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SENATE BILL 5261

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State of Washington

59th Legislature

2005 Regular Session

By Senators Fraser, Parlette, Regala, Schmidt, Rasmussen, Shin and Kohl-Welles; by request of Select Committee on Pension Policy

Read first time 01/19/2005. Referred to Committee on Ways & Means.

1 AN ACT Relating to interruptive military service credit within the  
2 public employees' retirement system, the school employees' retirement  
3 system, the teachers' retirement system, the law enforcement officers'  
4 and fire fighters' retirement system plan 2, the Washington state  
5 patrol retirement system, and the public safety employees' retirement  
6 system; amending RCW 41.40.170, 41.40.710, 41.40.805, 41.35.470,  
7 41.35.650, 41.32.260, 41.32.810, 41.32.865, 41.26.520, 43.43.260, and  
8 41.37.260; and providing an effective date.

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

10 **Sec. 1.** RCW 41.40.170 and 2002 c 27 s 2 are each amended to read  
11 as follows:

12 (1) A member who has served or shall serve on active federal  
13 service in the military or naval forces of the United States and who  
14 left or shall leave an employer to enter such service shall be deemed  
15 to be on military leave of absence if he or she has resumed or shall  
16 resume employment as an employee within one year from termination  
17 thereof.

18 (2) If he or she has applied or shall apply for reinstatement of  
19 employment, within one year from termination of the military service,

1 and is refused employment for reasons beyond his or her control, he or  
2 she shall, upon resumption of service within ten years have such  
3 service credited to him or her.

4 (3) In any event, after completing twenty-five years of creditable  
5 service, any member may have service in the armed forces credited to  
6 him or her as a member whether or not he or she left the employ of an  
7 employer to enter the armed service: PROVIDED, That in no instance,  
8 described in this section, shall military service in excess of five  
9 years be credited: AND PROVIDED FURTHER, That in each instance the  
10 member must restore all withdrawn accumulated contributions, which  
11 restoration must be completed within five years of membership service  
12 following the first resumption of employment or complete twenty-five  
13 years of creditable service: AND PROVIDED FURTHER, That this section  
14 will not apply to any individual, not a veteran within the meaning of  
15 RCW 41.04.005.

16 (4) The surviving spouse or eligible child or children of a member  
17 who left the employ of an employer to enter the uniformed services of  
18 the United States and died while serving in the uniformed services may,  
19 on behalf of the deceased member, apply for retirement system service  
20 credit under this subsection up to the date of the member's death in  
21 the uniformed services. The department shall establish the deceased  
22 member's service credit if the surviving spouse or eligible child or  
23 children:

24 (a) Provides to the director proof of the member's death while  
25 serving in the uniformed services; and

26 (b) Provides to the director proof of the member's honorable  
27 service in the uniformed services prior to the date of death.

28 (5) A member who leaves the employ of an employer to enter the  
29 uniformed services of the United States and becomes totally  
30 incapacitated for continued employment by an employer while serving in  
31 the uniformed services is entitled to retirement system service credit  
32 under this subsection up to the date of discharge from the uniformed  
33 services if:

34 (a) The member obtains a determination from the director that he or  
35 she is totally incapacitated for continued employment due to conditions  
36 or events that occurred while serving in the uniformed services; and

37 (b) The member provides to the director proof of honorable  
38 discharge from the uniformed services.

1       **Sec. 2.** RCW 41.40.710 and 2000 c 247 s 1106 are each amended to  
2 read as follows:

3       (1) A member who is on a paid leave of absence authorized by a  
4 member's employer shall continue to receive service credit as provided  
5 for under the provisions of RCW 41.40.610 through 41.40.740.

6       (2) A member who receives compensation from an employer while on an  
7 authorized leave of absence to serve as an elected official of a labor  
8 organization, and whose employer is reimbursed by the labor  
9 organization for the compensation paid to the member during the period  
10 of absence, may also be considered to be on a paid leave of absence.  
11 This subsection shall only apply if the member's leave of absence is  
12 authorized by a collective bargaining agreement that provides that the  
13 member retains seniority rights with the employer during the period of  
14 leave. The compensation earnable reported for a member who establishes  
15 service credit under this subsection may not be greater than the salary  
16 paid to the highest paid job class covered by the collective bargaining  
17 agreement.

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

23       (a) The member makes both the plan 2 employer and member  
24 contributions plus interest as determined by the department for the  
25 period of the authorized leave of absence within five years of  
26 resumption of service or prior to retirement whichever comes sooner; or

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

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

33       (4) A member who leaves the employ of an employer to enter the  
34 (~~armed forces~~) uniformed services of the United States shall be  
35 entitled to retirement system service credit for up to five years of  
36 military service. This subsection shall be administered in a manner  
37 consistent with the requirements of the federal uniformed services  
38 employment and reemployment rights act.

1 (a) The member qualifies for service credit under this subsection  
2 if:

3 (i) Within ninety days of the member's honorable discharge from the  
4 uniformed services of the United States ((armed forces)), the member  
5 applies for reemployment with the employer who employed the member  
6 immediately prior to the member entering the ((United States armed  
7 forces)) uniformed services; and

8 (ii) The member makes the employee contributions required under RCW  
9 41.45.061 and 41.45.067 within five years of resumption of service or  
10 prior to retirement, whichever comes sooner; or

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

14 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
15 or (e)(iii) of this subsection, the department shall establish the  
16 member's service credit and shall bill the employer for its  
17 contribution required under RCW 41.45.060, 41.45.061, and 41.45.067 for  
18 the period of military service, plus interest as determined by the  
19 department.

20 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)  
21 of this subsection shall be based on the compensation the member would  
22 have earned if not on leave, or if that cannot be estimated with  
23 reasonable certainty, the compensation reported for the member in the  
24 year prior to when the member went on military leave.

25 (d) The surviving spouse or eligible child or children of a member  
26 who left the employ of an employer to enter the uniformed services of  
27 the United States and died while serving in the uniformed services may,  
28 on behalf of the deceased member, apply for retirement system service  
29 credit under this subsection up to the date of the member's death in  
30 the uniformed services. The department shall establish the deceased  
31 member's service credit if the surviving spouse or eligible child or  
32 children:

33 (i) Provides to the director proof of the member's death while  
34 serving in the uniformed services;

35 (ii) Provides to the director proof of the member's honorable  
36 service in the uniformed services prior to the date of death; and

37 (iii) Pays the employee contributions required under chapter 41.45

1 RCW within five years of the date of death or prior to the distribution  
2 of any benefit, whichever comes first.

3 (e) A member who leaves the employ of an employer to enter the  
4 uniformed services of the United States and becomes totally  
5 incapacitated for continued employment by an employer while serving in  
6 the uniformed services is entitled to retirement system service credit  
7 under this subsection up to the date of discharge from the uniformed  
8 services if:

9 (i) The member obtains a determination from the director that he or  
10 she is totally incapacitated for continued employment due to conditions  
11 or events that occurred while serving in the uniformed services;

12 (ii) The member provides to the director proof of honorable  
13 discharge from the uniformed services; and

14 (iii) The member pays the employee contributions required under  
15 chapter 41.45 RCW within five years of the director's determination of  
16 total disability or prior to the distribution of any benefit, whichever  
17 comes first.

18 **Sec. 3.** RCW 41.40.805 and 2000 c 247 s 306 are each amended to  
19 read as follows:

20 (1) A member who is on a paid leave of absence authorized by a  
21 member's employer shall continue to receive service credit.

22 (2) A member who receives compensation from an employer while on an  
23 authorized leave of absence to serve as an elected official of a labor  
24 organization, and whose employer is reimbursed by the labor  
25 organization for the compensation paid to the member during the period  
26 of absence, may also be considered to be on a paid leave of absence.  
27 This subsection shall only apply if the member's leave of absence is  
28 authorized by a collective bargaining agreement that provides that the  
29 member retains seniority rights with the employer during the period of  
30 leave. The earnable compensation reported for a member who establishes  
31 service credit under this subsection may not be greater than the salary  
32 paid to the highest paid job class covered by the collective bargaining  
33 agreement.

34 (3) Except as specified in subsection (4) of this section, a member  
35 shall be eligible to receive a maximum of two years service credit  
36 during a member's entire working career for those periods when a member

1 is on an unpaid leave of absence authorized by an employer. Such  
2 credit may be obtained only if:

3 (a) The member makes the contribution on behalf of the employer,  
4 plus interest, as determined by the department; and

5 (b) The member makes the employee contribution, plus interest, as  
6 determined by the department, to the defined contribution portion.

7 The contributions required shall be based on the average of the  
8 member's earnable compensation at both the time the authorized leave of  
9 absence was granted and the time the member resumed employment.

10 (4) A member who leaves the employ of an employer to enter the  
11 (~~armed forces~~) uniformed services of the United States shall be  
12 entitled to retirement system service credit for up to five years of  
13 military service if within ninety days of the member's honorable  
14 discharge from the uniformed services of the United States (~~armed~~  
15 ~~forces~~), the member applies for reemployment with the employer who  
16 employed the member immediately prior to the member entering the  
17 (~~United States armed forces~~) uniformed services. This subsection  
18 shall be administered in a manner consistent with the requirements of  
19 the federal uniformed services employment and reemployment rights act.

20 The department shall establish the member's service credit and  
21 shall bill the employer for its contribution required under RCW  
22 41.45.060 and 41.45.067 for the period of military service, plus  
23 interest as determined by the department. Service credit under this  
24 subsection may be obtained only if the member makes the employee  
25 contribution to the defined contribution portion as determined by the  
26 department.

27 The contributions required shall be based on the compensation the  
28 member would have earned if not on leave, or if that cannot be  
29 estimated with reasonable certainty, the compensation reported for the  
30 member in the year prior to when the member went on military leave.

31 (a) The surviving spouse or eligible child or children of a member  
32 who left the employ of an employer to enter the uniformed services of  
33 the United States and died while serving in the uniformed services may,  
34 on behalf of the deceased member, apply for retirement system service  
35 credit under this subsection up to the date of the member's death in  
36 the uniformed services. The department shall establish the deceased  
37 member's service credit if the surviving spouse or eligible child or  
38 children:

1 (i) Provides to the director proof of the member's death while  
2 servng in the uniformed services;

3 (ii) Provides to the director proof of the member's honorable  
4 service in the uniformed services prior to the date of death; and

5 (iii) Pays the employee contributions required under this  
6 subsection within five years of the date of death or prior to the  
7 distribution of any benefit, whichever comes first.

8 (b) A member who leaves the employ of an employer to enter the  
9 uniformed services of the United States and becomes totally  
10 incapacitated for continued employment by an employer while serving in  
11 the uniformed services is entitled to retirement system service credit  
12 under this subsection up to the date of discharge from the uniformed  
13 services if:

14 (i) The member obtains a determination from the director that he or  
15 she is totally incapacitated for continued employment due to conditions  
16 or events that occurred while serving in the uniformed services;

17 (ii) The member provides to the director proof of honorable  
18 discharge from the uniformed services; and

19 (iii) The member pays the employee contributions required under  
20 this subsection within five years of the director's determination of  
21 total disability or prior to the distribution of any benefit, whichever  
22 comes first.

23 **Sec. 4.** RCW 41.35.470 and 1998 c 341 s 108 are each amended to  
24 read as follows:

25 (1) A member who is on a paid leave of absence authorized by a  
26 member's employer shall continue to receive service credit as provided  
27 for under the provisions of RCW 41.35.400 through 41.35.599.

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. Such  
8 credit may be obtained only if:

9 (a) The member makes both the plan 2 employer and member  
10 contributions plus interest as determined by the department for the  
11 period of the authorized leave of absence within five years of  
12 resumption of service 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~~) uniformed services of the United States shall be  
21 entitled to retirement system service credit for up to five years of  
22 military service. This subsection shall be administered in a manner  
23 consistent with the requirements of the federal uniformed services  
24 employment and 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 uniformed services of the United States (~~armed forces~~), the member  
29 applies for reemployment with the employer who employed the member  
30 immediately prior to the member entering the (~~United States armed~~  
31 ~~forces~~) uniformed services; and

32 (ii) The member makes the employee contributions required under RCW  
33 41.35.430 within five years of resumption of service or prior to  
34 retirement, whichever comes sooner; or

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



1 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
2 or (e)(iii) of this subsection, the department shall establish the  
3 member's service credit and shall bill the employer for its  
4 contribution required under RCW 41.35.430 for the period of military  
5 service, plus interest as determined by the department.

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

11 (d) The surviving spouse or eligible child or children of a member  
12 who left the employ of an employer to enter the uniformed services of  
13 the United States and died while serving in the uniformed services may,  
14 on behalf of the deceased member, apply for retirement system service  
15 credit under this subsection up to the date of the member's death in  
16 the uniformed services. The department shall establish the deceased  
17 member's service credit if the surviving spouse or eligible child or  
18 children:

19 (i) Provides to the director proof of the member's death while  
20 serving in the uniformed services;

21 (ii) Provides to the director proof of the member's honorable  
22 service in the uniformed services prior to the date of death; and

23 (iii) Pays the employee contributions required under chapter 41.45  
24 RCW within five years of the date of death or prior to the distribution  
25 of any benefit, whichever comes first.

26 (e) A member who leaves the employ of an employer to enter the  
27 uniformed services of the United States and becomes totally  
28 incapacitated for continued employment by an employer while serving in  
29 the uniformed services is entitled to retirement system service credit  
30 under this subsection up to the date of discharge from the uniformed  
31 services if:

32 (i) The member obtains a determination from the director that he or  
33 she is totally incapacitated for continued employment due to conditions  
34 or events that occurred while serving in the uniformed services;

35 (ii) The member provides to the director proof of honorable  
36 discharge from the uniformed services; and

37 (iii) The member pays the employee contributions required under

1 chapter 41.45 RCW within five years of the director's determination of  
2 total disability or prior to the distribution of any benefit, whichever  
3 comes first.

4 **Sec. 5.** RCW 41.35.650 and 1998 c 341 s 206 are each amended to  
5 read as follows:

6 (1) A member who is on a paid leave of absence authorized by a  
7 member's employer shall continue to receive service credit.

8 (2) A member who receives compensation from an employer while on an  
9 authorized leave of absence to serve as an elected official of a labor  
10 organization, and whose employer is reimbursed by the labor  
11 organization for the compensation paid to the member during the period  
12 of absence, may also be considered to be on a paid leave of absence.  
13 This subsection shall only apply if the member's leave of absence is  
14 authorized by a collective bargaining agreement that provides that the  
15 member retains seniority rights with the employer during the period of  
16 leave. The earnable compensation reported for a member who establishes  
17 service credit under this subsection may not be greater than the salary  
18 paid to the highest paid job class covered by the collective bargaining  
19 agreement.

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

25 (a) The member makes the contribution on behalf of the employer,  
26 plus interest, as determined by the department; and

27 (b) The member makes the employee contribution, plus interest, as  
28 determined by the department, to the defined contribution portion.

29 The contributions required shall be based on the average of the  
30 member's earnable compensation at both the time the authorized leave of  
31 absence was granted and the time the member resumed employment.

32 (4) A member who leaves the employ of an employer to enter the  
33 (~~armed forces~~) uniformed services of the United States shall be  
34 entitled to retirement system service credit for up to five years of  
35 military service if within ninety days of the member's honorable  
36 discharge from the uniformed services of the United States (~~armed~~  
37 ~~forces~~)), the member applies for reemployment with the employer who

1 employed the member immediately prior to the member entering the  
2 (~~United States armed forces~~) uniformed services. This subsection  
3 shall be administered in a manner consistent with the requirements of  
4 the federal uniformed services employment and reemployment rights act.

5 The department shall establish the member's service credit and  
6 shall bill the employer for its contribution required under RCW  
7 41.35.720 for the period of military service, plus interest as  
8 determined by the department. Service credit under this subsection may  
9 be obtained only if the member makes the employee contribution to the  
10 defined contribution portion as determined by the department.

11 The contributions required shall be based on the compensation the  
12 member would have earned if not on leave, or if that cannot be  
13 estimated with reasonable certainty, the compensation reported for the  
14 member in the year prior to when the member went on military leave.

15 (a) The surviving spouse or eligible child or children of a member  
16 who left the employ of an employer to enter the uniformed services of  
17 the United States and died while serving in the uniformed services may,  
18 on behalf of the deceased member, apply for retirement system service  
19 credit under this subsection up to the date of the member's death in  
20 the uniformed services. The department shall establish the deceased  
21 member's service credit if the surviving spouse or eligible child or  
22 children:

23 (i) Provides to the director proof of the member's death while  
24 serving in the uniformed services;

25 (ii) Provides to the director proof of the member's honorable  
26 service in the uniformed services prior to the date of death; and

27 (iii) Pays the employee contributions required under this  
28 subsection within five years of the date of death or prior to the  
29 distribution of any benefit, whichever comes first.

30 (b) A member who leaves the employ of an employer to enter the  
31 uniformed services of the United States and becomes totally  
32 incapacitated for continued employment by an employer while serving in  
33 the uniformed services is entitled to retirement system service credit  
34 under this subsection up to the date of discharge from the uniformed  
35 services if:

36 (i) The member obtains a determination from the director that he or  
37 she is totally incapacitated for continued employment due to conditions  
38 or events that occurred while serving in the uniformed services;

1 (ii) The member provides to the director proof of honorable  
2 discharge from the uniformed services; and

3 (iii) The member pays the employee contributions required under  
4 this subsection within five years of the director's determination of  
5 total disability or prior to the distribution of any benefit, whichever  
6 comes first.

7 **Sec. 6.** RCW 41.32.260 and 1992 c 212 s 8 are each amended to read  
8 as follows:

9 Any member whose public school service is interrupted by active  
10 service to the United States as a member of its (~~military, naval or~~  
11 ~~air service~~) uniformed services, or to the state of Washington, as a  
12 member of the legislature, may upon becoming reemployed in the public  
13 schools, receive credit for that service upon presenting satisfactory  
14 proof, and contributing to the member reserve, either in a lump sum or  
15 installments, amounts determined by the director. Except that no  
16 military service credit in excess of five years shall be established or  
17 reestablished after July 1, 1961, unless the service was actually  
18 rendered during time of war. This section shall be administered in a  
19 manner consistent with the requirements of the federal uniformed  
20 services employment and reemployment rights act.

21 (1) The surviving spouse or eligible child or children of a member  
22 who left the employ of an employer to enter the uniformed services of  
23 the United States and died while serving in the uniformed services may,  
24 on behalf of the deceased member, apply for retirement system service  
25 credit under this subsection up to the date of the member's death in  
26 the uniformed services. The department shall establish the deceased  
27 member's service credit if the surviving spouse or eligible child or  
28 children:

29 (a) Provides to the director proof of the member's death while  
30 serving in the uniformed services;

31 (b) Provides to the director proof of the member's honorable  
32 service in the uniformed services prior to the date of death; and

33 (c) Pays the employee contributions required under chapter 41.45  
34 RCW within five years of the date of death or prior to the distribution  
35 of any benefit, whichever comes first.

36 (2) A member who leaves the employ of an employer to enter the  
37 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in  
2 the uniformed services is entitled to retirement system service credit  
3 under this subsection up to the date of discharge from the uniformed  
4 services if:

5 (a) The member obtains a determination from the director that he or  
6 she is totally incapacitated for continued employment due to conditions  
7 or events that occurred while serving in the uniformed services;

8 (b) The member provides to the director proof of honorable  
9 discharge from the uniformed services; and

10 (c) The member pays the employee contributions required under  
11 chapter 41.45 RCW within five years of the director's determination of  
12 total disability or prior to the distribution of any benefit, whichever  
13 comes first.

14 **Sec. 7.** RCW 41.32.810 and 1996 c 61 s 2 are each amended to read  
15 as follows:

16 (1) A member who is on a paid leave of absence authorized by a  
17 member's employer shall continue to receive service credit as provided  
18 for under the provisions of RCW 41.32.755 through 41.32.825.

19 (2) A member who receives compensation from an employer while on an  
20 authorized leave of absence to serve as an elected official of a labor  
21 organization, and whose employer is reimbursed by the labor  
22 organization for the compensation paid to the member during the period  
23 of absence, may also be considered to be on a paid leave of absence.  
24 This subsection shall only apply if the member's leave of absence is  
25 authorized by a collective bargaining agreement that provides that the  
26 member retains seniority rights with the employer during the period of  
27 leave. The earnable compensation reported for a member who establishes  
28 service credit under this subsection may not be greater than the salary  
29 paid to the highest paid job class covered by the collective bargaining  
30 agreement.

31 (3) Except as specified in subsection (6) of this section, a member  
32 shall be eligible to receive a maximum of two years service credit  
33 during a member's entire working career for those periods when a member  
34 is on an unpaid leave of absence authorized by an employer. Such  
35 credit may be obtained only if the member makes both the employer and  
36 member contributions plus interest as determined by the department for

1 the period of the authorized leave of absence within five years of  
2 resumption of service or prior to retirement whichever comes sooner.

3 (4) If a member fails to meet the time limitations of subsection  
4 (3) of this section, the member may receive a maximum of two years of  
5 service credit during a member's working career for those periods when  
6 a member is on unpaid leave of absence authorized by an employer. This  
7 may be done by paying the amount required under RCW 41.50.165(2) prior  
8 to retirement.

9 (5) For the purpose of subsection (3) of this section, the  
10 contribution shall not include the contribution for the unfunded  
11 supplemental present value as required by RCW 41.32.775. The  
12 contributions required shall be based on the average of the member's  
13 earnable compensation at both the time the authorized leave of absence  
14 was granted and the time the member resumed employment.

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

21 (a) The member qualifies for service credit under this subsection  
22 if:

23 (i) Within ninety days of the member's honorable discharge from the  
24 uniformed services of the United States (~~armed forces~~), the member  
25 applies for reemployment with the employer who employed the member  
26 immediately prior to the member entering the (~~United States armed~~  
27 ~~forces~~) uniformed services; and

28 (ii) The member makes the employee contributions required under RCW  
29 41.32.775 within five years of resumption of service or prior to  
30 retirement, whichever comes sooner; or

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

34 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
35 or (e)(iii) of this subsection, the department shall establish the  
36 member's service credit and shall bill the employer for its  
37 contribution required under RCW 41.32.775 for the period of military  
38 service, plus interest as determined by the department.

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

6 (d) The surviving spouse or eligible child or children of a member  
7 who left the employ of an employer to enter the uniformed services of  
8 the United States and died while serving in the uniformed services may,  
9 on behalf of the deceased member, apply for retirement system service  
10 credit under this subsection up to the date of the member's death in  
11 the uniformed services. The department shall establish the deceased  
12 member's service credit if the surviving spouse or eligible child or  
13 children:

14 (i) Provides to the director proof of the member's death while  
15 serving in the uniformed services;

16 (ii) Provides to the director proof of the member's honorable  
17 service in the uniformed services prior to the date of death; and

18 (iii) Pays the employee contributions required under chapter 41.45  
19 RCW within five years of the date of death or prior to the distribution  
20 of any benefit, whichever comes first.

21 (e) A member who leaves the employ of an employer to enter the  
22 uniformed services of the United States and becomes totally  
23 incapacitated for continued employment by an employer while serving in  
24 the uniformed services is entitled to retirement system service credit  
25 under this subsection up to the date of discharge from the uniformed  
26 services if:

27 (i) The member obtains a determination from the director that he or  
28 she is totally incapacitated for continued employment due to conditions  
29 or events that occurred while serving in the uniformed services;

30 (ii) The member provides to the director proof of honorable  
31 discharge from the uniformed services; and

32 (iii) The member pays the employee contributions required under  
33 chapter 41.45 RCW within five years of the director's determination of  
34 total disability or prior to the distribution of any benefit, whichever  
35 comes first.

36 **Sec. 8.** RCW 41.32.865 and 1996 c 61 s 3 are each amended to read  
37 as follows:

1 (1) A member who is on a paid leave of absence authorized by a  
2 member's employer shall continue to receive service credit.

3 (2) A member who receives compensation from an employer while on an  
4 authorized leave of absence to serve as an elected official of a labor  
5 organization, and whose employer is reimbursed by the labor  
6 organization for the compensation paid to the member during the period  
7 of absence, may also be considered to be on a paid leave of absence.  
8 This subsection shall only apply if the member's leave of absence is  
9 authorized by a collective bargaining agreement that provides that the  
10 member retains seniority rights with the employer during the period of  
11 leave. The earnable compensation reported for a member who establishes  
12 service credit under this subsection may not be greater than the salary  
13 paid to the highest paid job class covered by the collective bargaining  
14 agreement.

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

20 (a) The member makes the contribution on behalf of the employer,  
21 plus interest, as determined by the department; and

22 (b) The member makes the employee contribution, plus interest, as  
23 determined by the department, to the defined contribution portion.

24 The contributions required shall be based on the average of the  
25 member's earnable compensation at both the time the authorized leave of  
26 absence was granted and the time the member resumed employment.

27 (4) A member who leaves the employ of an employer to enter the  
28 (~~armed forces~~) uniformed services of the United States shall be  
29 entitled to retirement system service credit for up to five years of  
30 military service if within ninety days of the member's honorable  
31 discharge from the uniformed services of the United States (~~armed  
32 forces~~), the member applies for reemployment with the employer who  
33 employed the member immediately prior to the member entering the  
34 (~~United States armed forces~~) uniformed services. This subsection  
35 shall be administered in a manner consistent with the requirements of  
36 the federal uniformed services employment and reemployment rights act.

37 The department shall establish the member's service credit and  
38 shall bill the employer for its contribution required under chapter



1 239, Laws of 1995 for the period of military service, plus interest as  
2 determined by the department. Service credit under this subsection may  
3 be obtained only if the member makes the employee contribution to the  
4 defined contribution portion as determined by the department.

5 The contributions required shall be based on the compensation the  
6 member would have earned if not on leave, or if that cannot be  
7 estimated with reasonable certainty, the compensation reported for the  
8 member in the year prior to when the member went on military leave.

9 (a) The surviving spouse or eligible child or children of a member  
10 who left the employ of an employer to enter the uniformed services of  
11 the United States and died while serving in the uniformed services may,  
12 on behalf of the deceased member, apply for retirement system service  
13 credit under this subsection up to the date of the member's death in  
14 the uniformed services. The department shall establish the deceased  
15 member's service credit if the surviving spouse or eligible child or  
16 children:

17 (i) Provides to the director proof of the member's death while  
18 serving in the uniformed services;

19 (ii) Provides to the director proof of the member's honorable  
20 service in the uniformed services prior to the date of death; and

21 (iii) Pays the employee contributions required under this  
22 subsection within five years of the date of death or prior to the  
23 distribution of any benefit, whichever comes first.

24 (b) A member who leaves the employ of an employer to enter the  
25 uniformed services of the United States and becomes totally  
26 incapacitated for continued employment by an employer while serving in  
27 the uniformed services is entitled to retirement system service credit  
28 under this subsection up to the date of discharge from the uniformed  
29 services if:

30 (i) The member obtains a determination from the director that he or  
31 she is totally incapacitated for continued employment due to conditions  
32 or events that occurred while serving in the uniformed services;

33 (ii) The member provides to the director proof of honorable  
34 discharge from the uniformed services; and

35 (iii) The member pays the employee contributions required under  
36 this subsection within five years of the director's determination of  
37 total disability or prior to the distribution of any benefit, whichever  
38 comes first.

1       **Sec. 9.** RCW 41.26.520 and 2002 c 28 s 1 are each amended to read  
2 as follows:

3       (1) A member who is on a paid leave of absence authorized by a  
4 member's employer shall continue to receive service credit as provided  
5 for under the provisions of RCW 41.26.410 through 41.26.550.

6       (2) A member who receives compensation from an employer while on an  
7 authorized leave of absence to serve as an elected official of a labor  
8 organization, and whose employer is reimbursed by the labor  
9 organization for the compensation paid to the member during the period  
10 of absence, may also be considered to be on a paid leave of absence.  
11 This subsection shall only apply if the member's leave of absence is  
12 authorized by a collective bargaining agreement that provides that the  
13 member retains seniority rights with the employer during the period of  
14 leave. The basic salary reported for a member who establishes service  
15 credit under this subsection may not be greater than the salary paid to  
16 the highest paid job class covered by the collective bargaining  
17 agreement.

18       (3) Except as specified in subsection (7) of this section, a member  
19 shall be eligible to receive a maximum of two years service credit  
20 during a member's entire working career for those periods when a member  
21 is on an unpaid leave of absence authorized by an employer. Such  
22 credit may be obtained only if the member makes the employer, member,  
23 and state contributions plus interest as determined by the department  
24 for the period of the authorized leave of absence within five years of  
25 resumption of service or prior to retirement whichever comes sooner.

26       (4) A law enforcement member may be authorized by an employer to  
27 work part time and to go on a part-time leave of absence. During a  
28 part-time leave of absence a member is prohibited from any other  
29 employment with their employer. A member is eligible to receive credit  
30 for any portion of service credit not earned during a month of part-  
31 time leave of absence if the member makes the employer, member, and  
32 state contributions, plus interest, as determined by the department for  
33 the period of the authorized leave within five years of resumption of  
34 full-time service or prior to retirement whichever comes sooner. Any  
35 service credit purchased for a part-time leave of absence is included  
36 in the two-year maximum provided in subsection (3) of this section.

37       (5) If a member fails to meet the time limitations of subsection  
38 (3) or (4) of this section, the member may receive a maximum of two

1 years of service credit during a member's working career for those  
2 periods when a member is on unpaid leave of absence authorized by an  
3 employer. This may be done by paying the amount required under RCW  
4 41.50.165(2) prior to retirement.

5 (6) For the purpose of subsection (3) or (4) of this section the  
6 contribution shall not include the contribution for the unfunded  
7 supplemental present value as required by RCW 41.45.060, 41.45.061, and  
8 41.45.067. The contributions required shall be based on the average of  
9 the member's basic salary at both the time the authorized leave of  
10 absence was granted and the time the member resumed employment.

11 (7) A member who leaves the employ of an employer to enter the  
12 (~~armed forces~~) uniformed services of the United States shall be  
13 entitled to retirement system service credit for up to five years of  
14 military service. This subsection shall be administered in a manner  
15 consistent with the requirements of the federal uniformed services  
16 employment and reemployment rights act.

17 (a) The member qualifies for service credit under this subsection  
18 if:

19 (i) Within ninety days of the member's honorable discharge from the  
20 uniformed services of the United States (~~armed forces~~), the member  
21 applies for reemployment with the employer who employed the member  
22 immediately prior to the member entering the (~~United States armed~~  
23 ~~forces~~) uniformed services; and

24 (ii) The member makes the employee contributions required under RCW  
25 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of  
26 service or prior to retirement, whichever comes sooner; or

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

30 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
31 or (e)(iii) of this subsection, the department shall establish the  
32 member's service credit and shall bill the employer and the state for  
33 their respective contributions required under RCW 41.26.450 for the  
34 period of military service, plus interest as determined by the  
35 department.

36 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)  
37 of this subsection shall be based on the compensation the member would

1 have earned if not on leave, or if that cannot be estimated with  
2 reasonable certainty, the compensation reported for the member in the  
3 year prior to when the member went on military leave.

4 (d) The surviving spouse or eligible child or children of a member  
5 who left the employ of an employer to enter the uniformed services of  
6 the United States and died while serving in the uniformed services may,  
7 on behalf of the deceased member, apply for retirement system service  
8 credit under this subsection up to the date of the member's death in  
9 the uniformed services. The department shall establish the deceased  
10 member's service credit if the surviving spouse or eligible child or  
11 children:

12 (i) Provides to the director proof of the member's death while  
13 serving in the uniformed services;

14 (ii) Provides to the director proof of the member's honorable  
15 service in the uniformed services prior to the date of death; and

16 (iii) Pays the employee contributions required under chapter 41.45  
17 RCW within five years of the date of death or prior to the distribution  
18 of any benefit, whichever comes first.

19 (e) A member who leaves the employ of an employer to enter the  
20 uniformed services of the United States and becomes totally  
21 incapacitated for continued employment by an employer while serving in  
22 the uniformed services is entitled to retirement system service credit  
23 under this subsection up to the date of discharge from the uniformed  
24 services if:

25 (i) The member obtains a determination from the director that he or  
26 she is totally incapacitated for continued employment due to conditions  
27 or events that occurred while serving in the uniformed services;

28 (ii) The member provides to the director proof of honorable  
29 discharge from the uniformed services; and

30 (iii) The member pays the employee contributions required under  
31 chapter 41.45 RCW within five years of the director's determination of  
32 total disability or prior to the distribution of any benefit, whichever  
33 comes first.

34 (8) A member receiving benefits under Title 51 RCW who is not  
35 receiving benefits under this chapter shall be deemed to be on unpaid,  
36 authorized leave of absence.

1       **Sec. 10.** RCW 43.43.260 and 2002 c 27 s 3 are each amended to read  
2 as follows:

3       Upon retirement from service as provided in RCW 43.43.250, a member  
4 shall be granted a retirement allowance which shall consist of:

5       (1) A prior service allowance which shall be equal to two percent  
6 of the member's average final salary multiplied by the number of years  
7 of prior service rendered by the member.

8       (2) A current service allowance which shall be equal to two percent  
9 of the member's average final salary multiplied by the number of years  
10 of service rendered while a member of the retirement system.

11       (3)(a) Any member commissioned prior to January 1, 2003, with  
12 twenty-five years service in the Washington state patrol may have the  
13 member's service in the (~~armed forces~~) uniformed services credited as  
14 a member whether or not the individual left the employ of the  
15 Washington state patrol to enter such (~~armed forces~~) uniformed  
16 services: PROVIDED, That in no instance shall military service in  
17 excess of five years be credited: AND PROVIDED FURTHER, That in each  
18 instance, a member must restore all withdrawn accumulated  
19 contributions, which restoration must be completed on the date of the  
20 member's retirement, or as provided under RCW 43.43.130, whichever  
21 occurs first: AND PROVIDED FURTHER, That this section shall not apply  
22 to any individual, not a veteran within the meaning of RCW 41.06.150.

23       (b) A member who leaves the Washington state patrol to enter the  
24 (~~armed forces~~) uniformed services of the United States shall be  
25 entitled to retirement system service credit for up to five years of  
26 military service. This subsection shall be administered in a manner  
27 consistent with the requirements of the federal uniformed services  
28 employment and reemployment rights act.

29       (i) The member qualifies for service credit under this subsection  
30 if:

31       (A) Within ninety days of the member's honorable discharge from the  
32 uniformed services of the United States (~~armed forces~~), the member  
33 applies for reemployment with the employer who employed the member  
34 immediately prior to the member entering the (~~United States armed~~  
35 ~~forces~~) uniformed services; and

36       (B) The member makes the employee contributions required under RCW  
37 41.45.0631 and 41.45.067 within five years of resumption of service or  
38 prior to retirement, whichever comes sooner; or

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

4 (ii) Upon receipt of member contributions under (b)(i)(B),  
5 (b)(iv)(C), and (b)(v)(C) of this subsection, the department shall  
6 establish the member's service credit and shall bill the employer for  
7 its contribution required under RCW 41.45.060 for the period of  
8 military service, plus interest as determined by the department.

9 (iii) The contributions required under (b)(i)(B), (b)(iv)(C), and  
10 (b)(v)(C) of this subsection shall be based on the compensation the  
11 member would have earned if not on leave, or if that cannot be  
12 estimated with reasonable certainty, the compensation reported for the  
13 member in the year prior to when the member went on military leave.

14 (iv) The surviving spouse or eligible child or children of a member  
15 who left the employ of an employer to enter the uniformed services of  
16 the United States and died while serving in the uniformed services may,  
17 on behalf of the deceased member, apply for retirement system service  
18 credit under this subsection up to the date of the member's death in  
19 the uniformed services. The department shall establish the deceased  
20 member's service credit if the surviving spouse or eligible child or  
21 children:

22 (A) Provides to the director proof of the member's death while  
23 serving in the uniformed services;

24 (B) Provides to the director proof of the member's honorable  
25 service in the uniformed services prior to the date of death; and

26 (C) If the member was commissioned on or after January 1, 2003,  
27 pays the employee contributions required under chapter 41.45 RCW within  
28 five years of the date of death or prior to the distribution of any  
29 benefit, whichever comes first.

30 (v) A member who leaves the employ of an employer to enter the  
31 uniformed services of the United States and becomes totally  
32 incapacitated for continued employment by an employer while serving in  
33 the uniformed services is entitled to retirement system service credit  
34 under this subsection up to the date of discharge from the uniformed  
35 services if:

36 (A) The member obtains a determination from the director that he or  
37 she is totally incapacitated for continued employment due to conditions  
38 or events that occurred while serving in the uniformed services;

1       (B) The member provides to the director proof of honorable  
2 discharge from the uniformed services; and

3       (C) If the member was commissioned on or after January 1, 2003, the  
4 member pays the employee contributions required under chapter 41.45 RCW  
5 within five years of the director's determination of total disability  
6 or prior to the distribution of any benefit, whichever comes first.

7       (4) In no event shall the total retirement benefits from  
8 subsections (1), (2), and (3) of this section, of any member exceed  
9 seventy-five percent of the member's average final salary.

10       (5) Beginning July 1, 2001, and every year thereafter, the  
11 department shall determine the following information for each retired  
12 member or beneficiary whose retirement allowance has been in effect for  
13 at least one year:

14       (a) The original dollar amount of the retirement allowance;

15       (b) The index for the calendar year prior to the effective date of  
16 the retirement allowance, to be known as "index A";

17       (c) The index for the calendar year prior to the date of  
18 determination, to be known as "index B"; and

19       (d) The ratio obtained when index B is divided by index A.

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

23       (i) Produce a retirement allowance which is lower than the original  
24 retirement allowance;

25       (ii) Exceed three percent in the initial annual adjustment; or

26       (iii) Differ from the previous year's annual adjustment by more  
27 than three percent.

28       For the purposes of this section, "index" means, for any calendar  
29 year, that year's average consumer price index for the Seattle-Tacoma-  
30 Bremerton Washington area for urban wage earners and clerical workers,  
31 all items, compiled by the bureau of labor statistics, United States  
32 department of labor.

33       The provisions of this section shall apply to all members presently  
34 retired and to all members who shall retire in the future.

35       **Sec. 11.** RCW 41.37.260 and 2004 c 242 s 32 are each amended to  
36 read as follows:

1 (1) A member who is on a paid leave of absence authorized by a  
2 member's employer shall continue to receive service credit as provided  
3 for under RCW 41.37.190 through 41.37.290.

4 (2) A member who receives compensation from an employer while on an  
5 authorized leave of absence to serve as an elected official of a labor  
6 organization, and whose employer is reimbursed by the labor  
7 organization for the compensation paid to the member during the period  
8 of absence, may also be considered to be on a paid leave of absence.  
9 This subsection shall only apply if the member's leave of absence is  
10 authorized by a collective bargaining agreement that provides that the  
11 member retains seniority rights with the employer during the period of  
12 leave. The compensation earnable reported for a member who establishes  
13 service credit under this subsection may not be greater than the salary  
14 paid to the highest paid job class covered by the collective bargaining  
15 agreement.

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

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

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

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

31 (4) A member who leaves the employ of an employer to enter the  
32 (~~armed forces~~) uniformed services of the United States shall be  
33 entitled to retirement system service credit for up to five years of  
34 military service. This subsection shall be administered in a manner  
35 consistent with the requirements of the federal uniformed services  
36 employment and reemployment rights act.

37 (a) The member qualifies for service credit under this subsection  
38 if:



1 (i) Within ninety days of the member's honorable discharge from the  
2 uniformed services of the United States ((armed forces)), the member  
3 applies for reemployment with the employer who employed the member  
4 immediately prior to the member entering the ((United States armed  
5 forces)) uniformed services; and

6 (ii) The member makes the employee contributions required under RCW  
7 41.37.220 within five years of resumption of service or prior to  
8 retirement, whichever comes sooner; or

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

12 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
13 or (e)(iii) of this subsection, the department shall establish the  
14 member's service credit and shall bill the employer for its  
15 contribution required under RCW 41.37.220 for the period of military  
16 service, plus interest as determined by the department.

17 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)  
18 of this subsection shall be based on the compensation the member would  
19 have earned if not on leave, or if that cannot be estimated with  
20 reasonable certainty, the compensation reported for the member in the  
21 year prior to when the member went on military leave.

22 (d) The surviving spouse or eligible child or children of a member  
23 who left the employ of an employer to enter the uniformed services of  
24 the United States and died while serving in the uniformed services may,  
25 on behalf of the deceased member, apply for retirement system service  
26 credit under this subsection up to the date of the member's death in  
27 the uniformed services. The department shall establish the deceased  
28 member's service credit if the surviving spouse or eligible child or  
29 children:

30 (i) Provides to the director proof of the member's death while  
31 serving in the uniformed services;

32 (ii) Provides to the director proof of the member's honorable  
33 service in the uniformed services prior to the date of death; and

34 (iii) Pays the employee contributions required under chapter 41.45  
35 RCW within five years of the date of death or prior to the distribution  
36 of any benefit, whichever comes first.

37 (e) A member who leaves the employ of an employer to enter the  
38 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in  
2 the uniformed services is entitled to retirement system service credit  
3 under this subsection up to the date of discharge from the uniformed  
4 services if:

5 (i) The member obtains a determination from the director that he or  
6 she is totally incapacitated for continued employment due to conditions  
7 or events that occurred while serving in the uniformed services;

8 (ii) The member provides to the director proof of honorable  
9 discharge from the uniformed services; and

10 (iii) The member pays the employee contributions required under  
11 chapter 41.45 RCW within five years of the director's determination of  
12 total disability or prior to the distribution of any benefit, whichever  
13 comes first.

14 NEW SECTION. Sec. 12. Section 11 of this act takes effect July 1,  
15 2006.

--- END ---