
HOUSE BILL 1936

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By Representatives Upthegrove, Hinkle, Simpson, Priest, Miloscia, Schual-Berke, P. Sullivan, Williams, Hasegawa and O'Brien

Read first time 02/10/2005. Referred to Committee on Appropriations.

1 AN ACT Relating to allowing members of the public employees'
2 retirement system plans 1 and 2 employed as emergency medical
3 technicians to transfer to the law enforcement officers' and fire
4 fighters' retirement system plan 2; amending RCW 41.26.030 and
5 41.26.547; and providing an expiration date.

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

7 **Sec. 1.** RCW 41.26.030 and 2003 c 388 s 2 are each amended to read
8 as follows:

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

11 (1) "Retirement system" means the "Washington law enforcement
12 officers' and fire fighters' retirement system" provided herein.

13 (2)(a) "Employer" for plan 1 members, means the legislative
14 authority of any city, town, county, or district or the elected
15 officials of any municipal corporation that employs any law enforcement
16 officer and/or fire fighter, any authorized association of such
17 municipalities, and, except for the purposes of RCW 41.26.150, any
18 labor guild, association, or organization, which represents the fire
19 fighters or law enforcement officers of at least seven cities of over

1 20,000 population and the membership of each local lodge or division of
2 which is composed of at least sixty percent law enforcement officers or
3 fire fighters as defined in this chapter.

4 (b) "Employer" for plan 2 members, means the following entities to
5 the extent that the entity employs any law enforcement officer and/or
6 fire fighter:

7 (i) The legislative authority of any city, town, county, or
8 district;

9 (ii) The elected officials of any municipal corporation;

10 (iii) The governing body of any other general authority law
11 enforcement agency; or

12 (iv) A four-year institution of higher education having a fully
13 operational fire department as of January 1, 1996.

14 (3) "Law enforcement officer" beginning January 1, 1994, means any
15 person who is commissioned and employed by an employer on a full time,
16 fully compensated basis to enforce the criminal laws of the state of
17 Washington generally, with the following qualifications:

18 (a) No person who is serving in a position that is basically
19 clerical or secretarial in nature, and who is not commissioned shall be
20 considered a law enforcement officer;

21 (b) Only those deputy sheriffs, including those serving under a
22 different title pursuant to county charter, who have successfully
23 completed a civil service examination for deputy sheriff or the
24 equivalent position, where a different title is used, and those persons
25 serving in unclassified positions authorized by RCW 41.14.070 except a
26 private secretary will be considered law enforcement officers;

27 (c) Only such full time commissioned law enforcement personnel as
28 have been appointed to offices, positions, or ranks in the police
29 department which have been specifically created or otherwise expressly
30 provided for and designated by city charter provision or by ordinance
31 enacted by the legislative body of the city shall be considered city
32 police officers;

33 (d) The term "law enforcement officer" also includes the executive
34 secretary of a labor guild, association or organization (which is an
35 employer under RCW 41.26.030(2)) if that individual has five years
36 previous membership in the retirement system established in chapter
37 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
38 plan 2 members; and

1 (e) The term "law enforcement officer" also includes a person
2 employed on or after January 1, 1993, as a public safety officer or
3 director of public safety, so long as the job duties substantially
4 involve only either police or fire duties, or both, and no other duties
5 in a city or town with a population of less than ten thousand. The
6 provisions of this subsection (3)(e) shall not apply to any public
7 safety officer or director of public safety who is receiving a
8 retirement allowance under this chapter as of May 12, 1993.

9 (4) "Fire fighter" means:

10 (a) Any person who is serving on a full time, fully compensated
11 basis as a member of a fire department of an employer and who is
12 serving in a position which requires passing a civil service
13 examination for fire fighter, and who is actively employed as such;

14 (b) Anyone who is actively employed as a full time fire fighter
15 where the fire department does not have a civil service examination;

16 (c) Supervisory fire fighter personnel;

17 (d) Any full time executive secretary of an association of fire
18 protection districts authorized under RCW 52.12.031. The provisions of
19 this subsection (4)(d) shall not apply to plan 2 members;

20 (e) The executive secretary of a labor guild, association or
21 organization (which is an employer under RCW 41.26.030(2) as now or
22 hereafter amended), if such individual has five years previous
23 membership in a retirement system established in chapter 41.16 or 41.18
24 RCW. The provisions of this subsection (4)(e) shall not apply to plan
25 2 members;

26 (f) Any person who is serving on a full time, fully compensated
27 basis for an employer, as a fire dispatcher, in a department in which,
28 on March 1, 1970, a dispatcher was required to have passed a civil
29 service examination for fire fighter; (~~and~~)

30 (g) Any person who on March 1, 1970, was employed on a full time,
31 fully compensated basis by an employer, and who on May 21, 1971, was
32 making retirement contributions under the provisions of chapter 41.16
33 or 41.18 RCW; and

34 (h) Any person who is employed on a full-time, fully compensated
35 basis by an employer as an emergency medical technician.

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

1 (6) "Surviving spouse" means the surviving widow or widower of a
2 member. "Surviving spouse" shall not include the divorced spouse of a
3 member except as provided in RCW 41.26.162.

4 (7)(a) "Child" or "children" means an unmarried person who is under
5 the age of eighteen or mentally or physically handicapped as determined
6 by the department, except a handicapped person in the full time care of
7 a state institution, who is:

8 (i) A natural born child;

9 (ii) A stepchild where that relationship was in existence prior to
10 the date benefits are payable under this chapter;

11 (iii) A posthumous child;

12 (iv) A child legally adopted or made a legal ward of a member prior
13 to the date benefits are payable under this chapter; or

14 (v) An illegitimate child legitimized prior to the date any
15 benefits are payable under this chapter.

16 (b) A person shall also be deemed to be a child up to and including
17 the age of twenty years and eleven months while attending any high
18 school, college, or vocational or other educational institution
19 accredited, licensed, or approved by the state, in which it is located,
20 including the summer vacation months and all other normal and regular
21 vacation periods at the particular educational institution after which
22 the child returns to school.

23 (8) "Member" means any fire fighter, law enforcement officer, or
24 other person as would apply under subsections (3) or (4) of this
25 section whose membership is transferred to the Washington law
26 enforcement officers' and fire fighters' retirement system on or after
27 March 1, 1970, and every law enforcement officer and fire fighter who
28 is employed in that capacity on or after such date.

29 (9) "Retirement fund" means the "Washington law enforcement
30 officers' and fire fighters' retirement system fund" as provided for
31 herein.

32 (10) "Employee" means any law enforcement officer or fire fighter
33 as defined in subsections (3) and (4) of this section.

34 (11)(a) "Beneficiary" for plan 1 members, means any person in
35 receipt of a retirement allowance, disability allowance, death benefit,
36 or any other benefit described herein.

37 (b) "Beneficiary" for plan 2 members, means any person in receipt

1 of a retirement allowance or other benefit provided by this chapter
2 resulting from service rendered to an employer by another person.

3 (12)(a) "Final average salary" for plan 1 members, means (i) for a
4 member holding the same position or rank for a minimum of twelve months
5 preceding the date of retirement, the basic salary attached to such
6 same position or rank at time of retirement; (ii) for any other member,
7 including a civil service member who has not served a minimum of twelve
8 months in the same position or rank preceding the date of retirement,
9 the average of the greatest basic salaries payable to such member
10 during any consecutive twenty-four month period within such member's
11 last ten years of service for which service credit is allowed, computed
12 by dividing the total basic salaries payable to such member during the
13 selected twenty-four month period by twenty-four; (iii) in the case of
14 disability of any member, the basic salary payable to such member at
15 the time of disability retirement; (iv) in the case of a member who
16 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
17 such member at the time of vesting.

18 (b) "Final average salary" for plan 2 members, means the monthly
19 average of the member's basic salary for the highest consecutive sixty
20 service credit months of service prior to such member's retirement,
21 termination, or death. Periods constituting authorized unpaid leaves
22 of absence may not be used in the calculation of final average salary.

23 (13)(a) "Basic salary" for plan 1 members, means the basic monthly
24 rate of salary or wages, including longevity pay but not including
25 overtime earnings or special salary or wages, upon which pension or
26 retirement benefits will be computed and upon which employer
27 contributions and salary deductions will be based.

28 (b) "Basic salary" for plan 2 members, means salaries or wages
29 earned by a member during a payroll period for personal services,
30 including overtime payments, and shall include wages and salaries
31 deferred under provisions established pursuant to sections 403(b),
32 414(h), and 457 of the United States Internal Revenue Code, but shall
33 exclude lump sum payments for deferred annual sick leave, unused
34 accumulated vacation, unused accumulated annual leave, or any form of
35 severance pay. In any year in which a member serves in the legislature
36 the member shall have the option of having such member's basic salary
37 be the greater of:

1 (i) The basic salary the member would have received had such member
2 not served in the legislature; or

3 (ii) Such member's actual basic salary received for nonlegislative
4 public employment and legislative service combined. Any additional
5 contributions to the retirement system required because basic salary
6 under (b)(i) of this subsection is greater than basic salary under
7 (b)(ii) of this subsection shall be paid by the member for both member
8 and employer contributions.

9 (14)(a) "Service" for plan 1 members, means all periods of
10 employment for an employer as a fire fighter or law enforcement
11 officer, for which compensation is paid, together with periods of
12 suspension not exceeding thirty days in duration. For the purposes of
13 this chapter service shall also include service in the armed forces of
14 the United States as provided in RCW 41.26.190. Credit shall be
15 allowed for all service credit months of service rendered by a member
16 from and after the member's initial commencement of employment as a
17 fire fighter or law enforcement officer, during which the member worked
18 for seventy or more hours, or was on disability leave or disability
19 retirement. Only service credit months of service shall be counted in
20 the computation of any retirement allowance or other benefit provided
21 for in this chapter.

22 (i) For members retiring after May 21, 1971 who were employed under
23 the coverage of a prior pension act before March 1, 1970, "service"
24 shall also include (A) such military service not exceeding five years
25 as was creditable to the member as of March 1, 1970, under the member's
26 particular prior pension act, and (B) such other periods of service as
27 were then creditable to a particular member under the provisions of RCW
28 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
29 be allowed for any service rendered prior to March 1, 1970, where the
30 member at the time of rendition of such service was employed in a
31 position covered by a prior pension act, unless such service, at the
32 time credit is claimed therefor, is also creditable under the
33 provisions of such prior act.

34 (ii) A member who is employed by two employers at the same time
35 shall only be credited with service to one such employer for any month
36 during which the member rendered such dual service.

37 (b) "Service" for plan 2 members, means periods of employment by a
38 member for one or more employers for which basic salary is earned for

1 ninety or more hours per calendar month which shall constitute a
2 service credit month. Periods of employment by a member for one or
3 more employers for which basic salary is earned for at least seventy
4 hours but less than ninety hours per calendar month shall constitute
5 one-half service credit month. Periods of employment by a member for
6 one or more employers for which basic salary is earned for less than
7 seventy hours shall constitute a one-quarter service credit month.

8 Members of the retirement system who are elected or appointed to a
9 state elective position may elect to continue to be members of this
10 retirement system.

11 Service credit years of service shall be determined by dividing the
12 total number of service credit months of service by twelve. Any
13 fraction of a service credit year of service as so determined shall be
14 taken into account in the computation of such retirement allowance or
15 benefits.

16 If a member receives basic salary from two or more employers during
17 any calendar month, the individual shall receive one service credit
18 month's service credit during any calendar month in which multiple
19 service for ninety or more hours is rendered; or one-half service
20 credit month's service credit during any calendar month in which
21 multiple service for at least seventy hours but less than ninety hours
22 is rendered; or one-quarter service credit month during any calendar
23 month in which multiple service for less than seventy hours is
24 rendered.

25 (15) "Accumulated contributions" means the employee's contributions
26 made by a member, including any amount paid under RCW 41.50.165(2),
27 plus accrued interest credited thereon.

28 (16) "Actuarial reserve" means a method of financing a pension or
29 retirement plan wherein reserves are accumulated as the liabilities for
30 benefit payments are incurred in order that sufficient funds will be
31 available on the date of retirement of each member to pay the member's
32 future benefits during the period of retirement.

33 (17) "Actuarial valuation" means a mathematical determination of
34 the financial condition of a retirement plan. It includes the
35 computation of the present monetary value of benefits payable to
36 present members, and the present monetary value of future employer and
37 employee contributions, giving effect to mortality among active and

1 retired members and also to the rates of disability, retirement,
2 withdrawal from service, salary and interest earned on investments.

3 (18) "Disability board" for plan 1 members means either the county
4 disability board or the city disability board established in RCW
5 41.26.110.

6 (19) "Disability leave" means the period of six months or any
7 portion thereof during which a member is on leave at an allowance equal
8 to the member's full salary prior to the commencement of disability
9 retirement. The definition contained in this subsection shall apply
10 only to plan 1 members.

11 (20) "Disability retirement" for plan 1 members, means the period
12 following termination of a member's disability leave, during which the
13 member is in receipt of a disability retirement allowance.

14 (21) "Position" means the employment held at any particular time,
15 which may or may not be the same as civil service rank.

16 (22) "Medical services" for plan 1 members, shall include the
17 following as minimum services to be provided. Reasonable charges for
18 these services shall be paid in accordance with RCW 41.26.150.

19 (a) Hospital expenses: These are the charges made by a hospital,
20 in its own behalf, for

21 (i) Board and room not to exceed semiprivate room rate unless
22 private room is required by the attending physician due to the
23 condition of the patient.

24 (ii) Necessary hospital services, other than board and room,
25 furnished by the hospital.

26 (b) Other medical expenses: The following charges are considered
27 "other medical expenses", provided that they have not been considered
28 as "hospital expenses".

29 (i) The fees of the following:

30 (A) A physician or surgeon licensed under the provisions of chapter
31 18.71 RCW;

32 (B) An osteopathic physician and surgeon licensed under the
33 provisions of chapter 18.57 RCW;

34 (C) A chiropractor licensed under the provisions of chapter 18.25
35 RCW.

36 (ii) The charges of a registered graduate nurse other than a nurse
37 who ordinarily resides in the member's home, or is a member of the
38 family of either the member or the member's spouse.

1 (iii) The charges for the following medical services and supplies:
2 (A) Drugs and medicines upon a physician's prescription;
3 (B) Diagnostic x-ray and laboratory examinations;
4 (C) X-ray, radium, and radioactive isotopes therapy;
5 (D) Anesthesia and oxygen;
6 (E) Rental of iron lung and other durable medical and surgical
7 equipment;
8 (F) Artificial limbs and eyes, and casts, splints, and trusses;
9 (G) Professional ambulance service when used to transport the
10 member to or from a hospital when injured by an accident or stricken by
11 a disease;
12 (H) Dental charges incurred by a member who sustains an accidental
13 injury to his or her teeth and who commences treatment by a legally
14 licensed dentist within ninety days after the accident;
15 (I) Nursing home confinement or hospital extended care facility;
16 (J) Physical therapy by a registered physical therapist;
17 (K) Blood transfusions, including the cost of blood and blood
18 plasma not replaced by voluntary donors;
19 (L) An optometrist licensed under the provisions of chapter 18.53
20 RCW.
21 (23) "Regular interest" means such rate as the director may
22 determine.
23 (24) "Retiree" for persons who establish membership in the
24 retirement system on or after October 1, 1977, means any member in
25 receipt of a retirement allowance or other benefit provided by this
26 chapter resulting from service rendered to an employer by such member.
27 (25) "Director" means the director of the department.
28 (26) "State actuary" or "actuary" means the person appointed
29 pursuant to RCW 44.44.010(2).
30 (27) "State elective position" means any position held by any
31 person elected or appointed to statewide office or elected or appointed
32 as a member of the legislature.
33 (28) "Plan 1" means the law enforcement officers' and fire
34 fighters' retirement system, plan 1 providing the benefits and funding
35 provisions covering persons who first became members of the system
36 prior to October 1, 1977.
37 (29) "Plan 2" means the law enforcement officers' and fire

1 fighters' retirement system, plan 2 providing the benefits and funding
2 provisions covering persons who first became members of the system on
3 and after October 1, 1977.

4 (30) "Service credit year" means an accumulation of months of
5 service credit which is equal to one when divided by twelve.

6 (31) "Service credit month" means a full service credit month or an
7 accumulation of partial service credit months that are equal to one.

8 (32) "General authority law enforcement agency" means any agency,
9 department, or division of a municipal corporation, political
10 subdivision, or other unit of local government of this state, and any
11 agency, department, or division of state government, having as its
12 primary function the detection and apprehension of persons committing
13 infractions or violating the traffic or criminal laws in general, but
14 not including the Washington state patrol. Such an agency, department,
15 or division is distinguished from a limited authority law enforcement
16 agency having as one of its functions the apprehension or detection of
17 persons committing infractions or violating the traffic or criminal
18 laws relating to limited subject areas, including but not limited to,
19 the state departments of natural resources and social and health
20 services, the state gambling commission, the state lottery commission,
21 the state parks and recreation commission, the state utilities and
22 transportation commission, the state liquor control board, and the
23 state department of corrections.

24 **Sec. 2.** RCW 41.26.547 and 2003 c 293 s 1 are each amended to read
25 as follows:

26 (1) A member of plan 2 who was a member of the public employees'
27 retirement system while employed providing emergency medical services
28 for a city, town, county, or district and whose job was relocated from
29 another department of a city, town, county, or district to a fire
30 department, or a member of the public employees' retirement system who
31 is eligible for membership in plan 2 under RCW 41.26.030(4)(h), has the
32 following options:

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

34 (b) Leave any service credit earned as a member of the public
35 employees' retirement system in the public employees' retirement
36 system, and have all future service earned in the law enforcement

1 officers' and fire fighters' retirement system plan 2, becoming a dual
2 member under the provisions of chapter 41.54 RCW; or

3 (c) Make an election no later than June 30, (~~2008~~) 2013, filed in
4 writing with the department of retirement systems, to transfer service
5 credit previously earned as an emergency medical technician for a city,
6 town, county, or district in the public employees' retirement system
7 plan 1 or plan 2 to the law enforcement officers' and fire fighters'
8 retirement system plan 2 as defined in RCW 41.26.030. Service credit
9 that a member elects to transfer from the public employees' retirement
10 system to the law enforcement officers' and fire fighters' retirement
11 system under this section shall be transferred no earlier than five
12 years after the effective date the member elects to transfer, and only
13 after the member earns five years of service credit as a fire fighter
14 following the effective date the member elects to transfer.

15 (2) A member of plan 1 who was a member of the public employees'
16 retirement system while employed providing emergency medical services
17 for a city, town, county, or district and whose job was relocated from
18 another department of a city, town, county, or district to a fire
19 department has the following options:

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

21 (b) Leave any service credit earned as a member of the public
22 employees' retirement system in the public employees' retirement
23 system, and have all future service earned in the law enforcement
24 officers' and fire fighters' retirement system plan 1.

25 (3)(a) A member who elects to transfer service credit under
26 subsection (1)(c) of this section shall make the payments required by
27 this subsection prior to having service credit earned as an emergency
28 medical technician for a city, town, county, or district under the
29 public employees' retirement system plan 1 or plan 2 transferred to the
30 law enforcement officers' and fire fighters' retirement system plan 2.
31 However, in no event shall service credit be transferred earlier than
32 five years after the effective date the member elects to transfer, or
33 prior to the member earning five years of service credit as a fire
34 fighter following the effective date the member elects to transfer.

35 (b) A member who elects to transfer service credit under this
36 subsection shall pay, for the applicable period of service, the
37 difference between the contributions the employee paid to the public
38 employees' retirement system plan 1 or plan 2 and the contributions

1 that would have been paid by the employee had the employee been a
2 member of the law enforcement officers' and fire fighters' retirement
3 system plan 2, plus interest on this difference as determined by the
4 director. This payment must be made no later than five years from the
5 effective date of the election made under subsection (1)(c) of this
6 section and must be made prior to retirement.

7 (c) No earlier than five years after the effective date the member
8 elects to transfer service credit under this section and upon
9 completion of the payment required in (b) of this subsection, the
10 department shall transfer from the public employees' retirement system
11 plan 1 or plan 2 to the law enforcement officers' and fire fighters'
12 retirement system plan 2: (i) All of the employee's applicable
13 accumulated contributions plus interest and an equal amount of employer
14 contributions; and (ii) all applicable months of service, as defined in
15 RCW 41.26.030(14)(b), credited to the employee under this chapter for
16 service as an emergency services provider for a city, town, county, or
17 district as though that service was rendered as a member of the law
18 enforcement officers' and fire fighters' retirement system plan 2.

19 (d) Upon transfer of service credit, contributions, and interest
20 under this subsection, the employee is permanently excluded from
21 membership in the public employees' retirement system for all service
22 transfers related to their time served as an emergency medical
23 technician for a city, town, county, or district under the public
24 employees' retirement system plan 1 or plan 2.

25 NEW SECTION. **Sec. 3.** This act expires July 1, 2013.

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