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SENATE BILL 6246

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State of Washington

58th Legislature

2004 Regular Session

By Senators Fraser, Winsley, Regala, McAuliffe, Franklin and Rasmussen; by request of Select Committee on Pension Policy

Read first time 01/15/2004. Referred to Committee on Ways & Means.

1 AN ACT Relating to establishing a public safety employees'  
2 retirement system plan 2; amending RCW 41.45.010, 41.45.020, 41.45.050,  
3 41.50.030, 41.50.060, 41.50.075, 41.50.080, 41.50.110, 41.50.150,  
4 41.50.152, 41.50.255, 41.50.500, 41.50.670, 41.50.790, 41.40.010,  
5 41.26.500, 41.32.800, 41.35.230, 41.40.690, 41.54.010, 41.54.040,  
6 41.32.802, 41.32.862, and 41.35.060; reenacting and amending RCW  
7 41.45.060, 41.45.061, 41.45.070, 43.84.092, and 41.40.037; adding a new  
8 section to chapter 41.40 RCW; adding a new chapter to Title 41 RCW;  
9 creating a new section; prescribing penalties; and providing an  
10 effective date.

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

12 NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
13 establish a separate public safety employees' retirement system for  
14 those public employees whose jobs contain a high degree of physical  
15 risk to their own personal safety and who engage in duties contained in  
16 this section. The duties involved in these jobs include providing  
17 public protection of lives and property, the authority and power to  
18 arrest, conducting criminal investigations, enforcing the criminal laws  
19 of the state of Washington, and the authority to carry a firearm as

1 part of the job. Qualifications and training for these jobs include  
2 passage of a civil service examination and completion of the Washington  
3 criminal justice training commission basic training course or  
4 equivalent. Only those job classes specifically included in section  
5 2(5) of this act by the legislature are public safety employees, and  
6 only for service earned after the effective date of the inclusion of  
7 that job class in section 2(5) of this act.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply  
9 throughout this chapter, unless the context clearly requires otherwise.

10 (1) "Retirement system" means the Washington public safety  
11 employees' retirement system provided for in this act.

12 (2) "Department" means the department of retirement systems created  
13 in chapter 41.50 RCW.

14 (3) "State treasurer" means the treasurer of the state of  
15 Washington.

16 (4) "Employer" means the Washington state department of  
17 corrections, the Washington state parks and recreation commission, the  
18 Washington state gambling commission, the Washington state patrol, the  
19 Washington state liquor control board, county corrections departments,  
20 and city corrections departments not covered under chapter 41.28 RCW.

21 (5) "Member" means any employee employed by an employer on a  
22 full-time, fully compensated basis within the following job classes in  
23 effect as of January 1, 2004: City corrections officers, jailers,  
24 police support officers, custody officers, and bailiffs; county  
25 corrections officers, jailers, custody officers, and sheriffs  
26 corrections officers; county probation officers and probation  
27 counselors; state correctional officers, correctional sergeants, and  
28 community corrections officers; liquor enforcement officers; park  
29 rangers; commercial vehicle enforcement officers; and gambling special  
30 agents.

31 (6)(a) "Compensation earnable" for members, means salaries or wages  
32 earned by a member during a payroll period for personal services,  
33 including overtime payments, and shall include wages and salaries  
34 deferred under provisions established pursuant to sections 403(b),  
35 414(h), and 457 of the United States internal revenue code, but shall  
36 exclude nonmoney maintenance compensation and lump sum or other

1 payments for deferred annual sick leave, unused accumulated vacation,  
2 unused accumulated annual leave, or any form of severance pay.

3 (b) "Compensation earnable" for members also includes the following  
4 actual or imputed payments, which are not paid for personal services:

5 (i) Retroactive payments to an individual by an employer on  
6 reinstatement of the employee in a position, or payments by an employer  
7 to an individual in lieu of reinstatement, which are awarded or granted  
8 as the equivalent of the salary or wage which the individual would have  
9 earned during a payroll period shall be considered compensation  
10 earnable to the extent provided in this subsection, and the individual  
11 shall receive the equivalent service credit;

12 (ii) In any year in which a member serves in the legislature, the  
13 member shall have the option of having such member's compensation  
14 earnable be the greater of:

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

17 (B) Such member's actual compensation earnable received for  
18 nonlegislative public employment and legislative service combined. Any  
19 additional contributions to the retirement system required because  
20 compensation earnable under (b)(ii)(A) of this subsection is greater  
21 than compensation earnable under (b)(ii)(B) of this subsection shall be  
22 paid by the member for both member and employer contributions;

23 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
24 and 72.09.240;

25 (iv) Compensation that a member would have received but for a  
26 disability occurring in the line of duty only as authorized by section  
27 10 of this act;

28 (v) Compensation that a member receives due to participation in the  
29 leave sharing program only as authorized by RCW 41.04.650 through  
30 41.04.670; and

31 (vi) Compensation that a member receives for being in standby  
32 status. For the purposes of this section, a member is in standby  
33 status when not being paid for time actually worked and the employer  
34 requires the member to be prepared to report immediately for work, if  
35 the need arises, although the need may not arise.

36 (7) "Service" means periods of employment by a member on or after  
37 July 1, 2006, for one or more employers for which compensation earnable  
38 is paid. Compensation earnable earned for ninety or more hours in any

1 calendar month shall constitute one service credit month. Compensation  
2 earnable earned for at least seventy hours but less than ninety hours  
3 in any calendar month shall constitute one-half service credit month of  
4 service. Compensation earnable earned for less than seventy hours in  
5 any calendar month shall constitute one-quarter service credit month of  
6 service. Time spent in standby status, whether compensated or not, is  
7 not service.

8 Any fraction of a year of service shall be taken into account in  
9 the computation of such retirement allowance or benefits.

10 (a) Service in any state elective position shall be deemed to be  
11 full-time service.

12 (b) A member shall receive a total of not more than twelve service  
13 credit months of service for such calendar year. If an individual is  
14 employed in an eligible position by one or more employers the  
15 individual shall receive no more than one service credit month during  
16 any calendar month in which multiple service for ninety or more hours  
17 is rendered.

18 (8) "Service credit year" means an accumulation of months of  
19 service credit which is equal to one when divided by twelve.

20 (9) "Service credit month" means a month or an accumulation of  
21 months of service credit which is equal to one.

22 (10) "Membership service" means all service rendered as a member.

23 (11) "Beneficiary" means any person in receipt of a retirement  
24 allowance or other benefit provided by this chapter resulting from  
25 service rendered to an employer by another person.

26 (12) "Regular interest" means such rate as the director may  
27 determine.

28 (13) "Accumulated contributions" means the sum of all contributions  
29 standing to the credit of a member in the member's individual account,  
30 including any amount paid under RCW 41.50.165(2), together with the  
31 regular interest thereon.

32 (14) "Average final compensation" means the member's average  
33 compensation earnable of the highest consecutive sixty months of  
34 service credit months prior to such member's retirement, termination,  
35 or death. Periods constituting authorized leaves of absence may not be  
36 used in the calculation of average final compensation except under  
37 section 35 of this act.

1 (15) "Final compensation" means the annual rate of compensation  
2 earnable by a member at the time of termination of employment.

3 (16) "Annuity" means payments for life derived from accumulated  
4 contributions of a member. All annuities shall be paid in monthly  
5 installments.

6 (17) "Pension" means payments for life derived from contributions  
7 made by the employer. All pensions shall be paid in monthly  
8 installments.

9 (18) "Retirement allowance" means monthly payments to a retiree or  
10 beneficiary as provided in this chapter.

11 (19) "Employee" or "employed" means a person who is providing  
12 services for compensation to an employer, unless the person is free  
13 from the employer's direction and control over the performance of work.  
14 The department shall adopt rules and interpret this subsection  
15 consistent with common law.

16 (20) "Actuarial equivalent" means a benefit of equal value when  
17 computed upon the basis of such mortality and other tables as may be  
18 adopted by the director.

19 (21) "Retirement" means withdrawal from active service with a  
20 retirement allowance as provided by this chapter.

21 (22) "Eligible position" means any permanent, full-time, fully  
22 compensated position included in subsection (5) of this section.

23 (23) "Ineligible position" means any position which does not  
24 conform with the requirements set forth in subsection (22) of this  
25 section.

26 (24) "Leave of absence" means the period of time a member is  
27 authorized by the employer to be absent from service without being  
28 separated from membership.

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

32 (26) "Director" means the director of the department.

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

36 (28) "State actuary" or "actuary" means the person appointed  
37 pursuant to RCW 44.44.010(2).

1 (29) "Plan" means the Washington public safety employees'  
2 retirement system plan 2.

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

7 (31) "Index A" means the index for the year prior to the  
8 determination of a postretirement adjustment.

9 (32) "Index B" means the index for the year prior to index A.

10 (33) "Adjustment ratio" means the value of index A divided by index  
11 B.

12 (34) "Separation from service" occurs when a person has terminated  
13 all employment with an employer.

14 NEW SECTION. **Sec. 3.** A retirement system is hereby created for  
15 public safety employees of the Washington state department of  
16 corrections, the Washington state parks and recreation commission, the  
17 Washington state gambling commission, the Washington state patrol, the  
18 Washington state liquor control board, county corrections departments,  
19 and city corrections departments not covered under chapter 41.28 RCW.  
20 The administration and management of the retirement system, the  
21 responsibility for making effective the provisions of this chapter, and  
22 the authority to make all rules necessary therefor are hereby vested in  
23 the department. All rules shall be governed by chapter 34.05 RCW.  
24 This retirement system shall be known as the Washington public safety  
25 employees' retirement system.

26 NEW SECTION. **Sec. 4.** Membership in the retirement system shall  
27 consist of all regularly compensated public safety employees who are  
28 members as defined in section 2(5) of this act, with the following  
29 exceptions:

30 (1) Persons in ineligible positions;

31 (2)(a) Persons holding elective offices or persons appointed  
32 directly by the governor: PROVIDED, That such persons shall have the  
33 option of applying for membership during such periods of employment:  
34 AND PROVIDED FURTHER, That any persons holding or who have held  
35 elective offices or persons appointed by the governor who are members  
36 in the retirement system and who have, prior to becoming such members,

1 previously held an elective office, and did not at the start of such  
2 initial or successive terms of office exercise their option to become  
3 members, may apply for membership to be effective during such term or  
4 terms of office, and shall be allowed to establish the service credit  
5 applicable to such term or terms of office upon payment of the employee  
6 contributions therefor by the employee with interest as determined by  
7 the director and employer contributions therefor by the employer or  
8 employee with interest as determined by the director: AND PROVIDED  
9 FURTHER, That all contributions with interest submitted by the employee  
10 under this subsection shall be placed in the employee's individual  
11 account in the employee's savings fund and be treated as any other  
12 contribution made by the employee, with the exception that any  
13 contributions submitted by the employee in payment of the employer's  
14 obligation, together with the interest the director may apply to the  
15 employer's contribution, shall not be considered part of the member's  
16 annuity for any purpose except withdrawal of contributions;

17 (b) A member holding elective office who has elected to apply for  
18 membership pursuant to (a) of this subsection and who later wishes to  
19 be eligible for a retirement allowance shall have the option of ending  
20 his or her membership in the retirement system. A member wishing to  
21 end his or her membership under this subsection must file on a form  
22 supplied by the department a statement indicating that the member  
23 agrees to irrevocably abandon any claim for service for future periods  
24 served as an elected official. A member who receives more than fifteen  
25 thousand dollars per year in compensation for his or her elective  
26 service, adjusted annually for inflation by the director, is not  
27 eligible for the option provided by this subsection (2)(b);

28 (3) Retirement system retirees: PROVIDED, That following  
29 reemployment in an eligible position, a retiree may elect to  
30 prospectively become a member of the retirement system if otherwise  
31 eligible;

32 (4) Persons enrolled in state-approved apprenticeship programs,  
33 authorized under chapter 49.04 RCW, and who are employed by employers  
34 to earn hours to complete such apprenticeship programs, if the employee  
35 is a member of a union-sponsored retirement plan and is making  
36 contributions to such a retirement plan or if the employee is a member  
37 of a Taft-Hartley retirement plan;

1 (5) Persons rendering professional services to an employer on a  
2 fee, retainer, or contract basis or when the income from these services  
3 is less than fifty percent of the gross income received from the  
4 person's practice of a profession; and

5 (6) Employees who (a) are not citizens of the United States, (b)  
6 are not covered by chapter 41.48 RCW, (c) are not excluded from  
7 membership under this chapter or chapter 41.04 RCW, (d) are residents  
8 of this state, and (e) make an irrevocable election to be excluded from  
9 membership, in writing, which is submitted to the director within  
10 thirty days after employment in an eligible position.

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

13 (1) An employee who was a member of the public employees'  
14 retirement system plan 2 or plan 3 before July 1, 2006, and on the  
15 effective date of this act is employed by an employer as defined in  
16 section 2(4) of this act and is an employee in a job class included in  
17 section 2(5) of this act, has the following options during the election  
18 period:

19 (a) Remain a member of the public employees' retirement system; or

20 (b) Become a member of the public safety employees' retirement  
21 system plan 2. All members will be dual members as provided in chapter  
22 41.54 RCW, and public employees' retirement system service credit may  
23 not be transferred to the public safety employees' retirement system  
24 plan 2.

25 (2) The "election period" is the period between July 1, 2006, and  
26 September 30, 2006.

27 (3) During the election period, employees remain members of the  
28 public employees' retirement system plan 2 or plan 3 until they elect  
29 to join the public safety employees' retirement system. Members who  
30 elect to join the public safety employees' retirement system as  
31 described in subsection (1) of this section will have their membership  
32 begin prospectively from the date of their election.

33 (4) If after September 30, 2006, the member has not made an  
34 election to join the public safety employees' retirement system he or  
35 she will remain in the public employees' retirement system plan 2 or  
36 plan 3.



1 (5) An employee who was a member of the public employees'  
2 retirement system plan 1 on or before July 1, 2006, and on or after the  
3 effective date of this act is employed by an employer as defined in  
4 section 2(4) of this act as an employee in a job class included in  
5 section 2(5) of this act, shall remain a member of the public  
6 employees' retirement system plan 1.

7 (6) All new employees hired on or after July 1, 2006, who become  
8 employed by an employer as defined in section 2(4) of this act as an  
9 employee in a job class included in section 2(5) of this act will  
10 become members of the public safety employees' retirement system.

11 NEW SECTION. **Sec. 6.** Any person who has been employed in a  
12 nonelective position for at least nine months and who has made member  
13 contributions required under this chapter throughout such period, shall  
14 be deemed to have been in an eligible position during such period of  
15 employment.

16 NEW SECTION. **Sec. 7.** Within thirty days after his or her  
17 employment or his or her acceptance into membership each employee shall  
18 submit to the department a statement of his or her name and such other  
19 information as the department shall require. Compliance with this  
20 section is a condition of employment and failure by an employee to  
21 comply may result in separation from service.

22 NEW SECTION. **Sec. 8.** (1)(a) If a retiree enters employment with  
23 an employer sooner than one calendar month after his or her accrual  
24 date, the retiree's monthly retirement allowance will be reduced by  
25 five and one-half percent for every eight hours worked during that  
26 month. This reduction will be applied each month until the retiree  
27 remains absent from employment with an employer for one full calendar  
28 month.

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

33 (2) A retiree who has satisfied the break in employment requirement  
34 of subsection (1) of this section may work up to eight hundred sixty-

1 seven hours per calendar year in an eligible position as defined in  
2 RCW 41.32.010, 41.35.010, or 41.40.010, without suspension of his or  
3 her benefit.

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

14 (4) The department shall collect and provide the state actuary with  
15 information relevant to the use of this section for the select  
16 committee on pension policy.

17 NEW SECTION. **Sec. 9.** Those members subject to this chapter who  
18 became disabled in the line of duty and who received or are receiving  
19 benefits under Title 51 RCW or a similar federal workers' compensation  
20 program shall receive or continue to receive service credit subject to  
21 the following:

22 (1) No member may receive more than one month's service credit in  
23 a calendar month.

24 (2) No service credit under this section may be allowed after a  
25 member separates or is separated without leave of absence.

26 (3) Employer contributions shall be paid by the employer at the  
27 rate in effect for the period of the service credited.

28 (4) Employee contributions shall be collected by the employer and  
29 paid to the department at the rate in effect for the period of service  
30 credited.

31 (5) Contributions shall be based on the regular compensation which  
32 the member would have received had the disability not occurred. If  
33 contribution payments are made retroactively, interest shall be charged  
34 at the rate set by the director on both employee and employer  
35 contributions. Service credit shall not be granted until the employee  
36 contribution has been paid.

1 (6) The service and compensation credit shall not be granted for a  
2 period to exceed twelve consecutive months.

3 (7) Should the legislature revoke the service credit authorized  
4 under this section or repeal this section, no affected employee is  
5 entitled to receive the credit as a matter of contractual right.

6 NEW SECTION. **Sec. 10.** The deductions from the compensation of  
7 members, provided for in section 28 of this act, shall be made  
8 notwithstanding that the minimum compensation provided for by law for  
9 any member shall be reduced thereby. Every member shall be deemed to  
10 consent and agree to the deductions made and provided for in this  
11 chapter and receipt in full for his or her salary or compensation, and  
12 payment, less the deductions, shall be a full and complete discharge  
13 and acquittance of all claims and demands whatsoever for the services  
14 rendered by the person during the period covered by the payment, except  
15 as to benefits provided for under this chapter.

16 NEW SECTION. **Sec. 11.** (1) The director shall report to each  
17 employer the contribution rates required for the ensuing biennium or  
18 fiscal year, whichever is applicable.

19 (2) Beginning July 1, 2006, the amount to be collected as the  
20 employer's contribution shall be computed by applying the applicable  
21 rates established in chapter 41.45 RCW to the total compensation  
22 earnable of employer's members as shown on the current payrolls of the  
23 employer. Each employer shall compute at the end of each month the  
24 amount due for that month and the same shall be paid as are its other  
25 obligations.

26 (3) In the event of failure, for any reason, of an employer other  
27 than a political subdivision of the state to have remitted amounts due  
28 for membership service of any of the employer's members rendered during  
29 a prior biennium, the director shall bill that employer for the  
30 employer's contribution together with the charges the director deems  
31 appropriate in accordance with RCW 41.50.120. This billing shall be  
32 paid by the employer as, and the same shall be, a proper charge against  
33 any moneys available or appropriated to the employer for payment of  
34 current biennial payrolls.

1        NEW SECTION.    **Sec. 12.**    (1) Subject to subsections (2) and (3) of  
2 this section, the right of a person to a pension, an annuity, or  
3 retirement allowance, any optional benefit, any other right accrued or  
4 accruing to any person under this chapter, the various funds created by  
5 this chapter, and all moneys and investments and income thereof, are  
6 hereby exempt from any state, county, municipal, or other local tax,  
7 and shall not be subject to execution, garnishment, attachment, the  
8 operation of bankruptcy or insolvency laws, or other process of law  
9 whatsoever, and shall be unassignable.

10        (2) This section does not prohibit a beneficiary of a retirement  
11 allowance from authorizing deductions therefrom for payment of premiums  
12 due on any group insurance policy or plan issued for the benefit of a  
13 group comprised of public employees of the state of Washington or its  
14 political subdivisions and which has been approved for deduction in  
15 accordance with rules that may be adopted by the state health care  
16 authority and/or the department. This section also does not prohibit  
17 a beneficiary of a retirement allowance from authorizing deductions  
18 therefrom for payment of dues and other membership fees to any  
19 retirement association or organization the membership of which is  
20 composed of retired public employees, if a total of three hundred or  
21 more retired employees have authorized the deduction for payment to the  
22 same retirement association or organization.

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

33        NEW SECTION.    **Sec. 13.**    A member shall not receive a disability  
34 retirement benefit under section 29 of this act if the disability is  
35 the result of criminal conduct by the member committed after July 1,  
36 2006.

1        NEW SECTION.    **Sec. 14.** (1) A one hundred fifty thousand dollar  
2 death benefit shall be paid to the member's estate, or the person or  
3 persons, trust, or organization the member has nominated by written  
4 designation duly executed and filed with the department. If the  
5 designated person or persons are not still living at the time of the  
6 member's death, the member's death benefit shall be paid to the  
7 member's surviving spouse as if in fact the spouse had been nominated  
8 by written designation, or if there is no surviving spouse, then to the  
9 member's legal representatives.

10        (2) The benefit under this section shall be paid only where death  
11 occurs as a result of injuries sustained in the course of employment.  
12 The determination of eligibility for the benefit shall be made  
13 consistent with Title 51 RCW by the department of labor and industries.  
14 The department of labor and industries shall notify the department of  
15 retirement systems by order under RCW 51.52.050.

16        NEW SECTION.    **Sec. 15.** Any person who knowingly makes any false  
17 statements, or falsifies or permits to be falsified any record or  
18 records of this retirement system in any attempt to defraud the  
19 retirement system as a result of such an act, is guilty of a gross  
20 misdemeanor.

21        NEW SECTION.    **Sec. 16.** Any person aggrieved by any decision of the  
22 department affecting his or her legal rights, duties, or privileges  
23 must, before he or she appeals to the courts, file with the director by  
24 mail or personally within sixty days from the day the decision was  
25 communicated to the person, a notice for a hearing before the  
26 director's designee. The notice of hearing shall set forth in full  
27 detail the grounds upon which the person considers the decision unjust  
28 or unlawful and shall include every issue to be considered by the  
29 department, and it must contain a detailed statement of facts upon  
30 which the person relies in support of the appeal. These persons shall  
31 be deemed to have waived all objections or irregularities concerning  
32 the matter on which the appeal is taken, other than those specifically  
33 set forth in the notice of hearing or appearing in the records of the  
34 retirement system.

1        NEW SECTION.    **Sec. 17.** Following its receipt of a notice for  
2 hearing in accordance with section 16 of this act, a hearing shall be  
3 held by the director or an authorized representative, in the county of  
4 the residence of the claimant at a time and place designated by the  
5 director. This hearing shall be conducted and governed in all respects  
6 by chapter 34.05 RCW.

7        NEW SECTION.    **Sec. 18.** Judicial review of any final decision and  
8 order by the director is governed by chapter 34.05 RCW.

9        NEW SECTION.    **Sec. 19.** A bond of any kind shall not be required of  
10 a claimant appealing to the superior court, the court of appeals, or  
11 the supreme court from a finding of the department affecting the  
12 claimant's right to retirement or disability benefits.

13        NEW SECTION.    **Sec. 20.** RCW 43.01.044 shall not result in any  
14 increase in retirement benefits. The rights extended to state officers  
15 and employees under RCW 43.01.044 are not intended to and shall not  
16 have any effect on retirement benefits under this chapter.

17        NEW SECTION.    **Sec. 21.** (1) The annual compensation taken into  
18 account in calculating retiree benefits under this system shall not  
19 exceed the limits imposed by section 401(a)(17) of the federal internal  
20 revenue code for qualified trusts.

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

23        NEW SECTION.    **Sec. 22.** Beginning July 1, 2006, and every year  
24 thereafter, the department shall determine the following information  
25 for each retired member or beneficiary whose retirement allowance has  
26 been in effect for at least one year:

- 27        (1) The original dollar amount of the retirement allowance;
- 28        (2) The index for the calendar year prior to the effective date of  
29 the retirement allowance, to be known as "index A";
- 30        (3) The index for the calendar year prior to the date of  
31 determination, to be known as "index B"; and
- 32        (4) The ratio obtained when index B is divided by index A.

1 The value of the ratio obtained shall be the annual adjustment to  
2 the original retirement allowance and shall be applied beginning with  
3 the July payment. In no event, however, shall the annual adjustment:

4 (a) Produce a retirement allowance which is lower than the original  
5 retirement allowance;

6 (b) Exceed three percent in the initial annual adjustment; or

7 (c) Differ from the previous year's annual adjustment by more than  
8 three percent.

9 For the purposes of this section, "index" means, for any calendar  
10 year, that year's average consumer price index, Seattle, Washington  
11 area, for urban wage earners and clerical workers, all items, compiled  
12 by the bureau of labor statistics, United States department of labor.

13 NEW SECTION. **Sec. 23.** (1) Upon retirement for service as  
14 prescribed in section 27 of this act or retirement for disability under  
15 section 29 of this act, a member shall elect to have the retirement  
16 allowance paid pursuant to one of the following options, calculated so  
17 as to be actuarially equivalent to each other.

18 (a) Standard allowance. A member electing this option shall  
19 receive a retirement allowance payable throughout the member's life.  
20 If the retiree dies before the total of the retirement allowance paid  
21 to the retiree equals the amount of the retiree's accumulated  
22 contributions at the time of retirement, then the balance shall be paid  
23 to the member's estate, or the person or persons, trust, or  
24 organization the retiree nominated by written designation duly executed  
25 and filed with the department; or if there is no designated person or  
26 persons still living at the time of the retiree's death, then to the  
27 surviving spouse; or if there is neither a designated person or persons  
28 still living at the time of death nor a surviving spouse, then to the  
29 retiree's legal representative.

30 (b) The department shall adopt rules that allow a member to select  
31 a retirement option that pays the member a reduced retirement allowance  
32 and upon death, the portion of the member's reduced retirement  
33 allowance as the department by rule designates shall be continued  
34 throughout the life of and paid to a person nominated by the member by  
35 written designation duly executed and filed with the department at the  
36 time of retirement. The options adopted by the department shall

1 include, but are not limited to, a joint and one hundred percent  
2 survivor option and a joint and fifty percent survivor option.

3 (2)(a) A member, if married, must provide the written consent of  
4 his or her spouse to the option selected under this section, except as  
5 provided in (b) of this subsection. If a member is married and both  
6 the member and the member's spouse do not give written consent to an  
7 option under this section, the department shall pay a joint and fifty  
8 percent survivor benefit calculated to be actuarially equivalent to the  
9 benefit options available under subsection (1) of this section unless  
10 spousal consent is not required as provided in (b) of this subsection.

11 (b) If a copy of a dissolution order designating a survivor  
12 beneficiary under RCW 41.50.790 has been filed with the department at  
13 least thirty days prior to a member's retirement:

14 (i) The department shall honor the designation as if made by the  
15 member under subsection (1) of this section; and

16 (ii) The spousal consent provisions of (a) of this subsection do  
17 not apply.

18 (3) The department shall adopt rules that allow a member additional  
19 actuarially equivalent survivor benefit options, and shall include, but  
20 are not limited to:

21 (a)(i) A retired member who retired without designating a survivor  
22 beneficiary shall have the opportunity to designate their spouse from  
23 a postretirement marriage as a survivor during a one-year period  
24 beginning one year after the date of the postretirement marriage  
25 provided the retirement allowance payable to the retiree is not subject  
26 to periodic payments pursuant to a property division obligation as  
27 provided for in RCW 41.50.670.

28 (ii) A member who entered into a postretirement marriage prior to  
29 the effective date of the rules adopted pursuant to this subsection and  
30 satisfies the conditions of (a)(i) of this subsection shall have one  
31 year to designate their spouse as a survivor beneficiary following the  
32 adoption of the rules.

33 (b) A retired member who elected to receive a reduced retirement  
34 allowance under this section and designated a nonspouse as survivor  
35 beneficiary shall have the opportunity to remove the survivor  
36 designation and have their future benefit adjusted.

37 (c) The department may make an additional charge, if necessary, to



1 ensure that the benefits provided under this subsection remain  
2 actuarially equivalent.

3 (4) The department shall adopt rules to permit:

4 (a) A court-approved property settlement incident to a court decree  
5 of dissolution made before retirement to provide that benefits payable  
6 to a member who meets the length of service requirements of section 27  
7 of this act and the member's divorcing spouse be divided into two  
8 separate benefits payable over the life of each spouse.

9 The member shall have available the benefit options of subsection  
10 (1) of this section upon retirement, and if remarried at the time of  
11 retirement remains subject to the spousal consent requirements of  
12 subsection (2) of this section. Any reductions of the member's benefit  
13 subsequent to the division into two separate benefits shall be made  
14 solely to the separate benefit of the member.

15 The nonmember ex spouse shall be eligible to commence receiving  
16 their separate benefit upon reaching the age provided in section 27(1)  
17 of this act and after filing a written application with the department.

18 (b) A court-approved property settlement incident to a court decree  
19 of dissolution made after retirement may only divide the benefit into  
20 two separate benefits payable over the life of each spouse if the  
21 nonmember ex spouse was selected as a survivor beneficiary at  
22 retirement.

23 The retired member may later choose the survivor benefit options  
24 available in subsection (3) of this section. Any actuarial reductions  
25 subsequent to the division into two separate benefits shall be made  
26 solely to the separate benefit of the member.

27 Both the retired member and the nonmember divorced spouse shall be  
28 eligible to commence receiving their separate benefits upon filing a  
29 copy of the dissolution order with the department in accordance with  
30 RCW 41.50.670.

31 (c) The department may make an additional charge or adjustment if  
32 necessary to ensure that the separate benefits provided under this  
33 subsection are actuarially equivalent to the benefits payable prior to  
34 the decree of dissolution.

35 NEW SECTION. **Sec. 24.** (1) Except as provided in section 8 of this  
36 act, a retiree shall not be eligible to receive the retiree's monthly  
37 retirement allowance if he or she is employed in an eligible position

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

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

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

13 NEW SECTION. **Sec. 25.** A member of the retirement system shall  
14 receive a retirement allowance equal to two percent of such member's  
15 average final compensation for each service credit year of service.

16 NEW SECTION. **Sec. 26.** (1) The director may pay a member eligible  
17 to receive a retirement allowance or the member's beneficiary, subject  
18 to subsection (5) of this section, a lump sum payment in lieu of a  
19 monthly benefit if the initial monthly benefit computed in accordance  
20 with section 25 of this act would be less than fifty dollars. The lump  
21 sum payment shall be the greater of the actuarial equivalent of the  
22 monthly benefits or an amount equal to the individual's accumulated  
23 contributions plus accrued interest.

24 (2) A retiree or a beneficiary, subject to subsection (5) of this  
25 section, who is receiving a regular monthly benefit of less than fifty  
26 dollars may request, in writing, to convert from a monthly benefit to  
27 a lump sum payment. If the director approves the conversion, the  
28 calculation of the actuarial equivalent of the total estimated regular  
29 benefit will be computed based on the beneficiary's age at the time the  
30 benefit initially accrued. The lump sum payment will be reduced to  
31 reflect any payments received on or after the initial benefit accrual  
32 date.

33 (3) Persons covered under subsection (1) of this section may upon  
34 returning to member status reinstate all previous service by depositing  
35 the lump sum payment received, with interest as computed by the  
36 director, within two years of returning to service or prior to

1 reretiring, whichever comes first. In computing the amount due, the  
2 director shall exclude the accumulated value of the normal payments the  
3 member would have received while in beneficiary status if the lump sum  
4 payment had not occurred.

5 (4) If a member fails to meet the time limitations under subsection  
6 (3) of this section, reinstatement of all previous service will occur  
7 if the member pays the amount required under RCW 41.50.165(2). The  
8 amount, however, shall exclude the accumulated value of the normal  
9 payments the member would have received while in beneficiary status if  
10 the lump sum payment had not occurred.

11 (5) Only persons entitled to or receiving a service retirement  
12 allowance under section 27 of this act or an earned disability  
13 allowance under section 29 of this act qualify for participation under  
14 this section.

15 (6) It is the intent of the legislature that any member who  
16 receives a settlement under this section shall be deemed to be retired  
17 from this system.

18 NEW SECTION. **Sec. 27.** (1) NORMAL RETIREMENT. Any member with at  
19 least five service credit years who has attained at least age sixty-  
20 five shall be eligible to retire and to receive a retirement allowance  
21 computed according to section 25 of this act.

22 (2) UNREDUCED RETIREMENT. Any member who has completed at least  
23 ten service credit years in the public safety employees' retirement  
24 system and has attained age sixty shall be eligible to retire and to  
25 receive a retirement allowance computed according to section 25 of this  
26 act.

27 (3) EARLY RETIREMENT. Any member who has completed at least twenty  
28 service credit years and has attained age fifty-three shall be eligible  
29 to retire and to receive a retirement allowance computed according to  
30 section 25 of this act, except that a member retiring pursuant to this  
31 subsection shall have the retirement allowance reduced by three percent  
32 per year to reflect the difference in the number of years between age  
33 at retirement and the attainment of age sixty.

34 NEW SECTION. **Sec. 28.** The required contribution rates to the  
35 retirement system for both members and employers shall be established  
36 by the director from time to time as may be necessary upon the advice

1 of the state actuary. The state actuary shall use the aggregate  
2 actuarial cost method to calculate contribution rates. The employer  
3 contribution rate calculated under this section shall be used only for  
4 the purpose of determining the amount of employer contributions to be  
5 deposited in the plan 2 fund from the total employer contributions  
6 collected under section 11 of this act.

7 Contribution rates required to fund the costs of the retirement  
8 system shall always be equal for members and employers, except under  
9 this section. Any adjustments in contribution rates required from time  
10 to time for future costs shall likewise be shared equally by the  
11 members and employers.

12 Any increase in the contribution rate required as the result of a  
13 failure of an employer to make any contribution required by this  
14 section shall be borne in full by the employer not making the  
15 contribution.

16 The director shall notify all employers of any pending adjustment  
17 in the required contribution rate and the increase shall be announced  
18 at least thirty days prior to the effective date of the change.

19 A member's contributions required by this section shall be deducted  
20 from the member's compensation earnable each payroll period. The  
21 member's contribution and the employer's contribution shall be remitted  
22 directly to the department within fifteen days following the end of the  
23 calendar month during which the payroll period ends.

24 NEW SECTION. **Sec. 29.** (1)(a) A member of the retirement system  
25 with at least ten years of service in the public safety employees'  
26 retirement system who becomes totally incapacitated for continued  
27 employment as an employee by an employer, as determined by the  
28 department, shall be eligible to receive an allowance under sections 25  
29 through 35 of this act. The member shall receive a monthly disability  
30 allowance computed as provided for in section 25 of this act and shall  
31 have this allowance actuarially reduced to reflect the difference in  
32 the number of years between age at disability and the attainment of age  
33 sixty.

34 (b) A member of the retirement system with less than ten years of  
35 service who becomes totally incapacitated for continued employment by  
36 an employer, as determined by the department, shall be eligible to  
37 receive an allowance under sections 25 through 35 of this act. The

1 member shall receive a monthly disability allowance computed as  
2 provided for in section 25 of this act and shall have this allowance  
3 actuarially reduced to reflect the difference in the number of years  
4 between age at disability and the attainment of age sixty-five.

5 (2) Any member who receives an allowance under this section shall  
6 be subject to comprehensive medical examinations as required by the  
7 department. If these medical examinations reveal that a member has  
8 recovered from the incapacitating disability and the member is offered  
9 reemployment by an employer at a comparable compensation, the member  
10 shall cease to be eligible for the allowance.

11 (3) If the recipient of a monthly allowance under this section dies  
12 before the total of the allowance payments equal the amount of the  
13 accumulated contributions at the date of retirement, then the balance  
14 shall be paid to the member's estate, or the person or persons, trust,  
15 or organization the recipient has nominated by written designation duly  
16 executed and filed with the director. If there is no designated person  
17 or persons still living at the time of the recipient's death, then to  
18 the surviving spouse, or, if there is no designated person or persons  
19 still living at the time of his or her death nor a surviving spouse,  
20 then to his or her legal representative.

21 NEW SECTION. **Sec. 30.** Any member or beneficiary eligible to  
22 receive a retirement allowance under section 27, 29, or 31 of this act  
23 shall be eligible to commence receiving a retirement allowance after  
24 having filed written application with the department.

25 (1) Retirement allowances paid to members under section 27 of this  
26 act shall accrue from the first day of the calendar month immediately  
27 following the member's separation from employment.

28 (2) Retirement allowances paid to vested members no longer in  
29 service, but qualifying for an allowance pursuant to section 27 of this  
30 act, shall accrue from the first day of the calendar month immediately  
31 following the qualification.

32 (3) Disability allowances paid to disabled members under section 29  
33 of this act shall accrue from the first day of the calendar month  
34 immediately following the member's separation from employment for  
35 disability.

36 (4) Retirement allowances paid as death benefits under section 31

1 of this act shall accrue from the first day of the calendar month  
2 immediately following the member's death.

3 NEW SECTION. **Sec. 31.** (1) Except as provided in RCW 11.07.010, if  
4 a member or a vested member who has not completed at least ten years of  
5 service dies, the amount of the accumulated contributions standing to  
6 that member's credit in the retirement system at the time of the  
7 member's death, less any amount identified as owing to an obligee upon  
8 withdrawal of accumulated contributions pursuant to a court order filed  
9 under RCW 41.50.670, shall be paid to the member's estate, or the  
10 person or persons, trust, or organization as the member shall have  
11 nominated by written designation duly executed and filed with the  
12 department. If there is no designated person or persons still living  
13 at the time of the member's death, the member's accumulated  
14 contributions standing to the member's credit in the retirement system,  
15 less any amount identified as owing to an obligee upon withdrawal of  
16 accumulated contributions pursuant to a court order filed under RCW  
17 41.50.670, shall be paid to the member's surviving spouse as if in fact  
18 that spouse had been nominated by written designation, or if there is  
19 no surviving spouse, then to the member's legal representatives.

20 (2) If a member who is eligible for retirement or a member who has  
21 completed at least ten years of service dies, the surviving spouse or  
22 eligible child or children shall elect to receive either:

23 (a) A retirement allowance computed as provided for in section 27  
24 of this act, actuarially reduced by the amount of any lump sum benefit  
25 identified as owing to an obligee upon withdrawal of accumulated  
26 contributions pursuant to a court order filed under RCW 41.50.670 and  
27 actuarially adjusted to reflect a joint and one hundred percent  
28 survivor option under section 23 of this act and, except under  
29 subsection (4) of this section, if the member was not eligible for  
30 normal retirement at the date of death a further reduction as described  
31 in section 27 of this act; if a surviving spouse who is receiving a  
32 retirement allowance dies leaving a child or children of the member  
33 under the age of majority, then the child or children shall continue to  
34 receive an allowance in an amount equal to that which was being  
35 received by the surviving spouse, share and share alike, until the  
36 child or children reach the age of majority; if there is no surviving  
37 spouse eligible to receive an allowance at the time of the member's

1 death, the member's child or children under the age of majority shall  
2 receive an allowance, share and share alike, calculated under this  
3 section making the assumption that the ages of the spouse and member  
4 were equal at the time of the member's death; or

5 (b) The member's accumulated contributions, less any amount  
6 identified as owing to an obligee upon withdrawal of accumulated  
7 contributions pursuant to a court order filed under RCW 41.50.670.

8 (3) If a member who is eligible for retirement or a member who has  
9 completed at least ten years of service dies and is not survived by a  
10 spouse or an eligible child, then the accumulated contributions  
11 standing to the member's credit, less any amount identified as owing to  
12 an obligee upon withdrawal of accumulated contributions pursuant to a  
13 court order filed under RCW 41.50.670, shall be paid:

14 (a) To a person or persons, estate, trust, or organization as the  
15 member shall have nominated by written designation duly executed and  
16 filed with the department; or

17 (b) If there is no designated person or persons still living at the  
18 time of the member's death, then to the member's legal representatives.

19 (4) A member who is killed in the course of employment, as  
20 determined by the director of the department of labor and industries,  
21 is not subject to an actuarial reduction under section 27 of this act.  
22 The member's retirement allowance is computed under section 25 of this  
23 act.

24 NEW SECTION. **Sec. 32.** (1) A member who is on a paid leave of  
25 absence authorized by a member's employer shall continue to receive  
26 service credit as provided for under sections 25 through 35 of this  
27 act.

28 (2) A member who receives compensation from an employer while on an  
29 authorized leave of absence to serve as an elected official of a labor  
30 organization, and whose employer is reimbursed by the labor  
31 organization for the compensation paid to the member during the period  
32 of absence, may also be considered to be on a paid leave of absence.  
33 This subsection shall only apply if the member's leave of absence is  
34 authorized by a collective bargaining agreement that provides that the  
35 member retains seniority rights with the employer during the period of  
36 leave. The compensation earnable reported for a member who establishes

1 service credit under this subsection may not be greater than the salary  
2 paid to the highest paid job class covered by the collective bargaining  
3 agreement.

4 (3) Except as specified in subsection (4) of this section, a member  
5 shall be eligible to receive a maximum of two years service credit  
6 during a member's entire working career for those periods when a member  
7 is on an unpaid leave of absence authorized by an employer. This  
8 credit may be obtained only if:

9 (a) The member makes both the employer and member contributions  
10 plus interest as determined by the department for the period of the  
11 authorized leave of absence within five years of resumption of service  
12 or prior to retirement whichever comes sooner; or

13 (b) If not within five years of resumption of service but prior to  
14 retirement, pay the amount required under RCW 41.50.165(2).

15 The contributions required under (a) of this subsection shall be  
16 based on the average of the member's compensation earnable at both the  
17 time the authorized leave of absence was granted and the time the  
18 member resumed employment.

19 (4) A member who leaves the employ of an employer to enter the  
20 armed forces of the United States shall be entitled to retirement  
21 system service credit for up to five years of military service. This  
22 subsection shall be administered in a manner consistent with the  
23 requirements of the federal uniformed services employment and  
24 reemployment rights act.

25 (a) The member qualifies for service credit under this subsection  
26 if:

27 (i) Within ninety days of the member's honorable discharge from the  
28 United States armed forces, the member applies for reemployment with  
29 the employer who employed the member immediately prior to the member  
30 entering the United States armed forces; and

31 (ii) The member makes the employee contributions required under  
32 section 28 of this act within five years of resumption of service or  
33 prior to retirement, whichever comes sooner; or

34 (iii) Prior to retirement and not within ninety days of the  
35 member's honorable discharge or five years of resumption of service the  
36 member pays the amount required under RCW 41.50.165(2).

37 (b) Upon receipt of member contributions under (a)(ii) of this  
38 subsection, the department shall establish the member's service credit



1 and shall bill the employer for its contribution required under section  
2 28 of this act for the period of military service, plus interest as  
3 determined by the department.

4 (c) The contributions required under (a)(ii) of this subsection  
5 shall be based on the compensation the member would have earned if not  
6 on leave, or if that cannot be estimated with reasonable certainty, the  
7 compensation reported for the member in the year prior to when the  
8 member went on military leave.

9 NEW SECTION. **Sec. 33.** A member who separates or has separated  
10 after having completed at least five years of service may remain a  
11 member during the period of the member's absence from service for the  
12 exclusive purpose only of receiving a retirement allowance under  
13 section 27 of this act if the member maintains the member's accumulated  
14 contributions intact.

15 NEW SECTION. **Sec. 34.** A member who ceases to be an employee of an  
16 employer except by service or disability retirement may request a  
17 refund of the member's accumulated contributions. The refund shall be  
18 made within ninety days following the receipt of the request and  
19 notification of termination through the contribution reporting system  
20 by the employer; except that in the case of death, an initial payment  
21 shall be made within thirty days of receipt of request for such payment  
22 and notification of termination through the contribution reporting  
23 system by the employer. A member who files a request for refund and  
24 subsequently enters into employment with another employer prior to the  
25 refund being made shall not be eligible for a refund. The refund of  
26 accumulated contributions shall terminate all rights to benefits under  
27 sections 25 through 35 of this act.

28 NEW SECTION. **Sec. 35.** (1) A member, who had left service and  
29 withdrawn the member's accumulated contributions, shall receive service  
30 credit for prior service if the member restores all withdrawn  
31 accumulated contributions together with interest since the time of  
32 withdrawal as determined by the department.

33 The restoration of funds must be completed within five years of the  
34 resumption of service or prior to retirement, whichever occurs first.

1 (2) If a member fails to meet the time limitations of subsection  
2 (1) of this section, the member may receive service credit destroyed by  
3 the withdrawn contributions if the amount required under RCW  
4 41.50.165(2) is paid.

5 **Sec. 36.** RCW 41.45.010 and 2002 c 26 s 3 are each amended to read  
6 as follows:

7 It is the intent of the legislature to provide a dependable and  
8 systematic process for funding the benefits provided to members and  
9 retirees of the public employees' retirement system, chapter 41.40 RCW;  
10 the teachers' retirement system, chapter 41.32 RCW; the law enforcement  
11 officers' and fire fighters' retirement systems, chapter 41.26 RCW; the  
12 school employees' retirement system, chapter 41.35 RCW; the public  
13 safety employees' retirement system, chapter 41.-- RCW (sections 1  
14 through 4 and 6 through 35 of this act); and the Washington state  
15 patrol retirement system, chapter 43.43 RCW.

16 The legislature finds that the funding status of the state  
17 retirement systems has improved dramatically since 1989. Because of  
18 the big reduction in unfunded pension liabilities, it is now prudent to  
19 adjust the long-term economic assumptions that are used in the  
20 actuarial studies conducted by the state actuary. The legislature  
21 finds that it is reasonable to increase the salary growth assumption in  
22 light of Initiative Measure No. 732, to increase the investment return  
23 assumption in light of the asset allocation policies and historical  
24 returns of the state investment board, and to reestablish June 30,  
25 2024, as the target date to achieve full funding of all liabilities in  
26 the public employees' retirement system plan 1, the teachers'  
27 retirement system plan 1, and the law enforcement officers' and fire  
28 fighters' retirement system plan 1.

29 The funding process established by this chapter is intended to  
30 achieve the following goals:

31 (1) To (~~continue to~~) fully fund the public employees' retirement  
32 system plans 2 and 3, the teachers' retirement system plans 2 and 3,  
33 the school employees' retirement system plans 2 and 3, the public  
34 safety employees' retirement system plan 2, and the law enforcement  
35 officers' and fire fighters' retirement system plan 2 as provided by  
36 law;

1 (2) To fully amortize the total costs of the public employees'  
2 retirement system plan 1, the teachers' retirement system plan 1, and  
3 the law enforcement officers' and fire fighters' retirement system plan  
4 1, not later than June 30, 2024;

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

8 (4) To fund, to the extent feasible, benefit increases for plan 1  
9 members and all benefits for plan 2 and 3 members over the working  
10 lives of those members so that the cost of those benefits are paid by  
11 the taxpayers who receive the benefit of those members' service.

12 **Sec. 37.** RCW 41.45.020 and 2003 c 295 s 8 are each amended to read  
13 as follows:

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

16 (1) "Council" means the pension funding council created in RCW  
17 41.45.100.

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

19 (3) "Law enforcement officers' and fire fighters' retirement system  
20 plan 1" and "law enforcement officers' and fire fighters' retirement  
21 system plan 2" means the benefits and funding provisions under chapter  
22 41.26 RCW.

23 (4) "Public employees' retirement system plan 1," "public  
24 employees' retirement system plan 2," and "public employees' retirement  
25 system plan 3" mean the benefits and funding provisions under chapter  
26 41.40 RCW.

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

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

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

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

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

3 (10) "State retirement systems" means the retirement systems listed  
4 in RCW 41.50.030.

5 (11) "Classified employee" means a member of the Washington school  
6 employees' retirement system plan 2 or plan 3 as defined in RCW  
7 41.35.010.

8 (12) "Teacher" means a member of the teachers' retirement system as  
9 defined in RCW 41.32.010(15).

10 (13) "Select committee" means the select committee on pension  
11 policy created in RCW 41.04.276.

12 (14) "Public safety employees' retirement system plan 2" means the  
13 benefits and funding provisions established under chapter 41.-- RCW  
14 (sections 1 through 4 and 6 through 35 of this act).

15 **Sec. 38.** RCW 41.45.050 and 2002 c 26 s 5 are each amended to read  
16 as follows:

17 (1) Employers of members of the public employees' retirement  
18 system, the teachers' retirement system, the school employees'  
19 retirement system, the public safety employees' retirement system, and  
20 the Washington state patrol retirement system shall make contributions  
21 to those systems based on the rates established in RCW 41.45.060(~~(~~  
22 ~~41.45.053~~~~)~~) and 41.45.070.

23 (2) The state shall make contributions to the law enforcement  
24 officers' and fire fighters' retirement system plan 2 based on the  
25 rates established in RCW 41.45.060(~~(~~~~41.45.053~~~~)~~) and 41.45.070. The  
26 state treasurer shall transfer the required contributions each month on  
27 the basis of salary data provided by the department.

28 (3) The department shall bill employers, and the state shall make  
29 contributions to the law enforcement officers' and fire fighters'  
30 retirement system plan 2, using the combined rates established in RCW  
31 41.45.060(~~(~~~~41.45.053~~~~)~~) and 41.45.070 regardless of the level of  
32 appropriation provided in the biennial budget. Any member of an  
33 affected retirement system may, by mandamus or other appropriate  
34 proceeding, require the transfer and payment of funds as directed in  
35 this section.

36 (4) The contributions received for the public employees' retirement  
37 system shall be allocated between the public employees' retirement

1 system plan 1 fund and the public employees' retirement system combined  
2 plan 2 and plan 3 fund as follows: The contributions necessary to  
3 fully fund the public employees' retirement system combined plan 2 and  
4 plan 3 employer contribution shall first be deposited in the public  
5 employees' retirement system combined plan 2 and plan 3 fund. All  
6 remaining public employees' retirement system employer contributions  
7 shall be deposited in the public employees' retirement system plan 1  
8 fund.

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

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

25 (7) The contributions received for the law enforcement officers'  
26 and fire fighters' retirement system plan 2 shall be deposited in the  
27 law enforcement officers' and fire fighters' retirement system plan 2  
28 fund.

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

1       **Sec. 39.** RCW 41.45.060 and 2003 c 294 s 10 and 2003 c 92 s 3 are  
2 each reenacted and amended to read as follows:

3       (1) The state actuary shall provide actuarial valuation results  
4 based on the economic assumptions and asset value smoothing technique  
5 included in RCW 41.45.035 or adopted by the council under RCW 41.45.030  
6 or 41.45.035.

7       (2) Not later than September 30, 2002, and every two years  
8 thereafter, consistent with the economic assumptions and asset value  
9 smoothing technique included in RCW 41.45.035 or adopted under RCW  
10 41.45.030 or 41.45.035, the council shall adopt and may make changes  
11 to:

12       (a) A basic state contribution rate for the law enforcement  
13 officers' and fire fighters' retirement system plan 1;

14       (b) Basic employer contribution rates for the public employees'  
15 retirement system, the teachers' retirement system, and the Washington  
16 state patrol retirement system to be used in the ensuing biennial  
17 period; and

18       (c) A basic employer contribution rate for the school employees'  
19 retirement system and the public safety employees' retirement system  
20 for funding both (~~that~~) those systems and the public employees'  
21 retirement system plan 1.

22       The contribution rates adopted by the council shall be subject to  
23 revision by the legislature.

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

26       (a) To fully amortize the total costs of the public employees'  
27 retirement system plan 1, the teachers' retirement system plan 1, and  
28 the law enforcement officers' and fire fighters' retirement system plan  
29 1 not later than June 30, 2024; and

30       (b) To (~~also continue to~~) fully fund the public employees'  
31 retirement system plans 2 and 3, the teachers' retirement system plans  
32 2 and 3, the public safety employees' retirement system plan 2, and the  
33 school employees' retirement system plans 2 and 3 in accordance with  
34 RCW 41.45.061, 41.45.067, and this section.

35       (4) The aggregate actuarial cost method shall be used to calculate  
36 a combined plan 2 and 3 employer contribution rate and a Washington  
37 state patrol retirement system contribution rate.

1 (5) 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. The rates shall be  
4 effective for the ensuing biennial period, subject to any legislative  
5 modifications.

6 (~~The director of the department of retirement systems shall~~  
7 ~~collect the rates established in RCW 41.45.053 through June 30, 2003.~~  
8 ~~Thereafter,~~) The director shall collect those rates adopted by the  
9 council. The rates established in RCW (~~41.45.053~~) 41.45.054, or by  
10 the council, shall be subject to revision by the (~~council~~)  
11 legislature.

12 **Sec. 40.** RCW 41.45.061 and 2001 2nd sp.s. c 11 s 13, 2001 2nd  
13 sp.s. c 11 s 12, and 2001 c 180 s 1 are each reenacted and amended to  
14 read as follows:

15 (1) The required contribution rate for members of the plan 2  
16 teachers' retirement system shall be fixed at the rates in effect on  
17 July 1, 1996, subject to the following:

18 (a) Beginning September 1, 1997, except as provided in (b) of this  
19 subsection, the employee contribution rate shall not exceed the  
20 employer plan 2 and 3 rates adopted under RCW 41.45.060, (~~41.45.053~~)  
21 41.45.054, and 41.45.070 for the teachers' retirement system;

22 (b) In addition, the employee contribution rate for plan 2 shall be  
23 increased by fifty percent of the contribution rate increase caused by  
24 any plan 2 benefit increase passed after July 1, 1996;

25 (c) In addition, the employee contribution rate for plan 2 shall  
26 not be increased as a result of any distributions pursuant to section  
27 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

28 (2) The required contribution rate for members of the school  
29 employees' retirement system plan 2 shall equal the school employees'  
30 retirement system employer plan 2 and 3 contribution rate adopted under  
31 RCW 41.45.060, (~~41.45.053~~) 41.45.054, and 41.45.070, except as  
32 provided in subsection (3) of this section.

33 (3) The member contribution rate for the school employees'  
34 retirement system plan 2 shall be increased by fifty percent of the  
35 contribution rate increase caused by any plan 2 benefit increase passed  
36 after September 1, 2000.

1 (4) The required contribution rate for members of the public  
2 employees' retirement system plan 2 shall be set at the same rate as  
3 the employer combined plan 2 and plan 3 rate.

4 (5) The required contribution rate for members of the law  
5 enforcement officers' and fire fighters' retirement system plan 2 shall  
6 be set at fifty percent of the cost of the retirement system.

7 (6) The employee contribution rates for plan 2 under subsections  
8 (3) and (4) of this section shall not include any increase as a result  
9 of any distributions pursuant to RCW 41.31A.020 and 41.31A.030.

10 (7) The required plan 2 and 3 contribution rates for employers  
11 shall be adopted in the manner described in RCW 41.45.060,  
12 (~~41.45.053~~) 41.45.054, and 41.45.070.

13 (8) The required contribution rate for members of the public safety  
14 employees' retirement system plan 2 shall be set at fifty percent of  
15 the cost of the retirement system.

16 **Sec. 41.** RCW 41.45.070 and 2003 1st sp.s. c 11 s 3 and 2003 c 92  
17 s 5 are each reenacted and amended to read as follows:

18 (1) In addition to the basic employer contribution rate established  
19 in RCW 41.45.060 or 41.45.054, the department shall also charge  
20 employers of public employees' retirement system, teachers' retirement  
21 system, school employees' retirement system, public safety employees'  
22 retirement system, or Washington state patrol retirement system members  
23 an additional supplemental rate to pay for the cost of additional  
24 benefits, if any, granted to members of those systems. Except as  
25 provided in subsections (6) and (7) of this section, the supplemental  
26 contribution rates required by this section shall be calculated by the  
27 state actuary and shall be charged regardless of language to the  
28 contrary contained in the statute which authorizes additional benefits.

29 (2) In addition to the basic member, employer, and state  
30 contribution rate established in RCW 41.45.0604 for the law enforcement  
31 officers' and fire fighters' retirement system plan 2, the department  
32 shall also establish supplemental rates to pay for the cost of  
33 additional benefits, if any, granted to members of the law enforcement  
34 officers' and fire fighters' retirement system plan 2. Except as  
35 provided in subsection (6) of this section, these supplemental rates  
36 shall be calculated by the actuary retained by the law enforcement  
37 officers' and fire fighters' board and the state actuary through the



1 process provided in RCW 41.26.720(1)(a) and the state treasurer shall  
2 transfer the additional required contributions regardless of language  
3 to the contrary contained in the statute which authorizes the  
4 additional benefits.

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

11 (4) The supplemental rate charged under this section to fund  
12 benefit increases provided to active and retired members of the public  
13 employees' retirement system plan 2 and plan 3, the teachers'  
14 retirement system plan 2 and plan 3, the public safety employees'  
15 retirement system plan 2, or the school employees' retirement system  
16 plan 2 and plan 3 shall be calculated as the level percentage of all  
17 members' pay needed to fund the cost of the benefit, as calculated  
18 under RCW 41.45.060, 41.45.061, or 41.45.067.

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

29 (6) A supplemental rate shall not be charged to pay for the cost of  
30 additional benefits granted to members pursuant to chapter 340, Laws of  
31 1998.

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

36 **Sec. 42.** RCW 41.50.030 and 1998 c 341 s 501 are each amended to  
37 read as follows:

1 (1) As soon as possible but not more than one hundred and eighty  
2 days after March 19, 1976, there is transferred to the department of  
3 retirement systems, except as otherwise provided in this chapter, all  
4 powers, duties, and functions of:

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

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

7 (c) The Washington law enforcement officers' and fire fighters'  
8 retirement system;

9 (d) The Washington state patrol retirement system;

10 (e) The Washington judicial retirement system; and

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

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

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

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

18 (5) The department shall administer the Washington public safety  
19 employees' retirement system created under chapter 41.-- RCW (sections  
20 1 through 4 and 6 through 35 of this act).

21 **Sec. 43.** RCW 41.50.060 and 1998 c 341 s 502 are each amended to  
22 read as follows:

23 The director may delegate the performance of such powers, duties,  
24 and functions, other than those relating to rule making, to employees  
25 of the department, but the director shall remain and be responsible for  
26 the official acts of the employees of the department.

27 The director shall be responsible for the public employees'  
28 retirement system, the teachers' retirement system, the school  
29 employees' retirement system, the judicial retirement system, the law  
30 enforcement officers' and fire fighters' retirement system, the public  
31 safety employees' retirement system, and the Washington state patrol  
32 retirement system. The director shall also be responsible for the  
33 deferred compensation program.

34 **Sec. 44.** RCW 41.50.075 and 2000 c 247 s 601 are each amended to  
35 read as follows:

36 (1) Two funds are hereby created and established in the state

1 treasury to be known as the Washington law enforcement officers' and  
2 fire fighters' system plan 1 retirement fund, and the Washington law  
3 enforcement officers' and fire fighters' system plan 2 retirement fund  
4 which shall consist of all moneys paid into them in accordance with the  
5 provisions of this chapter and chapter 41.26 RCW, whether such moneys  
6 take the form of cash, securities, or other assets. The plan 1 fund  
7 shall consist of all moneys paid to finance the benefits provided to  
8 members of the law enforcement officers' and fire fighters' retirement  
9 system plan 1, and the plan 2 fund shall consist of all moneys paid to  
10 finance the benefits provided to members of the law enforcement  
11 officers' and fire fighters' retirement system plan 2.

12 (2) All of the assets of the Washington state teachers' retirement  
13 system shall be credited according to the purposes for which they are  
14 held, to two funds to be maintained in the state treasury, namely, the  
15 teachers' retirement system plan 1 fund and the teachers' retirement  
16 system combined plan 2 and 3 fund. The plan 1 fund shall consist of  
17 all moneys paid to finance the benefits provided to members of the  
18 Washington state teachers' retirement system plan 1, and the combined  
19 plan 2 and 3 fund shall consist of all moneys paid to finance the  
20 benefits provided to members of the Washington state teachers'  
21 retirement system plan 2 and 3.

22 (3) There is hereby established in the state treasury two separate  
23 funds, namely the public employees' retirement system plan 1 fund and  
24 the public employees' retirement system combined plan 2 and plan 3  
25 fund. The plan 1 fund shall consist of all moneys paid to finance the  
26 benefits provided to members of the public employees' retirement system  
27 plan 1, and the combined plan 2 and plan 3 fund shall consist of all  
28 moneys paid to finance the benefits provided to members of the public  
29 employees' retirement system plans 2 and 3.

30 (4) There is hereby established in the state treasury the school  
31 employees' retirement system combined plan 2 and 3 fund. The combined  
32 plan 2 and 3 fund shall consist of all moneys paid to finance the  
33 benefits provided to members of the school employees' retirement system  
34 plan 2 and plan 3.

35 (5) There is hereby established in the state treasury the public  
36 safety employees' retirement system plan 2 fund. The plan 2 fund shall  
37 consist of all moneys paid to finance the benefits provided to members  
38 of the public safety employees' retirement system plan 2.

1       **Sec. 45.** RCW 41.50.080 and 1998 c 341 s 504 are each amended to  
2 read as follows:

3       The state investment board shall provide for the investment of all  
4 funds of the Washington public employees' retirement system, the  
5 teachers' retirement system, the school employees' retirement system,  
6 the Washington law enforcement officers' and fire fighters' retirement  
7 system, the Washington state patrol retirement system, the Washington  
8 judicial retirement system, the Washington public safety employees'  
9 retirement system, and the judges' retirement fund, pursuant to RCW  
10 43.84.150, and may sell or exchange investments acquired in the  
11 exercise of that authority.

12       **Sec. 46.** RCW 41.50.110 and 2003 1st sp.s. c 25 s 914 are each  
13 amended to read as follows:

14       (1) Except as provided by RCW 41.50.255 and subsection (6) of this  
15 section, all expenses of the administration of the department, the  
16 expenses of administration of the retirement systems, and the expenses  
17 of the administration of the office of the state actuary created in  
18 chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, 41.-- (sections  
19 1 through 4 and 6 through 35 of this act), 43.43, and 44.44 RCW shall  
20 be paid from the department of retirement systems expense fund.

21       (2) In order to reimburse the department of retirement systems  
22 expense fund on an equitable basis the department shall ascertain and  
23 report to each employer, as defined in RCW 41.26.030, 41.32.010,  
24 41.35.010, section 2 of this act, or 41.40.010, the sum necessary to  
25 defray its proportional share of the entire expense of the  
26 administration of the retirement system that the employer participates  
27 in during the ensuing biennium or fiscal year whichever may be  
28 required. Such sum is to be computed in an amount directly  
29 proportional to the estimated entire expense of the administration as  
30 the ratio of monthly salaries of the employer's members bears to the  
31 total salaries of all members in the entire system. It shall then be  
32 the duty of all such employers to include in their budgets or otherwise  
33 provide the amounts so required.

34       (3) The department shall compute and bill each employer, as defined  
35 in RCW 41.26.030, 41.32.010, 41.35.010, section 2 of this act, or  
36 41.40.010, at the end of each month for the amount due for that month  
37 to the department of retirement systems expense fund and the same shall

1 be paid as are its other obligations. Such computation as to each  
2 employer shall be made on a percentage rate of salary established by  
3 the department. However, the department may at its discretion  
4 establish a system of billing based upon calendar year quarters in  
5 which event the said billing shall be at the end of each such quarter.

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

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

14 (a) Every six months the department shall determine the amount of  
15 an employer's fee by reviewing the timeliness and accuracy of the  
16 reports submitted by the employer in the preceding six months. If  
17 those reports were not both timely and accurate the department may  
18 prospectively assess an additional fee under this subsection.

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

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

22 (6) Expenses other than those under RCW 41.34.060(3) shall be paid  
23 pursuant to subsection (1) of this section.

24 (7) During the 2003-2005 fiscal biennium, the legislature may  
25 transfer from the department of retirement systems' expense fund to the  
26 state general fund such amounts as reflect the excess fund balance of  
27 the fund.

28 **Sec. 47.** RCW 41.50.150 and 1998 c 341 s 509 are each amended to  
29 read as follows:

30 (1) The employer of any employee whose retirement benefits are  
31 based in part on excess compensation, as defined in this section,  
32 shall, upon receipt of a billing from the department, pay into the  
33 appropriate retirement system the present value at the time of the  
34 employee's retirement of the total estimated cost of all present and  
35 future benefits from the retirement system attributable to the excess  
36 compensation. The state actuary shall determine the estimated cost  
37 using the same method and procedure as is used in preparing fiscal note

1 costs for the legislature. However, the director may in the director's  
2 discretion decline to bill the employer if the amount due is less than  
3 fifty dollars. Accounts unsettled within thirty days of the receipt of  
4 the billing shall be assessed an interest penalty of one percent of the  
5 amount due for each month or fraction thereof beyond the original  
6 thirty-day period.

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

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

13 (i) Any payment in lieu of an accrual of annual leave; or

14 (ii) Any payment added to salary or wages, concurrent with a  
15 reduction of annual leave;

16 (b) A cash out of any other form of leave;

17 (c) A payment for, or in lieu of, any personal expense or  
18 transportation allowance to the extent that payment qualifies as  
19 reportable compensation in the member's retirement system;

20 (d) The portion of any payment, including overtime payments, that  
21 exceeds twice the regular daily or hourly rate of pay; and

22 (e) Any termination or severance payment.

23 (3) This section applies to the retirement systems listed in RCW  
24 41.50.030 and to retirements occurring on or after March 15, 1984.  
25 Nothing in this section is intended to amend or determine the meaning  
26 of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35,  
27 41.-- (sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW  
28 or to determine in any manner what payments are includable in the  
29 calculation of a retirement allowance under such chapters.

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

33 **Sec. 48.** RCW 41.50.152 and 1998 c 341 s 510 are each amended to  
34 read as follows:

35 (1) Except as limited by subsection (3) of this section, the  
36 governing body of an employer under chapter 41.32, 41.35, 41.--  
37 (sections 1 through 4 and 6 through 35 of this act), or 41.40 RCW shall

1 comply with the provisions of subsection (2) of this section prior to  
2 executing a contract or collective bargaining agreement with members  
3 under chapter 41.32, 41.35, 41.-- (sections 1 through 4 and 6 through  
4 35 of this act), or 41.40 RCW which provides for:

5 (a) A cash out of unused annual leave in excess of two hundred  
6 forty hours of such leave. "Cash out" for purposes of this subsection  
7 means any payment in lieu of an accrual of annual leave or any payment  
8 added to regular salary, concurrent with a reduction of annual leave;

9 (b) A cash out of any other form of leave;

10 (c) A payment for, or in lieu of, any personal expense or  
11 transportation allowance;

12 (d) The portion of any payment, including overtime payments, that  
13 exceeds twice the regular rate of pay; or

14 (e) Any other termination or severance payment.

15 (2) Any governing body entering into a contract that includes a  
16 compensation provision listed in subsection (1) of this section shall  
17 do so only after public notice in compliance with the open public  
18 meetings act, chapter 42.30 RCW. This notification requirement may be  
19 accomplished as part of the approval process for adopting a contract in  
20 whole, and does not require separate or additional open public  
21 meetings. At the public meeting, full disclosure shall be made of the  
22 nature of the proposed compensation provision, and the employer's  
23 estimate of the excess compensation billings under RCW 41.50.150 that  
24 the employing entity would have to pay as a result of the proposed  
25 compensation provision. The employer shall notify the department of  
26 its compliance with this section at the time the department bills the  
27 employer under RCW 41.50.150 for the pension impact of compensation  
28 provisions listed in subsection (1) of this section that are adopted  
29 after July 23, 1995.

30 (3) The requirements of subsection (2) of this section shall not  
31 apply to the adoption of a compensation provision listed in subsection  
32 (1) of this section if the compensation would not be includable in  
33 calculating benefits under chapter 41.32, 41.35, 41.-- (sections 1  
34 through 4 and 6 through 35 of this act), or 41.40 RCW for the employees  
35 covered by the compensation provision.

36 **Sec. 49.** RCW 41.50.255 and 1998 c 341 s 511 are each amended to  
37 read as follows:

1           The director is authorized to pay from the interest earnings of the  
2 trust funds of the public employees' retirement system, the teachers'  
3 retirement system, the Washington state patrol retirement system, the  
4 Washington judicial retirement system, the judges' retirement system,  
5 the school ((~~district~~)) employees' retirement system, the public safety  
6 employees' retirement system, or the law enforcement officers' and fire  
7 fighters' retirement system lawful obligations of the appropriate  
8 system for legal expenses and medical expenses which expenses are  
9 primarily incurred for the purpose of protecting the appropriate trust  
10 fund or are incurred in compliance with statutes governing such funds.

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

15           The term "medical costs" includes, but is not limited to, expenses  
16 for the medical examination or reexamination of members or retirees,  
17 the costs of preparation of medical reports, and fees charged by  
18 medical professionals for attendance at discovery proceedings or  
19 hearings.

20           The director may also pay from the interest earnings of the trust  
21 funds specified in this section costs incurred in investigating fraud  
22 and collecting overpayments, including expenses incurred to review and  
23 investigate cases of possible fraud against the trust funds and  
24 collection agency fees and other costs incurred in recovering  
25 overpayments. Recovered funds must be returned to the appropriate  
26 trust funds.

27           **Sec. 50.** RCW 41.50.500 and 2000 c 247 s 603 are each amended to  
28 read as follows:

29           Unless the context clearly requires otherwise, the definitions in  
30 this section apply throughout RCW 41.50.500 through 41.50.650,  
31 41.50.670 through 41.50.720, and 26.09.138.

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

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



1 (3) "Dissolution order" means any judgment, decree, or order of  
2 spousal maintenance, property division, or court-approved property  
3 settlement incident to a decree of divorce, dissolution, invalidity, or  
4 legal separation issued by the superior court of the state of  
5 Washington or a judgment, decree, or other order of spousal support  
6 issued by a court of competent jurisdiction in another state or  
7 country, that has been registered or otherwise made enforceable in this  
8 state.

9 (4) "Mandatory benefits assignment order" means an order issued to  
10 the department of retirement systems pursuant to RCW 41.50.570 to  
11 withhold and deliver benefits payable to an obligor under chapter 2.10,  
12 2.12, 41.26, 41.32, 41.40, 41.35, 41.-- (sections 1 through 4 and 6  
13 through 35 of this act), or 43.43 RCW.

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

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

18 (7) "Periodic retirement payments" means periodic payments of  
19 retirement allowances, including but not limited to service retirement  
20 allowances, disability retirement allowances, and survivors'  
21 allowances. The term does not include a withdrawal of accumulated  
22 contributions.

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

27 (9) "Standard allowance" means a benefit payment option selected  
28 under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a),  
29 41.40.188(1)(a), 41.40.660(1), 41.40.845(1)(a), section 23 of this act,  
30 or 41.35.220 that ceases upon the death of the retiree. Standard  
31 allowance also means the benefit allowance provided under RCW 2.10.110,  
32 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW.  
33 Standard allowance also means the maximum retirement allowance  
34 available under RCW 41.32.530(1) following member withdrawal of  
35 accumulated contributions, if any.

36 (10) "Withdrawal of accumulated contributions" means a lump sum  
37 payment to a retirement system member of all or a part of the member's

1 accumulated contributions, including accrued interest, at the request  
2 of the member including any lump sum amount paid upon the death of the  
3 member.

4 **Sec. 51.** RCW 41.50.670 and 2002 c 158 s 5 are each amended to read  
5 as follows:

6 (1) Nothing in this chapter regarding mandatory assignment of  
7 benefits to enforce a spousal maintenance obligation shall abridge the  
8 right of an obligee to direct payments of retirement benefits to  
9 satisfy a property division obligation ordered pursuant to a court  
10 decree of dissolution or legal separation or any court order or court-  
11 approved property settlement agreement incident to any court decree of  
12 dissolution or legal separation as provided in RCW 2.10.180, 2.12.090,  
13 (~~41.04.310, 41.04.320, 41.04.330,~~) 41.26.053, 41.26.162, 41.32.052,  
14 41.35.100, 41.34.070(4), 41.40.052, 43.43.310, section 12 of this act,  
15 or 26.09.138, as those statutes existed before July 1, 1987, and as  
16 those statutes exist on and after July 28, 1991. The department shall  
17 pay benefits under this chapter in a lump sum or as a portion of  
18 periodic retirement payments as expressly provided by the dissolution  
19 order. A dissolution order may not order the department to pay a  
20 periodic retirement payment or lump sum unless that payment is  
21 specifically authorized under the provisions of chapter 2.10, 2.12,  
22 41.26, 41.32, 41.35, 41.34, 41.40, 41.-- (sections 1 through 4 and 6  
23 through 35 of this act), or 43.43 RCW, as applicable.

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

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

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

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

12 (4) A court order under this section may not order the department  
13 to pay more than seventy-five percent of an obligor's periodic  
14 retirement payment to an obligee.

15 (5) Persons whose court decrees were entered between July 1, 1987,  
16 and July 28, 1991, shall also be entitled to receive direct payments of  
17 retirement benefits to satisfy court-ordered property divisions if the  
18 dissolution orders comply or are modified to comply with this section  
19 and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180,  
20 2.12.090, 41.26.053, 41.32.052, 41.35.100, 41.34.070, 41.40.052,  
21 43.43.310, section 12 of this act, and 26.09.138.

22 (6) The obligee must file a copy of the dissolution order with the  
23 department within ninety days of that order's entry with the court of  
24 record.

25 (7) A division of benefits pursuant to a dissolution order under  
26 this section shall be based upon the obligor's gross benefit prior to  
27 any deductions. If the department is required to withhold a portion of  
28 the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of  
29 that amount plus the amount owed to the obligee exceeds the total  
30 benefit, the department shall satisfy the withholding requirements  
31 under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee.  
32 The provisions of this subsection do not apply to amounts withheld  
33 pursuant to 26 U.S.C. Sec. 3402(i).

34 **Sec. 52.** RCW 41.50.790 and 2002 c 26 s 8 are each amended to read  
35 as follows:

36 (1) The department shall designate an obligee as a survivor  
37 beneficiary of a member under RCW 2.10.146, 41.26.460, 41.32.530,

1 41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, section 23 of  
2 this act, or 41.40.845 if the department has been served by registered  
3 or certified mail with a dissolution order as defined in RCW 41.50.500  
4 at least thirty days prior to the member's retirement. The  
5 department's duty to comply with the dissolution order arises only if  
6 the order contains a provision that states in substantially the  
7 following form:

8 When . . . . . (the obligor) applies for retirement the  
9 department shall designate . . . . . (the obligee) as  
10 survivor beneficiary with a . . . . . survivor benefit.

11 The survivor benefit designated in the dissolution order must be  
12 consistent with the survivor benefit options authorized by statute or  
13 administrative rule.

14 (2) The obligee's entitlement to a survivor benefit pursuant to a  
15 dissolution order filed with the department in compliance with  
16 subsection (1) of this section shall cease upon the death of the  
17 obligee.

18 (3)(a) A subsequent dissolution order may order the department to  
19 divide a survivor benefit between a survivor beneficiary and an  
20 alternate payee. In order to divide a survivor benefit between more  
21 than one payee, the dissolution order must:

22 (i) Be ordered by a court of competent jurisdiction following  
23 notice to the survivor beneficiary;

24 (ii) Contain a provision that complies with subsection (1) of this  
25 section designating the survivor beneficiary;

26 (iii) Contain a provision clearly identifying the alternate payee  
27 or payees; and

28 (iv) Specify the proportional division of the benefit between the  
29 survivor beneficiary and the alternate payee or payees.

30 (b) The department will calculate actuarial adjustment for the  
31 court-ordered survivor benefit based upon the life of the survivor  
32 beneficiary.

33 (c) If the survivor beneficiary dies, the department shall  
34 terminate the benefit. If the alternate payee predeceases the survivor  
35 beneficiary, all entitlement of the alternate payee to a benefit ceases  
36 and the entire benefit will revert to the survivor beneficiary.

37 (d) For purposes of this section, "survivor beneficiary" means:

1 (i) The obligee designated in the provision of dissolution filed in  
2 compliance with subsection (1) of this section; or

3 (ii) In the event of more than one dissolution order, the obligee  
4 named in the first decree of dissolution received by the department.

5 (e) For purposes of this section, "alternate payee" means a person,  
6 other than the survivor beneficiary, who is granted a percentage of a  
7 survivor benefit pursuant to a dissolution order.

8 (4) The department shall under no circumstances be held liable for  
9 not designating an obligee as a survivor beneficiary under subsection  
10 (1) of this section if the dissolution order or amendment thereto is  
11 not served on the department by registered or certified mail at least  
12 thirty days prior to the member's retirement.

13 (5) If a dissolution order directing designation of a survivor  
14 beneficiary has been previously filed with the department in compliance  
15 with this section, no additional obligation shall arise on the part of  
16 the department upon filing of a subsequent dissolution order unless the  
17 subsequent dissolution order:

18 (a) Specifically amends or supersedes the dissolution order already  
19 on file with the department; and

20 (b) Is filed with the department by registered or certified mail at  
21 least thirty days prior to the member's retirement.

22 (6) The department shall designate a court-ordered survivor  
23 beneficiary pursuant to a dissolution order filed with the department  
24 before June 6, 1996, only if the order:

25 (a) Specifically directs the member or department to make such  
26 selection;

27 (b) Specifies the survivor option to be selected; and

28 (c) The member retires after June 6, 1996.

29 **Sec. 53.** RCW 41.40.010 and 2003 c 412 s 4 are each amended to read  
30 as follows:

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

33 (1) "Retirement system" means the public employees' retirement  
34 system provided for in this chapter.

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

1 (3) "State treasurer" means the treasurer of the state of  
2 Washington.

3 (4)(a) "Employer" for plan 1 members, means every branch,  
4 department, agency, commission, board, and office of the state, any  
5 political subdivision or association of political subdivisions of the  
6 state admitted into the retirement system, and legal entities  
7 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
8 term shall also include any labor guild, association, or organization  
9 the membership of a local lodge or division of which is comprised of at  
10 least forty percent employees of an employer (other than such labor  
11 guild, association, or organization) within this chapter. The term may  
12 also include any city of the first class that has its own retirement  
13 system.

14 (b) "Employer" for plan 2 and plan 3 members, means every branch,  
15 department, agency, commission, board, and office of the state, and any  
16 political subdivision and municipal corporation of the state admitted  
17 into the retirement system, including public agencies created pursuant  
18 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August  
19 31, 2000, school districts and educational service districts will no  
20 longer be employers for the public employees' retirement system plan 2.

21 (5) "Member" means any employee included in the membership of the  
22 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045  
23 does not prohibit a person otherwise eligible for membership in the  
24 retirement system from establishing such membership effective when he  
25 or she first entered an eligible position.

26 (6) "Original member" of this retirement system means:

27 (a) Any person who became a member of the system prior to April 1,  
28 1949;

29 (b) Any person who becomes a member through the admission of an  
30 employer into the retirement system on and after April 1, 1949, and  
31 prior to April 1, 1951;

32 (c) Any person who first becomes a member by securing employment  
33 with an employer prior to April 1, 1951, provided the member has  
34 rendered at least one or more years of service to any employer prior to  
35 October 1, 1947;

36 (d) Any person who first becomes a member through the admission of  
37 an employer into the retirement system on or after April 1, 1951,

1 provided, such person has been in the regular employ of the employer  
2 for at least six months of the twelve-month period preceding the said  
3 admission date;

4 (e) Any member who has restored all contributions that may have  
5 been withdrawn as provided by RCW 41.40.150 and who on the effective  
6 date of the individual's retirement becomes entitled to be credited  
7 with ten years or more of membership service except that the provisions  
8 relating to the minimum amount of retirement allowance for the member  
9 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
10 apply to the member;

11 (f) Any member who has been a contributor under the system for two  
12 or more years and who has restored all contributions that may have been  
13 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
14 the individual's retirement has rendered five or more years of service  
15 for the state or any political subdivision prior to the time of the  
16 admission of the employer into the system; except that the provisions  
17 relating to the minimum amount of retirement allowance for the member  
18 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
19 apply to the member.

20 (7) "New member" means a person who becomes a member on or after  
21 April 1, 1949, except as otherwise provided in this section.

22 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
23 or wages earned during a payroll period for personal services and where  
24 the compensation is not all paid in money, maintenance compensation  
25 shall be included upon the basis of the schedules established by the  
26 member's employer.

27 (i) "Compensation earnable" for plan 1 members also includes the  
28 following actual or imputed payments, which are not paid for personal  
29 services:

30 (A) Retroactive payments to an individual by an employer on  
31 reinstatement of the employee in a position, or payments by an employer  
32 to an individual in lieu of reinstatement in a position which are  
33 awarded or granted as the equivalent of the salary or wage which the  
34 individual would have earned during a payroll period shall be  
35 considered compensation earnable and the individual shall receive the  
36 equivalent service credit;

37 (B) If a leave of absence is taken by an individual for the purpose  
38 of serving in the state legislature, the salary which would have been

1 received for the position from which the leave of absence was taken,  
2 shall be considered as compensation earnable if the employee's  
3 contribution is paid by the employee and the employer's contribution is  
4 paid by the employer or employee;

5 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
6 72.09.240;

7 (D) Compensation that a member would have received but for a  
8 disability occurring in the line of duty only as authorized by RCW  
9 41.40.038;

10 (E) Compensation that a member receives due to participation in the  
11 leave sharing program only as authorized by RCW 41.04.650 through  
12 41.04.670; and

13 (F) Compensation that a member receives for being in standby  
14 status. For the purposes of this section, a member is in standby  
15 status when not being paid for time actually worked and the employer  
16 requires the member to be prepared to report immediately for work, if  
17 the need arises, although the need may not arise.

18 (ii) "Compensation earnable" does not include:

19 (A) Remuneration for unused sick leave authorized under RCW  
20 41.04.340, 28A.400.210, or 28A.310.490;

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

23 (b) "Compensation earnable" for plan 2 and plan 3 members, means  
24 salaries or wages earned by a member during a payroll period for  
25 personal services, including overtime payments, and shall include wages  
26 and salaries deferred under provisions established pursuant to sections  
27 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
28 shall exclude nonmoney maintenance compensation and lump sum or other  
29 payments for deferred annual sick leave, unused accumulated vacation,  
30 unused accumulated annual leave, or any form of severance pay.

31 "Compensation earnable" for plan 2 and plan 3 members also includes  
32 the following actual or imputed payments, which are not paid for  
33 personal services:

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



1 individual would have earned during a payroll period shall be  
2 considered compensation earnable to the extent provided above, and the  
3 individual shall receive the equivalent service credit;

4 (ii) In any year in which a member serves in the legislature, the  
5 member shall have the option of having such member's compensation  
6 earnable be the greater of:

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

9 (B) Such member's actual compensation earnable received for  
10 nonlegislative public employment and legislative service combined. Any  
11 additional contributions to the retirement system required because  
12 compensation earnable under (b)(ii)(A) of this subsection is greater  
13 than compensation earnable under (b)(ii)(B) of this subsection shall be  
14 paid by the member for both member and employer contributions;

15 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
16 and 72.09.240;

17 (iv) Compensation that a member would have received but for a  
18 disability occurring in the line of duty only as authorized by RCW  
19 41.40.038;

20 (v) Compensation that a member receives due to participation in the  
21 leave sharing program only as authorized by RCW 41.04.650 through  
22 41.04.670; and

23 (vi) Compensation that a member receives for being in standby  
24 status. For the purposes of this section, a member is in standby  
25 status when not being paid for time actually worked and the employer  
26 requires the member to be prepared to report immediately for work, if  
27 the need arises, although the need may not arise.

28 (9)(a) "Service" for plan 1 members, except as provided in RCW  
29 41.40.088, means periods of employment in an eligible position or  
30 positions for one or more employers rendered to any employer for which  
31 compensation is paid, and includes time spent in office as an elected  
32 or appointed official of an employer. Compensation earnable earned in  
33 full time work for seventy hours or more in any given calendar month  
34 shall constitute one service credit month except as provided in RCW  
35 41.40.088. Compensation earnable earned for less than seventy hours in  
36 any calendar month shall constitute one-quarter service credit month of  
37 service except as provided in RCW 41.40.088. Only service credit  
38 months and one-quarter service credit months shall be counted in the

1 computation of any retirement allowance or other benefit provided for  
2 in this chapter. Any fraction of a year of service shall be taken into  
3 account in the computation of such retirement allowance or benefits.  
4 Time spent in standby status, whether compensated or not, is not  
5 service.

6 (i) Service by a state employee officially assigned by the state on  
7 a temporary basis to assist another public agency, shall be considered  
8 as service as a state employee: PROVIDED, That service to any other  
9 public agency shall not be considered service as a state employee if  
10 such service has been used to establish benefits in any other public  
11 retirement system.

12 (ii) An individual shall receive no more than a total of twelve  
13 service credit months of service during any calendar year. If an  
14 individual is employed in an eligible position by one or more employers  
15 the individual shall receive no more than one service credit month  
16 during any calendar month in which multiple service for seventy or more  
17 hours is rendered.

18 (iii) A school district employee may count up to forty-five days of  
19 sick leave as creditable service solely for the purpose of determining  
20 eligibility to retire under RCW 41.40.180 as authorized by RCW  
21 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
22 28A.400.300 is equal to two service credit months. Use of less than  
23 forty-five days of sick leave is creditable as allowed under this  
24 subsection as follows:

25 (A) Less than twenty-two days equals one-quarter service credit  
26 month;

27 (B) Twenty-two days equals one service credit month;

28 (C) More than twenty-two days but less than forty-five days equals  
29 one and one-quarter service credit month.

30 (b) "Service" for plan 2 and plan 3 members, means periods of  
31 employment by a member in an eligible position or positions for one or  
32 more employers for which compensation earnable is paid. Compensation  
33 earnable earned for ninety or more hours in any calendar month shall  
34 constitute one service credit month except as provided in RCW  
35 41.40.088. Compensation earnable earned for at least seventy hours but  
36 less than ninety hours in any calendar month shall constitute one-half  
37 service credit month of service. Compensation earnable earned for less

1 than seventy hours in any calendar month shall constitute one-quarter  
2 service credit month of service. Time spent in standby status, whether  
3 compensated or not, is not service.

4 Any fraction of a year of service shall be taken into account in  
5 the computation of such retirement allowance or benefits.

6 (i) Service in any state elective position shall be deemed to be  
7 full time service, except that persons serving in state elective  
8 positions who are members of the Washington school employees'  
9 retirement system, teachers' retirement system, public safety  
10 employees' retirement system, or law enforcement officers' and fire  
11 fighters' retirement system at the time of election or appointment to  
12 such position may elect to continue membership in the Washington school  
13 employees' retirement system, teachers' retirement system, public  
14 safety employees' retirement system, or law enforcement officers' and  
15 fire fighters' retirement system.

16 (ii) A member shall receive a total of not more than twelve service  
17 credit months of service for such calendar year. If an individual is  
18 employed in an eligible position by one or more employers the  
19 individual shall receive no more than one service credit month during  
20 any calendar month in which multiple service for ninety or more hours  
21 is rendered.

22 (iii) Up to forty-five days of sick leave may be creditable as  
23 service solely for the purpose of determining eligibility to retire  
24 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
25 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
26 to two service credit months. Use of less than forty-five days of sick  
27 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

1 (11) "Service credit month" means a month or an accumulation of  
2 months of service credit which is equal to one.

3 (12) "Prior service" means all service of an original member  
4 rendered to any employer prior to October 1, 1947.

5 (13) "Membership service" means:

6 (a) All service rendered, as a member, after October 1, 1947;

7 (b) All service after October 1, 1947, to any employer prior to the  
8 time of its admission into the retirement system for which member and  
9 employer contributions, plus interest as required by RCW 41.50.125,  
10 have been paid under RCW 41.40.056 or 41.40.057;

11 (c) Service not to exceed six consecutive months of probationary  
12 service rendered after April 1, 1949, and prior to becoming a member,  
13 in the case of any member, upon payment in full by such member of the  
14 total amount of the employer's contribution to the retirement fund  
15 which would have been required under the law in effect when such  
16 probationary service was rendered if the member had been a member  
17 during such period, except that the amount of the employer's  
18 contribution shall be calculated by the director based on the first  
19 month's compensation earnable as a member;

20 (d) Service not to exceed six consecutive months of probationary  
21 service, rendered after October 1, 1947, and before April 1, 1949, and  
22 prior to becoming a member, in the case of any member, upon payment in  
23 full by such member of five percent of such member's salary during said  
24 period of probationary service, except that the amount of the  
25 employer's contribution shall be calculated by the director based on  
26 the first month's compensation earnable as a member.

27 (14)(a) "Beneficiary" for plan 1 members, means any person in  
28 receipt of a retirement allowance, pension or other benefit provided by  
29 this chapter.

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

34 (15) "Regular interest" means such rate as the director may  
35 determine.

36 (16) "Accumulated contributions" means the sum of all contributions  
37 standing to the credit of a member in the member's individual account,

1 including any amount paid under RCW 41.50.165(2), together with the  
2 regular interest thereon.

3 (17)(a) "Average final compensation" for plan 1 members, means the  
4 annual average of the greatest compensation earnable by a member during  
5 any consecutive two year period of service credit months for which  
6 service credit is allowed; or if the member has less than two years of  
7 service credit months then the annual average compensation earnable  
8 during the total years of service for which service credit is allowed.

9 (b) "Average final compensation" for plan 2 and plan 3 members,  
10 means the member's average compensation earnable of the highest  
11 consecutive sixty months of service credit months prior to such  
12 member's retirement, termination, or death. Periods constituting  
13 authorized leaves of absence may not be used in the calculation of  
14 average final compensation except under RCW 41.40.710(2).

15 (18) "Final compensation" means the annual rate of compensation  
16 earnable by a member at the time of termination of employment.

17 (19) "Annuity" means payments for life derived from accumulated  
18 contributions of a member. All annuities shall be paid in monthly  
19 installments.

20 (20) "Pension" means payments for life derived from contributions  
21 made by the employer. All pensions shall be paid in monthly  
22 installments.

23 (21) "Retirement allowance" means the sum of the annuity and the  
24 pension.

25 (22) "Employee" or "employed" means a person who is providing  
26 services for compensation to an employer, unless the person is free  
27 from the employer's direction and control over the performance of work.  
28 The department shall adopt rules and interpret this subsection  
29 consistent with common law.

30 (23) "Actuarial equivalent" means a benefit of equal value when  
31 computed upon the basis of such mortality and other tables as may be  
32 adopted by the director.

33 (24) "Retirement" means withdrawal from active service with a  
34 retirement allowance as provided by this chapter.

35 (25) "Eligible position" means:

36 (a) Any position that, as defined by the employer, normally  
37 requires five or more months of service a year for which regular  
38 compensation for at least seventy hours is earned by the occupant

1 thereof. For purposes of this chapter an employer shall not define  
2 "position" in such a manner that an employee's monthly work for that  
3 employer is divided into more than one position;

4 (b) Any position occupied by an elected official or person  
5 appointed directly by the governor, or appointed by the chief justice  
6 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
7 compensation is paid.

8 (26) "Ineligible position" means any position which does not  
9 conform with the requirements set forth in subsection (25) of this  
10 section.

11 (27) "Leave of absence" means the period of time a member is  
12 authorized by the employer to be absent from service without being  
13 separated from membership.

14 (28) "Totally incapacitated for duty" means total inability to  
15 perform the duties of a member's employment or office or any other work  
16 for which the member is qualified by training or experience.

17 (29) "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 (30) "Director" means the director of the department.

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

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

26 (33) "Plan 1" means the public employees' retirement system, plan  
27 1 providing the benefits and funding provisions covering persons who  
28 first became members of the system prior to October 1, 1977.

29 (34) "Plan 2" means the public employees' retirement system, plan  
30 2 providing the benefits and funding provisions covering persons who  
31 first became members of the system on and after October 1, 1977, and  
32 are not included in plan 3.

33 (35) "Plan 3" means the public employees' retirement system, plan  
34 3 providing the benefits and funding provisions covering persons who:

35 (a) First become a member on or after:

36 (i) March 1, 2002, and are employed by a state agency or institute  
37 of higher education and who did not choose to enter plan 2; or

1 (ii) September 1, 2002, and are employed by other than a state  
2 agency or institute of higher education and who did not choose to enter  
3 plan 2; or

4 (b) Transferred to plan 3 under RCW 41.40.795.

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

9 (37) "Index A" means the index for the year prior to the  
10 determination of a postretirement adjustment.

11 (38) "Index B" means the index for the year prior to index A.

12 (39) "Index year" means the earliest calendar year in which the  
13 index is more than sixty percent of index A.

14 (40) "Adjustment ratio" means the value of index A divided by index  
15 B.

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

19 (42) "Separation from service" occurs when a person has terminated  
20 all employment with an employer. Separation from service or employment  
21 does not occur, and if claimed by an employer or employee may be a  
22 violation of RCW 41.40.055, when an employee and employer have a  
23 written or oral agreement to resume employment with the same employer  
24 following termination.

25 (43) "Member account" or "member's account" for purposes of plan 3  
26 means the sum of the contributions and earnings on behalf of the member  
27 in the defined contribution portion of plan 3.

28 **Sec. 54.** RCW 41.26.500 and 1998 c 341 s 604 are each amended to  
29 read as follows:

30 (1) No retiree under the provisions of plan 2 shall be eligible to  
31 receive such retiree's monthly retirement allowance if he or she is  
32 employed in an eligible position as defined in RCW 41.40.010,  
33 41.32.010, section 2 of this act, or 41.35.010, or as a law enforcement  
34 officer or fire fighter as defined in RCW 41.26.030. If a retiree's  
35 benefits have been suspended under this section, his or her benefits  
36 shall be reinstated when the retiree terminates the employment that

1 caused his or her benefits to be suspended. Upon reinstatement, the  
2 retiree's benefits shall be actuarially recomputed pursuant to the  
3 rules adopted by the department.

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

5 **Sec. 55.** RCW 41.32.800 and 1998 c 341 s 605 are each amended to  
6 read as follows:

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

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

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

19 **Sec. 56.** RCW 41.35.230 and 1998 c 341 s 24 are each amended to  
20 read as follows:

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

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

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



1       **Sec. 57.** RCW 41.40.690 and 1998 c 341 s 606 are each amended to  
2 read as follows:

3       (1) Except as provided in RCW 41.40.037, no retiree under the  
4 provisions of plan 2 shall be eligible to receive such retiree's  
5 monthly retirement allowance if he or she is employed in an eligible  
6 position as defined in RCW 41.40.010, 41.32.010, section 2 of this act,  
7 or 41.35.010, or as a law enforcement officer or fire fighter as  
8 defined in RCW 41.26.030, except that a retiree who ends his or her  
9 membership in the retirement system pursuant to RCW 41.40.023(3)(b) is  
10 not subject to this section if the retiree's only employment is as an  
11 elective official of a city or town.

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

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

18       **Sec. 58.** RCW 41.54.010 and 1998 c 341 s 702 are each amended to  
19 read as follows:

20       The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22       (1) "Base salary" means salaries or wages earned by a member of a  
23 system during a payroll period for personal services and includes wages  
24 and salaries deferred under provisions of the United States internal  
25 revenue code, but shall exclude overtime payments, nonmoney maintenance  
26 compensation, and lump sum payments for deferred annual sick leave,  
27 unused accumulated vacation, unused accumulated annual leave, any form  
28 of severance pay, any bonus for voluntary retirement, any other form of  
29 leave, or any similar lump sum payment.

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

31       (3) "Director" means the director of the department of retirement  
32 systems.

33       (4) "Dual member" means a person who (a) is or becomes a member of  
34 a system on or after July 1, 1988, (b) has been a member of one or more  
35 other systems, and (c) has never been retired for service from a  
36 retirement system and is not receiving a disability retirement or

1 disability leave benefit from any retirement system listed in RCW  
2 41.50.030 or subsection (6) of this section.

3 (5) "Service" means the same as it may be defined in each  
4 respective system. For the purposes of RCW 41.54.030, military service  
5 granted under RCW 41.40.170(3) or 43.43.260 may only be based on  
6 service accrued under chapter 41.40 or 43.43 RCW, respectively.

7 (6) "System" means the retirement systems established under  
8 chapters 41.32, 41.40, 41.44, 41.35, 41.-- (sections 1 through 4 and 6  
9 through 35 of this act), and 43.43 RCW; plan 2 of the system  
10 established under chapter 41.26 RCW; and the city employee retirement  
11 systems for Seattle, Tacoma, and Spokane. (~~The inclusion of an~~  
12 ~~individual first class city system is subject to the procedure set~~  
13 ~~forth in RCW 41.54.061.~~)

14 **Sec. 59.** RCW 41.54.040 and 1998 c 341 s 704 are each amended to  
15 read as follows:

16 (1) The allowances calculated under RCW 41.54.030, 41.54.032, and  
17 41.54.034 shall be paid separately by each respective current and prior  
18 system. Any deductions from such separate payments shall be according  
19 to the provisions of the respective systems.

20 (2) Postretirement adjustments, if any, shall be applied by the  
21 respective systems based on the payments made under subsection (1) of  
22 this section.

23 (3) The department shall adopt rules under chapter 34.05 RCW to  
24 ensure that where a dual member has service in a system established  
25 under chapter 41.32, 41.40, 41.44, 41.35, 41.-- (sections 1 through 4  
26 and 6 through 35 of this act), or 43.43 RCW; service in plan 2 of the  
27 system established under chapter 41.26 RCW; and service under the city  
28 employee retirement system for Seattle, Tacoma, or Spokane, the  
29 additional cost incurred as a result of the dual member receiving a  
30 benefit under this chapter shall be borne by the retirement system  
31 incurring the additional cost.

32 **Sec. 60.** RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003  
33 c 150 s 2, and 2003 c 48 s 2 are each reenacted and amended to read as  
34 follows:

35 (1) All earnings of investments of surplus balances in the state

1 treasury shall be deposited to the treasury income account, which  
2 account is hereby established in the state treasury.

3 (2) The treasury income account shall be utilized to pay or receive  
4 funds associated with federal programs as required by the federal cash  
5 management improvement act of 1990. The treasury income account is  
6 subject in all respects to chapter 43.88 RCW, but no appropriation is  
7 required for refunds or allocations of interest earnings required by  
8 the cash management improvement act. Refunds of interest to the  
9 federal treasury required under the cash management improvement act  
10 fall under RCW 43.88.180 and shall not require appropriation. The  
11 office of financial management shall determine the amounts due to or  
12 from the federal government pursuant to the cash management improvement  
13 act. The office of financial management may direct transfers of funds  
14 between accounts as deemed necessary to implement the provisions of the  
15 cash management improvement act, and this subsection. Refunds or  
16 allocations shall occur prior to the distributions of earnings set  
17 forth in subsection (4) of this section.

18 (3) Except for the provisions of RCW 43.84.160, the treasury income  
19 account may be utilized for the payment of purchased banking services  
20 on behalf of treasury funds including, but not limited to, depository,  
21 safekeeping, and disbursement functions for the state treasury and  
22 affected state agencies. The treasury income account is subject in all  
23 respects to chapter 43.88 RCW, but no appropriation is required for  
24 payments to financial institutions. Payments shall occur prior to  
25 distribution of earnings set forth in subsection (4) of this section.

26 (4) Monthly, the state treasurer shall distribute the earnings  
27 credited to the treasury income account. The state treasurer shall  
28 credit the general fund with all the earnings credited to the treasury  
29 income account except:

30 (a) The following accounts and funds shall receive their  
31 proportionate share of earnings based upon each account's and fund's  
32 average daily balance for the period: The capitol building  
33 construction account, the Cedar River channel construction and  
34 operation account, the Central Washington University capital projects  
35 account, the charitable, educational, penal and reformatory  
36 institutions account, the common school construction fund, the county  
37 criminal justice assistance account, the county sales and use tax  
38 equalization account, the data processing building construction

1 account, the deferred compensation administrative account, the deferred  
2 compensation principal account, the department of retirement systems  
3 expense account, the drinking water assistance account, the drinking  
4 water assistance administrative account, the drinking water assistance  
5 repayment account, the Eastern Washington University capital projects  
6 account, the education construction fund, the election account, the  
7 emergency reserve fund, The Evergreen State College capital projects  
8 account, the federal forest revolving account, the health services  
9 account, the public health services account, the health system capacity  
10 account, the personal health services account, the state higher  
11 education construction account, the higher education construction  
12 account, the highway infrastructure account, the industrial insurance  
13 premium refund account, the judges' retirement account, the judicial  
14 retirement administrative account, the judicial retirement principal  
15 account, the local leasehold excise tax account, the local real estate  
16 excise tax account, the local sales and use tax account, the medical  
17 aid account, the mobile home park relocation fund, the multimodal  
18 transportation account, the municipal criminal justice assistance  
19 account, the municipal sales and use tax equalization account, the  
20 natural resources deposit account, the oyster reserve land account, the  
21 perpetual surveillance and maintenance account, the public employees'  
22 retirement system plan 1 account, the public employees' retirement  
23 system combined plan 2 and plan 3 account, the public facilities  
24 construction loan revolving account beginning July 1, 2004, the public  
25 health supplemental account, the public works assistance account, the  
26 Puyallup tribal settlement account, the regional transportation  
27 investment district account, the resource management cost account, the  
28 site closure account, the special wildlife account, the state  
29 employees' insurance account, the state employees' insurance reserve  
30 account, the state investment board expense account, the state  
31 investment board commingled trust fund accounts, the supplemental  
32 pension account, the Tacoma Narrows toll bridge account, the teachers'  
33 retirement system plan 1 account, the teachers' retirement system  
34 combined plan 2 and plan 3 account, the tobacco prevention and control  
35 account, the tobacco settlement account, the transportation  
36 infrastructure account, the tuition recovery trust fund, the University  
37 of Washington bond retirement fund, the University of Washington  
38 building account, the volunteer fire fighters' and reserve officers'

1 relief and pension principal fund, the volunteer fire fighters' and  
2 reserve officers' administrative fund, the Washington fruit express  
3 account, the Washington judicial retirement system account, the  
4 Washington law enforcement officers' and fire fighters' system plan 1  
5 retirement account, the Washington law enforcement officers' and fire  
6 fighters' system plan 2 retirement account, the Washington public  
7 safety employees' plan 2 retirement account, the Washington school  
8 employees' retirement system combined plan 2 and 3 account, the  
9 Washington state health insurance pool account, the Washington state  
10 patrol retirement account, the Washington State University building  
11 account, the Washington State University bond retirement fund, the  
12 water pollution control revolving fund, and the Western Washington  
13 University capital projects account. Earnings derived from investing  
14 balances of the agricultural permanent fund, the normal school  
15 permanent fund, the permanent common school fund, the scientific  
16 permanent fund, and the state university permanent fund shall be  
17 allocated to their respective beneficiary accounts. All earnings to be  
18 distributed under this subsection (4)(a) shall first be reduced by the  
19 allocation to the state treasurer's service fund pursuant to RCW  
20 43.08.190.

21 (b) The following accounts and funds shall receive eighty percent  
22 of their proportionate share of earnings based upon each account's or  
23 fund's average daily balance for the period: The aeronautics account,  
24 the aircraft search and rescue account, the county arterial  
25 preservation account, the department of licensing services account, the  
26 essential rail assistance account, the ferry bond retirement fund, the  
27 grade crossing protective fund, the high capacity transportation  
28 account, the highway bond retirement fund, the highway safety account,  
29 the motor vehicle fund, the motorcycle safety education account, the  
30 pilotage account, the public transportation systems account, the Puget  
31 Sound capital construction account, the Puget Sound ferry operations  
32 account, the recreational vehicle account, the rural arterial trust  
33 account, the safety and education account, the special category C  
34 account, the state patrol highway account, the transportation 2003  
35 account (nickel account), the transportation equipment fund, the  
36 transportation fund, the transportation improvement account, the  
37 transportation improvement board bond retirement account, and the urban  
38 arterial trust account.

1 (5) In conformance with Article II, section 37 of the state  
2 Constitution, no treasury accounts or funds shall be allocated earnings  
3 without the specific affirmative directive of this section.

4 **Sec. 61.** RCW 41.32.802 and 2001 2nd sp.s. c 10 s 8 are each  
5 amended to read as follows:

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

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

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

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

28 **Sec. 62.** RCW 41.32.862 and 2001 2nd sp.s. c 10 s 10 are each  
29 amended to read as follows:

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

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

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

11 (3) If the retiree opts to reestablish membership under RCW  
12 41.32.044, he or she terminates his or her retirement status and  
13 immediately becomes a member. Retirement benefits shall not accrue  
14 during the period of membership and the individual shall make  
15 contributions and receive membership credit. Such a member shall have  
16 the right to again retire if eligible.

17 **Sec. 63.** RCW 41.40.037 and 2003 c 412 s 5 and 2003 c 295 s 7 are  
18 each reenacted and amended to read as follows:

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

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

29 (2)(a) Except as provided in (b) of this subsection, a retiree from  
30 plan 1 who enters employment with an employer at least one calendar  
31 month after his or her accrual date may continue to receive pension  
32 payments while engaged in such service for up to eight hundred sixty-  
33 seven hours of service in a calendar year without a reduction of  
34 pension.

35 (b) A retiree from plan 1 who enters employment with an employer at  
36 least three calendar months after his or her accrual date and:

1 (i) Is hired into a position for which the employer has documented  
2 a justifiable need to hire a retiree into the position;

3 (ii) Is hired through the established process for the position with  
4 the approval of: A school board for a school district; the chief  
5 executive officer of a state agency employer; the secretary of the  
6 senate for the senate; the chief clerk of the house of representatives  
7 for the house of representatives; the secretary of the senate and the  
8 chief clerk of the house of representatives jointly for the joint  
9 legislative audit and review committee, the legislative transportation  
10 committee, the joint committee on pension policy, the legislative  
11 evaluation and accountability program, the legislative systems  
12 committee, and the statute law committee; or according to rules adopted  
13 for the rehiring of retired plan 1 members for a local government  
14 employer;

15 (iii) The employer retains records of the procedures followed and  
16 decisions made in hiring the retiree, and provides those records in the  
17 event of an audit; and

18 (iv) The employee has not already rendered a cumulative total of  
19 more than one thousand nine hundred hours of service while in receipt  
20 of pension payments beyond an annual threshold of eight hundred sixty-  
21 seven hours;

22 shall cease to receive pension payments while engaged in that service  
23 after the retiree has rendered service for more than one thousand five  
24 hundred hours in a calendar year. The one thousand nine hundred hour  
25 cumulative total under this subsection applies prospectively to those  
26 retiring after July 27, 2003, and retroactively to those who retired  
27 prior to July 27, 2003, and shall be calculated from the date of  
28 retirement.

29 (c) When a plan 1 member renders service beyond eight hundred  
30 sixty-seven hours, the department shall collect from the employer the  
31 applicable employer retirement contributions for the entire duration of  
32 the member's employment during that calendar year.

33 (d) A retiree from plan 2 or plan 3 who has satisfied the break in  
34 employment requirement of subsection (1) of this section may work up to  
35 eight hundred sixty-seven hours in a calendar year in an eligible  
36 position, as defined in RCW 41.32.010, 41.35.010, section 2 of this  
37 act, or 41.40.010, or as a fire fighter or law enforcement officer, as  
38 defined in RCW 41.26.030, without suspension of his or her benefit.



1 (3) If the retiree opts to reestablish membership under RCW  
2 41.40.023(12), he or she terminates his or her retirement status and  
3 becomes a member. Retirement benefits shall not accrue during the  
4 period of membership and the individual shall make contributions and  
5 receive membership credit. Such a member shall have the right to again  
6 retire if eligible in accordance with RCW 41.40.180. However, if the  
7 right to retire is exercised to become effective before the member has  
8 rendered two uninterrupted years of service, the retirement formula and  
9 survivor options the member had at the time of the member's previous  
10 retirement shall be reinstated.

11 (4) The department shall collect and provide the state actuary with  
12 information relevant to the use of this section for the select  
13 committee on pension policy.

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

18 **Sec. 64.** RCW 41.35.060 and 2001 2nd sp.s. c 10 s 11 are each  
19 amended to read as follows:

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

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

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

36 (3) If the retiree opts to reestablish membership under RCW  
37 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 NEW SECTION. **Sec. 65.** This act takes effect July 1, 2006.

10 NEW SECTION. **Sec. 66.** The benefits provided pursuant to this act  
11 are not provided to employees as a matter of contractual right prior to  
12 July 1, 2006. The legislature retains the right to alter or abolish  
13 these benefits at any time prior to July 1, 2006.

14 NEW SECTION. **Sec. 67.** Sections 1 through 4 and 6 through 35 of  
15 this act constitute a new chapter in Title 41 RCW.

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