procedures and collective negotiations on personnel matters,
29 including wages, hours and working conditions, which may be peculiar to
30 an appropriate bargaining unit of such public employer, except that by
31 such obligation neither party shall be compelled to agree to a proposal
32 or be required to make a concession unless otherwise provided in this
33 chapter.

34 (5) "Commission" means the public employment relations commission.

35 (6) "Executive director" means the executive director of the
36 commission.

37 (7) "Uniformed personnel" means: (a) Law enforcement officers as
38 defined in RCW 41.26.030 and section 202 of this act employed by the
39 governing body of any city or town with a population of two thousand

1 five hundred or more and law enforcement officers employed by the
2 governing body of any county with a population of ten thousand or more;
3 (b) correctional employees who are uniformed and nonuniformed,
4 commissioned and noncommissioned security personnel employed in a jail
5 as defined in RCW 70.48.020(5), by a county with a population of
6 seventy thousand or more, and who are trained for and charged with the
7 responsibility of controlling and maintaining custody of inmates in the
8 jail and safeguarding inmates from other inmates; (c) general authority
9 Washington peace officers as defined in RCW 10.93.020 employed by a
10 port district in a county with a population of one million or more; (d)
11 security forces established under RCW 43.52.520; (e) fire fighters as
12 that term is defined in RCW 41.26.030 and section 202 of this act; (f)
13 employees of a port district in a county with a population of one
14 million or more whose duties include crash fire rescue or other fire
15 fighting duties; (g) employees of fire departments of public employers
16 who dispatch exclusively either fire or emergency medical services, or
17 both; or (h) employees in the several classes of advanced life support
18 technicians, as defined in RCW 18.71.200, who are employed by a public
19 employer.

20 (8) "Institution of higher education" means the University of
21 Washington, Washington State University, Central Washington University,
22 Eastern Washington University, Western Washington University, The
23 Evergreen State College, and the various state community colleges.

24 **Sec. 444.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 5 are each
25 amended to read as follows:

26 (1) All earnings of investments of surplus balances in the state
27 treasury shall be deposited to the treasury income account, which
28 account is hereby established in the state treasury.

29 (2) The treasury income account shall be utilized to pay or receive
30 funds associated with federal programs as required by the federal cash
31 management improvement act of 1990. The treasury income account is
32 subject in all respects to chapter 43.88 RCW, but no appropriation is
33 required for refunds or allocations of interest earnings required by
34 the cash management improvement act. Refunds of interest to the
35 federal treasury required under the cash management improvement act
36 fall under RCW 43.88.180 and shall not require appropriation. The
37 office of financial management shall determine the amounts due to or
38 from the federal government pursuant to the cash management improvement

1 act. The office of financial management may direct transfers of funds
2 between accounts as deemed necessary to implement the provisions of the
3 cash management improvement act, and this subsection. Refunds or
4 allocations shall occur prior to the distributions of earnings set
5 forth in subsection (4) of this section.

6 (3) Except for the provisions of RCW 43.84.160, the treasury income
7 account may be utilized for the payment of purchased banking services
8 on behalf of treasury funds including, but not limited to, depository,
9 safekeeping, and disbursement functions for the state treasury and
10 affected state agencies. The treasury income account is subject in all
11 respects to chapter 43.88 RCW, but no appropriation is required for
12 payments to financial institutions. Payments shall occur prior to
13 distribution of earnings set forth in subsection (4) of this section.

14 (4) Monthly, the state treasurer shall distribute the earnings
15 credited to the treasury income account. The state treasurer shall
16 credit the general fund with all the earnings credited to the treasury
17 income account except:

18 (a) The following accounts and funds shall receive their
19 proportionate share of earnings based upon each account's and fund's
20 average daily balance for the period: The capitol building
21 construction account, the Cedar River channel construction and
22 operation account, the Central Washington University capital projects
23 account, the charitable, educational, penal and reformatory
24 institutions account, the common school construction fund, the county
25 criminal justice assistance account, the county sales and use tax
26 equalization account, the data processing building construction
27 account, the deferred compensation administrative account, the deferred
28 compensation principal account, the department of retirement systems
29 expense account, the drinking water assistance account, the Eastern
30 Washington University capital projects account, the education
31 construction fund, the emergency reserve fund, the federal forest
32 revolving account, the health services account, the public health
33 services account, the health system capacity account, the personal
34 health services account, the state higher education construction
35 account, the higher education construction account, the highway
36 infrastructure account, the industrial insurance premium refund
37 account, the judges' retirement account, the judicial retirement
38 administrative account, the judicial retirement principal account, the
39 local leasehold excise tax account, the local real estate excise tax

1 account, the local sales and use tax account, the medical aid account,
2 the mobile home park relocation fund, the multimodal transportation
3 account, the municipal criminal justice assistance account, the
4 municipal sales and use tax equalization account, the natural resources
5 deposit account, the perpetual surveillance and maintenance account,
6 the public employees' retirement system plan 1 account, the public
7 employees' retirement system plan 2 account, the Puyallup tribal
8 settlement account, the resource management cost account, the site
9 closure account, the special wildlife account, the state employees'
10 insurance account, the state employees' insurance reserve account, the
11 state investment board expense account, the state investment board
12 commingled trust fund accounts, the state surplus assets reserve
13 account, the supplemental pension account, the teachers' retirement
14 system plan 1 account, the teachers' retirement system combined plan 2
15 and plan 3 account, the tobacco prevention and control account, the
16 tobacco settlement account, the transportation infrastructure account,
17 the tuition recovery trust fund, the University of Washington bond
18 retirement fund, the University of Washington building account, the
19 volunteer fire fighters' and reserve officers' relief and pension
20 principal fund, the volunteer fire fighters' and reserve officers'
21 administrative fund, the Washington judicial retirement system account,
22 (~~the Washington law enforcement officers' and fire fighters' system~~
23 ~~plan 1 retirement account,~~) the Washington law enforcement officers'
24 and fire fighters' system plan 2 retirement account, the Washington
25 school employees' retirement system combined plan 2 and 3 account, the
26 Washington state health insurance pool account, the Washington state
27 patrol retirement account, the Washington State University building
28 account, the Washington State University bond retirement fund, the
29 water pollution control revolving fund, and the Western Washington
30 University capital projects account. Earnings derived from investing
31 balances of the agricultural permanent fund, the normal school
32 permanent fund, the permanent common school fund, the scientific
33 permanent fund, and the state university permanent fund shall be
34 allocated to their respective beneficiary accounts. All earnings to be
35 distributed under this subsection (4)(a) shall first be reduced by the
36 allocation to the state treasurer's service fund pursuant to RCW
37 43.08.190.

38 (b) The following accounts and funds shall receive eighty percent
39 of their proportionate share of earnings based upon each account's or

1 fund's average daily balance for the period: The aeronautics account,
2 the aircraft search and rescue account, the county arterial
3 preservation account, the department of licensing services account, the
4 essential rail assistance account, the ferry bond retirement fund, the
5 grade crossing protective fund, the high capacity transportation
6 account, the highway bond retirement fund, the highway safety account,
7 the motor vehicle fund, the motorcycle safety education account, the
8 pilotage account, the public transportation systems account, the Puget
9 Sound capital construction account, the Puget Sound ferry operations
10 account, the recreational vehicle account, the rural arterial trust
11 account, the safety and education account, the special category C
12 account, the state patrol highway account, the transportation equipment
13 fund, the transportation fund, the transportation improvement account,
14 the transportation improvement board bond retirement account, and the
15 urban arterial trust account.

16 (5) In conformance with Article II, section 37 of the state
17 Constitution, no treasury accounts or funds shall be allocated earnings
18 without the specific affirmative directive of this section.

19 **Sec. 445.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 6 are each
20 amended to read as follows:

21 (1) All earnings of investments of surplus balances in the state
22 treasury shall be deposited to the treasury income account, which
23 account is hereby established in the state treasury.

24 (2) The treasury income account shall be utilized to pay or receive
25 funds associated with federal programs as required by the federal cash
26 management improvement act of 1990. The treasury income account is
27 subject in all respects to chapter 43.88 RCW, but no appropriation is
28 required for refunds or allocations of interest earnings required by
29 the cash management improvement act. Refunds of interest to the
30 federal treasury required under the cash management improvement act
31 fall under RCW 43.88.180 and shall not require appropriation. The
32 office of financial management shall determine the amounts due to or
33 from the federal government pursuant to the cash management improvement
34 act. The office of financial management may direct transfers of funds
35 between accounts as deemed necessary to implement the provisions of the
36 cash management improvement act, and this subsection. Refunds or
37 allocations shall occur prior to the distributions of earnings set
38 forth in subsection (4) of this section.

1 (3) Except for the provisions of RCW 43.84.160, the treasury income
2 account may be utilized for the payment of purchased banking services
3 on behalf of treasury funds including, but not limited to, depository,
4 safekeeping, and disbursement functions for the state treasury and
5 affected state agencies. The treasury income account is subject in all
6 respects to chapter 43.88 RCW, but no appropriation is required for
7 payments to financial institutions. Payments shall occur prior to
8 distribution of earnings set forth in subsection (4) of this section.

9 (4) Monthly, the state treasurer shall distribute the earnings
10 credited to the treasury income account. The state treasurer shall
11 credit the general fund with all the earnings credited to the treasury
12 income account except:

13 (a) The following accounts and funds shall receive their
14 proportionate share of earnings based upon each account's and fund's
15 average daily balance for the period: The capitol building
16 construction account, the Cedar River channel construction and
17 operation account, the Central Washington University capital projects
18 account, the charitable, educational, penal and reformatory
19 institutions account, the common school construction fund, the county
20 criminal justice assistance account, the county sales and use tax
21 equalization account, the data processing building construction
22 account, the deferred compensation administrative account, the deferred
23 compensation principal account, the department of retirement systems
24 expense account, the drinking water assistance account, the Eastern
25 Washington University capital projects account, the education
26 construction fund, the emergency reserve fund, the federal forest
27 revolving account, the health services account, the public health
28 services account, the health system capacity account, the personal
29 health services account, the state higher education construction
30 account, the higher education construction account, the highway
31 infrastructure account, the industrial insurance premium refund
32 account, the judges' retirement account, the judicial retirement
33 administrative account, the judicial retirement principal account, the
34 local leasehold excise tax account, the local real estate excise tax
35 account, the local sales and use tax account, the medical aid account,
36 the mobile home park relocation fund, the multimodal transportation
37 account, the municipal criminal justice assistance account, the
38 municipal sales and use tax equalization account, the natural resources
39 deposit account, the perpetual surveillance and maintenance account,

1 the public employees' retirement system plan 1 account, the public
2 employees' retirement system combined plan 2 and plan 3 account, the
3 Puyallup tribal settlement account, the resource management cost
4 account, the site closure account, the special wildlife account, the
5 state employees' insurance account, the state employees' insurance
6 reserve account, the state investment board expense account, the state
7 investment board commingled trust fund accounts, the state surplus
8 assets reserve account, the supplemental pension account, the teachers'
9 retirement system plan 1 account, the teachers' retirement system
10 combined plan 2 and plan 3 account, the tobacco prevention and control
11 account, the tobacco settlement account, the transportation
12 infrastructure account, the tuition recovery trust fund, the University
13 of Washington bond retirement fund, the University of Washington
14 building account, the volunteer fire fighters' and reserve officers'
15 relief and pension principal fund, the volunteer fire fighters' and
16 reserve officers' administrative fund, the Washington judicial
17 retirement system account, (~~the Washington law enforcement officers'~~
18 ~~and fire fighters' system plan 1 retirement account,~~) the Washington
19 law enforcement officers' and fire fighters' system plan 2 retirement
20 account, the Washington school employees' retirement system combined
21 plan 2 and 3 account, the Washington state health insurance pool
22 account, the Washington state patrol retirement account, the Washington
23 State University building account, the Washington State University bond
24 retirement fund, the water pollution control revolving fund, and the
25 Western Washington University capital projects account. Earnings
26 derived from investing balances of the agricultural permanent fund, the
27 normal school permanent fund, the permanent common school fund, the
28 scientific permanent fund, and the state university permanent fund
29 shall be allocated to their respective beneficiary accounts. All
30 earnings to be distributed under this subsection (4)(a) shall first be
31 reduced by the allocation to the state treasurer's service fund
32 pursuant to RCW 43.08.190.

33 (b) The following accounts and funds shall receive eighty percent
34 of their proportionate share of earnings based upon each account's or
35 fund's average daily balance for the period: The aeronautics account,
36 the aircraft search and rescue account, the county arterial
37 preservation account, the department of licensing services account, the
38 essential rail assistance account, the ferry bond retirement fund, the
39 grade crossing protective fund, the high capacity transportation

1 account, the highway bond retirement fund, the highway safety account,
2 the motor vehicle fund, the motorcycle safety education account, the
3 pilotage account, the public transportation systems account, the Puget
4 Sound capital construction account, the Puget Sound ferry operations
5 account, the recreational vehicle account, the rural arterial trust
6 account, the safety and education account, the special category C
7 account, the state patrol highway account, the transportation equipment
8 fund, the transportation fund, the transportation improvement account,
9 the transportation improvement board bond retirement account, and the
10 urban arterial trust account.

11 (5) In conformance with Article II, section 37 of the state
12 Constitution, no treasury accounts or funds shall be allocated earnings
13 without the specific affirmative directive of this section.

14 **Sec. 446.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to
15 read as follows:

16 (1) Money in the treasurer's trust fund may be deposited, invested,
17 and reinvested by the state treasurer in accordance with RCW 43.84.080
18 in the same manner and to the same extent as if the money were in the
19 state treasury.

20 (2) All income received from investment of the treasurer's trust
21 fund shall be set aside in an account in the treasury trust fund to be
22 known as the investment income account.

23 (3) The investment income account may be utilized for the payment
24 of purchased banking services on behalf of treasurer's trust funds
25 including, but not limited to, depository, safekeeping, and
26 disbursement functions for the state treasurer or affected state
27 agencies. The investment income account is subject in all respects to
28 chapter 43.88 RCW, but no appropriation is required for payments to
29 financial institutions. Payments shall occur prior to distribution of
30 earnings set forth in subsection (4) of this section.

31 (4)(a) Monthly, the state treasurer shall distribute the earnings
32 credited to the investment income account to the state general fund
33 except under (b) and (c) of this subsection.

34 (b) The following accounts and funds shall receive their
35 proportionate share of earnings based upon each account's or fund's
36 average daily balance for the period: The Washington advanced college
37 tuition payment program account, the agricultural local fund, the
38 American Indian scholarship endowment fund, the basic health plan self-

1 insurance reserve account, the Washington international exchange
2 scholarship endowment fund, the developmental disabilities endowment
3 trust fund, the energy account, the fair fund, the game farm
4 alternative account, the grain inspection revolving fund, the juvenile
5 accountability incentive account, the law enforcement officers' and
6 fire fighters' medical benefits risk pool account, the rural
7 rehabilitation account, the stadium and exhibition center account, the
8 youth athletic facility ((grant)) account, the self-insurance revolving
9 fund, the sulfur dioxide abatement account, the restated law
10 enforcement officers' and fire fighters' defined benefit retirement
11 fund, the restated law enforcement officers' and fire fighters' defined
12 contribution plan fund, and the children's trust fund. However, the
13 earnings to be distributed shall first be reduced by the allocation to
14 the state treasurer's service fund pursuant to RCW 43.08.190.

15 (c) The following accounts and funds shall receive eighty percent
16 of their proportionate share of earnings based upon each account's or
17 fund's average daily balance for the period: The advanced right of way
18 revolving fund, the advanced environmental mitigation revolving
19 account, the federal narcotics asset forfeitures account, the high
20 occupancy vehicle account, the local rail service assistance account,
21 and the miscellaneous transportation programs account.

22 (5) In conformance with Article II, section 37 of the state
23 Constitution, no trust accounts or funds shall be allocated earnings
24 without the specific affirmative directive of this section.

25 **Sec. 447.** RCW 46.52.130 and 1998 c 165 s 11 are each amended to
26 read as follows:

27 A certified abstract of the driving record shall be furnished only
28 to the individual named in the abstract, an employer or prospective
29 employer or an agent acting on behalf of an employer or prospective
30 employer, the insurance carrier that has insurance in effect covering
31 the employer or a prospective employer, the insurance carrier that has
32 insurance in effect covering the named individual, the insurance
33 carrier to which the named individual has applied, an alcohol/drug
34 assessment or treatment agency approved by the department of social and
35 health services, to which the named individual has applied or been
36 assigned for evaluation or treatment, or city and county prosecuting
37 attorneys. City attorneys and county prosecuting attorneys may provide
38 the driving record to alcohol/drug assessment or treatment agencies

1 approved by the department of social and health services to which the
2 named individual has applied or been assigned for evaluation or
3 treatment. The director, upon proper request, shall furnish a
4 certified abstract covering the period of not more than the last three
5 years to insurance companies. Upon proper request, the director shall
6 furnish a certified abstract covering a period of not more than the
7 last five years to state approved alcohol/drug assessment or treatment
8 agencies, except that the certified abstract shall also include records
9 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a
10 period of not more than the last ten years. Upon proper request, a
11 certified abstract of the full driving record maintained by the
12 department shall be furnished to a city or county prosecuting attorney,
13 to the individual named in the abstract or to an employer or
14 prospective employer or an agent acting on behalf of an employer or
15 prospective employer of the named individual. The abstract, whenever
16 possible, shall include an enumeration of motor vehicle accidents in
17 which the person was driving; the total number of vehicles involved;
18 whether the vehicles were legally parked or moving; whether the
19 vehicles were occupied at the time of the accident; whether the
20 accident resulted in any fatality; any reported convictions,
21 forfeitures of bail, or findings that an infraction was committed based
22 upon a violation of any motor vehicle law; and the status of the
23 person's driving privilege in this state. The enumeration shall
24 include any reports of failure to appear in response to a traffic
25 citation or failure to respond to a notice of infraction served upon
26 the named individual by an arresting officer. Certified abstracts
27 furnished to prosecutors and alcohol/drug assessment or treatment
28 agencies shall also indicate whether a recorded violation is an
29 alcohol-related offense as defined in RCW 46.01.260(2) that was
30 originally charged as one of the alcohol-related offenses designated in
31 RCW 46.01.260(2)(b)(i).

32 The abstract provided to the insurance company shall exclude any
33 information, except that related to the commission of misdemeanors or
34 felonies by the individual, pertaining to law enforcement officers or
35 fire fighters as defined in RCW 41.26.030 or section 202 of this act,
36 or any officer of the Washington state patrol, while driving official
37 vehicles in the performance of occupational duty. The abstract
38 provided to the insurance company shall include convictions for RCW
39 46.61.5249 and 46.61.525 except that the abstract shall report them

1 only as negligent driving without reference to whether they are for
2 first or second degree negligent driving. The abstract provided to the
3 insurance company shall exclude any deferred prosecution under RCW
4 10.05.060, except that if a person is removed from a deferred
5 prosecution under RCW 10.05.090, the abstract shall show the deferred
6 prosecution as well as the removal.

7 The director shall collect for each abstract the sum of four
8 dollars and fifty cents which shall be deposited in the highway safety
9 fund.

10 Any insurance company or its agent receiving the certified abstract
11 shall use it exclusively for its own underwriting purposes and shall
12 not divulge any of the information contained in it to a third party.
13 No policy of insurance may be canceled, nonrenewed, denied, or have the
14 rate increased on the basis of such information unless the policyholder
15 was determined to be at fault. No insurance company or its agent for
16 underwriting purposes relating to the operation of commercial motor
17 vehicles may use any information contained in the abstract relative to
18 any person's operation of motor vehicles while not engaged in such
19 employment, nor may any insurance company or its agent for underwriting
20 purposes relating to the operation of noncommercial motor vehicles use
21 any information contained in the abstract relative to any person's
22 operation of commercial motor vehicles.

23 Any employer or prospective employer or an agent acting on behalf
24 of an employer or prospective employer receiving the certified abstract
25 shall use it exclusively for his or her own purpose to determine
26 whether the licensee should be permitted to operate a commercial
27 vehicle or school bus upon the public highways of this state and shall
28 not divulge any information contained in it to a third party.

29 Any alcohol/drug assessment or treatment agency approved by the
30 department of social and health services receiving the certified
31 abstract shall use it exclusively for the purpose of assisting its
32 employees in making a determination as to what level of treatment, if
33 any, is appropriate. The agency, or any of its employees, shall not
34 divulge any information contained in the abstract to a third party.

35 Release of a certified abstract of the driving record of an
36 employee or prospective employee requires a statement signed by: (1)
37 The employee or prospective employee that authorizes the release of the
38 record, and (2) the employer attesting that the information is
39 necessary to determine whether the licensee should be employed to

1 operate a commercial vehicle or school bus upon the public highways of
2 this state. If the employer or prospective employer authorizes an
3 agent to obtain this information on their behalf, this must be noted in
4 the statement.

5 Any violation of this section is a gross misdemeanor.

6 **Sec. 448.** RCW 72.72.060 and 1983 c 279 s 5 are each amended to
7 read as follows:

8 The state shall reimburse cities and counties for their costs
9 incurred under chapters 41.26 and 41.26A RCW if the costs are the
10 direct result of physical injuries sustained in the implementation of
11 a contingency plan adopted under RCW 72.02.150 and if reimbursement is
12 not precluded by the following provisions: If the secretary of
13 corrections identifies in the contingency plan the prison walls or
14 other perimeter of the secured area, then reimbursement will not be
15 made unless the injuries occur within the walls or other perimeter of
16 the secured area. If the secretary of corrections does not identify
17 prison walls or other perimeter of the secured area, then reimbursement
18 shall not be made unless the injuries result from providing assistance,
19 requested by the secretary of corrections or the secretary's designee,
20 which is beyond the description of the assistance contained in the
21 contingency plan. In no case shall reimbursement be made when the
22 injuries result from conduct which either is not requested by the
23 secretary of corrections or the secretary's designee, or is in
24 violation of orders by superiors of the local law enforcement agency.

25 NEW SECTION. **Sec. 449.** EFFECTIVE DATES AND EXPIRATION DATES. (1)
26 Sections 419, 421, 423, 426, 432, 440, and 444 of this act expire March
27 1, 2002.

28 (2) Sections 418, 420, 422, 424, 427, 433, 437, 441, and 445 of
29 this act take effect March 1, 2002.

30 **PART V**
31 **MISCELLANEOUS**

32 NEW SECTION. **Sec. 501.** REPEALER. The following acts or parts of
33 acts are each repealed:

1 (1) RCW 41.26.005 (Provisions applicable to "plan 1" and "plan 2")
2 and 1992 c 72 s 2, 1991 c 35 s 12, 1989 c 273 s 10, 1985 c 102 s 5,
3 1979 ex.s. c 249 s 1, & 1977 ex.s. c 294 s 18;
4 (2) RCW 41.26.035 ("Minimum medical and health standards" defined)
5 and 1991 c 35 s 14 & 1971 ex.s. c 257 s 2;
6 (3) RCW 41.26.045 (Minimum medical and health standards) and 1979
7 ex.s. c 249 s 3, 1977 ex.s. c 294 s 20, 1974 ex.s. c 120 s 8, & 1971
8 ex.s. c 257 s 3;
9 (4) RCW 41.26.046 (Minimum medical and health standards--Board to
10 adopt--Publication and distribution--Employer certification procedures)
11 and 1987 c 418 s 2, 1977 ex.s. c 294 s 21, 1974 ex.s. c 120 s 12, 1972
12 ex.s. c 131 s 2, & 1971 ex.s. c 257 s 4;
13 (5) RCW 41.26.047 (Minimum medical and health standards--
14 Exemptions--Employer may adopt higher standards) and 1972 ex.s. c 131
15 s 3 & 1971 ex.s. c 257 s 5;
16 (6) RCW 41.26.075 (Provisions applicable to plan 1) and 1992 c 72
17 s 3 & 1991 c 35 s 101;
18 (7) RCW 41.26.080 (Funding total liability of plan 1 system) and
19 2000 2nd sp.s. c 1 s 907, 1991 c 35 s 17, 1989 c 273 s 13, & 1969 ex.s.
20 c 209 s 8;
21 (8) RCW 41.26.090 (Retirement for service) and 1991 sp.s. c 11 s 4;
22 (9) RCW 41.26.100 (Allowance on retirement for service) and 1991 c
23 343 s 16, 1974 ex.s. c 120 s 3, 1972 ex.s. c 131 s 7, 1971 ex.s. c 257
24 s 9, 1970 ex.s. c 6 s 5, & 1969 ex.s. c 209 s 10;
25 (10) RCW 41.26.110 (City and county disability boards authorized--
26 Composition--Terms--Reimbursement for travel expenses--Duties) and 2000
27 c 234 s 1, 1988 c 164 s 1, 1982 c 12 s 1, 1974 ex.s. c 120 s 9, 1970
28 ex.s. c 6 s 6, 1969 ex.s. c 219 s 3, & 1969 ex.s. c 209 s 11;
29 (11) RCW 41.26.115 (Director of retirement systems to adopt rules
30 governing disability boards--Remand of orders not in accordance with
31 rules) and 1981 c 294 s 1;
32 (12) RCW 41.26.120 (Retirement for disability incurred in the line
33 of duty) and 1991 c 35 s 19, 1986 c 176 s 5, 1985 c 102 s 2, 1981 c 294
34 s 2, 1974 ex.s. c 120 s 10, 1972 ex.s. c 131 s 8, 1970 ex.s. c 6 s 7,
35 & 1969 ex.s. c 209 s 12;
36 (13) RCW 41.26.125 (Retirement for disability not incurred in the
37 line of duty) and 1986 c 176 s 6 & 1985 c 102 s 3;

1 (14) RCW 41.26.130 (Allowance on retirement for disability) and
2 1991 c 35 s 20, 1987 c 185 s 11, 1981 c 294 s 3, 1970 ex.s. c 6 s 8, &
3 1969 ex.s. c 209 s 13;

4 (15) RCW 41.26.135 (Cessation of disability--Determination) and
5 1985 c 103 s 1;

6 (16) RCW 41.26.140 (Reexaminations of disability beneficiaries--
7 Reentry--Appeal) and 1991 c 35 s 21, 1985 c 103 s 2, 1981 c 294 s 4,
8 1974 ex.s. c 120 s 4, 1970 ex.s. c 6 s 9, & 1969 ex.s. c 209 s 14;

9 (17) RCW 41.26.150 (Sickness or disability benefits--Medical
10 services) and 1992 c 22 s 3, 1991 c 35 s 22, 1987 c 185 s 12, 1983 c
11 106 s 23, 1974 ex.s. c 120 s 11, 1971 ex.s. c 257 s 10, 1970 ex.s. c 6
12 s 10, 1969 ex.s. c 219 s 4, & 1969 ex.s. c 209 s 15;

13 (18) RCW 41.26.160 (Death benefits--Duty connected) and 1999 c 134
14 s 2 & 1991 sp.s. c 11 s 5;

15 (19) RCW 41.26.161 (Death benefits--Nonduty connected) and 1999 c
16 134 s 3;

17 (20) RCW 41.26.162 (Ex spouse qualifying as surviving spouse--When)
18 and 1991 sp.s. c 12 s 2;

19 (21) RCW 41.26.170 (Refund of contributions on discontinuance of
20 service--Reentry) and 1994 c 197 s 6, 1991 c 35 s 24, 1970 ex.s. c 6 s
21 14, & 1969 ex.s. c 209 s 22;

22 (22) RCW 41.26.190 (Credit for military service) and 1991 c 35 s
23 26, 1970 ex.s. c 6 s 13, & 1969 ex.s. c 209 s 18;

24 (23) RCW 41.26.192 (Credit for service under prior pension system--
25 Restoration of withdrawn contributions) and 1994 c 197 s 7 & 1992 c 157
26 s 1;

27 (24) RCW 41.26.194 (Credit for service under prior pension system--
28 Service not covered under prior system) and 1994 c 197 s 8 & 1992 c 157
29 s 2;

30 (25) RCW 41.26.195 (Transfer of service credit from other
31 retirement system--Irrevocable election allowed) and 1997 c 122 s 1;

32 (26) RCW 41.26.197 (Service credit for paid leave of absence--
33 Application to elected officials of labor organizations) and 1993 c 95
34 s 3;

35 (27) RCW 41.26.200 (Appeal to director of retirement systems) and
36 1981 c 294 s 5, 1974 ex.s. c 120 s 6, 1971 ex.s. c 257 s 13, 1970 ex.s.
37 c 6 s 11, & 1969 ex.s. c 209 s 16;

1 (28) RCW 41.26.211 (Notice for hearing required prior to
2 petitioning for judicial review) and 1984 c 184 s 16, 1981 c 294 s 6,
3 & 1969 ex.s. c 209 s 19;

4 (29) RCW 41.26.221 (Hearing--Conduct) and 1984 c 184 s 17, 1981 c
5 294 s 7, & 1969 ex.s. c 209 s 20;

6 (30) RCW 41.26.240 (Increases or decreases in retirement allowances
7 to be determined by department in accordance with consumer price index)
8 and 1991 c 35 s 27, 1974 ex.s. c 120 s 13, 1970 ex.s. c 6 s 16, & 1969
9 ex.s. c 209 s 24;

10 (31) RCW 41.26.250 (Increase in presently payable benefits for
11 service or disability authorized) and 1975 1st ex.s. c 178 s 3, 1974
12 ex.s. c 190 s 3, 1970 ex.s. c 37 s 2, & 1969 ex.s. c 209 s 34;

13 (32) RCW 41.26.260 (Increase in certain presently payable death
14 benefits authorized) and 1974 ex.s. c 190 s 4 & 1969 ex.s. c 209 s 35;

15 (33) RCW 41.26.270 (Declaration of policy respecting benefits for
16 injury or death--Civil actions abolished) and 1989 c 12 s 13, 1987 c
17 185 s 13, 1985 c 102 s 4, & 1971 ex.s. c 257 s 14;

18 (34) RCW 41.26.281 (Cause of action for injury or death, when) and
19 1991 c 35 s 28 & 1971 ex.s. c 257 s 15;

20 (35) RCW 41.26.3901 (Severability--1969 ex.s. c 209) and 1969 ex.s.
21 c 209 s 42;

22 (36) RCW 41.26.3902 (Act to control inconsistencies) and 1969 ex.s.
23 c 209 s 43;

24 (37) RCW 41.26.3903 (Effective date--1969 ex.s. c 209) and 1969
25 ex.s. c 209 s 45; and

26 (38) RCW 41.26.410 (Provisions applicable to plan 2) and 1991 c 35
27 s 29 & 1977 ex.s. c 294 s 2.

28 NEW SECTION. **Sec. 502.** SAVINGS. The repeals in section 501 of
29 this act do not affect any existing right acquired or liability or
30 obligation incurred under the statutes repealed or under any rule or
31 order adopted under those statutes nor do they affect any proceeding
32 instituted under them. Rules adopted by the department of retirement
33 systems relating to plan 1 of the law enforcement officers' and fire
34 fighters' retirement system under chapter 41.26 RCW shall continue in
35 effect and apply to the restated law enforcement officers' and fire
36 fighters' retirement system under chapter 41.26A RCW unless expressly
37 inconsistent therewith and until repealed or superseded.

1 NEW SECTION. **Sec. 503.** SEVERABILITY. If any provision of this
2 act or its application to any person or circumstance is held invalid,
3 the remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 504.** CAPTIONS. Part headings and captions used
6 in this act are not any part of the law.

7 NEW SECTION. **Sec. 505.** EFFECTIVE DATE. Except as provided in
8 section 449 of this act, this act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 July 1, 2001.

--- END ---