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SENATE BILL 5096

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State of Washington

58th Legislature

2003 Regular Session

By Senators Regala, Winsley, Carlson, Spanel, Jacobsen, Fraser, B. Sheldon, Kohl-Welles and Rasmussen; by request of Joint Committee on Pension Policy

Read first time 01/15/2003. Referred to Committee on Ways & Means.

1 AN ACT Relating to allowing members of the teachers' retirement  
2 system plan 1 to use extended school years for calculation of their  
3 earnable compensation; and amending RCW 41.32.010.

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

5 **Sec. 1.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to read  
6 as follows:

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

9 (1)(a) "Accumulated contributions" for plan 1 members, means the  
10 sum of all regular annuity contributions and, except for the purpose of  
11 withdrawal at the time of retirement, any amount paid under RCW  
12 41.50.165(2) with regular interest thereon.

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

17 (2) "Actuarial equivalent" means a benefit of equal value when

1 computed upon the basis of such mortality tables and regulations as  
2 shall be adopted by the director and regular interest.

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

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

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

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

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

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

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

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

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

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

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

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

37 (A) Retroactive payments to an individual by an employer on  
38 reinstatement of the employee in a position, or payments by an employer

1 to an individual in lieu of reinstatement in a position which are  
2 awarded or granted as the equivalent of the salary or wages which the  
3 individual would have earned during a payroll period shall be  
4 considered earnable compensation and the individual shall receive the  
5 equivalent service credit.

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

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

33 ~~((+iv))~~ (v) "Earnable compensation" does not include:

34 (A) Remuneration for unused sick leave authorized under RCW  
35 41.04.340, 28A.400.210, or 28A.310.490;

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

1 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
2 salaries or wages earned by a member during a payroll period for  
3 personal services, including overtime payments, and shall include wages  
4 and salaries deferred under provisions established pursuant to sections  
5 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
6 shall exclude lump sum payments for deferred annual sick leave, unused  
7 accumulated vacation, unused accumulated annual leave, or any form of  
8 severance pay.

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

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

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

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

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

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

32 (12) "Fiscal year" means a year which begins July 1st and ends June  
33 30th of the following year.

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

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

1 (15) "Member" means any teacher included in the membership of the  
2 retirement system. Also, any other employee of the public schools who,  
3 on July 1, 1947, had not elected to be exempt from membership and who,  
4 prior to that date, had by an authorized payroll deduction, contributed  
5 to the member reserve.

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

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

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

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

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

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

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

33 (23) "Regular interest" means such rate as the director may  
34 determine.

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

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

4 (25) "Retirement system" means the Washington state teachers'  
5 retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (viii) The department shall adopt rules implementing this  
35 subsection.

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

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

3 (29) "Teacher" means any person qualified to teach who is engaged  
4 by a public school in an instructional, administrative, or supervisory  
5 capacity. The term includes state, educational service district, and  
6 school district superintendents and their assistants and all employees  
7 certificated by the superintendent of public instruction; and in  
8 addition thereto any full time school doctor who is employed by a  
9 public school and renders service of an instructional or educational  
10 nature.

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

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

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

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

23 (34) "State elective position" means any position held by any  
24 person elected or appointed to state-wide office or elected or  
25 appointed as a member of the legislature.

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

28 (36) "Substitute teacher" means:

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

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

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



1 (b) "Eligible position" for plan 2 and plan 3 on and after  
2 September 1, 1991, means a position that, as defined by the employer,  
3 normally requires five or more months of at least seventy hours of  
4 earnable compensation during September through August of the following  
5 year.

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

9 (d) The elected position of the superintendent of public  
10 instruction is an eligible position.

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

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

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

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

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

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

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

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

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

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

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

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

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