
HOUSE BILL 2685

State of Washington

59th Legislature

2006 Regular Session

By Representatives Fromhold, Conway, Lovick, Quall, Simpson, Ormsby and Moeller; by request of Select Committee on Pension Policy

Read first time 01/12/2006. Referred to Committee on Appropriations.

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 natural
15 resources, the Washington state department of social and health
16 services, the Washington state department of corrections, the
17 Washington state parks and recreation commission, the Washington state
18 gambling commission, the Washington state patrol, and the Washington
19 state liquor control board(~~(τ)~~); any county corrections
20 department(~~(§~~τ~~)~~); any city corrections department(~~(§)~~) not covered
21 under chapter 41.28 RCW(~~(τ)~~); or other employers employing statewide
22 elective officials.

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

33 (a) Who is in a position that requires completion of a certified
34 criminal justice training course and is authorized by their employer to
35 arrest, conduct criminal investigations, enforce the criminal laws of
36 the state of Washington, and carry a firearm as part of the job;

1 (b) Whose primary responsibility is to ensure the custody and
2 security of incarcerated individuals as a corrections officer or
3 jailer;

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

6 (d) Whose primary responsibility is to supervise members eligible
7 under this subsection.

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

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

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

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

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

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

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

1 (iv) Compensation that a member would have received but for a
2 disability occurring in the line of duty only as authorized by RCW
3 41.37.070;

4 (v) Compensation that a member receives due to participation in the
5 leave sharing program only as authorized by RCW 41.04.650 through
6 41.04.670; and

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

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

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

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

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

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

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

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

37 (11) "Beneficiary" means any person in receipt of a retirement

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

3 (12) "Regular interest" means such rate as the director may
4 determine.

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

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

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

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

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

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

25 (19) "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 (20) "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 (21) "Retirement" means withdrawal from active service with a
34 retirement allowance as provided by this chapter.

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

37 (23) "Ineligible position" means any position which does not

1 conform with the requirements set forth in subsection (22) of this
2 section.

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

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

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

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

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

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

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

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

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

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

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

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

30 (1) Except as provided in chapter 2.10, 2.12, 41.26, 41.28, 41.32,
31 41.35, 41.37, 41.40, or 43.43 RCW, on and after March 19, 1976, any
32 member or former member who (a) receives a retirement allowance earned
33 by (~~said~~) the former member as deferred compensation from any public
34 retirement system authorized by the general laws of this state, or (b)
35 is eligible to receive a retirement allowance from any public
36 retirement system listed in RCW 41.50.030, but chooses not to apply, or
37 (c) is the beneficiary of a disability allowance from any public

1 retirement system listed in RCW 41.50.030 shall be estopped from
2 becoming a member of or accruing any contractual rights whatsoever in
3 any other public retirement system listed in RCW 41.50.030: PROVIDED,
4 That (a) and (b) of this subsection shall not apply to persons who have
5 accumulated less than fifteen years service credit in any such system.

6 (2) Nothing in this section is intended to apply to any retirement
7 system except those listed in RCW 41.50.030 and the city employee
8 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)
9 of this section does not apply to a dual member as defined in RCW
10 41.54.010.

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

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

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

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

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

24 The retiree members may serve on more than one subcommittee to
25 ensure representation on each subcommittee.

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

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

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

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

3 Retirement benefits paid under chapter 41.26, 41.37, 41.40, or
4 43.43 RCW to beneficiaries of public safety officers who die in the
5 line of duty shall be paid in accordance with Title 26 U.S.C. Sec.
6 101(h) as amended by the Fallen Hero Survivor Benefit Fairness Act of
7 2001.

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

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