

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5937**

57th Legislature  
2001 Second Special Session

Passed by the Senate June 20, 2001  
YEAS 39 NAYS 0

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**President of the Senate**

Passed by the House June 19, 2001  
YEAS 84 NAYS 1

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**Speaker of the  
House of Representatives**

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**Speaker of the  
House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5937** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE SENATE BILL 5937

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AS AMENDED BY THE HOUSE

Passed Legislature - 2001 2nd Special Session

State of Washington                      57th Legislature                      2001 Regular Session

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

READ FIRST TIME 03/08/01.

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

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

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

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

1 for retirees; and (f) collective bargaining rights and  
2 responsibilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ~~(7) Subsection (3) of this section shall apply to all persons~~  
25 ~~governed by the provisions of plan 1, regardless of the date of their~~  
26 ~~retirement, but shall only apply to benefits payable after September 1,~~  
27 ~~1994)), after the retiree has rendered service for more than one~~  
28 ~~thousand five hundred hours in a school year. When a retired teacher~~  
29 ~~or administrator renders service beyond eight hundred sixty-seven~~  
30 ~~hours, the department shall collect from the employer the applicable~~  
31 ~~employer retirement contributions for the entire duration of the~~  
32 ~~member's employment during that fiscal year.~~

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

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

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

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

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

13       (2)(a) A retiree from plan 1 who has satisfied the break in  
14 employment requirement of subsection (1) of this section and who enters  
15 employment with an employer may continue to receive pension payments  
16 while engaged in such service for up to one thousand five hundred hours  
17 of service in a calendar year without a reduction of pension. When a  
18 plan 1 member renders service beyond eight hundred sixty-seven hours,  
19 the department shall collect from the employer the applicable employer  
20 retirement contributions for the entire duration of the member's  
21 employment during that calendar year.

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

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

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

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

8       NEW SECTION. Sec. 5. Sections 2 and 3 of this act expire June 30,  
9 2004.

10       NEW SECTION. Sec. 6. Section 4 of this act expires December 31,  
11 2004.

12       NEW SECTION. Sec. 7. The office of the state actuary shall review  
13 the actuarial impact of the temporary expansion of the postretirement  
14 employment limitations provided by sections 3 and 4 of this act. No  
15 later than July 1, 2003, the state actuary shall prepare a report for  
16 the joint committee on pension policy regarding the fiscal and policy  
17 impacts of this act. The joint committee shall solicit information  
18 from the superintendent of public instruction, the department of  
19 personnel, the office of financial management, the department of  
20 retirement systems, and the health care authority regarding the program  
21 impacts of this act and shall report to the legislative fiscal  
22 committees no later than October 1, 2003, on any proposed changes or  
23 improvements to this act. If the state actuary determines the  
24 expansion of postretirement options under sections 3 and 4 of this act  
25 has resulted in increased costs for the state retirement funds, the  
26 joint committee report shall include a proposal for a process to charge  
27 those employers who employ retirees pursuant to an extension of  
28 sections 3 and 4 of this act for the costs incurred by the retirement  
29 funds under the extension.

30       **Sec. 8.** RCW 41.32.802 and 1997 c 254 s 8 are each amended to read  
31 as follows:

32       (1)(a) If a retiree enters employment with an employer sooner than  
33 one calendar month after his or her accrual date, the retiree's monthly  
34 retirement allowance will be reduced by five and one-half percent for  
35 every seven hours worked during that month. This reduction will be

1 applied each month until the retiree remains absent from employment  
2 with an employer for one full calendar month.

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

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

13 (3) If the retiree opts to reestablish membership under RCW  
14 41.32.044, he or she terminates his or her retirement status and  
15 immediately becomes a member. Retirement benefits shall not accrue  
16 during the period of membership and the individual shall make  
17 contributions and receive membership credit. Such a member shall have  
18 the right to again retire if eligible.

19 **Sec. 9.** RCW 41.32.860 and 1997 c 254 s 7 are each amended to read  
20 as follows:

21 (1) Except under RCW 41.32.862, no retiree shall be eligible to  
22 receive such retiree's monthly retirement allowance if he or she is  
23 employed in an eligible position as defined in RCW 41.40.010 (~~or~~),  
24 41.32.010, or 41.35.010, or as a law enforcement officer or fire  
25 fighter as defined in RCW 41.26.030.

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

31 **Sec. 10.** RCW 41.32.862 and 1997 c 254 s 9 are each amended to read  
32 as follows:

33 (1)(a) If a retiree enters employment with an employer sooner than  
34 one calendar month after his or her accrual date, the retiree's monthly  
35 retirement allowance will be reduced by five and one-half percent for  
36 every seven hours worked during that month. This reduction will be



1 applied each month until the retiree remains absent from employment  
2 with an employer for one full calendar month.

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

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

13 (3) If the retiree opts to reestablish membership under RCW  
14 41.32.044, he or she terminates his or her retirement status and  
15 immediately becomes a member. Retirement benefits shall not accrue  
16 during the period of membership and the individual shall make  
17 contributions and receive membership credit. Such a member shall have  
18 the right to again retire if eligible.

19 **Sec. 11.** RCW 41.35.060 and 1998 c 341 s 7 are each amended to read  
20 as follows:

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

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

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

37 (3) If the retiree opts to reestablish membership under RCW  
38 41.35.030, he or she terminates his or her retirement status and

1 becomes a member. Retirement benefits shall not accrue during the  
2 period of membership and the individual shall make contributions and  
3 receive membership credit. Such a member shall have the right to again  
4 retire if eligible in accordance with RCW 41.35.420 or 41.35.680.  
5 However, if the right to retire is exercised to become effective before  
6 the member has rendered two uninterrupted years of service, the  
7 retirement formula and survivor options the member had at the time of  
8 the member's previous retirement shall be reinstated.

9 **Sec. 12.** RCW 41.40.037 and 1997 c 254 s 14 are each amended to  
10 read as follows:

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

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

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

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

1       **Sec. 13.** RCW 41.40.750 and 1998 c 341 s 113 are each amended to  
2 read as follows:

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

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

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

24       (3) Members who restore contributions and service credit under  
25 subsection (1) or (2) of this section shall have their contributions  
26 and service credit transferred to the Washington school employees'  
27 retirement system.

28       NEW SECTION. **Sec. 14.** Except for section 12 of this act which  
29 takes effect December 31, 2004, this act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and takes effect  
32 July 1, 2001.

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