
HOUSE BILL 2640

State of Washington 58th Legislature 2004 Regular Session

By Representatives Bailey, Sehlin, Miloscia, Roach, Boldt, Tom, Talcott, Mielke, McMahan, Holmquist and Schindler

Read first time 01/19/2004. Referred to Committee on Appropriations.

1 AN ACT Relating to teachers' retirement system plan 1
2 postretirement employment; and amending RCW 41.32.010 and 41.32.570.

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

4 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read
5 as follows:

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

8 (1)(a) "Accumulated contributions" for plan 1 members, means the
9 sum of all regular annuity contributions and, except for the purpose of
10 withdrawal at the time of retirement, any amount paid under RCW
11 41.50.165(2) with regular interest thereon.

12 (b) "Accumulated contributions" for plan 2 members, means the sum
13 of all contributions standing to the credit of a member in the member's
14 individual account, including any amount paid under RCW 41.50.165(2),
15 together with the regular interest thereon.

16 (2) "Actuarial equivalent" means a benefit of equal value when
17 computed upon the basis of such mortality tables and regulations as
18 shall be adopted by the director and regular interest.

1 (3) "Annuity" means the moneys payable per year during life by
2 reason of accumulated contributions of a member.

3 (4) "Member reserve" means the fund in which all of the accumulated
4 contributions of members are held.

5 (5)(a) "Beneficiary" for plan 1 members, means any person in
6 receipt of a retirement allowance or other benefit provided by this
7 chapter.

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

12 (6) "Contract" means any agreement for service and compensation
13 between a member and an employer.

14 (7) "Creditable service" means membership service plus prior
15 service for which credit is allowable. This subsection shall apply
16 only to plan 1 members.

17 (8) "Dependent" means receiving one-half or more of support from a
18 member.

19 (9) "Disability allowance" means monthly payments during
20 disability. This subsection shall apply only to plan 1 members.

21 (10)(a) "Earnable compensation" for plan 1 members, means:

22 (i) All salaries and wages paid by an employer to an employee
23 member of the retirement system for personal services rendered during
24 a fiscal year. In all cases where compensation includes maintenance
25 the employer shall fix the value of that part of the compensation not
26 paid in money.

27 (ii) For an employee member of the retirement system teaching in an
28 extended school year program, two consecutive extended school years, as
29 defined by the employer school district, may be used as the annual
30 period for determining earnable compensation in lieu of the two fiscal
31 years.

32 (iii) "Earnable compensation" for plan 1 members also includes the
33 following actual or imputed payments, which are not paid for personal
34 services:

35 (A) Retroactive payments to an individual by an employer on
36 reinstatement of the employee in a position, or payments by an employer
37 to an individual in lieu of reinstatement in a position which are
38 awarded or granted as the equivalent of the salary or wages which the

1 individual would have earned during a payroll period shall be
2 considered earnable compensation and the individual shall receive the
3 equivalent service credit.

4 (B) If a leave of absence, without pay, is taken by a member for
5 the purpose of serving as a member of the state legislature, and such
6 member has served in the legislature five or more years, the salary
7 which would have been received for the position from which the leave of
8 absence was taken shall be considered as compensation earnable if the
9 employee's contribution thereon is paid by the employee. In addition,
10 where a member has been a member of the state legislature for five or
11 more years, earnable compensation for the member's two highest
12 compensated consecutive years of service shall include a sum not to
13 exceed thirty-six hundred dollars for each of such two consecutive
14 years, regardless of whether or not legislative service was rendered
15 during those two years.

16 (iv) For members employed less than full time under written
17 contract with a school district, or community college district, in an
18 instructional position, for which the member receives service credit of
19 less than one year in all of the years used to determine the earnable
20 compensation used for computing benefits due under RCW 41.32.497,
21 41.32.498, and 41.32.520, the member may elect to have earnable
22 compensation defined as provided in RCW 41.32.345. For the purposes of
23 this subsection, the term "instructional position" means a position in
24 which more than seventy-five percent of the member's time is spent as
25 a classroom instructor (including office hours), a librarian, or a
26 counselor. Earnable compensation shall be so defined only for the
27 purpose of the calculation of retirement benefits and only as necessary
28 to insure that members who receive fractional service credit under RCW
29 41.32.270 receive benefits proportional to those received by members
30 who have received full-time service credit.

31 (v) "Earnable compensation" does not include:

32 (A) Remuneration for unused sick leave authorized under RCW
33 41.04.340, 28A.400.210, or 28A.310.490;

34 (B) Remuneration for unused annual leave in excess of thirty days
35 as authorized by RCW 43.01.044 and 43.01.041.

36 (b) "Earnable compensation" for plan 2 and plan 3 members, means
37 salaries or wages earned by a member during a payroll period for
38 personal services, including overtime payments, and shall include wages

1 and salaries deferred under provisions established pursuant to sections
2 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
3 shall exclude lump sum payments for deferred annual sick leave, unused
4 accumulated vacation, unused accumulated annual leave, or any form of
5 severance pay.

6 "Earnable compensation" for plan 2 and plan 3 members also includes
7 the following actual or imputed payments which, except in the case of
8 (b)(ii)(B) of this subsection, are not paid for personal services:

9 (i) Retroactive payments to an individual by an employer on
10 reinstatement of the employee in a position or payments by an employer
11 to an individual in lieu of reinstatement in a position which are
12 awarded or granted as the equivalent of the salary or wages which the
13 individual would have earned during a payroll period shall be
14 considered earnable compensation, to the extent provided above, and the
15 individual shall receive the equivalent service credit.

16 (ii) In any year in which a member serves in the legislature the
17 member shall have the option of having such member's earnable
18 compensation be the greater of:

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

21 (B) Such member's actual earnable compensation received for
22 teaching and legislative service combined. Any additional
23 contributions to the retirement system required because compensation
24 earnable under (b)(ii)(A) of this subsection is greater than
25 compensation earnable under (b)(ii)(B) of this subsection shall be paid
26 by the member for both member and employer contributions.

27 (11) "Employer" means the state of Washington, the school district,
28 or any agency of the state of Washington by which the member is paid.

29 (12) "Fiscal year" means a year which begins July 1st and ends June
30 30th of the following year.

31 (13) "Former state fund" means the state retirement fund in
32 operation for teachers under chapter 187, Laws of 1923, as amended.

33 (14) "Local fund" means any of the local retirement funds for
34 teachers operated in any school district in accordance with the
35 provisions of chapter 163, Laws of 1917 as amended.

36 (15) "Member" means any teacher included in the membership of the
37 retirement system. Also, any other employee of the public schools who,

1 on July 1, 1947, had not elected to be exempt from membership and who,
2 prior to that date, had by an authorized payroll deduction, contributed
3 to the member reserve.

4 (16) "Membership service" means service rendered subsequent to the
5 first day of eligibility of a person to membership in the retirement
6 system: PROVIDED, That where a member is employed by two or more
7 employers the individual shall receive no more than one service credit
8 month during any calendar month in which multiple service is rendered.
9 The provisions of this subsection shall apply only to plan 1 members.

10 (17) "Pension" means the moneys payable per year during life from
11 the pension reserve.

12 (18) "Pension reserve" is a fund in which shall be accumulated an
13 actuarial reserve adequate to meet present and future pension
14 liabilities of the system and from which all pension obligations are to
15 be paid.

16 (19) "Prior service" means service rendered prior to the first date
17 of eligibility to membership in the retirement system for which credit
18 is allowable. The provisions of this subsection shall apply only to
19 plan 1 members.

20 (20) "Prior service contributions" means contributions made by a
21 member to secure credit for prior service. The provisions of this
22 subsection shall apply only to plan 1 members.

23 (21) "Public school" means any institution or activity operated by
24 the state of Washington or any instrumentality or political subdivision
25 thereof employing teachers, except the University of Washington and
26 Washington State University.

27 (22) "Regular contributions" means the amounts required to be
28 deducted from the compensation of a member and credited to the member's
29 individual account in the member reserve. This subsection shall apply
30 only to plan 1 members.

31 (23) "Regular interest" means such rate as the director may
32 determine.

33 (24)(a) "Retirement allowance" for plan 1 members, means monthly
34 payments based on the sum of annuity and pension, or any optional
35 benefits payable in lieu thereof.

36 (b) "Retirement allowance" for plan 2 and plan 3 members, means
37 monthly payments to a retiree or beneficiary as provided in this
38 chapter.

1 (25) "Retirement system" means the Washington state teachers'
2 retirement system.

3 (26)(a) "Service" for plan 1 members means the time during which a
4 member has been employed by an employer for compensation.

5 (i) If a member is employed by two or more employers the individual
6 shall receive no more than one service credit month during any calendar
7 month in which multiple service is rendered.

8 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
9 sick leave may be creditable as service solely for the purpose of
10 determining eligibility to retire under RCW 41.32.470.

11 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
12 state retirement system that covers teachers in public schools may be
13 applied solely for the purpose of determining eligibility to retire
14 under RCW 41.32.470.

15 (b) "Service" for plan 2 and plan 3 members, means periods of
16 employment by a member for one or more employers for which earnable
17 compensation is earned subject to the following conditions:

18 (i) A member employed in an eligible position or as a substitute
19 shall receive one service credit month for each month of September
20 through August of the following year if he or she earns earnable
21 compensation for eight hundred ten or more hours during that period and
22 is employed during nine of those months, except that a member may not
23 receive credit for any period prior to the member's employment in an
24 eligible position except as provided in RCW 41.32.812 and 41.50.132;

25 (ii) If a member is employed either in an eligible position or as
26 a substitute teacher for nine months of the twelve month period between
27 September through August of the following year but earns earnable
28 compensation for less than eight hundred ten hours but for at least six
29 hundred thirty hours, he or she will receive one-half of a service
30 credit month for each month of the twelve month period;

31 (iii) All other members in an eligible position or as a substitute
32 teacher shall receive service credit as follows:

33 (A) A service credit month is earned in those calendar months where
34 earnable compensation is earned for ninety or more hours;

35 (B) A half-service credit month is earned in those calendar months
36 where earnable compensation is earned for at least seventy hours but
37 less than ninety hours; and

1 (C) A quarter-service credit month is earned in those calendar
2 months where earnable compensation is earned for less than seventy
3 hours.

4 (iv) Any person who is a member of the teachers' retirement system
5 and who is elected or appointed to a state elective position may
6 continue to be a member of the retirement system and continue to
7 receive a service credit month for each of the months in a state
8 elective position by making the required member contributions.

9 (v) When an individual is employed by two or more employers the
10 individual shall only receive one month's service credit during any
11 calendar month in which multiple service for ninety or more hours is
12 rendered.

13 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
14 sick leave may be creditable as service solely for the purpose of
15 determining eligibility to retire under RCW 41.32.470. For purposes of
16 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
17 to two service credit months. Use of less than forty-five days of sick
18 leave is creditable as allowed under this subsection as follows:

19 (A) Less than eleven days equals one-quarter service credit month;

20 (B) Eleven or more days but less than twenty-two days equals one-
21 half service credit month;

22 (C) Twenty-two days equals one service credit month;

23 (D) More than twenty-two days but less than thirty-three days
24 equals one and one-quarter service credit month;

25 (E) Thirty-three or more days but less than forty-five days equals
26 one and one-half service credit month.

27 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
28 state retirement system that covers teachers in public schools may be
29 applied solely for the purpose of determining eligibility to retire
30 under RCW 41.32.470.

31 (viii) The department shall adopt rules implementing this
32 subsection.

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

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

37 (29) "Teacher" means any person qualified to teach who is engaged
38 by a public school in an instructional, administrative, or supervisory

1 capacity. The term includes state, educational service district, and
2 school district superintendents and their assistants and all employees
3 certificated by the superintendent of public instruction; and in
4 addition thereto any full time school doctor who is employed by a
5 public school and renders service of an instructional or educational
6 nature.

7 (30) "Average final compensation" for plan 2 and plan 3 members,
8 means the member's average earnable compensation of the highest
9 consecutive sixty service credit months prior to such member's
10 retirement, termination, or death. Periods constituting authorized
11 leaves of absence may not be used in the calculation of average final
12 compensation except under RCW 41.32.810(2).

13 (31) "Retiree" means any person who has begun accruing a retirement
14 allowance or other benefit provided by this chapter resulting from
15 service rendered to an employer while a member.

16 (32) "Department" means the department of retirement systems
17 created in chapter 41.50 RCW.

18 (33) "Director" means the director of the department.

19 (34) "State elective position" means any position held by any
20 person elected or appointed to statewide office or elected or appointed
21 as a member of the legislature.

22 (35) "State actuary" or "actuary" means the person appointed
23 pursuant to RCW 44.44.010(2).

24 (36) "Substitute teacher" means:

25 (a) A teacher who is hired by an employer to work as a temporary
26 teacher, except for teachers who are annual contract employees of an
27 employer and are guaranteed a minimum number of hours; or

28 (b) Teachers who either (i) work in ineligible positions for more
29 than one employer or (ii) work in an ineligible position or positions
30 together with an eligible position.

31 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
32 through September 1, 1991, means a position which normally requires two
33 or more uninterrupted months of creditable service during September
34 through August of the following year.

35 (b) "Eligible position" for plan 2 and plan 3 on and after
36 September 1, 1991, means a position that, as defined by the employer,
37 normally requires five or more months of at least seventy hours of

1 earnable compensation during September through August of the following
2 year.

3 (c) For purposes of this chapter an employer shall not define
4 "position" in such a manner that an employee's monthly work for that
5 employer is divided into more than one position.

6 (d) The elected position of the superintendent of public
7 instruction is an eligible position.

8 (38) "Plan 1" means the teachers' retirement system, plan 1
9 providing the benefits and funding provisions covering persons who
10 first became members of the system prior to October 1, 1977.

11 (39) "Plan 2" means the teachers' retirement system, plan 2
12 providing the benefits and funding provisions covering persons who
13 first became members of the system on and after October 1, 1977, and
14 prior to July 1, 1996.

15 (40) "Plan 3" means the teachers' retirement system, plan 3
16 providing the benefits and funding provisions covering persons who
17 first become members of the system on and after July 1, 1996, or who
18 transfer under RCW 41.32.817.

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

23 (42) "Index A" means the index for the year prior to the
24 determination of a postretirement adjustment.

25 (43) "Index B" means the index for the year prior to index A.

26 (44) "Index year" means the earliest calendar year in which the
27 index is more than sixty percent of index A.

28 (45) "Adjustment ratio" means the value of index A divided by index
29 B.

30 (46) "Annual increase" means, initially, fifty-nine cents per month
31 per year of service which amount shall be increased each July 1st by
32 three percent, rounded to the nearest cent.

33 (47) "Member account" or "member's account" for purposes of plan 3
34 means the sum of the contributions and earnings on behalf of the member
35 in the defined contribution portion of plan 3.

36 (48) "Separation from service or employment" occurs when a person
37 has terminated all employment with an employer. Separation from

1 service or employment does not occur when an employee and employer have
2 a written or oral agreement to resume employment with the same employer
3 following termination.

4 (49) "Employed" or "employee" means a person who is providing
5 services for compensation to an employer, unless the person is free
6 from the employer's direction and control over the performance of work.
7 The department shall adopt rules and interpret this subsection
8 consistent with common law.

9 **Sec. 2.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read
10 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 seven 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 forty hours per month. Any monthly
19 benefit reduction over one hundred percent will be applied to the
20 benefit the retiree is eligible to receive in subsequent months.

21 (2) Except as provided in subsection (3) of this section, any
22 retired teacher or retired administrator who enters service in any
23 public educational institution in Washington state ((and who has
24 satisfied the break in employment requirement of subsection (1) of this
25 section)) at least one calendar month after his or her accrual date
26 shall cease to receive pension payments while engaged in such service,
27 after the retiree has rendered service for more than ((one thousand
28 five hundred)) eight hundred sixty-seven hours in a school year.

29 (3) Any retired teacher or retired administrator who enters service
30 in any public educational institution in Washington state one and one-
31 half calendar months or more after his or her accrual date and:

32 (a) Is hired into a position for which the school board has
33 documented a justifiable need to hire a retiree into the position;

34 (b) Is hired through the established process for the position with
35 the approval of the school board of the prospective employer;

36 (c) The employer retains records of the procedures followed and the

1 decisions made in hiring the retired teacher or retired administrator
2 and provides those records in the event of an audit; and

3 (d) The employee has not already rendered a cumulative total of
4 more than one thousand nine hundred hours while receiving pension
5 payments, beyond an annual threshold of eight hundred sixty-seven
6 hours;

7 shall cease to receive pension payments while engaged in that service
8 after the retiree has rendered service for more than one thousand five
9 hundred hours in a school year. The cumulative total limitations under
10 this subsection apply prospectively from the effective date of this act
11 to those retiring on and after the effective date of this act and those
12 who retired prior to the effective date of this act.

13 (4) When a retired teacher or administrator renders service beyond
14 eight hundred sixty-seven hours, the department shall collect from the
15 employer (a) the applicable employer retirement contributions, and (b)
16 additional employer contributions equal to the employee contributions
17 that would have been made if the retiree was not retired, for the
18 entire duration of the member's employment during that fiscal year.

19 ((+3)) (5) The department shall collect and provide the state
20 actuary with information relevant to the use of this section for the
21 select committee on pension policy.

22 ((+4)) (6) The legislature reserves the right to amend or repeal
23 this section in the future and no member or beneficiary has a
24 contractual right to be employed for more than ((five hundred twenty-
25 five)) eight hundred sixty-seven hours per year without a reduction of
26 his or her pension.

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