

# FINAL BILL REPORT

## SHB 3137

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C 94 L 06

Synopsis as Enacted

**Brief Description:** Determining benefits for surviving spouses of disabled Washington state patrol officers.

**Sponsors:** By House Committee on Transportation (originally sponsored by Representatives Lovick, Curtis, Clements, Hunt, Grant, Ericks, Conway, Morrell, Simpson and Kenney; by request of Department of Retirement Systems).

**House Committee on Appropriations**

**House Committee on Transportation**

**Senate Committee on Transportation**

**Senate Committee on Ways & Means**

### **Background:**

The Washington State Patrol Retirement System (WSPRS) covers all commissioned officers of the Washington State Patrol (WSP). The WSPRS was created in 1947, and until January 1, 2003, was the only state-administered retirement system that still contained many of the plan provisions that were altered or eliminated for new members in the creation of plans 2 or 3 in other retirement systems.

Members of WSPRS may retire at age 55 or after 25 years of service at any age. It is also the only plan operated by Washington with mandatory retirement at age 60.

The contribution rates for the members and employers of the WSPRS are equal; however, the member rate may be no less than 2 percent of pay. For the 2005-07 biennium, the contribution rate for both members and employers is 4.51 percent of pay.

For members who joined the WSPRS prior to January 1, 2003, the survivor allowance for post-retirement deaths is the lesser of 50 percent of the member's average final salary or the member's retirement allowance. In many cases, the survivor benefit will be less than the member's benefit at time of death, because it is based on a salary that may be 20 or more years old, and the members' benefit has been annually increased many times since. This basic survivor benefit for retired members does not require members to reduce their benefit; however, a member has the option of taking an actuarial reduction and having the survivor receive full continuation of that reduced benefit when the member dies.

Members of the WSPRS judged by the Chief of the Washington State Patrol to be disabled while performing line duty may be placed on disability leave for up to six months and then are placed on disability retirement status. A member on disability retirement status is entitled to receive a benefit of one-half of the existing wage during the time the disability continues in

effect. When the existing wage for a position is increased during a disabled member's disability retirement, the disability benefit correspondingly increases.

The surviving spouse of a disabled member of WSPRS is eligible, similar to the surviving spouse of a retiree, for a benefit equal to the lesser of 50 percent of the member's average final salary or the member's earned retirement allowance. Similar to the survivor benefit for members that retire, average final salary has been interpreted to mean the member's average salary at the time the member left active duty, so the salary may be 20 or more years old by the time the disability survivor benefit is calculated. Because a disabled member may not have earned a retirement benefit based on an entire career of employment, it is more likely that his or her survivor would receive a benefit based on 50 percent of the member's average final salary.

In civil court actions claiming a breach of pension-related benefits, such as improper calculation of benefits, a three-year statute of limitations applies. The statute of limitations bars actions against the state for failure to pay pension benefits if the beneficiary fails to begin a legal challenge within three years.

The Department of Retirement Systems (DRS) is empowered at any time to correct administrative errors in retirement system member files to ensure that determinations, such as plan eligibility and benefit calculations, made for members and beneficiaries are correct.

In June of 2005, the DRS settled an individual lawsuit by increasing the monthly survivor allowance of a survivor of a disabled WSPRS member from 50 percent of the disabled member's average final salary at time of disablement to 50 percent of the equivalent current salary over the two years prior to the disabled member's death.

**Summary:**

The average final salary, for purposes of calculating the survivor benefit for a member who entered WSPRS prior to January 1, 2003, and became disabled, is the average monthly salary received by active members of the WSP during the two years prior to the death of the disabled member.

The average final salary, for purposes of calculating the survivor benefit for a member who entered WSPRS on or after January 1, 2003, and became disabled, is the average monthly salary received by active members of the WSP during the five years prior to the death of the disabled member.

The cost of the increased contribution rates necessary to pay for the increased survivor benefits resulting from the change in definition of average final salary is, for members disabled prior to July 1, 2006, paid for solely by the employer.

The DRS is authorized to retroactively pay the higher survivor benefits for payments made prior to effective date of the act, and the impact of the increased benefits is excluded from the supplemental contribution rate process.

**Votes on Final Passage:**

House 98 0  
Senate 43 0

**Effective:** June 7, 2006  
July 1, 2006 (Section 3)