
ENGROSSED SUBSTITUTE HOUSE BILL 2685

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Conway, Lovick, Quall, Simpson, Ormsby and Moeller; by request of Select Committee on Pension Policy)

READ FIRST TIME 02/08/06.

1 AN ACT Relating to general provisions in the public safety
2 employees' retirement system; amending RCW 41.37.005, 41.37.010,
3 41.04.270, 41.04.278, and 41.04.393; and declaring an emergency.

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

5 **Sec. 1.** RCW 41.37.005 and 2004 c 242 s 1 are each amended to read
6 as follows:

7 It is the intent of the legislature to establish a separate public
8 safety employees' retirement system for ~~((those))~~ certain public
9 employees whose jobs contain a high degree of physical risk to their
10 own personal safety and who ~~((engage in duties contained in this
11 section. The duties involved in these jobs include providing))~~ provide
12 public protection of lives and property, ~~((the authority and power to
13 arrest, conducting criminal investigations, enforcing the criminal laws
14 of the state of Washington, and the authority to carry a firearm as
15 part of the job. Qualifications and training for these jobs include
16 passage of a civil service examination and completion of the Washington
17 criminal justice training commission basic training course or
18 equivalent. Only those job classes specifically included in RCW
19 41.37.010(5) by the legislature are public safety employees, and only~~

1 ~~for service earned after the effective date of the inclusion of that~~
2 ~~job class in RCW 41.37.010(5))~~ but who are not eligible for membership
3 in the law enforcement officers' and fire fighters' retirement system.

4 **Sec. 2.** RCW 41.37.010 and 2005 c 327 s 4 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter,
7 unless the context clearly requires otherwise.

8 (1) "Retirement system" means the Washington public safety
9 employees' retirement system provided for in this chapter.

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

12 (3) "State treasurer" means the treasurer of the state of
13 Washington.

14 (4) "Employer" means the Washington state department of
15 corrections, the Washington state parks and recreation commission, the
16 Washington state gambling commission, the Washington state patrol, and
17 the Washington state liquor control board(~~(τ)~~); any county corrections
18 department(~~(sτ)~~); any city corrections department(~~(s)~~) not covered
19 under chapter 41.28 RCW(~~(τ)~~); or other employers employing statewide
20 elective officials.

21 (5) "Member" means any employee employed by an employer on a full-
22 time(~~(τ, 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 (a) Who is in a position that requires completion of a certified
32 criminal justice training course and is authorized by their employer to
33 arrest, conduct criminal investigations, enforce the criminal laws of
34 the state of Washington, and carry a firearm as part of the job;

35 (b) Whose primary responsibility is to ensure the custody and
36 security of incarcerated or probationary individuals as a corrections
37 officer, probation officer, or jailer;

1 (c) Who is a limited authority Washington peace officer, as defined
2 in RCW 10.93.020, for an employer; or

3 (d) Whose primary responsibility is to supervise members eligible
4 under this subsection.

5 (6)(a) "Compensation earnable" for members, means salaries or wages
6 earned by a member during a payroll period for personal services,
7 including overtime payments, and shall include wages and salaries
8 deferred under provisions established pursuant to sections 403(b),
9 414(h), and 457 of the United States internal revenue code, but shall
10 exclude nonmoney maintenance compensation and lump sum or other
11 payments for deferred annual sick leave, unused accumulated vacation,
12 unused accumulated annual leave, or any form of severance pay.

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

15 (i) Retroactive payments to an individual by an employer on
16 reinstatement of the employee in a position, or payments by an employer
17 to an individual in lieu of reinstatement, which are awarded or granted
18 as the equivalent of the salary or wage which the individual would have
19 earned during a payroll period shall be considered compensation
20 earnable to the extent provided in this subsection, and the individual
21 shall receive the equivalent service credit;

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

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

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

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

35 (iv) Compensation that a member would have received but for a
36 disability occurring in the line of duty only as authorized by RCW
37 41.37.070;

1 (v) Compensation that a member receives due to participation in the
2 leave sharing program only as authorized by RCW 41.04.650 through
3 41.04.670; and

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

9 (7) "Service" means periods of employment by a member on or after
10 July 1, 2006, for one or more employers for which compensation earnable
11 is paid. Compensation earnable earned for ninety or more hours in any
12 calendar month shall constitute one service credit month. Compensation
13 earnable earned for at least seventy hours but less than ninety hours
14 in any calendar month shall constitute one-half service credit month of
15 service. Compensation earnable earned for less than seventy hours in
16 any calendar month shall constitute one-quarter service credit month of
17 service. Time spent in standby status, whether compensated or not, is
18 not service.

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

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

23 (b) A member shall receive a total of not more than twelve service
24 credit months of service for such calendar year. If an individual is
25 employed in an eligible position by one or more employers the
26 individual shall receive no more than one service credit month during
27 any calendar month in which multiple service for ninety or more hours
28 is rendered.

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

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

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

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

37 (12) "Regular interest" means such rate as the director may
38 determine.

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

5 (14) "Average final compensation" means the member's average
6 compensation earnable of the highest consecutive sixty months of
7 service credit months prior to such member's retirement, termination,
8 or death. Periods constituting authorized leaves of absence may not be
9 used in the calculation of average final compensation except under RCW
10 41.37.290.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **Sec. 3.** RCW 41.04.270 and 2005 c 327 s 1 are each amended to read
24 as follows:

25 (1) Except as provided in chapter 2.10, 2.12, 41.26, 41.28, 41.32,
26 41.35, 41.37, 41.40, or 43.43 RCW, on and after March 19, 1976, any
27 member or former member who (a) receives a retirement allowance earned
28 by (~~said~~) the former member as deferred compensation from any public
29 retirement system authorized by the general laws of this state, or (b)
30 is eligible to receive a retirement allowance from any public
31 retirement system listed in RCW 41.50.030, but chooses not to apply, or
32 (c) is the beneficiary of a disability allowance from any public
33 retirement system listed in RCW 41.50.030 shall be estopped from
34 becoming a member of or accruing any contractual rights whatsoever in
35 any other public retirement system listed in RCW 41.50.030: PROVIDED,
36 That (a) and (b) of this subsection shall not apply to persons who have
37 accumulated less than fifteen years service credit in any such system.

1 (2) Nothing in this section is intended to apply to any retirement
2 system except those listed in RCW 41.50.030 and the city employee
3 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)
4 of this section does not apply to a dual member as defined in RCW
5 41.54.010.

6 **Sec. 4.** RCW 41.04.278 and 2003 c 295 s 2 are each amended to read
7 as follows:

8 (1) The select committee on pension policy may form three function-
9 specific subcommittees, as set forth under subsection (2) of this
10 section, from the members under RCW 41.04.276(1) (a) through (e), as
11 follows:

12 (a) A public safety subcommittee with one member from each group
13 under RCW 41.04.276(1) (a) through (e);

14 (b) An education subcommittee with one member from each group under
15 RCW 41.04.276(1) (a) through (e); and

16 (c) A state and local government subcommittee, with one retiree
17 member under RCW 41.04.276(1)(d) and two members from each group under
18 RCW 41.04.276(1) (a) through (c) and (e).

19 The retiree members may serve on more than one subcommittee to
20 ensure representation on each subcommittee.

21 (2)(a) The public safety subcommittee shall focus on pension issues
22 affecting public safety employees who are members of the law
23 enforcement officers' and fire fighters', public safety employees', and
24 Washington state patrol retirement systems.

25 (b) The education subcommittee shall focus on pension issues
26 affecting educational employees who are members of the public
27 employees', teachers', and school employees' retirement systems.

28 (c) The state and local government subcommittee shall focus on
29 pension issues affecting state and local government employees who are
30 members of the public employees' retirement system.

31 **Sec. 5.** RCW 41.04.393 and 2003 c 32 s 1 are each amended to read
32 as follows:

33 Retirement benefits paid under chapter 41.26, 41.37, 41.40, or
34 43.43 RCW to beneficiaries of public safety officers who die in the
35 line of duty shall be paid in accordance with Title 26 U.S.C. Sec.

1 101(h) as amended by the Fallen Hero Survivor Benefit Fairness Act of
2 2001.

3 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and takes effect
6 immediately.

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