
SENATE BILL 6218

State of Washington

59th Legislature

2006 Regular Session

By Senators Prentice, Fairley, Rockefeller, Weinstein, Shin, Berkey, Kline, Keiser, Franklin, Regala, Thibaudeau, Jacobsen and Kohl-Welles

Read first time 01/09/2006. Referred to Committee on Ways & Means.

1 AN ACT Relating to retirement benefits for domestic partners;
2 amending RCW 2.10.030, 2.12.030, 2.12.048, 2.14.110, 28B.10.400,
3 28B.10.431, 41.20.085, 41.24.180, 41.26.030, 41.26.030, 41.26.048,
4 41.26.090, 41.26.160, 41.26.161, 41.26.460, 41.26.470, 41.26.510,
5 41.26.520, 41.32.053, 41.32.260, 41.32.520, 41.32.785, 41.32.790,
6 41.32.805, 41.32.810, 41.32.865, 41.32.895, 41.35.010, 41.35.115,
7 41.35.220, 41.35.440, 41.35.460, 41.35.470, 41.35.650, 41.35.710,
8 41.37.010, 41.37.110, 41.37.170, 41.37.250, 41.37.260, 41.40.010,
9 41.40.0931, 41.40.0932, 41.40.185, 41.40.188, 41.40.190, 41.40.220,
10 41.40.235, 41.40.250, 41.40.270, 41.40.660, 41.40.670, 41.40.700,
11 41.40.710, 41.40.805, 41.44.030, 41.40.835, 41.44.170, 41.44.190,
12 41.44.210, 41.44.220, 41.50.700, and 41.54.034; reenacting and amending
13 RCW 41.24.172, 41.32.010, and 41.40.170; creating a new section;
14 providing effective dates; and providing an expiration date.

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

16 **Sec. 1.** RCW 2.10.030 and 1997 c 88 s 5 are each amended to read as
17 follows:

18 (1) "Retirement system" means the "Washington judicial retirement
19 system" provided (~~herein~~) in this chapter.

1 (2) "Judge" means a person elected or appointed to serve as judge
2 of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW.
3 "Judge" does not include a person serving as a judge pro tempore except
4 for a judge pro tempore appointed under RCW 2.04.240(2) or 2.06.150(2).

5 (3) "Retirement board" means the "Washington judicial retirement
6 board" established ((~~herein~~)) in this chapter.

7 (4) "Surviving spouse" means the surviving widow ((~~or~~)) widower
8 or domestic partner of a judge. "Surviving spouse" does not include
9 the divorced spouse of a judge.

10 (5) "Retirement fund" means the "Washington judicial retirement
11 fund" established ((~~herein~~)) in this chapter.

12 (6) "Beneficiary" means any person in receipt of a retirement
13 allowance, disability allowance or any other benefit described
14 ((~~herein~~)) in this chapter.

15 (7) "Monthly salary" means the monthly salary of the position held
16 by the judge.

17 (8) "Service" means all periods of time served as a judge, as
18 ((~~herein~~)) defined in this chapter. Any calendar month at the
19 beginning or end of a term in which ten or more days are served shall
20 be counted as a full month of service: PROVIDED, That no more than one
21 month's service may be granted for any one calendar month. Only months
22 of service will be counted in the computation of any retirement
23 allowance or other benefit provided for in this chapter. Years of
24 service shall be determined by dividing the total months of service by
25 twelve. Any fraction of a year of service as so determined shall be
26 taken into account in the computation of such retirement allowance or
27 benefit.

28 (9) "Final average salary" means (a) for a judge in service in the
29 same court for a minimum of twelve consecutive months preceding the
30 date of retirement, the salary attached to the position held by the
31 judge immediately prior to retirement; (b) for any other judge, the
32 average monthly salary paid over the highest twenty-four month period
33 in the last ten years of service.

34 (10) "Retirement allowance" for the purpose of applying cost of
35 living increases or decreases includes retirement allowances,
36 disability allowances and survivorship benefit.

37 (11) "Index" means for any calendar year, that year's annual

1 average consumer price index for urban wage earners and clerical
2 workers, all items (1957-1959 equal one hundred) -- compiled by the
3 bureau of labor statistics, United States department of labor.

4 (12) "Accumulated contributions" means the total amount deducted
5 from the judge's monthly salary pursuant to RCW 2.10.090, together with
6 the regular interest thereon from July 1, 1988, as determined by the
7 director of the department of retirement systems.

8 (13) "Domestic partner" has the definition in RCW 41.40.010.

9 **Sec. 2.** RCW 2.12.030 and 1973 1st ex.s. c 154 s 1 are each amended
10 to read as follows:

11 Supreme court, court of appeals, or superior court judges of the
12 state who retire from office under the provisions of this chapter other
13 than as provided in RCW 2.12.012 shall be entitled to receive monthly
14 during the period of their natural life, out of the fund hereinafter
15 created, an amount equal to one-half of the monthly salary they were
16 receiving as a judge at the time of their retirement, or at the end of
17 the term immediately prior to their retirement if their retirement is
18 made after expiration of their term. The surviving spouse or domestic
19 partner as defined in RCW 41.40.010 of any judge who shall have
20 heretofore retired or may hereafter retire, or of a judge who was
21 heretofore or may hereafter be eligible for retirement at the time of
22 death, if the surviving spouse had been married to the judge for three
23 years or the domestic partner had been in the domestic partnership for
24 three years, if the surviving spouse had been married to the judge
25 prior to retirement or the domestic partner had been in the domestic
26 partnership prior to retirement, shall be paid an amount equal to one-
27 half of the retirement pay of the judge, as long as such surviving
28 spouse or domestic partner remains unmarried. The retirement pay shall
29 be paid monthly by the state treasurer on or before the tenth day of
30 each month. The provisions of this section shall apply to the
31 surviving spouse or domestic partner of any judge who dies while
32 holding such office or dies after having retired under the provisions
33 of this chapter and who at the time of death had served ten or more
34 years in the aggregate as a judge of the supreme court, court of
35 appeals, or superior court or any of such courts, or had served an
36 aggregate of twelve years in the supreme court, court of appeals, or
37 superior court if such pension rights are based upon RCW 2.12.012.

1 **Sec. 3.** RCW 2.12.048 and 1991 c 159 s 2 are each amended to read
2 as follows:

3 If a judge who was a member of this system left the system before
4 July 1, 1988, and neither the judge nor the judge's surviving spouse or
5 domestic partner as defined in RCW 41.40.010: (1) Was eligible at that
6 time to receive a benefit under this chapter; or (2) has received an
7 amount under a sundry claims appropriation from the state legislature
8 intended as a refund of the judge's contributions paid under RCW
9 2.12.060; then the judge or the judge's surviving spouse or domestic
10 partner may apply to the department for and receive a refund of such
11 contributions.

12 **Sec. 4.** RCW 2.14.110 and 2005 c 282 s 1 are each amended to read
13 as follows:

14 If a member dies, the amount of the accumulated contributions
15 standing to the member's credit at the time of the member's death shall
16 be paid to the member's estate, or such person or persons, trust, or
17 organization as the member has nominated by written designation duly
18 executed and filed with the administrative office of the courts. If
19 there is no such designated person or persons still living at the time
20 of the member's death, the member's accumulated contributions shall be
21 paid to the member's surviving spouse or domestic partner as defined in
22 RCW 41.40.010 as if in fact the spouse or domestic partner had been
23 nominated by written designation or, if there is no such surviving
24 spouse or domestic partner, then to the member's legal representatives.

25 **Sec. 5.** RCW 28B.10.400 and 1979 ex.s. c 259 s 1 are each amended
26 to read as follows:

27 The boards of regents of the state universities, the boards of
28 trustees of the regional universities and of The Evergreen State
29 College, and the state board for community and technical colleges
30 (~~(education)~~) are authorized and empowered:

31 (1) To assist the faculties and such other employees as any such
32 board may designate in the purchase of old age annuities or retirement
33 income plans under such rules (~~(and regulations)~~) as any such board may
34 prescribe. County agricultural agents, home demonstration agents, 4-H
35 club agents, and assistant county agricultural agents paid jointly by

1 the Washington State University and the several counties shall be
2 deemed to be full time employees of the Washington State University for
3 the purposes ((hereof)) of this section;

4 (2) To provide, under such rules ((and regulations)) as any such
5 board may prescribe for the faculty members or other employees under
6 its supervision, for the retirement of any such faculty member or other
7 employee on account of age or condition of health, retirement on
8 account of age to be not earlier than the sixty-fifth birthday:
9 PROVIDED, That such faculty member or such other employee may elect to
10 retire at the earliest age specified for retirement by federal social
11 security law: PROVIDED FURTHER, That any supplemental payment
12 authorized by subsection (3) of this section and paid as a result of
13 retirement earlier than age sixty-five shall be at an actuarially
14 reduced rate;

15 (3) To pay to any such retired person or to his or her designated
16 beneficiary(s), each year after his or her retirement, a supplemental
17 amount which, when added to the amount of such annuity or retirement
18 income plan, or retirement income benefit pursuant to RCW 28B.10.415,
19 received by ((him or his)) the person or the person's designated
20 beneficiary(s) in such year, will not exceed fifty percent of the
21 average annual salary paid to such retired person for ((his)) the
22 highest two consecutive years of full time service under an annuity or
23 retirement income plan established pursuant to subsection (1) of this
24 section at an institution of higher education: PROVIDED, HOWEVER, That
25 if such retired person prior to ((his)) retirement elected a
26 supplemental payment survivor's option, any such supplemental payments
27 to such retired person or his or her designated beneficiary(s) shall be
28 at actuarially reduced rates: PROVIDED FURTHER, That if a faculty
29 member or other employee of an institution of higher education who is
30 a participant in a retirement plan authorized by this section dies, or
31 has died before retirement but after becoming eligible for retirement
32 on account of age, the designated beneficiary(s) shall be entitled to
33 receive the supplemental payment authorized by this subsection (3) of
34 this section to which such designated beneficiary(s) would have been
35 entitled had said deceased faculty member or other employee retired on
36 the date of death after electing a supplemental payment survivors
37 option: PROVIDED FURTHER, That for the purpose of this subsection, the
38 designated beneficiary(s) shall be (a) the surviving spouse or domestic

1 partner as defined in RCW 41.40.010 of the retiree; or, (b) with the
2 written consent of such spouse or domestic partner, if any, such other
3 person or persons as shall have an insurable interest in the retiree's
4 life and shall have been nominated by written designation duly executed
5 and filed with the retiree's institution of higher education.

6 **Sec. 6.** RCW 28B.10.431 and 1983 1st ex.s. c 56 s 2 are each
7 amended to read as follows:

8 Notwithstanding any provision of law to the contrary, effective
9 July 1, 1983, the monthly benefit of each person who either is
10 receiving a benefit pursuant to a program established under RCW
11 28B.10.400 for their service as of July 1, 1978, or commenced receiving
12 a monthly benefit as a surviving spouse, domestic partner as defined in
13 RCW 41.40.010, or written designated beneficiary with an insurable
14 interest in the retiree as of a date no later than December 31, 1982,
15 shall be permanently increased by a postretirement adjustment of \$.74
16 per month for each year of creditable service the faculty member or
17 employee established with the annuity or retirement income plan. Any
18 fraction of a year of service shall be counted in the computation of
19 the postretirement adjustment.

20 **Sec. 7.** RCW 41.20.085 and 1973 1st ex.s. c 181 s 6 are each
21 amended to read as follows:

22 Whenever any member of the police department of any such city shall
23 die, or shall have heretofore died, or whenever any such member who has
24 been heretofore retired or who is hereafter retired for length of
25 service or a disability, shall have died, or shall die, leaving a
26 surviving spouse, domestic partner, or child or children under the age
27 of eighteen years, upon satisfactory proof of such facts made to it,
28 the board shall order and direct that a pension equal to one-third of
29 the amount of salary at any time hereafter attached to the position
30 held by such member in the police department at the time of (~~his~~) the
31 member's death or retirement, not to exceed one-third of the salary of
32 captain, shall be paid to the surviving spouse or domestic partner
33 during the surviving spouse's or domestic partner's life, and in
34 addition, to the child or children, until they are eighteen years of
35 age, as follows: For one child, one-eighth of the salary on which such
36 pension is based; for two children, a total of one-seventh of said

1 salary; and for three or more children, a total of one-sixth of said
2 salary: PROVIDED, If such spouse, domestic partner, or child or
3 children marry, the person so marrying shall receive no further pension
4 from the fund. In case there is no surviving spouse or domestic
5 partner, or if the surviving spouse shall die, the child or children
6 shall be entitled to the spouse's or domestic partner's share in
7 addition to the share specified herein until they reach eighteen years
8 of age. No spouse or domestic partner shall be entitled to any
9 payments on the death of a retired officer unless such surviving spouse
10 or domestic partner has been married to such officer for a period of at
11 least five years prior to the date of his or her retirement.

12 As of April 25, 1973, a surviving spouse or domestic partner not
13 otherwise covered by the provisions of section 2, chapter 78, Laws of
14 1959, shall be entitled to a pension of three hundred dollars per
15 month.

16 "Surviving spouse" as used in this section means surviving female
17 or male spouse.

18 "Domestic partner" as used in this section has the definition in
19 RCW 41.40.010.

20 **Sec. 8.** RCW 41.24.172 and 1999 c 148 s 16 and 1999 c 117 s 6 are
21 each reenacted and amended to read as follows:

22 Before beginning to receive the retirement pension provided for in
23 RCW 41.24.170, the participant shall elect, in a writing filed with the
24 state board, to have the retirement pension paid under either option 1
25 or 2, with option 2 calculated so as to be actuarially equivalent to
26 option 1.

27 (1) Option 1. A participant electing this option shall receive a
28 monthly pension payable throughout the participant's life. However, if
29 the participant dies before the total retirement pension paid to the
30 participant equals the amount paid on behalf of the participant into
31 the principal fund, then the balance shall be paid to the participant's
32 surviving spouse, domestic partner as defined in RCW 41.40.010, or if
33 there be no surviving spouse or domestic partner, then to the
34 participant's legal representatives.

35 (2) Option 2. A participant electing this option shall receive a
36 reduced monthly pension, which upon the participant's death shall be
37 continued throughout the life of and paid to the participant's

1 surviving spouse or domestic partner named in the written election
2 filed with the state board, however, in the event that the surviving
3 spouse or domestic partner dies before the participant, the
4 participant's monthly retirement allowance shall increase, effective
5 the first day of the following month, to the monthly amount that would
6 have been received had the participant elected option 1.

7 **Sec. 9.** RCW 41.24.180 and 1999 c 148 s 17 are each amended to read
8 as follows:

9 The board of trustees of any municipal corporation shall direct
10 payment from the principal fund in the following cases:

11 (1) To any participant, upon his or her request, upon attaining the
12 age of sixty-five years, who, for any reason, is not qualified to
13 receive the monthly retirement pension provided under this chapter and
14 who was enrolled in the retirement provisions and on whose behalf
15 annual fees for retirement pension were paid, a lump sum amount equal
16 to the amount paid into the fund by the participant.

17 (2) If any participant who has not completed at least ten years of
18 service dies without having requested a lump sum payment under
19 subsection (1) or (3) of this section, there shall be paid to the
20 participant's surviving spouse or domestic partner as defined in RCW
21 41.40.010, or if there be no surviving spouse or domestic partner, then
22 to such participant's legal representatives, a lump sum amount equal to
23 the amount paid into the fund by the participant. If any participant
24 who has completed at least ten years of service dies other than as the
25 result of injuries received or sickness contracted in consequence or as
26 the result of the performance of his or her duties, without having
27 requested a lump sum payment under subsection (1) or (3) of this
28 section and before beginning to receive the monthly pension provided
29 for in this chapter, the participant's surviving spouse or domestic
30 partner shall elect to receive either:

31 (a) A monthly pension computed as provided for in RCW 41.24.170
32 actuarially adjusted to reflect option 2 of RCW 41.24.172 and further
33 actuarially reduced to reflect the difference in the number of years
34 between the participant's age at death and age sixty-five; or

35 (b) A lump sum amount equal to the amount paid into the principal
36 fund by the participant and the municipality or municipalities in whose
37 department he or she has served.

1 If there be no such surviving spouse or domestic partner, then
2 there shall be paid to the participant's legal representatives a lump
3 sum amount equal to the amount paid into the fund by the participant.

4 (3) If any participant retires from service before attaining the
5 age of sixty-five years, the participant may make application for the
6 return in a lump sum of the amount paid into the fund by himself or
7 herself.

8 **Sec. 10.** RCW 41.26.030 and 2005 c 459 s 1 are each amended to read
9 as follows:

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

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

14 (2)(a) "Employer" for plan 1 members, means the legislative
15 authority of any city, town, county, or district or the elected
16 officials of any municipal corporation that employs any law enforcement
17 officer and/or fire fighter, any authorized association of such
18 municipalities, and, except for the purposes of RCW 41.26.150, any
19 labor guild, association, or organization, which represents the fire
20 fighters or law enforcement officers of at least seven cities of over
21 20,000 population and the membership of each local lodge or division of
22 which is composed of at least sixty percent law enforcement officers or
23 fire fighters as defined in this chapter.

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

27 (i) The legislative authority of any city, town, county, or
28 district;

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

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

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

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

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

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

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

16 (d) The term "law enforcement officer" also includes the executive
17 secretary of a labor guild, association or organization (which is an
18 employer under RCW 41.26.030(2)) if that individual has five years
19 previous membership in the retirement system established in chapter
20 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
21 plan 2 members; and

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

30 (4) "Fire fighter" means:

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

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

37 (c) Supervisory fire fighter personnel;

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

4 (e) The executive secretary of a labor guild, association or
5 organization (which is an employer under RCW 41.26.030(2) as now or
6 hereafter amended), if such individual has five years previous
7 membership in a retirement system established in chapter 41.16 or 41.18
8 RCW. The provisions of this subsection (4)(e) shall not apply to plan
9 2 members;

10 (f) Any person who is serving on a full time, fully compensated
11 basis for an employer, as a fire dispatcher, in a department in which,
12 on March 1, 1970, a dispatcher was required to have passed a civil
13 service examination for fire fighter;

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

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

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

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

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

29 (i) A natural born child;

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

32 (iii) A posthumous child;

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

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

37 (b) A person shall also be deemed to be a child up to and including
38 the age of twenty years and eleven months while attending any high

1 school, college, or vocational or other educational institution
2 accredited, licensed, or approved by the state, in which it is located,
3 including the summer vacation months and all other normal and regular
4 vacation periods at the particular educational institution after which
5 the child returns to school.

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

12 (9) "Retirement fund" means the "Washington law enforcement
13 officers' and fire fighters' retirement system fund" as provided for
14 herein.

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

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

20 (b) "Beneficiary" for plan 2 members, means any person in receipt
21 of a retirement allowance or other benefit provided by this chapter
22 resulting from service rendered to an employer by another person.

23 (12)(a) "Final average salary" for plan 1 members, means (i) for a
24 member holding the same position or rank for a minimum of twelve months
25 preceding the date of retirement, the basic salary attached to such
26 same position or rank at time of retirement; (ii) for any other member,
27 including a civil service member who has not served a minimum of twelve
28 months in the same position or rank preceding the date of retirement,
29 the average of the greatest basic salaries payable to such member
30 during any consecutive twenty-four month period within such member's
31 last ten years of service for which service credit is allowed, computed
32 by dividing the total basic salaries payable to such member during the
33 selected twenty-four month period by twenty-four; (iii) in the case of
34 disability of any member, the basic salary payable to such member at
35 the time of disability retirement; (iv) in the case of a member who
36 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
37 such member at the time of vesting.

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

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

11 (b) "Basic salary" for plan 2 members, means salaries or wages
12 earned by a member during a payroll period for personal services,
13 including overtime payments, and shall include wages and salaries
14 deferred under provisions established pursuant to sections 403(b),
15 414(h), and 457 of the United States Internal Revenue Code, but shall
16 exclude lump sum payments for deferred annual sick leave, unused
17 accumulated vacation, unused accumulated annual leave, or any form of
18 severance pay. In any year in which a member serves in the legislature
19 the member shall have the option of having such member's basic salary
20 be the greater of:

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

23 (ii) Such member's actual basic salary received for nonlegislative
24 public employment and legislative service combined. Any additional
25 contributions to the retirement system required because basic salary
26 under (b)(i) of this subsection is greater than basic salary under
27 (b)(ii) of this subsection shall be paid by the member for both member
28 and employer contributions.

29 (14)(a) "Service" for plan 1 members, means all periods of
30 employment for an employer as a fire fighter or law enforcement
31 officer, for which compensation is paid, together with periods of
32 suspension not exceeding thirty days in duration. For the purposes of
33 this chapter service shall also include service in the armed forces of
34 the United States as provided in RCW 41.26.190. Credit shall be
35 allowed for all service credit months of service rendered by a member
36 from and after the member's initial commencement of employment as a
37 fire fighter or law enforcement officer, during which the member worked
38 for seventy or more hours, or was on disability leave or disability

1 retirement. Only service credit months of service shall be counted in
2 the computation of any retirement allowance or other benefit provided
3 for in this chapter.

4 (i) For members retiring after May 21, 1971 who were employed under
5 the coverage of a prior pension act before March 1, 1970, "service"
6 shall also include (A) such military service not exceeding five years
7 as was creditable to the member as of March 1, 1970, under the member's
8 particular prior pension act, and (B) such other periods of service as
9 were then creditable to a particular member under the provisions of RCW
10 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
11 be allowed for any service rendered prior to March 1, 1970, where the
12 member at the time of rendition of such service was employed in a
13 position covered by a prior pension act, unless such service, at the
14 time credit is claimed therefor, is also creditable under the
15 provisions of such prior act.

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

19 (b) "Service" for plan 2 members, means periods of employment by a
20 member for one or more employers for which basic salary is earned for
21 ninety or more hours per calendar month which shall constitute a
22 service credit month. Periods of employment by a member for one or
23 more employers for which basic salary is earned for at least seventy
24 hours but less than ninety hours per calendar month shall constitute
25 one-half service credit month. Periods of employment by a member for
26 one or more employers for which basic salary is earned for less than
27 seventy hours shall constitute a one-quarter service credit month.

28 Members of the retirement system who are elected or appointed to a
29 state elective position may elect to continue to be members of this
30 retirement system.

31 Service credit years of service shall be determined by dividing the
32 total number of service credit months of service by twelve. Any
33 fraction of a service credit year of service as so determined shall be
34 taken into account in the computation of such retirement allowance or
35 benefits.

36 If a member receives basic salary from two or more employers during
37 any calendar month, the individual shall receive one service credit
38 month's service credit during any calendar month in which multiple

1 service for ninety or more hours is rendered; or one-half service
2 credit month's service credit during any calendar month in which
3 multiple service for at least seventy hours but less than ninety hours
4 is rendered; or one-quarter service credit month during any calendar
5 month in which multiple service for less than seventy hours is
6 rendered.

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

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

15 (17) "Actuarial valuation" means a mathematical determination of
16 the financial condition of a retirement plan. It includes the
17 computation of the present monetary value of benefits payable to
18 present members, and the present monetary value of future employer and
19 employee contributions, giving effect to mortality among active and
20 retired members and also to the rates of disability, retirement,
21 withdrawal from service, salary and interest earned on investments.

22 (18) "Disability board" for plan 1 members means either the county
23 disability board or the city disability board established in RCW
24 41.26.110.

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

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

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

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

1 (a) Hospital expenses: These are the charges made by a hospital,
2 in its own behalf, for
3 (i) Board and room not to exceed semiprivate room rate unless
4 private room is required by the attending physician due to the
5 condition of the patient.
6 (ii) Necessary hospital services, other than board and room,
7 furnished by the hospital.
8 (b) Other medical expenses: The following charges are considered
9 "other medical expenses", provided that they have not been considered
10 as "hospital expenses".
11 (i) The fees of the following:
12 (A) A physician or surgeon licensed under the provisions of chapter
13 18.71 RCW;
14 (B) An osteopathic physician and surgeon licensed under the
15 provisions of chapter 18.57 RCW;
16 (C) A chiropractor licensed under the provisions of chapter 18.25
17 RCW.
18 (ii) The charges of a registered graduate nurse other than a nurse
19 who ordinarily resides in the member's home, or is a member of the
20 family of either the member or the member's spouse.
21 (iii) The charges for the following medical services and supplies:
22 (A) Drugs and medicines upon a physician's prescription;
23 (B) Diagnostic x-ray and laboratory examinations;
24 (C) X-ray, radium, and radioactive isotopes therapy;
25 (D) Anesthesia and oxygen;
26 (E) Rental of iron lung and other durable medical and surgical
27 equipment;
28 (F) Artificial limbs and eyes, and casts, splints, and trusses;
29 (G) Professional ambulance service when used to transport the
30 member to or from a hospital when injured by an accident or stricken by
31 a disease;
32 (H) Dental charges incurred by a member who sustains an accidental
33 injury to his or her teeth and who commences treatment by a legally
34 licensed dentist within ninety days after the accident;
35 (I) Nursing home confinement or hospital extended care facility;
36 (J) Physical therapy by a registered physical therapist;
37 (K) Blood transfusions, including the cost of blood and blood
38 plasma not replaced by voluntary donors;

1 (L) An optometrist licensed under the provisions of chapter 18.53
2 RCW.

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

5 (24) "Retiree" for persons who establish membership in the
6 retirement system on or after October 1, 1977, means any member in
7 receipt of a retirement allowance or other benefit provided by this
8 chapter resulting from service rendered to an employer by such member.

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

10 (26) "State actuary" or "actuary" means the person appointed
11 pursuant to RCW 44.44.010(2).

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

15 (28) "Plan 1" means the law enforcement officers' and fire
16 fighters' retirement system, plan 1 providing the benefits and funding
17 provisions covering persons who first became members of the system
18 prior to October 1, 1977.

19 (29) "Plan 2" means the law enforcement officers' and fire
20 fighters' retirement system, plan 2 providing the benefits and funding
21 provisions covering persons who first became members of the system on
22 and after October 1, 1977.

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

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

27 (32) "General authority law enforcement agency" means any agency,
28 department, or division of a municipal corporation, political
29 subdivision, or other unit of local government of this state, and any
30 agency, department, or division of state government, having as its
31 primary function the detection and apprehension of persons committing
32 infractions or violating the traffic or criminal laws in general, but
33 not including the Washington state patrol. Such an agency, department,
34 or division is distinguished from a limited authority law enforcement
35 agency having as one of its functions the apprehension or detection of
36 persons committing infractions or violating the traffic or criminal
37 laws relating to limited subject areas, including but not limited to,
38 the state departments of natural resources and social and health

1 services, the state gambling commission, the state lottery commission,
2 the state parks and recreation commission, the state utilities and
3 transportation commission, the state liquor control board, and the
4 state department of corrections.

5 (33) "Domestic partner" has the definition in RCW 41.40.010.

6 **Sec. 11.** RCW 41.26.030 and 2003 c 388 s 2 are each amended to read
7 as follows:

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

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

12 (2)(a) "Employer" for plan 1 members, means the legislative
13 authority of any city, town, county, or district or the elected
14 officials of any municipal corporation that employs any law enforcement
15 officer and/or fire fighter, any authorized association of such
16 municipalities, and, except for the purposes of RCW 41.26.150, any
17 labor guild, association, or organization, which represents the fire
18 fighters or law enforcement officers of at least seven cities of over
19 20,000 population and the membership of each local lodge or division of
20 which is composed of at least sixty percent law enforcement officers or
21 fire fighters as defined in this chapter.

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

25 (i) The legislative authority of any city, town, county, or
26 district;

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

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

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

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

36 (a) No person who is serving in a position that is basically

1 clerical or secretarial in nature, and who is not commissioned shall be
2 considered a law enforcement officer;

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

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

15 (d) The term "law enforcement officer" also includes the executive
16 secretary of a labor guild, association or organization (which is an
17 employer under RCW 41.26.030(2)) if that individual has five years
18 previous membership in the retirement system established in chapter
19 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
20 plan 2 members; and

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

29 (4) "Fire fighter" means:

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

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

36 (c) Supervisory fire fighter personnel;

37 (d) Any full time executive secretary of an association of fire

1 protection districts authorized under RCW 52.12.031. The provisions of
2 this subsection (4)(d) shall not apply to plan 2 members;

3 (e) The executive secretary of a labor guild, association or
4 organization (which is an employer under RCW 41.26.030(2) as now or
5 hereafter amended), if such individual has five years previous
6 membership in a retirement system established in chapter 41.16 or 41.18
7 RCW. The provisions of this subsection (4)(e) shall not apply to plan
8 2 members;

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

13 (g) Any person who on March 1, 1970, was employed on a full time,
14 fully compensated basis by an employer, and who on May 21, 1971, was
15 making retirement contributions under the provisions of chapter 41.16
16 or 41.18 RCW.

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

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

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

26 (i) A natural born child;

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

29 (iii) A posthumous child;

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

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

34 (b) A person shall also be deemed to be a child up to and including
35 the age of twenty years and eleven months while attending any high
36 school, college, or vocational or other educational institution
37 accredited, licensed, or approved by the state, in which it is located,

1 including the summer vacation months and all other normal and regular
2 vacation periods at the particular educational institution after which
3 the child returns to school.

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

10 (9) "Retirement fund" means the "Washington law enforcement
11 officers' and fire fighters' retirement system fund" as provided for
12 herein.

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

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

18 (b) "Beneficiary" for plan 2 members, means any person in receipt
19 of a retirement allowance or other benefit provided by this chapter
20 resulting from service rendered to an employer by another person.

21 (12)(a) "Final average salary" for plan 1 members, means (i) for a
22 member holding the same position or rank for a minimum of twelve months
23 preceding the date of retirement, the basic salary attached to such
24 same position or rank at time of retirement; (ii) for any other member,
25 including a civil service member who has not served a minimum of twelve
26 months in the same position or rank preceding the date of retirement,
27 the average of the greatest basic salaries payable to such member
28 during any consecutive twenty-four month period within such member's
29 last ten years of service for which service credit is allowed, computed
30 by dividing the total basic salaries payable to such member during the
31 selected twenty-four month period by twenty-four; (iii) in the case of
32 disability of any member, the basic salary payable to such member at
33 the time of disability retirement; (iv) in the case of a member who
34 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
35 such member at the time of vesting.

36 (b) "Final average salary" for plan 2 members, means the monthly
37 average of the member's basic salary for the highest consecutive sixty

1 service credit months of service prior to such member's retirement,
2 termination, or death. Periods constituting authorized unpaid leaves
3 of absence may not be used in the calculation of final average salary.

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

9 (b) "Basic salary" for plan 2 members, means salaries or wages
10 earned by a member during a payroll period for personal services,
11 including overtime payments, and shall include wages and salaries
12 deferred under provisions established pursuant to sections 403(b),
13 414(h), and 457 of the United States Internal Revenue Code, but shall
14 exclude lump sum payments for deferred annual sick leave, unused
15 accumulated vacation, unused accumulated annual leave, or any form of
16 severance pay. In any year in which a member serves in the legislature
17 the member shall have the option of having such member's basic salary
18 be the greater of:

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

21 (ii) Such member's actual basic salary received for nonlegislative
22 public employment and legislative service combined. Any additional
23 contributions to the retirement system required because basic salary
24 under (b)(i) of this subsection is greater than basic salary under
25 (b)(ii) of this subsection shall be paid by the member for both member
26 and employer contributions.

27 (14)(a) "Service" for plan 1 members, means all periods of
28 employment for an employer as a fire fighter or law enforcement
29 officer, for which compensation is paid, together with periods of
30 suspension not exceeding thirty days in duration. For the purposes of
31 this chapter service shall also include service in the armed forces of
32 the United States as provided in RCW 41.26.190. Credit shall be
33 allowed for all service credit months of service rendered by a member
34 from and after the member's initial commencement of employment as a
35 fire fighter or law enforcement officer, during which the member worked
36 for seventy or more hours, or was on disability leave or disability
37 retirement. Only service credit months of service shall be counted in

1 the computation of any retirement allowance or other benefit provided
2 for in this chapter.

3 (i) For members retiring after May 21, 1971 who were employed under
4 the coverage of a prior pension act before March 1, 1970, "service"
5 shall also include (A) such military service not exceeding five years
6 as was creditable to the member as of March 1, 1970, under the member's
7 particular prior pension act, and (B) such other periods of service as
8 were then creditable to a particular member under the provisions of RCW
9 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
10 be allowed for any service rendered prior to March 1, 1970, where the
11 member at the time of rendition of such service was employed in a
12 position covered by a prior pension act, unless such service, at the
13 time credit is claimed therefor, is also creditable under the
14 provisions of such prior act.

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

18 (b) "Service" for plan 2 members, means periods of employment by a
19 member for one or more employers for which basic salary is earned for
20 ninety or more hours per calendar month which shall constitute a
21 service credit month. Periods of employment by a member for one or
22 more employers for which basic salary is earned for at least seventy
23 hours but less than ninety hours per calendar month shall constitute
24 one-half service credit month. Periods of employment by a member for
25 one or more employers for which basic salary is earned for less than
26 seventy hours shall constitute a one-quarter service credit month.

27 Members of the retirement system who are elected or appointed to a
28 state elective position may elect to continue to be members of this
29 retirement system.

30 Service credit years of service shall be determined by dividing the
31 total number of service credit months of service by twelve. Any
32 fraction of a service credit year of service as so determined shall be
33 taken into account in the computation of such retirement allowance or
34 benefits.

35 If a member receives basic salary from two or more employers during
36 any calendar month, the individual shall receive one service credit
37 month's service credit during any calendar month in which multiple
38 service for ninety or more hours is rendered; or one-half service

1 credit month's service credit during any calendar month in which
2 multiple service for at least seventy hours but less than ninety hours
3 is rendered; or one-quarter service credit month during any calendar
4 month in which multiple service for less than seventy hours is
5 rendered.

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

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

14 (17) "Actuarial valuation" means a mathematical determination of
15 the financial condition of a retirement plan. It includes the
16 computation of the present monetary value of benefits payable to
17 present members, and the present monetary value of future employer and
18 employee contributions, giving effect to mortality among active and
19 retired members and also to the rates of disability, retirement,
20 withdrawal from service, salary and interest earned on investments.

21 (18) "Disability board" for plan 1 members means either the county
22 disability board or the city disability board established in RCW
23 41.26.110.

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

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

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

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

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

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

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

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

9 (i) The fees of the following:

10 (A) A physician or surgeon licensed under the provisions of chapter
11 18.71 RCW;

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

14 (C) A chiropractor licensed under the provisions of chapter 18.25
15 RCW.

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

19 (iii) The charges for the following medical services and supplies:

20 (A) Drugs and medicines upon a physician's prescription;

21 (B) Diagnostic x-ray and laboratory examinations;

22 (C) X-ray, radium, and radioactive isotopes therapy;

23 (D) Anesthesia and oxygen;

24 (E) Rental of iron lung and other durable medical and surgical
25 equipment;

26 (F) Artificial limbs and eyes, and casts, splints, and trusses;

27 (G) Professional ambulance service when used to transport the
28 member to or from a hospital when injured by an accident or stricken by
29 a disease;

30 (H) Dental charges incurred by a member who sustains an accidental
31 injury to his or her teeth and who commences treatment by a legally
32 licensed dentist within ninety days after the accident;

33 (I) Nursing home confinement or hospital extended care facility;

34 (J) Physical therapy by a registered physical therapist;

35 (K) Blood transfusions, including the cost of blood and blood
36 plasma not replaced by voluntary donors;

37 (L) An optometrist licensed under the provisions of chapter 18.53
38 RCW.

1 (23) "Regular interest" means such rate as the director may
2 determine.

3 (24) "Retiree" for persons who establish membership in the
4 retirement system on or after October 1, 1977, means any member in
5 receipt of a retirement allowance or other benefit provided by this
6 chapter resulting from service rendered to an employer by such member.

7 (25) "Director" means the director of the department.

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

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) "Plan 1" means the law enforcement officers' and fire
14 fighters' retirement system, plan 1 providing the benefits and funding
15 provisions covering persons who first became members of the system
16 prior to October 1, 1977.

17 (29) "Plan 2" means the law enforcement officers' and fire
18 fighters' retirement system, plan 2 providing the benefits and funding
19 provisions covering persons who first became members of the system on
20 and after October 1, 1977.

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

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

25 (32) "General authority law enforcement agency" means any agency,
26 department, or division of a municipal corporation, political
27 subdivision, or other unit of local government of this state, and any
28 agency, department, or division of state government, having as its
29 primary function the detection and apprehension of persons committing
30 infractions or violating the traffic or criminal laws in general, but
31 not including the Washington state patrol. Such an agency, department,
32 or division is distinguished from a limited authority law enforcement
33 agency having as one of its functions the apprehension or detection of
34 persons committing infractions or violating the traffic or criminal
35 laws relating to limited subject areas, including but not limited to,
36 the state departments of natural resources and social and health
37 services, the state gambling commission, the state lottery commission,

1 the state parks and recreation commission, the state utilities and
2 transportation commission, the state liquor control board, and the
3 state department of corrections.

4 (33) "Domestic partner" has the definition in RCW 41.40.010.

5 **Sec. 12.** RCW 41.26.048 and 1996 c 226 s 1 are each amended to read
6 as follows:

7 (1) A one hundred fifty thousand dollar death benefit shall be paid
8 to the member's estate, or such person or persons, trust or
9 organization as the member shall have nominated by written designation
10 duly executed and filed with the department. If there be no such
11 designated person or persons still living at the time of the member's
12 death, such member's death benefit shall be paid to the member's
13 surviving spouse or domestic partner as if in fact such spouse or
14 domestic partner had been nominated by written designation, or if there
15 be no such surviving spouse or domestic partner, then to such member's
16 legal representatives.

17 (2) The benefit under this section shall be paid only where death
18 occurs as a result of injuries sustained in the course of employment.
19 The determination of eligibility for the benefit shall be made
20 consistent with Title 51 RCW by the department of labor and industries.
21 The department of labor and industries shall notify the department of
22 retirement systems by order under RCW 51.52.050.

23 **Sec. 13.** RCW 41.26.090 and 1991 sp.s. c 11 s 4 are each amended to
24 read as follows:

25 Retirement of a member for service shall be made by the department
26 as follows:

27 (1) Any member having five or more service credit years of service
28 and having attained the age of fifty years shall be eligible for a
29 service retirement allowance and shall be retired upon the member's
30 written request effective the first day following the date upon which
31 the member is separated from service.

32 (2) Any member having five or more service credit years of service,
33 who terminates his or her employment with any employer, may leave his
34 or her contributions in the fund. Any employee who so elects, upon
35 attaining age fifty, shall be eligible to apply for and receive a

1 service retirement allowance based on his or her years of service,
2 commencing on the first day following his or her attainment of age
3 fifty.

4 (3) Any member selecting optional vesting under subsection (2) of
5 this section with less than twenty service credit years of service
6 shall not be covered by the provisions of RCW 41.26.150, and the
7 member's survivors shall not be entitled to the benefits of RCW
8 41.26.160 unless his or her death occurs after he or she has attained
9 the age of fifty years. Those members selecting this optional vesting
10 with twenty or more years service shall not be covered by the
11 provisions of RCW 41.26.150 until the attainment of the age of fifty
12 years. A member selecting this optional vesting, with less than twenty
13 service credit years of service credit, who dies prior to attaining the
14 age of fifty years, shall have paid from the Washington law enforcement
15 officers' and fire fighters' retirement fund, to such member's
16 surviving spouse or domestic partner, if any, otherwise to such
17 beneficiary as the member shall have designated in writing, or if no
18 such designation has been made, to the personal representative of his
19 or her estate, a lump sum which is equal to the amount of such member's
20 accumulated contributions plus accrued interest. If the vested member
21 has twenty or more service credit years of service credit the surviving
22 spouse, domestic partner, or children shall then become eligible for
23 the benefits of RCW 41.26.160 regardless of the member's age at the
24 time of his or her death, to the exclusion of the lump sum amount
25 provided by this subsection.

26 (4) Any member who has attained the age of sixty years shall be
27 retired on the first day of the calendar month next succeeding that in
28 which said member shall have attained the age of sixty and may not
29 thereafter be employed as a law enforcement officer or fire fighter:
30 PROVIDED, That for any member who is elected or appointed to the office
31 of sheriff, chief of police, or fire chief, his or her election or
32 appointment shall be considered as a waiver of the age sixty provision
33 for retirement and nonemployment for whatever number of years remain in
34 his or her present term of office and any succeeding periods for which
35 he or she may be so elected or appointed. The provisions of this
36 subsection shall not apply to any member who is employed as a law
37 enforcement officer or fire fighter on March 1, 1970.

1 **Sec. 14.** RCW 41.26.160 and 2005 c 62 s 1 are each amended to read
2 as follows:

3 (1) In the event of the duty connected death of any member who is
4 in active service, or who has vested under the provisions of RCW
5 41.26.090 with twenty or more service credit years of service, or who
6 is on duty connected disability leave or retired for duty connected
7 disability, the surviving spouse or domestic partner shall become
8 entitled, subject to RCW 41.26.162, to receive a monthly allowance
9 equal to fifty percent of the final average salary at the date of death
10 if active, or the amount of retirement allowance the vested member
11 would have received at age fifty, or the amount of the retirement
12 allowance such retired member was receiving at the time of death if
13 retired for duty connected disability. The amount of this allowance
14 will be increased five percent of final average salary for each child
15 as defined in RCW 41.26.030(7), subject to a maximum combined allowance
16 of sixty percent of final average salary: PROVIDED, That if the child
17 or children is or are in the care of a legal guardian, payment of the
18 increase attributable to each child will be made to the child's legal
19 guardian or, in the absence of a legal guardian and if the member has
20 created a trust for the benefit of the child or children, payment of
21 the increase attributable to each child will be made to the trust.

22 (2) If at the time of the duty connected death of a vested member
23 with twenty or more service credit years of service as provided in
24 subsection (1) of this section or a member retired for duty connected
25 disability, the surviving spouse or domestic partner has not been
26 lawfully married to or in a domestic partnership with such member for
27 one year prior to retirement or separation from service if a vested
28 member, the surviving spouse or domestic partner shall not be eligible
29 to receive the benefits under this section: PROVIDED, That if a member
30 dies as a result of a disability incurred in the line of duty, then if
31 he or she was married at the time he or she was disabled, the surviving
32 spouse or domestic partner shall be eligible to receive the benefits
33 under this section.

34 (3) If there be no surviving spouse or domestic partner eligible to
35 receive benefits at the time of such member's duty connected death,
36 then the child or children of such member shall receive a monthly
37 allowance equal to thirty percent of final average salary for one child
38 and an additional ten percent for each additional child subject to a

1 maximum combined payment, under this subsection, of sixty percent of
2 final average salary. When there cease to be any eligible children as
3 defined in RCW 41.26.030(7), there shall be paid to the legal heirs of
4 the member the excess, if any, of accumulated contributions of the
5 member at the time of death over all payments made to survivors on his
6 or her behalf under this chapter: PROVIDED, That payments under this
7 subsection to children shall be prorated equally among the children, if
8 more than one. If the member has created a trust for the benefit of
9 the child or children, the payment shall be made to the trust.

10 (4) In the event that there is no surviving spouse or domestic
11 partner eligible to receive benefits under this section, and that there
12 be no child or children eligible to receive benefits under this
13 section, then the accumulated contributions shall be paid to the estate
14 of the member.

15 (5) If a surviving spouse or domestic partner receiving benefits
16 under this section remarries after June 13, 2002, the surviving spouse
17 or domestic partner shall continue to receive the benefits under this
18 section.

19 (6) If a surviving spouse or domestic partner receiving benefits
20 under the provisions of this section thereafter dies and there are
21 children as defined in RCW 41.26.030(7), payment to the spouse or
22 domestic partner shall cease and the child or children shall receive
23 the benefits as provided in subsection (3) of this section.

24 (7) The payment provided by this section shall become due the day
25 following the date of death and payments shall be retroactive to that
26 date.

27 **Sec. 15.** RCW 41.26.161 and 2005 c 62 s 2 are each amended to read
28 as follows:

29 (1) In the event of the nonduty connected death of any member who
30 is in active service, or who has vested under the provisions of RCW
31 41.26.090 with twenty or more service credit years of service, or who
32 is on disability leave or retired, whether for nonduty connected
33 disability or service, the surviving spouse or domestic partner shall
34 become entitled, subject to RCW 41.26.162, to receive a monthly
35 allowance equal to fifty percent of the final average salary at the
36 date of death if active, or the amount of retirement allowance the
37 vested member would have received at age fifty, or the amount of the

1 retirement allowance such retired member was receiving at the time of
2 death if retired for service or nonduty connected disability. The
3 amount of this allowance will be increased five percent of final
4 average salary for each child as defined in RCW 41.26.030(7), subject
5 to a maximum combined allowance of sixty percent of final average
6 salary: PROVIDED, That if the child or children is or are in the care
7 of a legal guardian, payment of the increase attributable to each child
8 will be made to the child's legal guardian or, in the absence of a
9 legal guardian and if the member has created a trust for the benefit of
10 the child or children, payment of the increase attributable to each
11 child will be made to the trust.

12 (2) If at the time of the death of a vested member with twenty or
13 more service credit years of service as provided in subsection (1) of
14 this section or a member retired for service or disability, the
15 surviving spouse or domestic partner has not been lawfully married to
16 or in a domestic partnership with such member for one year prior to
17 retirement or separation from service if a vested member, the surviving
18 spouse or domestic partner shall not be eligible to receive the
19 benefits under this section.

20 (3) If there be no surviving spouse or domestic partner eligible to
21 receive benefits at the time of such member's death, then the child or
22 children of such member shall receive a monthly allowance equal to
23 thirty percent of final average salary for one child and an additional
24 ten percent for each additional child subject to a maximum combined
25 payment, under this subsection, of sixty percent of final average
26 salary. When there cease to be any eligible children as defined in RCW
27 41.26.030(7), there shall be paid to the legal heirs of the member the
28 excess, if any, of accumulated contributions of the member at the time
29 of death over all payments made to survivors on his or her behalf under
30 this chapter: PROVIDED, That payments under this subsection to
31 children shall be prorated equally among the children, if more than
32 one. If the member has created a trust for the benefit of the child or
33 children, the payment shall be made to the trust.

34 (4) In the event that there is no surviving spouse or domestic
35 partner eligible to receive benefits under this section, and that there
36 be no child or children eligible to receive benefits under this
37 section, then the accumulated contributions shall be paid to the estate
38 of said member.

1 (5) If a surviving spouse or domestic partner receiving benefits
2 under this section remarries after June 13, 2002, the surviving spouse
3 or domestic partner shall continue to receive the benefits under this
4 section.

5 (6) If a surviving spouse or domestic partner receiving benefits
6 under the provisions of this section thereafter dies and there are
7 children as defined in RCW 41.26.030(7), payment to the spouse or
8 domestic partner shall cease and the child or children shall receive
9 the benefits as provided in subsection (3) of this section.

10 (7) The payment provided by this section shall become due the day
11 following the date of death and payments shall be retroactive to that
12 date.

13 **Sec. 16.** RCW 41.26.460 and 2003 c 294 s 3 are each amended to read
14 as follows:

15 (1) Upon retirement for service as prescribed in RCW 41.26.430 or
16 disability retirement under RCW 41.26.470, a member shall elect to have
17 the retirement allowance paid pursuant to the following options,
18 calculated so as to be actuarially equivalent to each other.

19 (a) Standard allowance. A member electing this option shall
20 receive a retirement allowance payable throughout such member's life.
21 However, if the retiree dies before the total of the retirement
22 allowance paid to such retiree equals the amount of such retiree's
23 accumulated contributions at the time of retirement, then the balance
24 shall be paid to the member's estate, or such person or persons, trust,
25 or organization as the retiree shall have nominated by written
26 designation duly executed and filed with the department; or if there be
27 no such designated person or persons still living at the time of the
28 retiree's death, then to the surviving spouse or domestic partner; or
29 if there be neither such designated person or persons still living at
30 the time of death nor a surviving spouse or domestic partner, then to
31 the retiree's legal representative.

32 (b) The department shall adopt rules that allow a member to select
33 a retirement option that pays the member a reduced retirement allowance
34 and upon death, such portion of the member's reduced retirement
35 allowance as the department by rule designates shall be continued
36 throughout the life of and paid to a designated person. Such person
37 shall be nominated by the member by written designation duly executed

1 and filed with the department at the time of retirement. The options
2 adopted by the department shall include, but are not limited to, a
3 joint and one hundred percent survivor option and a joint and fifty
4 percent survivor option.

5 (2)(a) A member, if married, must provide the written consent of
6 his or her spouse to the option selected under this section, except as
7 provided in (b) of this subsection. If a member is married and both
8 the member and member's spouse do not give written consent to an option
9 under this section, the department will pay the member a joint and
10 fifty percent survivor benefit and record the member's spouse as the
11 beneficiary. Such benefit shall be calculated to be actuarially
12 equivalent to the benefit options available under subsection (1) of
13 this section unless spousal consent is not required as provided in (b)
14 of this subsection.

15 (b) If a copy of a dissolution order designating a survivor
16 beneficiary under RCW 41.50.790 has been filed with the department at
17 least thirty days prior to a member's retirement:

18 (i) The department shall honor the designation as if made by the
19 member under subsection (1) of this section; and

20 (ii) The spousal consent provisions of (a) of this subsection do
21 not apply.

22 (3)(a) Any member who retired before January 1, 1996, and who
23 elected to receive a reduced retirement allowance under subsection
24 (1)(b) or (2) of this section is entitled to receive a retirement
25 allowance adjusted in accordance with (b) of this subsection, if they
26 meet the following conditions:

27 (i) The retiree's designated beneficiary predeceases or has
28 predeceased the retiree; and

29 (ii) The retiree provides to the department proper proof of the
30 designated beneficiary's death.

31 (b) The retirement allowance payable to the retiree, as of July 1,
32 1998, or the date of the designated beneficiary's death, whichever
33 comes last, shall be increased by the percentage derived in (c) of this
34 subsection.

35 (c) The percentage increase shall be derived by the following:

36 (i) One hundred percent multiplied by the result of (c)(ii) of this
37 subsection converted to a percent;

1 (ii) Subtract one from the reciprocal of the appropriate joint and
2 survivor option factor;

3 (iii) The joint and survivor option factor shall be from the table
4 in effect as of July 1, 1998.

5 (d) The adjustment under (b) of this subsection shall accrue from
6 the beginning of the month following the date of the designated
7 beneficiary's death or from July 1, 1998, whichever comes last.

8 (4) No later than July 1, 2001, the department shall adopt rules
9 that allow a member additional actuarially equivalent survivor benefit
10 options, and shall include, but are not limited to:

11 (a)(i) A retired member who retired without designating a survivor
12 beneficiary shall have the opportunity to designate (~~their~~) his or
13 her spouse or domestic partner from a postretirement marriage or
14 postretirement domestic partnership as a survivor during a one-year
15 period beginning one year after the date of the postretirement marriage
16 or postretirement domestic partnership provided the retirement
17 allowance payable to the retiree is not subject to periodic payments
18 pursuant to a property division obligation as provided for in RCW
19 41.50.670.

20 (ii) A member who entered into a postretirement marriage or
21 postretirement domestic partnership prior to the effective date of the
22 rules adopted pursuant to this subsection and satisfies the conditions
23 of (a)(i) of this subsection shall have one year to designate their
24 spouse or domestic partner as a survivor beneficiary following the
25 adoption of the rules, however in the case of a domestic partnership,
26 the member must make the designation by July 1, 2007.

27 (b) A retired member who elected to receive a reduced retirement
28 allowance under this section and designated a nonspouse as survivor
29 beneficiary shall have the opportunity to remove the survivor
30 designation and have their future benefit adjusted.

31 (c) The department may make an additional charge, if necessary, to
32 ensure that the benefits provided under this subsection remain
33 actuarially equivalent.

34 (5) No later than July 1, 2003, the department shall adopt rules to
35 permit:

36 (a) A court-approved property settlement incident to a court decree
37 of dissolution made before retirement to provide that benefits payable

1 to a member who meets the length of service requirements of RCW
2 41.26.530(1) and the member's divorcing spouse be divided into two
3 separate benefits payable over the life of each spouse.

4 The member shall have available the benefit options of subsection
5 (1) of this section upon retirement, and if remarried at the time of
6 retirement remains subject to the spousal consent requirements of
7 subsection (2) of this section. Any reductions of the member's benefit
8 subsequent to the division into two separate benefits shall be made
9 solely to the separate benefit of the member.

10 The nonmember ex spouse shall be eligible to commence receiving
11 their separate benefit upon reaching the ages provided in RCW
12 41.26.430(1) and after filing a written application with the
13 department.

14 (b) A court-approved property settlement incident to a court decree
15 of dissolution made after retirement may only divide the benefit into
16 two separate benefits payable over the life of each spouse if the
17 nonmember ex spouse was selected as a survivor beneficiary at
18 retirement.

19 The retired member may later choose the survivor benefit options
20 available in subsection (4) of this section. Any actuarial reductions
21 subsequent to the division into two separate benefits shall be made
22 solely to the separate benefit of the member.

23 Both the retired member and the nonmember divorced spouse shall be
24 eligible to commence receiving their separate benefits upon filing a
25 copy of the dissolution order with the department in accordance with
26 RCW 41.50.670.

27 (c) The department may make an additional charge or adjustment if
28 necessary to ensure that the separate benefits provided under this
29 subsection are actuarially equivalent to the benefits payable prior to
30 the decree of dissolution.

31 **Sec. 17.** RCW 41.26.470 and 2005 c 451 s 1 are each amended to read
32 as follows:

33 (1) A member of the retirement system who becomes totally
34 incapacitated for continued employment by an employer as determined by
35 the director shall be eligible to receive an allowance under the
36 provisions of RCW 41.26.410 through 41.26.550. Such member shall
37 receive a monthly disability allowance computed as provided for in RCW

1 41.26.420 and shall have such allowance actuarially reduced to reflect
2 the difference in the number of years between age at disability and the
3 attainment of age fifty-three, except under subsection (7) of this
4 section.

5 (2) Any member who receives an allowance under the provisions of
6 this section shall be subject to such comprehensive medical
7 examinations as required by the department. If such medical
8 examinations reveal that such a member has recovered from the
9 incapacitating disability and the member is no longer entitled to
10 benefits under Title 51 RCW, the retirement allowance shall be canceled
11 and the member shall be restored to duty in the same civil service
12 rank, if any, held by the member at the time of retirement or, if
13 unable to perform the duties of the rank, then, at the member's
14 request, in such other like or lesser rank as may be or become open and
15 available, the duties of which the member is then able to perform. In
16 no event shall a member previously drawing a disability allowance be
17 returned or be restored to duty at a salary or rate of pay less than
18 the current salary attached to the rank or position held by the member
19 at the date of the retirement for disability. If the department
20 determines that the member is able to return to service, the member is
21 entitled to notice and a hearing. Both the notice and the hearing
22 shall comply with the requirements of chapter 34.05 RCW, the
23 Administrative Procedure Act.

24 (3) Those members subject to this chapter who became disabled in
25 the line of duty on or after July 23, 1989, and who receive benefits
26 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW
27 41.04.535 shall receive or continue to receive service credit subject
28 to the following:

29 (a) No member may receive more than one month's service credit in
30 a calendar month.

31 (b) No service credit under this section may be allowed after a
32 member separates or is separated without leave of absence.

33 (c) Employer contributions shall be paid by the employer at the
34 rate in effect for the period of the service credited.

35 (d) Employee contributions shall be collected by the employer and
36 paid to the department at the rate in effect for the period of service
37 credited.

1 (e) State contributions shall be as provided in RCW 41.45.060 and
2 41.45.067.

3 (f) Contributions shall be based on the regular compensation which
4 the member would have received had the disability not occurred.

5 (g) The service and compensation credit under this section shall be
6 granted for a period not to exceed six consecutive months.

7 (h) Should the legislature revoke the service credit authorized
8 under this section or repeal this section, no affected employee is
9 entitled to receive the credit as a matter of contractual right.

10 (4)(a) If the recipient of a monthly retirement allowance under
11 this section dies before the total of the retirement allowance paid to
12 the recipient equals the amount of the accumulated contributions at the
13 date of retirement, then the balance shall be paid to the member's
14 estate, or such person or persons, trust, or organization as the
15 recipient has nominated by written designation duly executed and filed
16 with the director, or, if there is no such designated person or persons
17 still living at the time of the recipient's death, then to the
18 surviving spouse or domestic partner, or, if there is neither such
19 designated person or persons still living at the time of his or her
20 death nor a surviving spouse or domestic partner, then to his or her
21 legal representative.

22 (b) If a recipient of a monthly retirement allowance under this
23 section died before April 27, 1989, and before the total of the
24 retirement allowance paid to the recipient equaled the amount of his or
25 her accumulated contributions at the date of retirement, then the
26 department shall pay the balance of the accumulated contributions to
27 the member's surviving spouse or domestic partner or, if there is no
28 surviving spouse or domestic partner, then in equal shares to the
29 member's children. If there is no surviving spouse, domestic partner,
30 or children, the department shall retain the contributions.

31 (5) Should the disability retirement allowance of any disability
32 beneficiary be canceled for any cause other than reentrance into
33 service or retirement for service, he or she shall be paid the excess,
34 if any, of the accumulated contributions at the time of retirement over
35 all payments made on his or her behalf under this chapter.

36 (6) A member who becomes disabled in the line of duty, and who
37 ceases to be an employee of an employer except by service or disability
38 retirement, may request a refund of one hundred fifty percent of the

1 member's accumulated contributions. Any accumulated contributions
2 attributable to restorations made under RCW 41.50.165(2) shall be
3 refunded at one hundred percent. A person in receipt of this benefit
4 is a retiree.

5 (7) A member who becomes disabled in the line of duty shall be
6 entitled to receive a minimum retirement allowance equal to ten percent
7 of such member's final average salary. The member shall additionally
8 receive a retirement allowance equal to two percent of such member's
9 average final salary for each year of service beyond five.

10 **Sec. 18.** RCW 41.26.510 and 2004 c 5 s 1 are each amended to read
11 as follows:

12 (1) Except as provided in RCW 11.07.010, if a member or a vested
13 member who has not completed at least ten years of service dies, the
14 amount of the accumulated contributions standing to such member's
15 credit in the retirement system at the time of such member's death,
16 less any amount identified as owing to an obligee upon withdrawal of
17 accumulated contributions pursuant to a court order filed under RCW
18 41.50.670, shall be paid to the member's estate, or such person or
19 persons, trust, or organization as the member shall have nominated by
20 written designation duly executed and filed with the department. If
21 there be no such designated person or persons still living at the time
22 of the member's death, such member's accumulated contributions standing
23 to such member's credit in the retirement system, less any amount
24 identified as owing to an obligee upon withdrawal of accumulated
25 contributions pursuant to a court order filed under RCW 41.50.670,
26 shall be paid to the member's surviving spouse or domestic partner as
27 if in fact such spouse or domestic partner had been nominated by
28 written designation, or if there be no such surviving spouse or
29 domestic partner, then to such member's legal representatives.

30 (2) If a member who is eligible for retirement or a member who has
31 completed at least ten years of service dies, the surviving spouse,
32 domestic partner, or eligible child or children shall elect to receive
33 either:

34 (a) A retirement allowance computed as provided for in RCW
35 41.26.430, actuarially reduced by the amount of any lump sum benefit
36 identified as owing to an obligee upon withdrawal of accumulated
37 contributions pursuant to a court order filed under RCW 41.50.670 and

1 actuarially adjusted to reflect a joint and one hundred percent
2 survivor option under RCW 41.26.460 and if the member was not eligible
3 for normal retirement at the date of death a further reduction as
4 described in RCW 41.26.430; if a surviving spouse or domestic partner
5 who is receiving a retirement allowance dies leaving a child or
6 children of the member under the age of majority, then such child or
7 children shall continue to receive an allowance in an amount equal to
8 that which was being received by the surviving spouse or domestic
9 partner, share and share alike, until such child or children reach the
10 age of majority; if there is no surviving spouse or domestic partner
11 eligible to receive an allowance at the time of the member's death,
12 such member's child or children under the age of majority shall receive
13 an allowance share and share alike calculated as herein provided making
14 the assumption that the ages of the spouse or domestic partner and
15 member were equal at the time of the member's death; or

16 (b)(i) The member's accumulated contributions, less any amount
17 identified as owing to an obligee upon withdrawal of accumulated
18 contributions pursuant to a court order filed under RCW 41.50.670; or

19 (ii) If the member dies on or after July 25, 1993, one hundred
20 fifty percent of the member's accumulated contributions, less any
21 amount identified as owing to an obligee upon withdrawal of accumulated
22 contributions pursuant to a court order filed under RCW 41.50.670. Any
23 accumulated contributions attributable to restorations made under RCW
24 41.50.165(2) shall be refunded at one hundred percent.

25 (3) If a member who is eligible for retirement or a member who has
26 completed at least ten years of service dies after October 1, 1977, and
27 is not survived by a spouse, domestic partner, or an eligible child,
28 then the accumulated contributions standing to the member's credit,
29 less any amount identified as owing to an obligee upon withdrawal of
30 accumulated contributions pursuant to a court order filed under RCW
31 41.50.670, shall be paid:

32 (a) To an estate, a person or persons, trust, or organization as
33 the member shall have nominated by written designation duly executed
34 and filed with the department; or

35 (b) If there is no such designated person or persons still living
36 at the time of the member's death, then to the member's legal
37 representatives.

1 (4) The retirement allowance of a member who is killed in the
2 course of employment, as determined by the director of the department
3 of labor and industries, is not subject to an actuarial reduction. The
4 member's retirement allowance is computed under RCW 41.26.420.

5 **Sec. 19.** RCW 41.26.520 and 2005 c 64 s 9 are each amended to read
6 as follows:

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

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

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

30 (4) A law enforcement member may be authorized by an employer to
31 work part time and to go on a part-time leave of absence. During a
32 part-time leave of absence a member is prohibited from any other
33 employment with their employer. A member is eligible to receive credit
34 for any portion of service credit not earned during a month of part-
35 time leave of absence if the member makes the employer, member, and
36 state contributions, plus interest, as determined by the department for
37 the period of the authorized leave within five years of resumption of

1 full-time service or prior to retirement whichever comes sooner. Any
2 service credit purchased for a part-time leave of absence is included
3 in the two-year maximum provided in subsection (3) of this section.

4 (5) If a member fails to meet the time limitations of subsection
5 (3) or (4) of this section, the member may receive a maximum of two
6 years of service credit during a member's working career for those
7 periods when a member is on unpaid leave of absence authorized by an
8 employer. This may be done by paying the amount required under RCW
9 41.50.165(2) prior to retirement.

10 (6) For the purpose of subsection (3) or (4) of this section the
11 contribution shall not include the contribution for the unfunded
12 supplemental present value as required by RCW 41.45.060, 41.45.061, and
13 41.45.067. The contributions required shall be based on the average of
14 the member's basic salary at both the time the authorized leave of
15 absence was granted and the time the member resumed employment.

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

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

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

28 (ii) The member makes the employee contributions required under RCW
29 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of
30 service or prior to 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 and the state for
37 their respective contributions required under RCW 41.26.450 for the

1 period of military service, plus interest as determined by the
2 department.

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

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

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

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

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

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

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

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

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

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

4 **Sec. 20.** RCW 41.32.010 and 2005 c 131 s 8 and 2005 c 23 s 1 are
5 each reenacted and amended to read as follows:

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

8 (1)(a) "Accumulated contributions" for plan 1 members, means the
9 sum of all regular annuity contributions and, except for the purpose of
10 withdrawal at the time of retirement, any amount paid under RCW
11 41.50.165(2) with regular interest thereon.

12 (b) "Accumulated contributions" for plan 2 members, means the sum
13 of all contributions standing to the credit of a member in the member's
14 individual account, including any amount paid under RCW 41.50.165(2),
15 together with the regular interest thereon.

16 (2) "Actuarial equivalent" means a benefit of equal value when
17 computed upon the basis of such mortality tables and regulations as
18 shall be adopted by the director and regular interest.

19 (3) "Annuity" means the moneys payable per year during life by
20 reason of accumulated contributions of a member.

21 (4) "Member reserve" means the fund in which all of the accumulated
22 contributions of members are held.

23 (5)(a) "Beneficiary" for plan 1 members, means any person in
24 receipt of a retirement allowance or other benefit provided by this
25 chapter.

26 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
27 in receipt of a retirement allowance or other benefit provided by this
28 chapter resulting from service rendered to an employer by another
29 person.

30 (6) "Contract" means any agreement for service and compensation
31 between a member and an employer.

32 (7) "Creditable service" means membership service plus prior
33 service for which credit is allowable. This subsection shall apply
34 only to plan 1 members.

35 (8) "Dependent" means receiving one-half or more of support from a
36 member.

1 (9) "Disability allowance" means monthly payments during
2 disability. This subsection shall apply only to plan 1 members.

3 (10)(a) "Earnable compensation" for plan 1 members, means:

4 (i) All salaries and wages paid by an employer to an employee
5 member of the retirement system for personal services rendered during
6 a fiscal year. In all cases where compensation includes maintenance
7 the employer shall fix the value of that part of the compensation not
8 paid in money.

9 (ii) For an employee member of the retirement system teaching in an
10 extended school year program, two consecutive extended school years, as
11 defined by the employer school district, may be used as the annual
12 period for determining earnable compensation in lieu of the two fiscal
13 years.

14 (iii) "Earnable compensation" for plan 1 members also includes the
15 following actual or imputed payments, which are not paid for personal
16 services:

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

24 (B) If a leave of absence, without pay, is taken by a member for
25 the purpose of serving as a member of the state legislature, and such
26 member has served in the legislature five or more years, the salary
27 which would have been received for the position from which the leave of
28 absence was taken shall be considered as compensation earnable if the
29 employee's contribution thereon is paid by the employee. In addition,
30 where a member has been a member of the state legislature for five or
31 more years, earnable compensation for the member's two highest
32 compensated consecutive years of service shall include a sum not to
33 exceed thirty-six hundred dollars for each of such two consecutive
34 years, regardless of whether or not legislative service was rendered
35 during those two years.

36 (iv) For members employed less than full time under written
37 contract with a school district, or community college district, in an
38 instructional position, for which the member receives service credit of

1 less than one year in all of the years used to determine the earnable
2 compensation used for computing benefits due under RCW 41.32.497,
3 41.32.498, and 41.32.520, the member may elect to have earnable
4 compensation defined as provided in RCW 41.32.345. For the purposes of
5 this subsection, the term "instructional position" means a position in
6 which more than seventy-five percent of the member's time is spent as
7 a classroom instructor (including office hours), a librarian, a
8 psychologist, a social worker, a nurse, a physical therapist, an
9 occupational therapist, a speech language pathologist or audiologist,
10 or a counselor. Earnable compensation shall be so defined only for the
11 purpose of the calculation of retirement benefits and only as necessary
12 to insure that members who receive fractional service credit under RCW
13 41.32.270 receive benefits proportional to those received by members
14 who have received full-time service credit.

15 (v) "Earnable compensation" does not include:

16 (A) Remuneration for unused sick leave authorized under RCW
17 41.04.340, 28A.400.210, or 28A.310.490;

18 (B) Remuneration for unused annual leave in excess of thirty days
19 as authorized by RCW 43.01.044 and 43.01.041.

20 (b) "Earnable compensation" for plan 2 and plan 3 members, means
21 salaries or wages earned by a member during a payroll period for
22 personal services, including overtime payments, and shall include wages
23 and salaries deferred under provisions established pursuant to sections
24 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
25 shall exclude lump sum payments for deferred annual sick leave, unused
26 accumulated vacation, unused accumulated annual leave, or any form of
27 severance pay.

28 "Earnable compensation" for plan 2 and plan 3 members also includes
29 the following actual or imputed payments which, except in the case of
30 (b)(ii)(B) of this subsection, are not paid for personal services:

31 (i) Retroactive payments to an individual by an employer on
32 reinstatement of the employee in a position or payments by an employer
33 to an individual in lieu of reinstatement in a position which are
34 awarded or granted as the equivalent of the salary or wages which the
35 individual would have earned during a payroll period shall be
36 considered earnable compensation, to the extent provided above, and the
37 individual shall receive the equivalent service credit.

1 (ii) In any year in which a member serves in the legislature the
2 member shall have the option of having such member's earnable
3 compensation be the greater of:

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

6 (B) Such member's actual earnable compensation received for
7 teaching and legislative service combined. Any additional
8 contributions to the retirement system required because compensation
9 earnable under (b)(ii)(A) of this subsection is greater than
10 compensation earnable under (b)(ii)(B) of this subsection shall be paid
11 by the member for both member and employer contributions.

12 (11) "Employer" means the state of Washington, the school district,
13 or any agency of the state of Washington by which the member is paid.

14 (12) "Fiscal year" means a year which begins July 1st and ends June
15 30th of the following year.

16 (13) "Former state fund" means the state retirement fund in
17 operation for teachers under chapter 187, Laws of 1923, as amended.

18 (14) "Local fund" means any of the local retirement funds for
19 teachers operated in any school district in accordance with the
20 provisions of chapter 163, Laws of 1917 as amended.

21 (15) "Member" means any teacher included in the membership of the
22 retirement system who has not been removed from membership under RCW
23 41.32.878 or 41.32.768. Also, any other employee of the public schools
24 who, on July 1, 1947, had not elected to be exempt from membership and
25 who, prior to that date, had by an authorized payroll deduction,
26 contributed to the member reserve.

27 (16) "Membership service" means service rendered subsequent to the
28 first day of eligibility of a person to membership in the retirement
29 system: PROVIDED, That where a member is employed by two or more
30 employers the individual shall receive no more than one service credit
31 month during any calendar month in which multiple service is rendered.
32 The provisions of this subsection shall apply only to plan 1 members.

33 (17) "Pension" means the moneys payable per year during life from
34 the pension reserve.

35 (18) "Pension reserve" is a fund in which shall be accumulated an
36 actuarial reserve adequate to meet present and future pension
37 liabilities of the system and from which all pension obligations are to
38 be paid.

1 (19) "Prior service" means service rendered prior to the first date
2 of eligibility to membership in the retirement system for which credit
3 is allowable. The provisions of this subsection shall apply only to
4 plan 1 members.

5 (20) "Prior service contributions" means contributions made by a
6 member to secure credit for prior service. The provisions of this
7 subsection shall apply only to plan 1 members.

8 (21) "Public school" means any institution or activity operated by
9 the state of Washington or any instrumentality or political subdivision
10 thereof employing teachers, except the University of Washington and
11 Washington State University.

12 (22) "Regular contributions" means the amounts required to be
13 deducted from the compensation of a member and credited to the member's
14 individual account in the member reserve. This subsection shall apply
15 only to plan 1 members.

16 (23) "Regular interest" means such rate as the director may
17 determine.

18 (24)(a) "Retirement allowance" for plan 1 members, means monthly
19 payments based on the sum of annuity and pension, or any optional
20 benefits payable in lieu thereof.

21 (b) "Retirement allowance" for plan 2 and plan 3 members, means
22 monthly payments to a retiree or beneficiary as provided in this
23 chapter.

24 (25) "Retirement system" means the Washington state teachers'
25 retirement system.

26 (26)(a) "Service" for plan 1 members means the time during which a
27 member has been employed by an employer for compensation.

28 (i) If a member is employed by two or more employers the individual
29 shall receive no more than one service credit month during any calendar
30 month in which multiple service is rendered.

31 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
32 sick leave may be creditable as service solely for the purpose of
33 determining eligibility to retire under RCW 41.32.470.

34 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
35 state retirement system that covers teachers in public schools may be
36 applied solely for the purpose of determining eligibility to retire
37 under RCW 41.32.470.

1 (b) "Service" for plan 2 and plan 3 members, means periods of
2 employment by a member for one or more employers for which earnable
3 compensation is earned subject to the following conditions:

4 (i) A member employed in an eligible position or as a substitute
5 shall receive one service credit month for each month of September
6 through August of the following year if he or she earns earnable
7 compensation for eight hundred ten or more hours during that period and
8 is employed during nine of those months, except that a member may not
9 receive credit for any period prior to the member's employment in an
10 eligible position except as provided in RCW 41.32.812 and 41.50.132;

11 (ii) If a member is employed either in an eligible position or as
12 a substitute teacher for nine months of the twelve month period between
13 September through August of the following year but earns earnable
14 compensation for less than eight hundred ten hours but for at least six
15 hundred thirty hours, he or she will receive one-half of a service
16 credit month for each month of the twelve month period;

17 (iii) All other members in an eligible position or as a substitute
18 teacher shall receive service credit as follows:

19 (A) A service credit month is earned in those calendar months where
20 earnable compensation is earned for ninety or more hours;

21 (B) A half-service credit month is earned in those calendar months
22 where earnable compensation is earned for at least seventy hours but
23 less than ninety hours; and

24 (C) A quarter-service credit month is earned in those calendar
25 months where earnable compensation is earned for less than seventy
26 hours.

27 (iv) Any person who is a member of the teachers' retirement system
28 and who is elected or appointed to a state elective position may
29 continue to be a member of the retirement system and continue to
30 receive a service credit month for each of the months in a state
31 elective position by making the required member contributions.

32 (v) When an individual is employed by two or more employers the
33 individual shall only receive one month's service credit during any
34 calendar month in which multiple service for ninety or more hours is
35 rendered.

36 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
37 sick leave may be creditable as service solely for the purpose of
38 determining eligibility to retire under RCW 41.32.470. For purposes of

1 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
2 to two service credit months. Use of less than forty-five days of sick
3 leave is creditable as allowed under this subsection as follows:

4 (A) Less than eleven days equals one-quarter service credit month;

5 (B) Eleven or more days but less than twenty-two days equals one-
6 half service credit month;

7 (C) Twenty-two days equals one service credit month;

8 (D) More than twenty-two days but less than thirty-three days
9 equals one and one-quarter service credit month;

10 (E) Thirty-three or more days but less than forty-five days equals
11 one and one-half service credit month.

12 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
13 state retirement system that covers teachers in public schools may be
14 applied solely for the purpose of determining eligibility to retire
15 under RCW 41.32.470.

16 (viii) The department shall adopt rules implementing this
17 subsection.

18 (27) "Service credit year" means an accumulation of months of
19 service credit which is equal to one when divided by twelve.

20 (28) "Service credit month" means a full service credit month or an
21 accumulation of partial service credit months that are equal to one.

22 (29) "Teacher" means any person qualified to teach who is engaged
23 by a public school in an instructional, administrative, or supervisory
24 capacity. The term includes state, educational service district, and
25 school district superintendents and their assistants and all employees
26 certificated by the superintendent of public instruction; and in
27 addition thereto any full time school doctor who is employed by a
28 public school and renders service of an instructional or educational
29 nature.

30 (30) "Average final compensation" for plan 2 and plan 3 members,
31 means the member's average earnable compensation of the highest
32 consecutive sixty service credit months prior to such member's
33 retirement, termination, or death. Periods constituting authorized
34 leaves of absence may not be used in the calculation of average final
35 compensation except under RCW 41.32.810(2).

36 (31) "Retiree" means any person who has begun accruing a retirement
37 allowance or other benefit provided by this chapter resulting from
38 service rendered to an employer while a member.

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

3 (33) "Director" means the director of the department.

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

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

9 (36) "Substitute teacher" means:

10 (a) A teacher who is hired by an employer to work as a temporary
11 teacher, except for teachers who are annual contract employees of an
12 employer and are guaranteed a minimum number of hours; or

13 (b) Teachers who either (i) work in ineligible positions for more
14 than one employer or (ii) work in an ineligible position or positions
15 together with an eligible position.

16 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
17 through September 1, 1991, means a position which normally requires two
18 or more uninterrupted months of creditable service during September
19 through August of the following year.

20 (b) "Eligible position" for plan 2 and plan 3 on and after
21 September 1, 1991, means a position that, as defined by the employer,
22 normally requires five or more months of at least seventy hours of
23 earnable compensation during September through August of the following
24 year.

25 (c) For purposes of this chapter an employer shall not define
26 "position" in such a manner that an employee's monthly work for that
27 employer is divided into more than one position.

28 (d) The elected position of the superintendent of public
29 instruction is an eligible position.

30 (38) "Plan 1" means the teachers' retirement system, plan 1
31 providing the benefits and funding provisions covering persons who
32 first became members of the system prior to October 1, 1977.

33 (39) "Plan 2" means the teachers' retirement system, plan 2
34 providing the benefits and funding provisions covering persons who
35 first became members of the system on and after October 1, 1977, and
36 prior to July 1, 1996.

37 (40) "Plan 3" means the teachers' retirement system, plan 3

1 providing the benefits and funding provisions covering persons who
2 first become members of the system on and after July 1, 1996, or who
3 transfer under RCW 41.32.817.

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

8 (42) "Index A" means the index for the year prior to the
9 determination of a postretirement adjustment.

10 (43) "Index B" means the index for the year prior to index A.

11 (44) "Index year" means the earliest calendar year in which the
12 index is more than sixty percent of index A.

13 (45) "Adjustment ratio" means the value of index A divided by index
14 B.

15 (46) "Annual increase" means, initially, fifty-nine cents per month
16 per year of service which amount shall be increased each July 1st by
17 three percent, rounded to the nearest cent.

18 (47) "Member account" or "member's account" for purposes of plan 3
19 means the sum of the contributions and earnings on behalf of the member
20 in the defined contribution portion of plan 3.

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

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

28 (50) "Domestic partner" has the definition in RCW 41.40.010.

29 **Sec. 21.** RCW 41.32.053 and 2003 c 402 s 2 are each amended to read
30 as follows:

31 (1) A one hundred fifty thousand dollar death benefit shall be paid
32 to the member's estate, or such person or persons, trust or
33 organization as the member has nominated by written designation duly
34 executed and filed with the department. If no such designated person
35 or persons are still living at the time of the member's death, the
36 member's death benefit shall be paid to the member's surviving spouse

1 or domestic partner as if in fact the spouse or domestic partner had
2 been nominated by written designation, or if there is no surviving
3 spouse or domestic partner, then to the member's legal representatives.

4 (2) The benefit under this section shall be paid only where death
5 occurs as a result of injuries sustained in the course of employment.
6 The determination of eligibility for the benefit shall be made
7 consistent with Title 51 RCW by the department of labor and industries.
8 The department of labor and industries shall notify the department of
9 retirement systems by order under RCW 51.52.050.

10 **Sec. 22.** RCW 41.32.260 and 2005 c 64 s 6 are each amended to read
11 as follows:

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

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

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

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

36 (c) 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 (2) 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 (a) 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 (b) The member provides to the director proof of honorable
13 discharge from the uniformed services; and

14 (c) 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. 23.** RCW 41.32.520 and 2003 c 155 s 1 are each amended to read
19 as follows:

20 (1) Except as specified in subsection (3) of this section, upon
21 receipt of proper proofs of death of any member before retirement or
22 before the first installment of his or her retirement allowance shall
23 become due his or her accumulated contributions, less any amount
24 identified as owing to an obligee upon withdrawal of accumulated
25 contributions pursuant to a court order filed under RCW 41.50.670,
26 and/or other benefits payable upon his or her death shall be paid to
27 his or her estate or to such persons, trust, or organization as he or
28 she shall have nominated by written designation duly executed and filed
29 with the department. If a member fails to file a new beneficiary
30 designation subsequent to marriage, divorce, or reestablishment of
31 membership following termination by withdrawal, lapsation, or
32 retirement, payment of his or her accumulated contributions, less any
33 amount identified as owing to an obligee upon withdrawal of accumulated
34 contributions pursuant to a court order filed under RCW 41.50.670,
35 and/or other benefits upon death before retirement shall be made to the
36 surviving spouse or domestic partner, if any; otherwise, to his or her
37 estate. If a member had established ten or more years of Washington

1 membership service credit or was eligible for retirement, the
2 beneficiary or the surviving spouse or domestic partner if otherwise
3 eligible may elect, in lieu of a cash refund of the member's
4 accumulated contributions, the following survivor benefit plan
5 actuarially reduced, except under subsection (4) of this section, by
6 the amount of any lump sum benefit identified as owing to an obligee
7 upon withdrawal of accumulated contributions pursuant to a court order
8 filed under RCW 41.50.670:

9 (a) A widow (~~(or)~~) widower, or domestic partner, without a child
10 or children under eighteen years of age, may elect a monthly payment of
11 fifty dollars to become effective at age fifty, provided the member had
12 fifteen or more years of Washington membership service credit. A
13 benefit paid under this subsection (1)(a) shall terminate at the
14 marriage of the beneficiary.

15 (b) The beneficiary, if a surviving spouse, domestic partner, or a
16 dependent (as that term is used in computing the dependent exemption
17 for federal internal revenue purposes) may elect to receive a joint and
18 one hundred percent retirement allowance under RCW 41.32.530.

19 (i) In the case of a dependent child the allowance shall continue
20 until attainment of majority or so long as the department judges that
21 the circumstances which created his or her dependent status continue to
22 exist. In any case, if at the time dependent status ceases, an amount
23 equal to the amount of accumulated contributions of the deceased member
24 has not been paid to the beneficiary, the remainder shall then be paid
25 in a lump sum to the beneficiary.

26 (ii) If at the time of death, the member was not then qualified for
27 a service retirement allowance, the benefit shall be based upon the
28 actuarial equivalent of the sum necessary to pay the accrued regular
29 retirement allowance commencing when the deceased member would have
30 first qualified for a service retirement allowance.

31 (2) If no qualified beneficiary survives a member, at his or her
32 death his or her accumulated contributions, less any amount identified
33 as owing to an obligee upon withdrawal of accumulated contributions
34 pursuant to a court order filed under RCW 41.50.670, shall be paid to
35 his or her estate, or his or her dependents may qualify for survivor
36 benefits under benefit plan (1)(b) in lieu of a cash refund of the
37 members accumulated contributions in the following order: Widow

1 (~~or~~), widower, or domestic partner; guardian of a dependent child or
2 children under age eighteen(~~or~~); or dependent parent or parents.

3 (3) If a member dies within sixty days following application for
4 disability retirement under RCW 41.32.550, the beneficiary named in the
5 application may elect to receive the benefit provided by:

6 (a) This section; or

7 (b) RCW 41.32.550, according to the option chosen under RCW
8 41.32.530 in the disability application.

9 (4) The retirement allowance of a member who is killed in the
10 course of employment, as determined by the director of the department
11 of labor and industries, is not subject to an actuarial reduction. The
12 member's retirement allowance is computed under RCW 41.32.480.

13 **Sec. 24.** RCW 41.32.785 and 2002 c 158 s 9 are each amended to read
14 as follows:

15 (1) Upon retirement for service as prescribed in RCW 41.32.765 or
16 retirement for disability under RCW 41.32.790, a member shall elect to
17 have the retirement allowance paid pursuant to the following options,
18 calculated so as to be actuarially equivalent to each other.

19 (a) Standard allowance. A member electing this option shall
20 receive a retirement allowance payable throughout such member's life.
21 However, if the retiree dies before the total of the retirement
22 allowance paid to such retiree equals the amount of such retiree's
23 accumulated contributions at the time of retirement, then the balance
24 shall be paid to the member's estate, or such person or persons, trust,
25 or organization as the retiree shall have nominated by written
26 designation duly executed and filed with the department; or if there be
27 no such designated person or persons still living at the time of the
28 retiree's death, then to the surviving spouse or domestic partner; or
29 if there be neither such designated person or persons still living at
30 the time of death nor a surviving spouse or domestic partner, then to
31 the retiree's legal representative.

32 (b) The department shall adopt rules that allow a member to select
33 a retirement option that pays the member a reduced retirement allowance
34 and upon death, such portion of the member's reduced retirement
35 allowance as the department by rule designates shall be continued
36 throughout the life of and paid to a designated person. Such person
37 shall be nominated by the member by written designation duly executed

1 and filed with the department at the time of retirement. The options
2 adopted by the department shall include, but are not limited to, a
3 joint and one hundred percent survivor option and a joint and fifty
4 percent survivor option.

5 (2)(a) A member, if married, must provide the written consent of
6 his or her spouse to the option selected under this section, except as
7 provided in (b) of this subsection. If a member is married and both
8 the member and member's spouse do not give written consent to an option
9 under this section, the department will pay the member a joint and
10 fifty percent survivor benefit and record the member's spouse as the
11 beneficiary. Such benefit shall be calculated to be actuarially
12 equivalent to the benefit options available under subsection (1) of
13 this section unless spousal consent is not required as provided in (b)
14 of this subsection.

15 (b) If a copy of a dissolution order designating a survivor
16 beneficiary under RCW 41.50.790 has been filed with the department at
17 least thirty days prior to a member's retirement:

18 (i) The department shall honor the designation as if made by the
19 member under subsection (1) of this section; and

20 (ii) The spousal consent provisions of (a) of this subsection do
21 not apply.

22 (3)(a) Any member who retired before January 1, 1996, and who
23 elected to receive a reduced retirement allowance under subsection
24 (1)(b) or (2) of this section is entitled to receive a retirement
25 allowance adjusted in accordance with (b) of this subsection, if they
26 meet the following conditions:

27 (i) The retiree's designated beneficiary predeceases or has
28 predeceased the retiree; and

29 (ii) The retiree provides to the department proper proof of the
30 designated beneficiary's death.

31 (b) The retirement allowance payable to the retiree, as of July 1,
32 1998, or the date of the designated beneficiary's death, whichever
33 comes last, shall be increased by the percentage derived in (c) of this
34 subsection.

35 (c) The percentage increase shall be derived by the following:

36 (i) One hundred percent multiplied by the result of (c)(ii) of this
37 subsection converted to a percent;

1 (ii) Subtract one from the reciprocal of the appropriate joint and
2 survivor option factor;

3 (iii) The joint and survivor option factor shall be from the table
4 in effect as of July 1, 1998.

5 (d) The adjustment under (b) of this subsection shall accrue from
6 the beginning of the month following the date of the designated
7 beneficiary's death or from July 1, 1998, whichever comes last.

8 (4) No later than July 1, 2001, the department shall adopt rules
9 that allow a member additional actuarially equivalent survivor benefit
10 options, and shall include, but are not limited to:

11 (a)(i) A retired member who retired without designating a survivor
12 beneficiary shall have the opportunity to designate their spouse from
13 a postretirement marriage or a domestic partner from a postretirement
14 domestic partnership as a survivor during a one-year period beginning
15 one year after the date of the postretirement marriage or
16 postretirement domestic partnership provided the retirement allowance
17 payable to the retiree is not subject to periodic payments pursuant to
18 a property division obligation as provided for in RCW 41.50.670.

19 (ii) A member who entered into a postretirement marriage or
20 postretirement domestic partnership prior to the effective date of the
21 rules adopted pursuant to this subsection and satisfies the conditions
22 of (a)(i) of this subsection shall have one year to designate their
23 spouse or domestic partner as a survivor beneficiary following the
24 adoption of the rules, however in the case of a domestic partnership,
25 the member must make the designation by July 1, 2007.

26 (b) A retired member who elected to receive a reduced retirement
27 allowance under this section and designated a nonspouse as survivor
28 beneficiary shall have the opportunity to remove the survivor
29 designation and have their future benefit adjusted.

30 (c) The department may make an additional charge, if necessary, to
31 ensure that the benefits provided under this subsection remain
32 actuarially equivalent.

33 (5) No later than July 1, 2003, the department shall adopt rules to
34 permit:

35 (a) A court-approved property settlement incident to a court decree
36 of dissolution made before retirement to provide that benefits payable
37 to a member who meets the length of service requirements of RCW

1 41.32.815 and the member's divorcing spouse be divided into two
2 separate benefits payable over the life of each spouse.

3 The member shall have available the benefit options of subsection
4 (1) of this section upon retirement, and if remarried at the time of
5 retirement remains subject to the spousal consent requirements of
6 subsection (2) of this section. Any reductions of the member's benefit
7 subsequent to the division into two separate benefits shall be made
8 solely to the separate benefit of the member.

9 The nonmember ex spouse shall be eligible to commence receiving
10 their separate benefit upon reaching the age provided in RCW
11 41.32.765(1) and after filing a written application with the
12 department.

13 (b) A court-approved property settlement incident to a court decree
14 of dissolution made after retirement may only divide the benefit into
15 two separate benefits payable over the life of each spouse if the
16 nonmember ex spouse was selected as a survivor beneficiary at
17 retirement.

18 The retired member may later choose the survivor benefit options
19 available in subsection (4) of this section. Any actuarial reductions
20 subsequent to the division into two separate benefits shall be made
21 solely to the separate benefit of the member.

22 Both the retired member and the nonmember divorced spouse shall be
23 eligible to commence receiving their separate benefits upon filing a
24 copy of the dissolution order with the department in accordance with
25 RCW 41.50.670.

26 (c) The department may make an additional charge or adjustment if
27 necessary to ensure that the separate benefits provided under this
28 subsection are actuarially equivalent to the benefits payable prior to
29 the decree of dissolution.

30 **Sec. 25.** RCW 41.32.790 and 1995 c 144 s 15 are each amended to
31 read as follows:

32 (1) A member of the retirement system who becomes totally
33 incapacitated for continued employment by an employer as determined by
34 the department upon recommendation of the department shall be eligible
35 to receive an allowance under the provisions of RCW 41.32.755 through
36 41.32.825. The member shall receive a monthly disability allowance

1 computed as provided for in RCW 41.32.760 and shall have the allowance
2 actuarially reduced to reflect the difference in the number of years
3 between age at disability and the attainment of age sixty-five.

4 Any member who receives an allowance under the provisions of this
5 section shall be subject to comprehensive medical examinations as
6 required by the department. If medical examinations reveal that a
7 member has recovered from the incapacitating disability and the member
8 is offered reemployment by an employer at a comparable compensation,
9 the member shall cease to be eligible for the allowance.

10 (2)(a) If the recipient of a monthly retirement allowance under
11 this section dies before the total of the retirement allowance paid to
12 the recipient equals the amount of the accumulated contributions at the
13 date of retirement, then the balance shall be paid to the member's
14 estate, or the person or persons, trust, or organization as the
15 recipient has nominated by written designation duly executed and filed
16 with the director, or, if there is no designated person or persons
17 still living at the time of the recipient's death, then to the
18 surviving spouse or domestic partner, or, if there is neither a
19 designated person or persons still living at the time of his or her
20 death nor a surviving spouse or domestic partner, then to his or her
21 legal representative.

22 (b) If a recipient of a monthly retirement allowance under this
23 section died before April 27, 1989, and before the total of the
24 retirement allowance paid to the recipient equaled the amount of his or
25 her accumulated contributions at the date of retirement, then the
26 department shall pay the balance of the accumulated contributions to
27 the member's surviving spouse or, if there is no surviving spouse, then
28 in equal shares to the member's children. If there is no surviving
29 spouse or children, the department shall retain the contributions.

30 **Sec. 26.** RCW 41.32.805 and 2003 c 155 s 2 are each amended to read
31 as follows:

32 (1) Except as provided in RCW 11.07.010, if a member or a vested
33 member who has not completed at least ten years of service dies, the
34 amount of the accumulated contributions standing to such member's
35 credit in the retirement system, less any amount identified as owing to
36 an obligee upon withdrawal of accumulated contributions pursuant to a
37 court order filed under RCW 41.50.670, at the time of such member's

1 death shall be paid to the member's estate, or such person or persons,
2 trust, or organization as the member shall have nominated by written
3 designation duly executed and filed with the department. If there be
4 no such designated person or persons still living at the time of the
5 member's death, such member's accumulated contributions standing to
6 such member's credit in the retirement system, less any amount
7 identified as owing to an obligee upon withdrawal of accumulated
8 contributions pursuant to a court order filed under RCW 41.50.670,
9 shall be paid to the member's surviving spouse or domestic partner as
10 if in fact such spouse or domestic partner had been nominated by
11 written designation, or if there be no such surviving spouse or
12 domestic partner, then to such member's legal representatives.

13 (2) If a member who is eligible for retirement or a member who has
14 completed at least ten years of service dies, the surviving spouse,
15 domestic partner, or eligible children shall elect to receive either:

16 (a) A retirement allowance computed as provided for in RCW
17 41.32.765, actuarially reduced by the amount of any lump sum benefit
18 identified as owing to an obligee upon withdrawal of accumulated
19 contributions pursuant to a court order filed under RCW 41.50.670 and
20 actuarially adjusted to reflect a joint and one hundred percent
21 survivor option under RCW 41.32.785 and, except under subsection (4) of
22 this section, if the member was not eligible for normal retirement at
23 the date of death a further reduction as described in RCW 41.32.765; if
24 a surviving spouse or domestic partner who is receiving a retirement
25 allowance dies leaving a child or children of the member under the age
26 of majority, then such child or children shall continue to receive an
27 allowance in an amount equal to that which was being received by the
28 surviving spouse or domestic partner, share and share alike, until such
29 child or children reach the age of majority; if there is no surviving
30 spouse or domestic partner eligible to receive an allowance at the time
31 of the member's death, such member's child or children under the age of
32 majority shall receive an allowance share and share alike calculated as
33 herein provided making the assumption that the ages of the spouse or
34 domestic partner and member were equal at the time of the member's
35 death; or

36 (b) The member's accumulated contributions, less any amount
37 identified as owing to an obligee upon withdrawal of accumulated
38 contributions pursuant to a court order filed under RCW 41.50.670.

1 (3) If a member who is eligible for retirement or a member who has
2 completed at least ten years of service dies after October 1, 1977, and
3 is not survived by a spouse, domestic partner, or an eligible child,
4 then the accumulated contributions standing to the member's credit,
5 less any amount identified as owing to an obligee upon withdrawal of
6 accumulated contributions pursuant to a court order filed under RCW
7 41.50.670, shall be paid:

8 (a) To an estate, a person or persons, trust, or organization as
9 the member shall have nominated by written designation duly executed
10 and filed with the department; or

11 (b) If there is no such designated person or persons still living
12 at the time of the member's death, then to the member's legal
13 representatives.

14 (4) A member who is killed in the course of employment, as
15 determined by the director of the department of labor and industries,
16 is not subject to an actuarial reduction under RCW 41.32.765. The
17 member's retirement allowance is computed under RCW 41.32.760.

18 **Sec. 27.** RCW 41.32.810 and 2005 c 64 s 7 are each amended to read
19 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 as provided
22 for under the provisions of RCW 41.32.755 through 41.32.825.

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

35 (3) Except as specified in subsection (6) of this section, a member
36 shall be eligible to receive a maximum of two years' service credit
37 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 the member makes both the employer and
3 member contributions plus interest as determined by the department for
4 the period of the authorized leave of absence within five years of
5 resumption of service or prior to retirement whichever comes sooner.

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

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

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

24 (a) The member qualifies for service credit under this subsection
25 if:

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

30 (ii) The member makes the employee contributions required under RCW
31 41.32.775 within five years of resumption of service or prior to
32 retirement, whichever comes sooner; or

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

36 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
37 or (e)(iii) of this subsection, the department shall establish the

1 member's service credit and shall bill the employer for its
2 contribution required under RCW 41.32.775 for the period of military
3 service, plus interest as determined by the department.

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

9 (d) The surviving spouse, domestic partner, or eligible child or
10 children of a member who left the employ of an employer to enter the
11 uniformed services of the United States and died while serving in the
12 uniformed services may, on behalf of the deceased member, apply for
13 retirement system service credit under this subsection up to the date
14 of the member's death in the uniformed services. The department shall
15 establish the deceased member's service credit if the surviving spouse,
16 domestic partner, or eligible child or 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 chapter 41.45
22 RCW within five years of the date of death or prior to the distribution
23 of any benefit, whichever comes first.

24 (e) 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 chapter 41.45 RCW 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. 28.** RCW 41.32.865 and 2005 c 64 s 8 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.

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

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

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

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

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

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

1 The department shall establish the member's service credit and
2 shall bill the employer for its contribution required under chapter
3 239, Laws of 1995 for the period of military service, plus interest as
4 determined by the department. Service credit under this subsection may
5 be obtained only if the member makes the employee contribution to the
6 defined contribution portion as determined by the department.

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

11 (a) The surviving spouse, domestic partner, or eligible child or
12 children of a member who left the employ of an employer to enter the
13 uniformed services of the United States and died while serving in the
14 uniformed services may, on behalf of the deceased member, apply for
15 retirement system service credit under this subsection up to the date
16 of the member's death in the uniformed services. The department shall
17 establish the deceased member's service credit if the surviving spouse,
18 domestic partner, or eligible child or 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 this
24 subsection within five years of the date of death or prior to the
25 distribution of any benefit, whichever comes first.

26 (b) 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 this subsection 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. 29.** RCW 41.32.895 and 2003 c 155 s 3 are each amended to read
5 as follows:

6 (1) If a member dies prior to retirement, the surviving spouse,
7 domestic partner, or eligible child or children shall receive a
8 retirement allowance computed as provided in RCW 41.32.851 actuarially
9 reduced to reflect a joint and one hundred percent survivor option and,
10 except under subsection (2) of this section, if the member was not
11 eligible for normal retirement at the date of death a further reduction
12 as described in RCW 41.32.875.

13 If the surviving spouse or domestic partner who is receiving the
14 retirement allowance dies leaving a child or children under the age of
15 majority, then such child or children shall continue to receive an
16 allowance in an amount equal to that which was being received by the
17 surviving spouse or domestic partner, share and share alike, until such
18 child or children reach the age of majority.

19 If there is no surviving spouse or domestic partner eligible to
20 receive an allowance at the time of the member's death, such member's
21 child or children under the age of majority shall receive an allowance,
22 share and share alike. The allowance shall be calculated with the
23 assumption that the age of the spouse or domestic partner and member
24 were equal at the time of the member's death.

25 (2) A member who is killed in the course of employment, as
26 determined by the director of the department of labor and industries,
27 is not subject to an actuarial reduction under RCW 41.32.875. The
28 member's retirement allowance is computed under RCW 41.32.840.

29 **Sec. 30.** RCW 41.35.010 and 2003 c 157 s 1 are each amended to read
30 as follows:

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

33 (1) "Retirement system" means the Washington school employees'
34 retirement system provided for in this chapter.

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

1 (3) "State treasurer" means the treasurer of the state of
2 Washington.

3 (4) "Employer," for plan 2 and plan 3 members, means a school
4 district or an educational service district.

5 (5) "Member" means any employee included in the membership of the
6 retirement system, as provided for in RCW 41.35.030.

7 (6)(a) "Compensation earnable" for plan 2 and plan 3 members, means
8 salaries or wages earned by a member during a payroll period for
9 personal services, including overtime payments, and shall include wages
10 and salaries deferred under provisions established pursuant to sections
11 403(b), 414(h), and 457 of the United States internal revenue code, but
12 shall exclude nonmoney maintenance compensation and lump sum or other
13 payments for deferred annual sick leave, unused accumulated vacation,
14 unused accumulated annual leave, or any form of severance pay.

15 (b) "Compensation earnable" for plan 2 and plan 3 members also
16 includes the following actual or imputed payments, which are not paid
17 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 this (b)(ii)(B) of this subsection
35 shall be 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 41.40.038;

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" for plan 2 and plan 3 members means periods of
13 employment by a member in an eligible position or positions for one or
14 more employers for which compensation earnable is paid. Compensation
15 earnable earned for ninety or more hours in any calendar month shall
16 constitute one service credit month except as provided in RCW
17 41.35.180. Compensation earnable earned for at least seventy hours but
18 less than ninety hours in any calendar month shall constitute one-half
19 service credit month of service. Compensation earnable earned for less
20 than seventy hours in any calendar month shall constitute one-quarter
21 service credit month of service. Time spent in standby status, whether
22 compensated or not, is not service.

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

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

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

33 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
34 28A.400.300 is equal to two service credit months. Use of less than
35 forty-five days of sick leave is creditable as allowed under this
36 subsection as follows:

37 (i) Less than eleven days equals one-quarter service credit month;

1 (ii) Eleven or more days but less than twenty-two days equals one-
2 half service credit month;

3 (iii) Twenty-two days equals one service credit month;

4 (iv) More than twenty-two days but less than thirty-three days
5 equals one and one-quarter service credit month; and

6 (v) Thirty-three or more days but less than forty-five days equals
7 one and one-half service credit month.

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

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

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

13 (11) "Beneficiary" for plan 2 and plan 3 members means any person
14 in receipt of a retirement allowance or other benefit provided by this
15 chapter resulting from service rendered to an employer by another
16 person.

17 (12) "Regular interest" means such rate as the director may
18 determine.

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

23 (14) "Average final compensation" for plan 2 and plan 3 members
24 means the member's average compensation earnable of the highest
25 consecutive sixty months of service credit months prior to such
26 member's retirement, termination, or death. Periods constituting
27 authorized leaves of absence may not be used in the calculation of
28 average final compensation except under RCW 41.40.710(2).

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

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

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

37 (18) "Retirement allowance" for plan 2 and plan 3 members means

1 monthly payments to a retiree or beneficiary as provided in this
2 chapter.

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

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

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

13 (22) "Eligible position" means any position that, as defined by the
14 employer, normally requires five or more months of service a year for
15 which regular compensation for at least seventy hours is earned by the
16 occupant thereof. For purposes of this chapter an employer shall not
17 define "position" in such a manner that an employee's monthly work for
18 that employer is divided into more than one position.

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

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

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

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

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

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

34 (29) "Plan 2" means the Washington school employees' retirement
35 system plan 2 providing the benefits and funding provisions covering
36 persons who first became members of the public employees' retirement
37 system on and after October 1, 1977, and transferred to the Washington
38 school employees' retirement system under RCW 41.40.750.

1 (30) "Plan 3" means the Washington school employees' retirement
2 system plan 3 providing the benefits and funding provisions covering
3 persons who first became members of the system on and after September
4 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

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

9 (32) "Index A" means the index for the year prior to the
10 determination of a postretirement adjustment.

11 (33) "Index B" means the index for the year prior to index A.

12 (34) "Adjustment ratio" means the value of index A divided by index
13 B.

14 (35) "Separation from service" occurs when a person has terminated
15 all employment with an employer.

16 (36) "Member account" or "member's account" for purposes of plan 3
17 means the sum of the contributions and earnings on behalf of the member
18 in the defined contribution portion of plan 3.

19 (37) "Classified employee" means an employee of a school district
20 or an educational service district who is not eligible for membership
21 in the teachers' retirement system established under chapter 41.32 RCW.

22 (38) "Substitute employee" means a classified employee who is
23 employed by an employer exclusively as a substitute for an absent
24 employee.

25 (39) "Domestic partner" has the definition in RCW 41.40.010.

26 **Sec. 31.** RCW 41.35.115 and 2003 c 402 s 3 are each amended to read
27 as follows:

28 (1) A one hundred fifty thousand dollar death benefit shall be paid
29 to the member's estate, or such person or persons, trust or
30 organization as the member has nominated by written designation duly
31 executed and filed with the department. If no such designated person
32 or persons are still living at the time of the member's death, the
33 member's death benefit shall be paid to the member's surviving spouse
34 or domestic partner as if in fact the spouse or domestic partner had
35 been nominated by written designation, or if there is no surviving
36 spouse or domestic partner, then to the member's legal representatives.

1 (2) The benefit under this section shall be paid only where death
2 occurs as a result of injuries sustained in the course of employment.
3 The determination of eligibility for the benefit shall be made
4 consistent with Title 51 RCW by the department of labor and industries.
5 The department of labor and industries shall notify the department of
6 retirement systems by order under RCW 51.52.050.

7 **Sec. 32.** RCW 41.35.220 and 2002 c 158 s 11 are each amended to
8 read as follows:

9 (1) Upon retirement for service as prescribed in RCW 41.35.420 or
10 41.35.680 or retirement for disability under RCW 41.35.440 or
11 41.35.690, a member shall elect to have the retirement allowance paid
12 pursuant to one of the following options, calculated so as to be
13 actuarially equivalent to each other.

14 (a) Standard allowance. A member electing this option shall
15 receive a retirement allowance payable throughout such member's life.

16 (i) For members of plan 2, if the retiree dies before the total of
17 the retirement allowance paid to such retiree equals the amount of such
18 retiree's accumulated contributions at the time of retirement, then the
19 balance shall be paid to the member's estate, or such person or
20 persons, trust, or organization as the retiree shall have nominated by
21 written designation duly executed and filed with the department; or if
22 there be no such designated person or persons still living at the time
23 of the retiree's death, then to the surviving spouse or domestic
24 partner; or if there be neither such designated person or persons still
25 living at the time of death nor a surviving spouse or domestic partner,
26 then to the retiree's legal representative.

27 (ii) For members of plan 3, upon the death of the retired member,
28 the member's benefits shall cease.

29 (b) The department shall adopt rules that allow a member to select
30 a retirement option that pays the member a reduced retirement allowance
31 and upon death, such portion of the member's reduced retirement
32 allowance as the department by rule designates shall be continued
33 throughout the life of and paid to a person nominated by the member by
34 written designation duly executed and filed with the department at the
35 time of retirement. The options adopted by the department shall
36 include, but are not limited to, a joint and one hundred percent
37 survivor option and a joint and fifty percent survivor option.

1 (2)(a) A member, if married, must provide the written consent of
2 his or her spouse to the option selected under this section, except as
3 provided in (b) of this subsection. If a member is married and both
4 the member and the member's spouse do not give written consent to an
5 option under this section, the department shall pay a joint and fifty
6 percent survivor benefit calculated to be actuarially equivalent to the
7 benefit options available under subsection (1) of this section unless
8 spousal consent is not required as provided in (b) of this subsection.

9 (b) If a copy of a dissolution order designating a survivor
10 beneficiary under RCW 41.50.790 has been filed with the department at
11 least thirty days prior to a member's retirement:

12 (i) The department shall honor the designation as if made by the
13 member under subsection (1) of this section; and

14 (ii) The spousal consent provisions of (a) of this subsection do
15 not apply.

16 (3) No later than July 1, 2001, the department shall adopt rules
17 that allow a member additional actuarially equivalent survivor benefit
18 options, and shall include, but are not limited to:

19 (a)(i) A retired member who retired without designating a survivor
20 beneficiary shall have the opportunity to designate their spouse from
21 a postretirement marriage or domestic partner from a postretirement
22 domestic partnership as a survivor during a one-year period beginning
23 one year after the date of the postretirement marriage or
24 postretirement domestic partnership provided the retirement allowance
25 payable to the retiree is not subject to periodic payments pursuant to
26 a property division obligation as provided for in RCW 41.50.670.

27 (ii) A member who entered into a postretirement marriage or
28 postretirement domestic partnership prior to the effective date of the
29 rules adopted pursuant to this subsection and satisfies the conditions
30 of (a)(i) of this subsection shall have one year to designate their
31 spouse or domestic partner as a survivor beneficiary following the
32 adoption of the rules, however in the case of a domestic partnership,
33 the member must make the designation by July 1, 2007.

34 (b) A retired member who elected to receive a reduced retirement
35 allowance under this section and designated a nonspouse as survivor
36 beneficiary shall have the opportunity to remove the survivor
37 designation and have their future benefit adjusted.

1 (c) The department may make an additional charge, if necessary, to
2 ensure that the benefits provided under this subsection remain
3 actuarially equivalent.

4 (4) No later than July 1, 2003, the department shall adopt rules to
5 permit:

6 (a) A court-approved property settlement incident to a court decree
7 of dissolution made before retirement to provide that benefits payable
8 to a member of plan 2 who meets the length of service requirements of
9 RCW 41.35.420, or a member of plan 3 who meets the length of service
10 requirements of RCW 41.35.680(1), and the member's divorcing spouse be
11 divided into two separate benefits payable over the life of each
12 spouse.

13 The member shall have available the benefit options of subsection
14 (1) of this section upon retirement, and if remarried at the time of
15 retirement remains subject to the spousal consent requirements of
16 subsection (2) of this section. Any reductions of the member's benefit
17 subsequent to the division into two separate benefits shall be made
18 solely to the separate benefit of the member.

19 The nonmember ex spouse shall be eligible to commence receiving
20 their separate benefit upon reaching the ages provided in RCW
21 41.35.420(1) for members of plan 2, or RCW 41.35.680(1) for members of
22 plan 3, and after filing a written application with the department.

23 (b) A court-approved property settlement incident to a court decree
24 of dissolution made after retirement may only divide the benefit into
25 two separate benefits payable over the life of each spouse if the
26 nonmember ex spouse was selected as a survivor beneficiary at
27 retirement.

28 The retired member may later choose the survivor benefit options
29 available in subsection (3) of this section. Any actuarial reductions
30 subsequent to the division into two separate benefits shall be made
31 solely to the separate benefit of the member.

32 Both the retired member and the nonmember divorced spouse shall be
33 eligible to commence receiving their separate benefits upon filing a
34 copy of the dissolution order with the department in accordance with
35 RCW 41.50.670.

36 (c) Any benefit distributed pursuant to chapter 41.31A RCW after
37 the date of the dissolution order creating separate benefits for a
38 member and nonmember ex spouse shall be paid solely to the member.

1 (d) The department may make an additional charge or adjustment if
2 necessary to ensure that the separate benefits provided under this
3 subsection are actuarially equivalent to the benefits payable prior to
4 the decree of dissolution.

5 **Sec. 33.** RCW 41.35.440 and 1998 c 341 s 105 are each amended to
6 read as follows:

7 (1) A member of the retirement system who becomes totally
8 incapacitated for continued employment by an employer as determined by
9 the department upon recommendation of the department shall be eligible
10 to receive an allowance under the provisions of RCW 41.35.400 through
11 41.35.599. The member shall receive a monthly disability allowance
12 computed as provided for in RCW 41.35.400 and shall have this allowance
13 actuarially reduced to reflect the difference in the number of years
14 between age at disability and the attainment of age sixty-five.

15 Any member who receives an allowance under the provisions of this
16 section shall be subject to comprehensive medical examinations as
17 required by the department. If these medical examinations reveal that
18 a member has recovered from the incapacitating disability and the
19 member is offered reemployment by an employer at a comparable
20 compensation, the member shall cease to be eligible for the allowance.

21 (2) If the recipient of a monthly retirement allowance under this
22 section dies before the total of the retirement allowance paid to the
23 recipient equals the amount of the accumulated contributions at the
24 date of retirement, then the balance shall be paid to the member's
25 estate, or the person or persons, trust, or organization as the
26 recipient has nominated by written designation duly executed and filed
27 with the director, or, if there is no designated person or persons
28 still living at the time of the recipient's death, then to the
29 surviving spouse or domestic partner, or, if there is no designated
30 person or persons still living at the time of his or her death nor a
31 surviving spouse or domestic partner, then to his or her legal
32 representative.

33 **Sec. 34.** RCW 41.35.460 and 2003 c 155 s 4 are each amended to read
34 as follows:

35 (1) Except as provided in RCW 11.07.010, if a member or a vested
36 member who has not completed at least ten years of service dies, the

1 amount of the accumulated contributions standing to such member's
2 credit in the retirement system at the time of such member's death,
3 less any amount identified as owing to an obligee upon withdrawal of
4 accumulated contributions pursuant to a court order filed under RCW
5 41.50.670, shall be paid to the member's estate, or such person or
6 persons, trust, or organization as the member shall have nominated by
7 written designation duly executed and filed with the department. If
8 there be no such designated person or persons still living at the time
9 of the member's death, such member's accumulated contributions standing
10 to such member's credit in the retirement system, less any amount
11 identified as owing to an obligee upon withdrawal of accumulated
12 contributions pursuant to a court order filed under RCW 41.50.670,
13 shall be paid to the member's surviving spouse or domestic partner as
14 if in fact such spouse or domestic partner had been nominated by
15 written designation, or if there be no such surviving spouse or
16 domestic partner, then to such member's legal representatives.

17 (2) If a member who is eligible for retirement or a member who has
18 completed at least ten years of service dies, the surviving spouse,
19 domestic partner, or eligible child or children shall elect to receive
20 either:

21 (a) A retirement allowance computed as provided for in RCW
22 41.35.420, actuarially reduced by the amount of any lump sum benefit
23 identified as owing to an obligee upon withdrawal of accumulated
24 contributions pursuant to a court order filed under RCW 41.50.670 and
25 actuarially adjusted to reflect a joint and one hundred percent
26 survivor option under RCW 41.35.220 and, except under subsection (4) of
27 this section, if the member was not eligible for normal retirement at
28 the date of death a further reduction as described in RCW 41.35.420; if
29 a surviving spouse or domestic partner who is receiving a retirement
30 allowance dies leaving a child or children of the member under the age
31 of majority, then such child or children shall continue to receive an
32 allowance in an amount equal to that which was being received by the
33 surviving spouse or domestic partner, share and share alike, until such
34 child or children reach the age of majority; if there is no surviving
35 spouse or domestic partner eligible to receive an allowance at the time
36 of the member's death, such member's child or children under the age of
37 majority shall receive an allowance, share and share alike, calculated

1 as herein provided making the assumption that the ages of the spouse or
2 domestic partner and member were equal at the time of the member's
3 death; or

4 (b) The member's accumulated contributions, less any amount
5 identified as owing to an obligee upon withdrawal of accumulated
6 contributions pursuant to a court order filed under RCW 41.50.670.

7 (3) If a member who is eligible for retirement or a member who has
8 completed at least ten years of service dies and is not survived by a
9 spouse, domestic partner, or an eligible child, then the accumulated
10 contributions standing to the member's credit, less any amount
11 identified as owing to an obligee upon withdrawal of accumulated
12 contributions pursuant to a court order filed under RCW 41.50.670,
13 shall be paid:

14 (a) To a person or persons, estate, trust, or organization as the
15 member shall have nominated by written designation duly executed and
16 filed with the department; or

17 (b) If there is no such designated person or persons still living
18 at the time of the member's death, then to the member's legal
19 representatives.

20 (4) A member who is killed in the course of employment, as
21 determined by the director of the department of labor and industries,
22 is not subject to an actuarial reduction under RCW 41.35.420. The
23 member's retirement allowance is computed under RCW 41.35.400.

24 **Sec. 35.** RCW 41.35.470 and 2005 c 64 s 4 are each amended to read
25 as follows:

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

29 (2) A member who receives compensation from an employer while on an
30 authorized leave of absence to serve as an elected official of a labor
31 organization, and whose employer is reimbursed by the labor
32 organization for the compensation paid to the member during the period
33 of absence, may also be considered to be on a paid leave of absence.
34 This subsection shall only apply if the member's leave of absence is
35 authorized by a collective bargaining agreement that provides that the
36 member retains seniority rights with the employer during the period of
37 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 uniformed services of the United States shall be entitled to retirement
21 system service credit for up to five years of military service. This
22 subsection shall be administered in a manner consistent with the
23 requirements of the federal uniformed services employment and
24 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, the member applies for
29 reemployment with the employer who employed the member immediately
30 prior to the member entering the uniformed services; and

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

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

37 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
38 or (e)(iii) of this subsection, the department shall establish the

1 member's service credit and shall bill the employer for its
2 contribution required under RCW 41.35.430 for the period of military
3 service, plus interest as determined by the department.

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

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

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

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

21 (iii) Pay(~~(s)~~) the employee contributions required under chapter
22 41.45 RCW within five years of the date of death or prior to the
23 distribution of any benefit, whichever comes first.

24 (e) 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 chapter 41.45 RCW 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. 36.** RCW 41.35.650 and 2005 c 64 s 5 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.

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

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

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

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

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

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

1 The department shall establish the member's service credit and
2 shall bill the employer for its contribution required under RCW
3 41.35.720 for the period of military service, plus interest as
4 determined by the department. Service credit under this subsection may
5 be obtained only if the member makes the employee contribution to the
6 defined contribution portion as determined by the department.

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

11 (a) The surviving spouse, domestic partner, or eligible child or
12 children of a member who left the employ of an employer to enter the
13 uniformed services of the United States and died while serving in the
14 uniformed services may, on behalf of the deceased member, apply for
15 retirement system service credit under this subsection up to the date
16 of the member's death in the uniformed services. The department shall
17 establish the deceased member's service credit if the surviving spouse,
18 domestic partner, or eligible child or 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 this
24 subsection within five years of the date of death or prior to the
25 distribution of any benefit, whichever comes first.

26 (b) 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 this subsection 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. 37.** RCW 41.35.710 and 2003 c 155 s 5 are each amended to read
5 as follows:

6 (1) If a member dies prior to retirement, the surviving spouse,
7 domestic partner, or eligible child or children shall receive a
8 retirement allowance computed as provided in RCW 41.35.620 actuarially
9 reduced to reflect a joint and one hundred percent survivor option and,
10 except under subsection (2) of this section, if the member was not
11 eligible for normal retirement at the date of death a further reduction
12 as described in RCW 41.35.680.

13 If the surviving spouse or domestic partner who is receiving the
14 retirement allowance dies leaving a child or children under the age of
15 majority, then such child or children shall continue to receive an
16 allowance in an amount equal to that which was being received by the
17 surviving spouse or domestic partner, share and share alike, until such
18 child or children reach the age of majority.

19 If there is no surviving spouse or domestic partner eligible to
20 receive an allowance at the time of the member's death, such member's
21 child or children under the age of majority shall receive an allowance,
22 share and share alike. The allowance shall be calculated with the
23 assumption that the age of the spouse or domestic partner and member
24 were equal at the time of the member's death.

25 (2) A member who is killed in the course of employment, as
26 determined by the director of the department of labor and industries,
27 is not subject to an actuarial reduction under RCW 41.35.680. The
28 member's retirement allowance is computed under RCW 41.35.620.

29 **Sec. 38.** RCW 41.37.010 and 2005 c 327 s 4 are each amended to read
30 as follows:

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

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

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

1 (3) "State treasurer" means the treasurer of the state of
2 Washington.

3 (4) "Employer" means the Washington state department of
4 corrections, the Washington state parks and recreation commission, the
5 Washington state gambling commission, the Washington state patrol, the
6 Washington state liquor control board, county corrections departments,
7 city corrections departments not covered under chapter 41.28 RCW, or
8 other employers employing statewide elective officials.

9 (5) "Member" means any employee employed by an employer on a full-
10 time, fully compensated basis within the following job classes in
11 effect as of January 1, 2004: City corrections officers, jailers,
12 police support officers, custody officers, and bailiffs; county
13 corrections officers, jailers, custody officers, and sheriffs
14 corrections officers; county probation officers and probation
15 counselors; state correctional officers, correctional sergeants, and
16 community corrections officers; liquor enforcement officers; park
17 rangers; commercial vehicle enforcement officers; and gambling special
18 agents.

19 (6)(a) "Compensation earnable" for members, means salaries or wages
20 earned by a member during a payroll period for personal services,
21 including overtime payments, and shall include wages and salaries
22 deferred under provisions established pursuant to sections 403(b),
23 414(h), and 457 of the United States internal revenue code, but shall
24 exclude nonmoney maintenance compensation and lump sum or other
25 payments for deferred annual sick leave, unused accumulated vacation,
26 unused accumulated annual leave, or any form of severance pay.

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

29 (i) Retroactive payments to an individual by an employer on
30 reinstatement of the employee in a position, or payments by an employer
31 to an individual in lieu of reinstatement, which are awarded or granted
32 as the equivalent of the salary or wage which the individual would have
33 earned during a payroll period shall be considered compensation
34 earnable to the extent provided in this subsection, and the individual
35 shall receive the equivalent service credit;

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

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

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

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

11 (iv) Compensation that a member would have received but for a
12 disability occurring in the line of duty only as authorized by RCW
13 41.37.070;

14 (v) Compensation that a member receives due to participation in the
15 leave sharing program only as authorized by RCW 41.04.650 through
16 41.04.670; and

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

22 (7) "Service" means periods of employment by a member on or after
23 July 1, 2006, for one or more employers for which compensation earnable
24 is paid. Compensation earnable earned for ninety or more hours in any
25 calendar month shall constitute one service credit month. Compensation
26 earnable earned for at least seventy hours but less than ninety hours
27 in any calendar month shall constitute one-half service credit month of
28 service. Compensation earnable earned for less than seventy hours in
29 any calendar month shall constitute one-quarter service credit month of
30 service. Time spent in standby status, whether compensated or not, is
31 not service.

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

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

36 (b) A member shall receive a total of not more than twelve service
37 credit months of service for such calendar year. If an individual is
38 employed in an eligible position by one or more employers the

1 individual shall receive no more than one service credit month during
2 any calendar month in which multiple service for ninety or more hours
3 is rendered.

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

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

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

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

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

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

18 (14) "Average final compensation" means the member's average
19 compensation earnable of the highest consecutive sixty months of
20 service credit months prior to such member's retirement, termination,
21 or death. Periods constituting authorized leaves of absence may not be
22 used in the calculation of average final compensation except under RCW
23 41.37.290.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (35) "Domestic partner" has the definition in RCW 41.40.010.

1 **Sec. 39.** RCW 41.37.110 and 2004 c 242 s 14 are each amended to
2 read as follows:

3 (1) A one hundred fifty thousand dollar death benefit shall be paid
4 to the member's estate, or the person or persons, trust, or
5 organization the member has nominated by written designation duly
6 executed and filed with the department. If the designated person or
7 persons are not still living at the time of the member's death, the
8 member's death benefit shall be paid to the member's surviving spouse
9 or domestic partner as if in fact the spouse or domestic partner had
10 been nominated by written designation, or if there is no surviving
11 spouse or domestic partner, then to the member's legal representatives.

12 (2) The benefit under this section shall be paid only where death
13 occurs as a result of injuries sustained in the course of employment.
14 The determination of eligibility for the benefit shall be made
15 consistent with Title 51 RCW by the department of labor and industries.
16 The department of labor and industries shall notify the department of
17 retirement systems by order under RCW 51.52.050.

18 **Sec. 40.** RCW 41.37.170 and 2004 c 242 s 23 are each amended to
19 read as follows:

20 (1) Upon retirement for service as prescribed in RCW 41.37.210 or
21 retirement for disability under RCW 41.37.230, a member shall elect to
22 have the retirement allowance paid pursuant to one of the following
23 options, calculated so as to be actuarially equivalent to each other.

24 (a) Standard allowance. A member electing this option shall
25 receive a retirement allowance payable throughout the member's life.
26 If the retiree dies before the total of the retirement allowance paid
27 to the retiree equals the amount of the retiree's accumulated
28 contributions at the time of retirement, then the balance shall be paid
29 to the member's estate, or the person or persons, trust, or
30 organization the retiree nominated by written designation duly executed
31 and filed with the department; or if there is no designated person or
32 persons still living at the time of the retiree's death, then to the
33 surviving spouse or domestic partner; or if there is neither a
34 designated person or persons still living at the time of death nor a
35 surviving spouse or domestic partner, then to the retiree's legal
36 representative.

1 (b) The department shall adopt rules that allow a member to select
2 a retirement option that pays the member a reduced retirement allowance
3 and upon death, the portion of the member's reduced retirement
4 allowance as the department by rule designates shall be continued
5 throughout the life of and paid to a person nominated by the member by
6 written designation duly executed and filed with the department at the
7 time of retirement. The options adopted by the department shall
8 include, but are not limited to, a joint and one hundred percent
9 survivor option and a joint and fifty percent survivor option.

10 (2)(a) A member, if married, must provide the written consent of
11 his or her spouse to the option selected under this section, except as
12 provided in (b) of this subsection. If a member is married and both
13 the member and the member's spouse do not give written consent to an
14 option under this section, the department shall pay a joint and fifty
15 percent survivor benefit calculated to be actuarially equivalent to the
16 benefit options available under subsection (1) of this section unless
17 spousal consent is not required as provided in (b) of this subsection.

18 (b) If a copy of a dissolution order designating a survivor
19 beneficiary under RCW 41.50.790 has been filed with the department at
20 least thirty days prior to a member's retirement:

21 (i) The department shall honor the designation as if made by the
22 member under subsection (1) of this section; and

23 (ii) The spousal consent provisions of (a) of this subsection do
24 not apply.

25 (3) The department shall adopt rules that allow a member additional
26 actuarially equivalent survivor benefit options, and shall include, but
27 are not limited to:

28 (a)(i) A retired member who retired without designating a survivor
29 beneficiary shall have the opportunity to designate their spouse from
30 a postretirement marriage or a domestic partner from a postretirement
31 domestic partnership as a survivor during a one-year period beginning
32 one year after the date of the postretirement marriage or
33 postretirement domestic partnership provided the retirement allowance
34 payable to the retiree is not subject to periodic payments pursuant to
35 a property division obligation as provided for in RCW 41.50.670.

36 (ii) A member who entered into a postretirement marriage or
37 postretirement domestic partnership prior to the effective date of the
38 rules adopted pursuant to this subsection and satisfies the conditions

1 of (a)(i) of this subsection shall have one year to designate their
2 spouse or domestic partner as a survivor beneficiary following the
3 adoption of the rules, however in the case of a domestic partnership,
4 the member must make the designation by July 1, 2007.

5 (b) A retired member who elected to receive a reduced retirement
6 allowance under this section and designated a nonspouse as survivor
7 beneficiary shall have the opportunity to remove the survivor
8 designation and have their future benefit adjusted.

9 (c) The department may make an additional charge, if necessary, to
10 ensure that the benefits provided under this subsection remain
11 actuarially equivalent.

12 (4) The department shall adopt rules to permit:

13 (a) A court-approved property settlement incident to a court decree
14 of dissolution made before retirement to provide that benefits payable
15 to a member who meets the length of service requirements of RCW
16 41.37.210 and the member's divorcing spouse be divided into two
17 separate benefits payable over the life of each spouse.

18 The member shall have available the benefit options of subsection
19 (1) of this section upon retirement, and if remarried at the time of
20 retirement remains subject to the spousal consent requirements of
21 subsection (2) of this section. Any reductions of the member's benefit
22 subsequent to the division into two separate benefits shall be made
23 solely to the separate benefit of the member.

24 The nonmember ex spouse shall be eligible to commence receiving
25 their separate benefit upon reaching the age provided in RCW
26 41.37.210(1) and after filing a written application with the
27 department.

28 (b) A court-approved property settlement incident to a court decree
29 of dissolution made after retirement may only divide the benefit into
30 two separate benefits payable over the life of each spouse if the
31 nonmember ex spouse was selected as a survivor beneficiary at
32 retirement.

33 The retired member may later choose the survivor benefit options
34 available in subsection (3) of this section. Any actuarial reductions
35 subsequent to the division into two separate benefits shall be made
36 solely to the separate benefit of the member.

37 Both the retired member and the nonmember divorced spouse shall be

1 eligible to commence receiving their separate benefits upon filing a
2 copy of the dissolution order with the department in accordance with
3 RCW 41.50.670.

4 (c) The department may make an additional charge or adjustment if
5 necessary to ensure that the separate benefits provided under this
6 subsection are actuarially equivalent to the benefits payable prior to
7 the decree of dissolution.

8 **Sec. 41.** RCW 41.37.250 and 2005 c 327 s 7 are each amended to read
9 as follows:

10 (1) Except as provided in RCW 11.07.010, if a member or a vested
11 member who has not completed at least ten years of service dies, the
12 amount of the accumulated contributions standing to that member's
13 credit in the retirement system at the time of the member's death, less
14 any amount identified as owing to an obligee upon withdrawal of
15 accumulated contributions pursuant to a court order filed under RCW
16 41.50.670, shall be paid to the member's estate, or the person or
17 persons, trust, or organization as the member shall have nominated by
18 written designation duly executed and filed with the department. If
19 there is no designated person or persons still living at the time of
20 the member's death, the member's accumulated contributions standing to
21 the member's credit in the retirement system, less any amount
22 identified as owing to an obligee upon withdrawal of accumulated
23 contributions pursuant to a court order filed under RCW 41.50.670,
24 shall be paid to the member's surviving spouse or domestic partner as
25 if in fact that spouse or domestic partner had been nominated by
26 written designation, or if there is no surviving spouse or domestic
27 partner, then to the member's legal representatives.

28 (2) If a member who is eligible for retirement or a member who has
29 completed at least ten years of service dies, the surviving spouse,
30 domestic partner, or eligible child or children shall elect to receive
31 either:

32 (a) A retirement allowance computed as provided for in RCW
33 41.37.210, actuarially reduced by the amount of any lump sum benefit
34 identified as owing to an obligee upon withdrawal of accumulated
35 contributions pursuant to a court order filed under RCW 41.50.670 and
36 actuarially adjusted to reflect a joint and one hundred percent
37 survivor option under RCW 41.37.170 and, except under subsection (4) of

1 this section, if the member was not eligible for normal retirement at
2 the date of death a further reduction as described in RCW 41.37.210; if
3 a surviving spouse or domestic partner who is receiving a retirement
4 allowance dies leaving a child or children of the member under the age
5 of majority, then the child or children shall continue to receive an
6 allowance in an amount equal to that which was being received by the
7 surviving spouse or domestic partner, share and share alike, until the
8 child or children reach the age of majority; if there is no surviving
9 spouse or domestic partner eligible to receive an allowance at the time
10 of the member's death, the member's child or children under the age of
11 majority shall receive an allowance, share and share alike, calculated
12 under this section making the assumption that the ages of the spouse or
13 domestic partner and member were equal at the time of the member's
14 death; or

15 (b) The member's accumulated contributions, less any amount
16 identified as owing to an obligee upon withdrawal of accumulated
17 contributions pursuant to a court order filed under RCW 41.50.670.

18 (3) If a member who is eligible for retirement or a member who has
19 completed at least ten years of service dies and is not survived by a
20 spouse, domestic partner, or an eligible child, then the accumulated
21 contributions standing to the member's credit, less any amount
22 identified as owing to an obligee upon withdrawal of accumulated
23 contributions pursuant to a court order filed under RCW 41.50.670,
24 shall be paid:

25 (a) To a person or persons, estate, trust, or organization as the
26 member shall have nominated by written designation duly executed and
27 filed with the department; or

28 (b) If there is no designated person or persons still living at the
29 time of the member's death, then to the member's legal representatives.

30 (4) A member who is killed in the course of employment, as
31 determined by the director of the department of labor and industries,
32 is not subject to reduction under RCW 41.37.210. The member's
33 retirement allowance is computed under RCW 41.37.190.

34 **Sec. 42.** RCW 41.37.260 and 2005 c 64 s 11 are each amended to read
35 as follows:

36 (1) A member who is on a paid leave of absence authorized by a

1 member's employer shall continue to receive service credit as provided
2 for under RCW 41.37.190 through 41.37.290.

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 compensation earnable 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. This
19 credit may be obtained only if:

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (iii) 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 (e) A member who leaves the employ of an employer to enter the
37 uniformed services of the United States and becomes totally
38 incapacitated for continued employment by an employer while serving in

1 the uniformed services is entitled to retirement system service credit
2 under this subsection up to the date of discharge from the uniformed
3 services if:

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

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

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

13 **Sec. 43.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to
14 read as follows:

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

17 (1) "Retirement system" means the public employees' retirement
18 system provided for in this chapter.

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

21 (3) "State treasurer" means the treasurer of the state of
22 Washington.

23 (4)(a) "Employer" for plan 1 members, means every branch,
24 department, agency, commission, board, and office of the state, any
25 political subdivision or association of political subdivisions of the
26 state admitted into the retirement system, and legal entities
27 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
28 term shall also include any labor guild, association, or organization
29 the membership of a local lodge or division of which is comprised of at
30 least forty percent employees of an employer (other than such labor
31 guild, association, or organization) within this chapter. The term may
32 also include any city of the first class that has its own retirement
33 system.

34 (b) "Employer" for plan 2 and plan 3 members, means every branch,
35 department, agency, commission, board, and office of the state, and any
36 political subdivision and municipal corporation of the state admitted
37 into the retirement system, including public agencies created pursuant

1 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
2 31, 2000, school districts and educational service districts will no
3 longer be employers for the public employees' retirement system plan 2.

4 (5) "Member" means any employee included in the membership of the
5 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
6 does not prohibit a person otherwise eligible for membership in the
7 retirement system from establishing such membership effective when he
8 or she first entered an eligible position.

9 (6) "Original member" of this retirement system means:

10 (a) Any person who became a member of the system prior to April 1,
11 1949;

12 (b) Any person who becomes a member through the admission of an
13 employer into the retirement system on and after April 1, 1949, and
14 prior to April 1, 1951;

15 (c) Any person who first becomes a member by securing employment
16 with an employer prior to April 1, 1951, provided the member has
17 rendered at least one or more years of service to any employer prior to
18 October 1, 1947;

19 (d) Any person who first becomes a member through the admission of
20 an employer into the retirement system on or after April 1, 1951,
21 provided, such person has been in the regular employ of the employer
22 for at least six months of the twelve-month period preceding the said
23 admission date;

24 (e) Any member who has restored all contributions that may have
25 been withdrawn as provided by RCW 41.40.150 and who on the effective
26 date of the individual's retirement becomes entitled to be credited
27 with ten years or more of membership service except that the provisions
28 relating to the minimum amount of retirement allowance for the member
29 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
30 apply to the member;

31 (f) Any member who has been a contributor under the system for two
32 or more years and who has restored all contributions that may have been
33 withdrawn as provided by RCW 41.40.150 and who on the effective date of
34 the individual's retirement has rendered five or more years of service
35 for the state or any political subdivision prior to the time of the
36 admission of the employer into the system; except that the provisions
37 relating to the minimum amount of retirement allowance for the member

1 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
2 apply to the member.

3 (7) "New member" means a person who becomes a member on or after
4 April 1, 1949, except as otherwise provided in this section.

5 (8)(a) "Compensation earnable" for plan 1 members, means salaries
6 or wages earned during a payroll period for personal services and where
7 the compensation is not all paid in money, maintenance compensation
8 shall be included upon the basis of the schedules established by the
9 member's employer.

10 (i) "Compensation earnable" for plan 1 members also includes the
11 following actual or imputed payments, which are not paid for personal
12 services:

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

20 (B) If a leave of absence is taken by an individual for the purpose
21 of serving in the state legislature, the salary which would have been
22 received for the position from which the leave of absence was taken,
23 shall be considered as compensation earnable if the employee's
24 contribution is paid by the employee and the employer's contribution is
25 paid by the employer or employee;

26 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
27 72.09.240;

28 (D) Compensation that a member would have received but for a
29 disability occurring in the line of duty only as authorized by RCW
30 41.40.038;

31 (E) Compensation that a member receives due to participation in the
32 leave sharing program only as authorized by RCW 41.04.650 through
33 41.04.670; and

34 (F) Compensation that a member receives for being in standby
35 status. For the purposes of this section, a member is in standby
36 status when not being paid for time actually worked and the employer
37 requires the member to be prepared to report immediately for work, if
38 the need arises, although the need may not arise.

1 (ii) "Compensation earnable" does not include:
2 (A) Remuneration for unused sick leave authorized under RCW
3 41.04.340, 28A.400.210, or 28A.310.490;
4 (B) Remuneration for unused annual leave in excess of thirty days
5 as authorized by RCW 43.01.044 and 43.01.041.
6 (b) "Compensation earnable" for plan 2 and plan 3 members, means
7 salaries or wages earned by a member during a payroll period for
8 personal services, including overtime payments, and shall include wages
9 and salaries deferred under provisions established pursuant to sections
10 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
11 shall exclude nonmoney maintenance compensation and lump sum or other
12 payments for deferred annual sick leave, unused accumulated vacation,
13 unused accumulated annual leave, or any form of severance pay.
14 "Compensation earnable" for plan 2 and plan 3 members also includes
15 the following actual or imputed payments, which are not paid for
16 personal services:
17 (i) Retroactive payments to an individual by an employer on
18 reinstatement of the employee in a position, or payments by an employer
19 to an individual in lieu of reinstatement in a position which are
20 awarded or granted as the equivalent of the salary or wage which the
21 individual would have earned during a payroll period shall be
22 considered compensation earnable to the extent provided above, and the
23 individual shall receive the equivalent service credit;
24 (ii) In any year in which a member serves in the legislature, the
25 member shall have the option of having such member's compensation
26 earnable be the greater of:
27 (A) The compensation earnable the member would have received had
28 such member not served in the legislature; or
29 (B) Such member's actual compensation earnable received for
30 nonlegislative public employment and legislative service combined. Any
31 additional contributions to the retirement system required because
32 compensation earnable under (b)(ii)(A) of this subsection is greater
33 than compensation earnable under (b)(ii)(B) of this subsection shall be
34 paid by the member for both member and employer contributions;
35 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
36 and 72.09.240;
37 (iv) Compensation that a member would have received but for a

1 disability occurring in the line of duty only as authorized by RCW
2 41.40.038;

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

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

11 (9)(a) "Service" for plan 1 members, except as provided in RCW
12 41.40.088, means periods of employment in an eligible position or
13 positions for one or more employers rendered to any employer for which
14 compensation is paid, and includes time spent in office as an elected
15 or appointed official of an employer. Compensation earnable earned in
16 full time work for seventy hours or more in any given calendar month
17 shall constitute one service credit month except as provided in RCW
18 41.40.088. Compensation earnable earned for less than seventy hours in
19 any calendar month shall constitute one-quarter service credit month of
20 service except as provided in RCW 41.40.088. Only service credit
21 months and one-quarter service credit months shall be counted in the
22 computation of any retirement allowance or other benefit provided for
23 in this chapter. Any fraction of a year of service shall be taken into
24 account in the computation of such retirement allowance or benefits.
25 Time spent in standby status, whether compensated or not, is not
26 service.

27 (i) Service by a state employee officially assigned by the state on
28 a temporary basis to assist another public agency, shall be considered
29 as service as a state employee: PROVIDED, That service to any other
30 public agency shall not be considered service as a state employee if
31 such service has been used to establish benefits in any other public
32 retirement system.

33 (ii) An individual shall receive no more than a total of twelve
34 service credit months of service during any calendar year. If an
35 individual is employed in an eligible position by one or more employers
36 the individual shall receive no more than one service credit month
37 during any calendar month in which multiple service for seventy or more
38 hours is rendered.

1 (iii) A school district employee may count up to forty-five days of
2 sick leave as creditable service solely for the purpose of determining
3 eligibility to retire under RCW 41.40.180 as authorized by RCW
4 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
5 28A.400.300 is equal to two service credit months. Use of less than
6 forty-five days of sick leave is creditable as allowed under this
7 subsection as follows:

8 (A) Less than twenty-two days equals one-quarter service credit
9 month;

10 (B) Twenty-two days equals one service credit month;

11 (C) More than twenty-two days but less than forty-five days equals
12 one and one-quarter service credit month.

13 (b) "Service" for plan 2 and plan 3 members, means periods of
14 employment by a member in an eligible position or positions for one or
15 more employers for which compensation earnable is paid. Compensation
16 earnable earned for ninety or more hours in any calendar month shall
17 constitute one service credit month except as provided in RCW
18 41.40.088. Compensation earnable earned for at least seventy hours but
19 less than ninety hours in any calendar month shall constitute one-half
20 service credit month of service. Compensation earnable earned for less
21 than seventy hours in any calendar month shall constitute one-quarter
22 service credit month of service. Time spent in standby status, whether
23 compensated or not, is not service.

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

26 (i) Service in any state elective position shall be deemed to be
27 full time service, except that persons serving in state elective
28 positions who are members of the Washington school employees'
29 retirement system, teachers' retirement system, public safety
30 employees' retirement system, or law enforcement officers' and fire
31 fighters' retirement system at the time of election or appointment to
32 such position may elect to continue membership in the Washington school
33 employees' retirement system, teachers' retirement system, public
34 safety employees' retirement system, or law enforcement officers' and
35 fire fighters' retirement system.

36 (ii) A member shall receive a total of not more than twelve service
37 credit months of service for such calendar year. If an individual is
38 employed in an eligible position by one or more employers the

1 individual shall receive no more than one service credit month during
2 any calendar month in which multiple service for ninety or more hours
3 is rendered.

4 (iii) Up to forty-five days of sick leave may be creditable as
5 service solely for the purpose of determining eligibility to retire
6 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
7 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
8 to two service credit months. Use of less than forty-five days of sick
9 leave is creditable as allowed under this subsection as follows:

10 (A) Less than eleven days equals one-quarter service credit month;

11 (B) Eleven or more days but less than twenty-two days equals one-
12 half service credit month;

13 (C) Twenty-two days equals one service credit month;

14 (D) More than twenty-two days but less than thirty-three days
15 equals one and one-quarter service credit month;

16 (E) Thirty-three or more days but less than forty-five days equals
17 one and one-half service credit month.

18 (10) "Service credit year" means an accumulation of months of
19 service credit which is equal to one when divided by twelve.

20 (11) "Service credit month" means a month or an accumulation of
21 months of service credit which is equal to one.

22 (12) "Prior service" means all service of an original member
23 rendered to any employer prior to October 1, 1947.

24 (13) "Membership service" means:

25 (a) All service rendered, as a member, after October 1, 1947;

26 (b) All service after October 1, 1947, to any employer prior to the
27 time of its admission into the retirement system for which member and
28 employer contributions, plus interest as required by RCW 41.50.125,
29 have been paid under RCW 41.40.056 or 41.40.057;

30 (c) Service not to exceed six consecutive months of probationary
31 service rendered after April 1, 1949, and prior to becoming a member,
32 in the case of any member, upon payment in full by such member of the
33 total amount of the employer's contribution to the retirement fund
34 which would have been required under the law in effect when such
35 probationary service was rendered if the member had been a member
36 during such period, except that the amount of the employer's
37 contribution shall be calculated by the director based on the first
38 month's compensation earnable as a member;

1 (d) Service not to exceed six consecutive months of probationary
2 service, rendered after October 1, 1947, and before April 1, 1949, and
3 prior to becoming a member, in the case of any member, upon payment in
4 full by such member of five percent of such member's salary during said
5 period of probationary service, except that the amount of the
6 employer's contribution shall be calculated by the director based on
7 the first month's compensation earnable as a member.

8 (14)(a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance, pension or other benefit provided by
10 this chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

15 (15) "Regular interest" means such rate as the director may
16 determine.

17 (16) "Accumulated contributions" means the sum of all contributions
18 standing to the credit of a member in the member's individual account,
19 including any amount paid under RCW 41.50.165(2), together with the
20 regular interest thereon.

21 (17)(a) "Average final compensation" for plan 1 members, means the
22 annual average of the greatest compensation earnable by a member during
23 any consecutive two year period of service credit months for which
24 service credit is allowed; or if the member has less than two years of
25 service credit months then the annual average compensation earnable
26 during the total years of service for which service credit is allowed.

27 (b) "Average final compensation" for plan 2 and plan 3 members,
28 means the member's average compensation earnable of the highest
29 consecutive sixty months of service credit months prior to such
30 member's retirement, termination, or death. Periods constituting
31 authorized leaves of absence may not be used in the calculation of
32 average final compensation except under RCW 41.40.710(2).

33 (18) "Final compensation" means the annual rate of compensation
34 earnable by a member at the time of termination of employment.

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

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

4 (21) "Retirement allowance" means the sum of the annuity and the
5 pension.

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

11 (23) "Actuarial equivalent" means a benefit of equal value when
12 computed upon the basis of such mortality and other tables as may be
13 adopted by the director.

14 (24) "Retirement" means withdrawal from active service with a
15 retirement allowance as provided by this chapter.

16 (25) "Eligible position" means:

17 (a) Any position that, as defined by the employer, normally
18 requires five or more months of service a year for which regular
19 compensation for at least seventy hours is earned by the occupant
20 thereof. For purposes of this chapter an employer shall not define
21 "position" in such a manner that an employee's monthly work for that
22 employer is divided into more than one position;

23 (b) Any position occupied by an elected official or person
24 appointed directly by the governor, or appointed by the chief justice
25 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
26 compensation is paid.

27 (26) "Ineligible position" means any position which does not
28 conform with the requirements set forth in subsection (25) of this
29 section.

30 (27) "Leave of absence" means the period of time a member is
31 authorized by the employer to be absent from service without being
32 separated from membership.

33 (28) "Totally incapacitated for duty" means total inability to
34 perform the duties of a member's employment or office or any other work
35 for which the member is qualified by training or experience.

36 (29) "Retiree" means any person who has begun accruing a retirement
37 allowance or other benefit provided by this chapter resulting from
38 service rendered to an employer while a member.

1 (30) "Director" means the director of the department.

2 (31) "State elective position" means any position held by any
3 person elected or appointed to statewide office or elected or appointed
4 as a member of the legislature.

5 (32) "State actuary" or "actuary" means the person appointed
6 pursuant to RCW 44.44.010(2).

7 (33) "Plan 1" means the public employees' retirement system, plan
8 1 providing the benefits and funding provisions covering persons who
9 first became members of the system prior to October 1, 1977.

10 (34) "Plan 2" means the public employees' retirement system, plan
11 2 providing the benefits and funding provisions covering persons who
12 first became members of the system on and after October 1, 1977, and
13 are not included in plan 3.

14 (35) "Plan 3" means the public employees' retirement system, plan
15 3 providing the benefits and funding provisions covering persons who:
16 (a) First become a member on or after:
17 (i) March 1, 2002, and are employed by a state agency or institute
18 of higher education and who did not choose to enter plan 2; or
19 (ii) September 1, 2002, and are employed by other than a state
20 agency or institute of higher education and who did not choose to enter
21 plan 2; or
22 (b) Transferred to plan 3 under RCW 41.40.795.

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

27 (37) "Index A" means the index for the year prior to the
28 determination of a postretirement adjustment.

29 (38) "Index B" means the index for the year prior to index A.

30 (39) "Index year" means the earliest calendar year in which the
31 index is more than sixty percent of index A.

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

34 (41) "Annual increase" means, initially, fifty-nine cents per month
35 per year of service which amount shall be increased each July 1st by
36 three percent, rounded to the nearest cent.

37 (42) "Separation from service" occurs when a person has terminated
38 all employment with an employer. Separation from service or employment

1 does not occur, and if claimed by an employer or employee may be a
2 violation of RCW 41.40.055, when an employee and employer have a
3 written or oral agreement to resume employment with the same employer
4 following termination.

5 (43) "Member account" or "member's account" for purposes of plan 3
6 means the sum of the contributions and earnings on behalf of the member
7 in the defined contribution portion of plan 3.

8 (44) "Domestic partner" means two persons in a relationship who:

9 (a) Have a close personal relationship;

10 (b) Are each other's sole domestic partner and are responsible for
11 each other's common welfare;

12 (c) Share the same regular and permanent residence;

13 (d) Are jointly responsible for basic living expenses, which means
14 the cost of basic food, shelter, and any other expenses of a domestic
15 partner, that are paid at least in part by a program or benefit for
16 which the partner qualified because of the domestic partnership,
17 regardless of whether the persons contribute equally or jointly to the
18 cost of the expenses as long as they agree that both are responsible
19 for the cost;

20 (e) Are not married to anyone;

21 (f) Are each eighteen years of age or older;

22 (g) Are not related by blood closer than would bar marriage in the
23 state of Washington; and

24 (h) Were mentally competent to consent to contract when the
25 domestic partnership began.

26 **Sec. 44.** RCW 41.40.0931 and 1998 c 157 s 1 are each amended to
27 read as follows:

28 (1) A one hundred fifty thousand dollar death benefit for members
29 who had the opportunity to transfer to the law enforcement officers'
30 and fire fighters' retirement system pursuant to chapter 502, Laws of
31 1993, but elected to remain in the public employees' retirement system,
32 shall be paid to the member's estate, or such person or persons, trust,
33 or organization as the member has nominated by written designation duly
34 executed and filed with the department. If there is no designated
35 person or persons still living at the time of the member's death, the
36 member's death benefit shall be paid to the member's surviving spouse

1 or domestic partner as if in fact the spouse or domestic partner had
2 been nominated by written designation, or if there is no surviving
3 spouse or domestic partner, then to the member's legal representatives.

4 (2) Subject to subsection (3) of this section, the benefit under
5 this section shall be paid only where death occurs as a result of
6 injuries sustained in the course of employment as a general authority
7 police officer. The determination of eligibility for the benefit shall
8 be made consistent with Title 51 RCW by the department of labor and
9 industries. The department of labor and industries shall notify the
10 department of retirement systems by order under RCW 51.52.050.

11 (3) The benefit under this section shall not be paid in the event
12 the member was in the act of committing a felony when the fatal
13 injuries were suffered.

14 **Sec. 45.** RCW 41.40.0932 and 2003 c 402 s 1 are each amended to
15 read as follows:

16 (1) A one hundred fifty thousand dollar death benefit shall be paid
17 to the member's estate, or such person or persons, trust or
18 organization as the member has nominated by written designation duly
19 executed and filed with the department. If no such designated person
20 or persons are still living at the time of the member's death, the
21 member's death benefit shall be paid to the member's surviving spouse
22 or domestic partner as if in fact the spouse or domestic partner had
23 been nominated by written designation, or if there is no surviving
24 spouse or domestic partner, then to the member's legal representatives.

25 (2) The benefit under this section shall be paid only where death
26 occurs as a result of injuries sustained in the course of employment.
27 The determination of eligibility for the benefit shall be made
28 consistent with Title 51 RCW by the department of labor and industries.
29 The department of labor and industries shall notify the department of
30 retirement systems by order under RCW 51.52.050.

31 **Sec. 46.** RCW 41.40.170 and 2005 c 247 s 2 and 2005 c 64 s 1 are
32 each reenacted and amended to read as follows:

33 (1) A member who has served or shall serve on active federal
34 service in the military or naval forces of the United States and who
35 left or shall leave an employer to enter such service shall be deemed

1 to be on military leave of absence if he or she has resumed or shall
2 resume employment as an employee within one year from termination
3 thereof.

4 (2) If he or she has applied or shall apply for reinstatement of
5 employment, within one year from termination of the military service,
6 and is refused employment for reasons beyond his or her control, he or
7 she shall, upon resumption of service within ten years have such
8 service credited to him or her.

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

21 (4)(a) A member, after completing twenty-five years of creditable
22 service, who would have otherwise become eligible for a retirement
23 benefit as defined under this chapter while serving honorably in the
24 armed forces as referenced in RCW 41.04.005, shall, upon application to
25 the department, be eligible to receive credit for this service without
26 returning to covered employment.

27 (b) Service credit granted under (a) of this subsection applies
28 only to veterans as defined in RCW 41.40.005.

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

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

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

3 (6) 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 (a) 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; and

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

14 **Sec. 47.** RCW 41.40.185 and 1991 c 343 s 7 are each amended to read
15 as follows:

16 Upon retirement from service, as provided for in RCW 41.40.180 or
17 41.40.210, a member shall be eligible for a service retirement
18 allowance computed on the basis of the law in effect at the time of
19 retirement, together with such postretirement pension increases as may
20 from time to time be expressly authorized by the legislature. The
21 service retirement allowance payable to members retiring on and after
22 February 25, 1972 shall consist of:

23 (1) An annuity which shall be the actuarial equivalent of his or
24 her additional contributions made pursuant to RCW 41.40.330(2).

25 (2) A membership service pension, subject to the provisions of
26 subsection (4) of this section, which shall be equal to two percent of
27 his or her average final compensation for each service credit year or
28 fraction of a service credit year of membership service.

29 (3) A prior service pension which shall be equal to one-seventieth
30 of his or her average final compensation for each year or fraction of
31 a year of prior service not to exceed thirty years credited to his or
32 her service accounts. In no event, except as provided in this 1972
33 amendatory act, shall any member receive a retirement allowance
34 pursuant to subsections (2) and (3) of this section of more than sixty
35 percent of his or her average final compensation: PROVIDED, That no
36 member shall receive a pension under this section of less than nine
37 hundred dollars per annum if such member has twelve or more years of

1 service credit, or less than one thousand and two hundred dollars per
2 annum if such member has sixteen or more years of service credit, or
3 less than one thousand five hundred and sixty dollars per annum if such
4 member has twenty or more years of service credit.

5 (4) Notwithstanding the provisions of subsections (1) through (3)
6 of this section, the retirement allowance payable for service where a
7 member was elected or appointed pursuant to Articles II or III of the
8 Constitution of the state of Washington or RCW 48.02.010 and the
9 implementing statutes shall be a combined pension and annuity. Said
10 retirement allowance shall be equal to three percent of the average
11 final compensation for each year of such service. Any member covered
12 by this subsection who upon retirement has served ten or more years
13 shall receive a retirement allowance of at least one thousand two
14 hundred dollars per annum; such member who has served fifteen or more
15 years shall receive a retirement allowance of at least one thousand
16 eight hundred dollars per annum; and such member who has served twenty
17 or more years shall receive a retirement allowance of at least two
18 thousand four hundred dollars per annum: PROVIDED, That the initial
19 retirement allowance of a member retiring only under the provisions of
20 this subsection shall not exceed the average final compensation upon
21 which the retirement allowance is based. The minimum benefits provided
22 in this subsection shall apply to all retired members or to the
23 surviving spouse or domestic partner of deceased members who were
24 elected to the office of state senator or state representative.

25 **Sec. 48.** RCW 41.40.188 and 2002 c 158 s 12 are each amended to
26 read as follows:

27 (1) Upon retirement for service as prescribed in RCW 41.40.180 or
28 retirement for disability under RCW 41.40.210 or 41.40.230, a member
29 shall elect to have the retirement allowance paid pursuant to one of
30 the following options calculated so as to be actuarially equivalent to
31 each other.

32 (a) Standard allowance. A member electing this option shall
33 receive a retirement allowance payable throughout such member's life.
34 However, if the retiree dies before the total of the retirement
35 allowance paid to such retiree equals the amount of such retiree's
36 accumulated contributions at the time of retirement, then the balance
37 shall be paid to the member's estate, or such person or persons, trust,

1 or organization as the retiree shall have nominated by written
2 designation duly executed and filed with the department; or if there be
3 no such designated person or persons still living at the time of the
4 retiree's death, then to the surviving spouse or domestic partner; or
5 if there be neither such designated person or persons still living at
6 the time of death nor a surviving spouse or domestic partner, then to
7 the retiree's legal representative.

8 (b) The department shall adopt rules that allow a member to select
9 a retirement option that pays the member a reduced retirement allowance
10 and upon death, such portion of the member's reduced retirement
11 allowance as the department by rule designates shall be continued
12 throughout the life of and paid to a person nominated by the member by
13 written designation duly executed and filed with the department at the
14 time of retirement. The options adopted by the department shall
15 include, but are not limited to, a joint and one hundred percent
16 survivor option and a joint and fifty percent survivor option.

17 (c) A member may elect to include the benefit provided under RCW
18 41.40.640 along with the retirement options available under this
19 section. This retirement allowance option shall be calculated so as to
20 be actuarially equivalent to the options offered under this subsection.

21 (2)(a) A member, if married, must provide the written consent of
22 his or her spouse to the option selected under this section, except as
23 provided in (b) of this subsection. If a member is married and both
24 the member and the member's spouse do not give written consent to an
25 option under this section, the department shall pay a joint and fifty
26 percent survivor benefit calculated to be actuarially equivalent to the
27 benefit options available under subsection (1) of this section unless
28 spousal consent is not required as provided in (b) of this subsection.

29 (b) If a copy of a dissolution order designating a survivor
30 beneficiary under RCW 41.50.790 has been filed with the department at
31 least thirty days prior to a member's retirement:

32 (i) The department shall honor the designation as if made by the
33 member under subsection (1) of this section; and

34 (ii) The spousal consent provisions of (a) of this subsection do
35 not apply.

36 (3)(a) Any member who retired before January 1, 1996, and who
37 elected to receive a reduced retirement allowance under subsection

1 (1)(b) or (2) of this section is entitled to receive a retirement
2 allowance adjusted in accordance with (b) of this subsection, if they
3 meet the following conditions:

4 (i) The retiree's designated beneficiary predeceases or has
5 predeceased the retiree; and

6 (ii) The retiree provides to the department proper proof of the
7 designated beneficiary's death.

8 (b) The retirement allowance payable to the retiree, as of July 1,
9 1998, or the date of the designated beneficiary's death, whichever
10 comes last, shall be increased by the percentage derived in (c) of this
11 subsection.

12 (c) The percentage increase shall be derived by the following:

13 (i) One hundred percent multiplied by the result of (c)(ii) of this
14 subsection converted to a percent;

15 (ii) Subtract one from the reciprocal of the appropriate joint and
16 survivor option factor;

17 (iii) The joint and survivor option factor shall be from the table
18 in effect as of July 1, 1998.

19 (d) The adjustment under (b) of this subsection shall accrue from
20 the beginning of the month following the date of the designated
21 beneficiary's death or from July 1, 1998, whichever comes last.

22 (4) No later than July 1, 2001, the department shall adopt rules
23 that allow a member additional actuarially equivalent survivor benefit
24 options, and shall include, but are not limited to:

25 (a)(i) A retired member who retired without designating a survivor
26 beneficiary shall have the opportunity to designate their spouse from
27 a postretirement marriage or domestic partner from a postretirement
28 domestic partnership as a survivor during a one-year period beginning
29 one year after the date of the postretirement marriage or
30 postretirement domestic partnership provided the retirement allowance
31 payable to the retiree is not subject to periodic payments pursuant to
32 a property division obligation as provided for in RCW 41.50.670.

33 (ii) A member who entered into a postretirement marriage or
34 postretirement domestic partnership prior to the effective date of the
35 rules adopted pursuant to this subsection and satisfies the conditions
36 of (a)(i) of this subsection shall have one year to designate their
37 spouse or domestic partner as a survivor beneficiary following the

1 adoption of the rules, however in the case of a domestic partnership,
2 the member must make the designation by July 1, 2007.

3 (b) A retired member who elected to receive a reduced retirement
4 allowance under this section and designated a nonspouse as survivor
5 beneficiary shall have the opportunity to remove the survivor
6 designation and have their future benefit adjusted.

7 (c) The department may make an additional charge, if necessary, to
8 ensure that the benefits provided under this subsection remain
9 actuarially equivalent.

10 (5) No later than July 1, 2003, the department shall adopt rules to
11 permit:

12 (a) A court-approved property settlement incident to a court decree
13 of dissolution made before retirement to provide that benefits payable
14 to a member who meets the length of service requirements of RCW
15 41.40.180(1) and the member's divorcing spouse be divided into two
16 separate benefits payable over the life of each spouse.

17 The member shall have available the benefit options of subsection
18 (1) of this section upon retirement, and if remarried at the time of
19 retirement remains subject to the spousal consent requirements of
20 subsection (2) of this section. Any reductions of the member's benefit
21 subsequent to the division into two separate benefits shall be made
22 solely to the separate benefit of the member.

23 The nonmember ex spouse shall be eligible to commence receiving
24 their separate benefit upon reaching the age provided in RCW
25 41.40.180(1) and after filing a written application with the
26 department.

27 (b) A court-approved property settlement incident to a court decree
28 of dissolution made after retirement may only divide the benefit into
29 two separate benefits payable over the life of each spouse if the
30 nonmember ex spouse was selected as a survivor beneficiary at
31 retirement.

32 The retired member may later choose the survivor benefit options
33 available in subsection (4) of this section. Any actuarial reductions
34 subsequent to the division into two separate benefits shall be made
35 solely to the separate benefit of the member.

36 Both the retired member and the nonmember divorced spouse shall be
37 eligible to commence receiving their separate benefits upon filing a

1 copy of the dissolution order with the department in accordance with
2 RCW 41.50.670.

3 (c) The separate single life benefits of the member and the
4 nonmember ex spouse are not (i) subject to the minimum benefit
5 provisions of RCW 41.40.1984, or (ii) the minimum benefit annual
6 increase amount eligibility provisions of RCW 41.40.197 (2)(b) and
7 (3)(a).

8 (d) The department may make an additional charge or adjustment if
9 necessary to ensure that the separate benefits provided under this
10 subsection are actuarially equivalent to the benefits payable prior to
11 the decree of dissolution.

12 **Sec. 49.** RCW 41.40.190 and 1990 c 249 s 8 are each amended to read
13 as follows:

14 In lieu of the retirement allowance provided in RCW 41.40.185, an
15 individual employed on or before April 25, 1973 may, after complying
16 with RCW 41.40.180 or 41.40.210, make an irrevocable election to
17 receive the retirement allowance provided by this section which shall
18 consist of:

19 (1) An annuity which shall be the actuarial equivalent of his or
20 her accumulated contributions at the time of his or her retirement; and

21 (2) A basic service pension of one hundred dollars per annum; and

22 (3) A membership service pension, subject to the provisions of
23 (~~subdivision~~) subsection (4) of this section, which shall be equal to
24 one one-hundredth of his or her average final compensation for each
25 year or fraction of a year of membership service credited to his or her
26 service account; and

27 (4) A prior service pension which shall be equal to one-seventieth
28 of his or her average final compensation for each year or fraction of
29 a year of prior service not to exceed thirty years credited to his or
30 her service accounts. In no event shall any original member upon
31 retirement at age seventy with ten or more years of service credit
32 receive less than nine hundred dollars per annum as a retirement
33 allowance, nor shall any member upon retirement at any age receive a
34 retirement allowance of less than nine hundred dollars per annum if
35 such member has twelve or more years of service credit, or less than
36 one thousand and two hundred dollars per annum if such member has
37 sixteen or more years of service credit, or less than one thousand five

1 hundred and sixty dollars per annum if such member has twenty or more
2 years of service credit. In the event that the retirement allowance as
3 to such member provided by (~~subdivisions~~) subsections (1), (2), (3),
4 and (4) (~~hereof~~) of this section shall amount to less than the
5 aforesaid minimum retirement allowance, the basic service pension of
6 the member shall be increased from one hundred dollars to a sum
7 sufficient to make a retirement allowance of the applicable minimum
8 amount.

9 (5) Notwithstanding the provisions of subsections (1) through (4)
10 of this section, the retirement allowance payable for service where a
11 member was elected or appointed pursuant to Articles II or III of the
12 Constitution of the state of Washington or RCW 48.02.010 and the
13 implementing statutes shall be a combined pension and annuity. Said
14 retirement allowance shall be equal to three percent of the average
15 final compensation for each year of such service. Any member covered
16 by this subsection who upon retirement has served ten or more years
17 shall receive a retirement allowance of at least one thousand two
18 hundred dollars per annum; such member who has served fifteen or more
19 years shall receive a retirement allowance of at least one thousand
20 eight hundred dollars per annum; and such member who has served twenty
21 or more years shall receive a retirement allowance of at least two
22 thousand four hundred dollars per annum: PROVIDED, That the initial
23 retirement allowance of a member retiring only under the provisions of
24 this subsection shall not exceed the average final compensation upon
25 which the retirement allowance is based. The minimum benefits provided
26 in this subsection shall apply to all retired members or to the
27 surviving spouse or domestic partner of deceased members who were
28 elected under the provisions of Article II of the Washington state
29 Constitution.

30 (6) Unless payment shall be made under RCW 41.40.270, a joint and
31 one hundred percent survivor benefit under RCW 41.40.188 shall
32 automatically be given effect as if selected for the benefit of the
33 surviving spouse or domestic partner upon the death in service, or
34 while on authorized leave of absence for a period not to exceed one
35 hundred and twenty days from the date of payroll separation, of any
36 member who is qualified for a service retirement allowance or has
37 completed ten years of service at the time of death, except that if the
38 member is not then qualified for a service retirement allowance, such

1 option II benefit shall be based upon the actuarial equivalent of the
2 sum necessary to pay the accrued regular retirement allowance
3 commencing when the deceased member would have first qualified for a
4 service retirement allowance.

5 **Sec. 50.** RCW 41.40.220 and 1995 c 144 s 2 are each amended to read
6 as follows:

7 Upon retirement for disability, as provided in RCW 41.40.200, a
8 member who has not attained age sixty shall receive the following
9 benefits, subject to the provisions of RCW 41.40.310 and 41.40.320:

10 (1) A disability retirement pension of two-thirds of his or her
11 average final compensation to his or her attainment of age sixty,
12 subject to the provisions of RCW 41.40.310. The disability retirement
13 pension provided by the employer shall not exceed forty-two hundred
14 dollars per annum, and

15 (2) Upon attainment of age sixty, the disabled member shall receive
16 a service retirement allowance as provided in RCW 41.40.210. The
17 department shall grant the disabled member membership service for the
18 period of time prior to age sixty he or she was out of such service due
19 to disability.

20 (3) During the period a disabled member is receiving a disability
21 pension, as provided for in subsection (1) of this section, his or her
22 contributions to the employees' savings fund shall be suspended and his
23 or her balance in the employees' savings fund, standing to his or her
24 credit as of the date his or her disability pension is to begin, shall
25 remain in the employees' savings fund. If the disabled member should
26 die before attaining age sixty, while a disability beneficiary, upon
27 receipt by the department of proper proof of death, the member's
28 accumulated contributions standing to his or her credit in the
29 employees' savings fund, shall be paid to the member's estate, or such
30 person or persons, trust, or organization as he or she shall have
31 nominated by written designation duly executed and filed with the
32 department. If there is no designated person or persons still living
33 at the time of the member's death, the accumulated contributions
34 standing to the member's credit in the employees' savings fund shall be
35 paid to his or her surviving spouse or domestic partner, or if there is
36 no surviving spouse or domestic partner, then to the member's legal
37 representative.

1 **Sec. 51.** RCW 41.40.235 and 1995 c 144 s 3 are each amended to read
2 as follows:

3 (1) Upon retirement, a member shall receive a nonduty disability
4 retirement allowance equal to two percent of average final compensation
5 for each service credit year of service: PROVIDED, That this allowance
6 shall be reduced by two percent of itself for each year or fraction
7 thereof that his or her age is less than fifty-five years: PROVIDED
8 FURTHER, That in no case may the allowance provided by this section
9 exceed sixty percent of average final compensation.

10 (2) If the recipient of a retirement allowance under this section
11 dies before the total of the retirement allowance paid to the recipient
12 equals the amount of the accumulated contributions at the date of
13 retirement, then the balance shall be paid to the member's estate, or
14 the person or persons, trust, or organization as the recipient has
15 nominated by written designation duly executed and filed with the
16 director or, if there is no designated person or persons still living
17 at the time of the recipient's death, then to the surviving spouse or
18 domestic partner or, if there is neither a designated person or persons
19 still living at the time of his or her death nor a surviving spouse or
20 domestic partner, then to his or her legal representative.

21 **Sec. 52.** RCW 41.40.250 and 1995 c 144 s 4 are each amended to read
22 as follows:

23 An individual who was a member on February 25, 1972, may upon
24 qualifying pursuant to RCW 41.40.230, make an irrevocable election to
25 receive the nonduty disability retirement allowance provided in
26 subsections (1) and (2) of this section subject to the provisions of
27 RCW 41.40.310 and 41.40.320. Upon attaining or becoming disabled after
28 age sixty the member shall receive a service retirement allowance as
29 provided for in RCW 41.40.190 except that the annuity portion thereof
30 shall consist of a continuation of the cash refund annuity previously
31 provided to him or her. The disability retirement allowance prior to
32 age sixty shall consist of:

33 (1) A cash refund annuity which shall be the actuarial equivalent
34 of the member's accumulated contributions at the time of his or her
35 retirement; and

36 (2) A pension, in addition to the annuity, equal to one one-
37 hundredth of the member's average final compensation for each year of

1 service. If the recipient of a retirement allowance under this section
2 dies before the total of the annuity portions of the retirement
3 allowance paid to him or her equals the amount of his or her
4 accumulated contributions at the date of retirement, then the balance
5 shall be paid to the member's estate, or the person or persons, trust,
6 or organization as he or she shall have nominated by written
7 designation duly executed and filed with the department, or if there is
8 no designated person or persons, still living at the time of his or her
9 death, then to his or her surviving spouse or domestic partner, or if
10 there is no designated person or persons still living at the time of
11 his or her death nor a surviving spouse or domestic partner, then to
12 his or her legal representatives.

13 **Sec. 53.** RCW 41.40.270 and 2003 c 155 s 6 are each amended to read
14 as follows:

15 (1) Except as specified in subsection (4) of this section, should
16 a member die before the date of retirement the amount of the
17 accumulated contributions standing to the member's credit in the
18 employees' savings fund, less any amount identified as owing to an
19 obligee upon withdrawal of accumulated contributions pursuant to a
20 court order filed under RCW 41.50.670, at the time of death:

21 (a) Shall be paid to the member's estate, or such person or
22 persons, trust, or organization as the member shall have nominated by
23 written designation duly executed and filed with the department; or

24 (b) If there be no such designated person or persons still living
25 at the time of the member's death, or if a member fails to file a new
26 beneficiary designation subsequent to marriage, remarriage, dissolution
27 of marriage, divorce, or reestablishment of membership following
28 termination by withdrawal or retirement, such accumulated
29 contributions, less any amount identified as owing to an obligee upon
30 withdrawal of accumulated contributions pursuant to a court order filed
31 under RCW 41.50.670, shall be paid to the surviving spouse or domestic
32 partner as if in fact such spouse or domestic partner had been
33 nominated by written designation as aforesaid, or if there be no such
34 surviving spouse or domestic partner, then to the member's legal
35 representatives.

36 (2) Upon the death in service, or while on authorized leave of
37 absence for a period not to exceed one hundred and twenty days from the

1 date of payroll separation, of any member who is qualified but has not
2 applied for a service retirement allowance or has completed ten years
3 of service at the time of death, the designated beneficiary, or the
4 surviving spouse or domestic partner as provided in subsection (1) of
5 this section, may elect to waive the payment provided by subsection (1)
6 of this section. Upon such an election, a joint and one hundred
7 percent survivor option under RCW 41.40.188, calculated under the
8 retirement allowance described in RCW 41.40.185 or 41.40.190, whichever
9 is greater, actuarially reduced, except under subsection (5) of this
10 section, by the amount of any lump sum benefit identified as owing to
11 an obligee upon withdrawal of accumulated contributions pursuant to a
12 court order filed under RCW 41.50.670 shall automatically be given
13 effect as if selected for the benefit of the designated beneficiary.
14 If the member is not then qualified for a service retirement allowance,
15 such benefit shall be based upon the actuarial equivalent of the sum
16 necessary to pay the accrued regular retirement allowance commencing
17 when the deceased member would have first qualified for a service
18 retirement allowance.

19 (3) Subsection (1) of this section, unless elected, shall not apply
20 to any member who has applied for service retirement in RCW 41.40.180,
21 as now or hereafter amended, and thereafter dies between the date of
22 separation from service and the member's effective retirement date,
23 where the member has selected a survivorship option under RCW
24 41.40.188. In those cases the beneficiary named in the member's final
25 application for service retirement may elect to receive either a cash
26 refund, less any amount identified as owing to an obligee upon
27 withdrawal of accumulated contributions pursuant to a court order filed
28 under RCW 41.50.670, or monthly payments according to the option
29 selected by the member.

30 (4) If a member dies within sixty days following application for
31 disability retirement under RCW 41.40.230, the beneficiary named in the
32 application may elect to receive the benefit provided by:

33 (a) This section; or

34 (b) RCW 41.40.235, according to the option chosen under RCW
35 41.40.188 in the disability application.

36 (5) The retirement allowance of a member who is killed in the
37 course of employment, as determined by the director of the department

1 of labor and industries, is not subject to an actuarial reduction. The
2 member's retirement allowance is computed under RCW 41.40.185.

3 **Sec. 54.** RCW 41.40.660 and 2003 c 294 s 6 are each amended to read
4 as follows:

5 (1) Upon retirement for service as prescribed in RCW 41.40.630 or
6 retirement for disability under RCW 41.40.670, a member shall elect to
7 have the retirement allowance paid pursuant to one of the following
8 options, calculated so as to be actuarially equivalent to each other.

9 (a) Standard allowance. A member electing this option shall
10 receive a retirement allowance payable throughout such member's life.
11 However, if the retiree dies before the total of the retirement
12 allowance paid to such retiree equals the amount of such retiree's
13 accumulated contributions at the time of retirement, then the balance
14 shall be paid to the member's estate, or such person or persons, trust,
15 or organization as the retiree shall have nominated by written
16 designation duly executed and filed with the department; or if there be
17 no such designated person or persons still living at the time of the
18 retiree's death, then to the surviving spouse or domestic partner; or
19 if there be neither such designated person or persons still living at
20 the time of death nor a surviving spouse or domestic partner, then to
21 the retiree's legal representative.

22 (b) The department shall adopt rules that allow a member to select
23 a retirement option that pays the member a reduced retirement allowance
24 and upon death, such portion of the member's reduced retirement
25 allowance as the department by rule designates shall be continued
26 throughout the life of and paid to a person nominated by the member by
27 written designation duly executed and filed with the department at the
28 time of retirement. The options adopted by the department shall
29 include, but are not limited to, a joint and one hundred percent
30 survivor option and a joint and fifty percent survivor option.

31 (2)(a) A member, if married, must provide the written consent of
32 his or her spouse to the option selected under this section, except as
33 provided in (b) of this subsection. If a member is married and both
34 the member and the member's spouse do not give written consent to an
35 option under this section, the department shall pay a joint and fifty
36 percent survivor benefit calculated to be actuarially equivalent to the

1 benefit options available under subsection (1) of this section unless
2 spousal consent is not required as provided in (b) of this subsection.

3 (b) If a copy of a dissolution order designating a survivor
4 beneficiary under RCW 41.50.790 has been filed with the department at
5 least thirty days prior to a member's retirement:

6 (i) The department shall honor the designation as if made by the
7 member under subsection (1) of this section; and

8 (ii) The spousal consent provisions of (a) of this subsection do
9 not apply.

10 (3)(a) Any member who retired before January 1, 1996, and who
11 elected to receive a reduced retirement allowance under subsection
12 (1)(b) or (2) of this section is entitled to receive a retirement
13 allowance adjusted in accordance with (b) of this subsection, if they
14 meet the following conditions:

15 (i) The retiree's designated beneficiary predeceases or has
16 predeceased the retiree; and

17 (ii) The retiree provides to the department proper proof of the
18 designated beneficiary's death.

19 (b) The retirement allowance payable to the retiree, as of July 1,
20 1998, or the date of the designated beneficiary's death, whichever
21 comes last, shall be increased by the percentage derived in (c) of this
22 subsection.

23 (c) The percentage increase shall be derived by the following:

24 (i) One hundred percent multiplied by the result of (c)(ii) of this
25 subsection converted to a percent;

26 (ii) Subtract one from the reciprocal of the appropriate joint and
27 survivor option factor;

28 (iii) The joint and survivor option factor shall be from the table
29 in effect as of July 1, 1998.

30 (d) The adjustment under (b) of this subsection shall accrue from
31 the beginning of the month following the date of the designated
32 beneficiary's death or from July 1, 1998, whichever comes last.

33 (4) No later than July 1, 2001, the department shall adopt rules
34 that allow a member additional actuarially equivalent survivor benefit
35 options, and shall include, but are not limited to:

36 (a)(i) A retired member who retired without designating a survivor
37 beneficiary shall have the opportunity to designate their spouse from
38 a postretirement marriage or a domestic partner from a postretirement

1 domestic partnership as a survivor during a one-year period beginning
2 one year after the date of the postretirement marriage or
3 postretirement domestic partnership provided the retirement allowance
4 payable to the retiree is not subject to periodic payments pursuant to
5 a property division obligation as provided for in RCW 41.50.670.

6 (ii) A member who entered into a postretirement marriage or
7 postretirement domestic partnership prior to the effective date of the
8 rules adopted pursuant to this subsection and satisfies the conditions
9 of (a)(i) of this subsection shall have one year to designate their
10 spouse or domestic partner as a survivor beneficiary following the
11 adoption of the rules, however in the case of a domestic partnership,
12 the member must make the designation by July 1, 2007.

13 (b) A retired member who elected to receive a reduced retirement
14 allowance under this section and designated a nonspouse as survivor
15 beneficiary shall have the opportunity to remove the survivor
16 designation and have their future benefit adjusted.

17 (c) The department may make an additional charge, if necessary, to
18 ensure that the benefits provided under this subsection remain
19 actuarially equivalent.

20 (5) No later than July 1, 2003, the department shall adopt rules to
21 permit:

22 (a) A court-approved property settlement incident to a court decree
23 of dissolution made before retirement to provide that benefits payable
24 to a member who meets the length of service requirements of RCW
25 41.40.720 and the member's divorcing spouse be divided into two
26 separate benefits payable over the life of each spouse.

27 The member shall have available the benefit options of subsection
28 (1) of this section upon retirement, and if remarried at the time of
29 retirement remains subject to the spousal consent requirements of
30 subsection (2) of this section. Any reductions of the member's benefit
31 subsequent to the division into two separate benefits shall be made
32 solely to the separate benefit of the member.

33 The nonmember ex spouse shall be eligible to commence receiving
34 their separate benefit upon reaching the age provided in RCW
35 41.40.630(1) and after filing a written application with the
36 department.

37 (b) A court-approved property settlement incident to a court decree
38 of dissolution made after retirement may only divide the benefit into

1 two separate benefits payable over the life of each spouse if the
2 nonmember ex spouse was selected as a survivor beneficiary at
3 retirement.

4 The retired member may later choose the survivor benefit options
5 available in subsection (4) of this section. Any actuarial reductions
6 subsequent to the division into two separate benefits shall be made
7 solely to the separate benefit of the member.

8 Both the retired member and the nonmember divorced spouse shall be
9 eligible to commence receiving their separate benefits upon filing a
10 copy of the dissolution order with the department in accordance with
11 RCW 41.50.670.

12 (c) The department may make an additional charge or adjustment if
13 necessary to ensure that the separate benefits provided under this
14 subsection are actuarially equivalent to the benefits payable prior to
15 the decree of dissolution.

16 **Sec. 55.** RCW 41.40.670 and 1995 c 144 s 7 are each amended to read
17 as follows:

18 (1) A member of the retirement system who becomes totally
19 incapacitated for continued employment by an employer as determined by
20 the department upon recommendation of the department shall be eligible
21 to receive an allowance under the provisions of RCW 41.40.610 through
22 41.40.740. The member shall receive a monthly disability allowance
23 computed as provided for in RCW 41.40.620 and shall have this allowance
24 actuarially reduced to reflect the difference in the number of years
25 between age at disability and the attainment of age sixty-five.

26 Any member who receives an allowance under the provisions of this
27 section shall be subject to comprehensive medical examinations as
28 required by the department. If these medical examinations reveal that
29 a member has recovered from the incapacitating disability and the
30 member is offered reemployment by an employer at a comparable
31 compensation, the member shall cease to be eligible for the allowance.

32 (2) The retirement for disability of a judge, who is a member of
33 the retirement system, by the supreme court under Article IV, section
34 31 of the Constitution of the state of Washington (Amendment 71), with
35 the concurrence of the department, shall be considered a retirement
36 under subsection (1) of this section.

1 (3)(a) If the recipient of a monthly retirement allowance under
2 this section dies before the total of the retirement allowance paid to
3 the recipient equals the amount of the accumulated contributions at the
4 date of retirement, then the balance shall be paid to the member's
5 estate, or the person or persons, trust, or organization as the
6 recipient has nominated by written designation duly executed and filed
7 with the director, or, if there is no designated person or persons
8 still living at the time of the recipient's death, then to the
9 surviving spouse or domestic partner, or, if there is no designated
10 person or persons still living at the time of his or her death nor a
11 surviving spouse or domestic partner, then to his or her legal
12 representative.

13 (b) If a recipient of a monthly retirement allowance under this
14 section died before April 27, 1989, and before the total of the
15 retirement allowance paid to the recipient equaled the amount of his or
16 her accumulated contributions at the date of retirement, then the
17 department shall pay the balance of the accumulated contributions to
18 the member's surviving spouse or, if there is no surviving spouse, then
19 in equal shares to the member's children. If there is no surviving
20 spouse or children, the department shall retain the contributions.

21 **Sec. 56.** RCW 41.40.700 and 2003 c 155 s 7 are each amended to read
22 as follows:

23 (1) Except as provided in RCW 11.07.010, if a member or a vested
24 member who has not completed at least ten years of service dies, the
25 amount of the accumulated contributions standing to such member's
26 credit in the retirement system at the time of such member's death,
27 less any amount identified as owing to an obligee upon withdrawal of
28 accumulated contributions pursuant to a court order filed under RCW
29 41.50.670, shall be paid to the member's estate, or such person or
30 persons, trust, or organization as the member shall have nominated by
31 written designation duly executed and filed with the department. If
32 there be no such designated person or persons still living at the time
33 of the member's death, such member's accumulated contributions standing
34 to such member's credit in the retirement system, less any amount
35 identified as owing to an obligee upon withdrawal of accumulated
36 contributions pursuant to a court order filed under RCW 41.50.670,
37 shall be paid to the member's surviving spouse or domestic partner as

1 if in fact such spouse or domestic partner had been nominated by
2 written designation, or if there be no such surviving spouse or
3 domestic partner, then to such member's legal representatives.

4 (2) If a member who is eligible for retirement or a member who has
5 completed at least ten years of service dies, the surviving spouse,
6 domestic partner, or eligible child or children shall elect to receive
7 either:

8 (a) A retirement allowance computed as provided for in RCW
9 41.40.630, actuarially reduced by the amount of any lump sum benefit
10 identified as owing to an obligee upon withdrawal of accumulated
11 contributions pursuant to a court order filed under RCW 41.50.670 and
12 actuarially adjusted to reflect a joint and one hundred percent
13 survivor option under RCW 41.40.660 and, except under subsection (4) of
14 this section, if the member was not eligible for normal retirement at
15 the date of death a further reduction as described in RCW 41.40.630; if
16 a surviving spouse or domestic partner who is receiving a retirement
17 allowance dies leaving a child or children of the member under the age
18 of majority, then such child or children shall continue to receive an
19 allowance in an amount equal to that which was being received by the
20 surviving spouse or domestic partner, share and share alike, until such
21 child or children reach the age of majority; if there is no surviving
22 spouse or domestic partner eligible to receive an allowance at the time
23 of the member's death, such member's child or children under the age of
24 majority shall receive an allowance share and share alike calculated as
25 herein provided making the assumption that the ages of the spouse or
26 domestic partner and member were equal at the time of the member's
27 death; or

28 (b) The member's accumulated contributions, less any amount
29 identified as owing to an obligee upon withdrawal of accumulated
30 contributions pursuant to a court order filed under RCW 41.50.670.

31 (3) If a member who is eligible for retirement or a member who has
32 completed at least ten years of service dies after October 1, 1977, and
33 is not survived by a spouse, domestic partner, or an eligible child,
34 then the accumulated contributions standing to the member's credit,
35 less any amount identified as owing to an obligee upon withdrawal of
36 accumulated contributions pursuant to a court order filed under RCW
37 41.50.670, shall be paid:

1 (a) To a person or persons, estate, trust, or organization as the
2 member shall have nominated by written designation duly executed and
3 filed with the department; or

4 (b) If there is no such designated person or persons still living
5 at the time of the member's death, then to the member's legal
6 representatives.

7 (4) A member who is killed in the course of employment, as
8 determined by the director of the department of labor and industries,
9 is not subject to an actuarial reduction under RCW 41.40.630. The
10 member's retirement allowance is computed under RCW 41.40.620.

11 **Sec. 57.** RCW 41.40.710 and 2005 c 64 s 2 are each amended to read
12 as follows:

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

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

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

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

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

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

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

13 (a) The member qualifies for service credit under this subsection
14 if:

15 (i) Within ninety days of the member's honorable discharge from the
16 uniformed services of the United States, the member applies for
17 reemployment with the employer who employed the member immediately
18 prior to the member entering the uniformed services; and

19 (ii) The member makes the employee contributions required under RCW
20 41.45.061 and 41.45.067 within five years of resumption of service or
21 prior to retirement, whichever comes sooner; or

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

25 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
26 or (e)(iii) of this subsection, the department shall establish the
27 member's service credit and shall bill the employer for its
28 contribution required under RCW 41.45.060, 41.45.061, and 41.45.067 for
29 the period of military service, plus interest as determined by the
30 department.

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

36 (d) The surviving spouse, domestic partner, or eligible child or
37 children of a member who left the employ of an employer to enter the
38 uniformed services of the United States and died while serving in the

1 uniformed services may, on behalf of the deceased member, apply for
2 retirement system service credit under this subsection up to the date
3 of the member's death in the uniformed services. The department shall
4 establish the deceased member's service credit if the surviving spouse,
5 domestic partner, or eligible child or children:

6 (i) Provide(~~(s)~~) to the director proof of the member's death while
7 serving in the uniformed services;

8 (ii) Provide(~~(s)~~) to the director proof of the member's honorable
9 service in the uniformed services prior to the date of death; and

10 (iii) Pay(~~(s)~~) the employee contributions required under chapter
11 41.45 RCW within five years of the date of death or prior to the
12 distribution of any benefit, whichever comes first.

13 (e) A member who leaves the employ of an employer to enter the
14 uniformed services of the United States and becomes totally
15 incapacitated for continued employment by an employer while serving in
16 the uniformed services is entitled to retirement system service credit
17 under this subsection up to the date of discharge from the uniformed
18 services if:

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

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

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

28 **Sec. 58.** RCW 41.40.805 and 2005 c 64 s 3 are each amended to read
29 as follows:

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

32 (2) A member who receives compensation from an employer while on an
33 authorized leave of absence to serve as an elected official of a labor
34 organization, and whose employer is reimbursed by the labor
35 organization for the compensation paid to the member during the period
36 of absence, may also be considered to be on a paid leave of absence.
37 This subsection shall only apply if the member's leave of absence is

1 authorized by a collective bargaining agreement that provides that the
2 member retains seniority rights with the employer during the period of
3 leave. The earnable compensation reported for a member who establishes
4 service credit under this subsection may not be greater than the salary
5 paid to the highest paid job class covered by the collective bargaining
6 agreement.

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

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

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

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

19 (4) A member who leaves the employ of an employer to enter the
20 uniformed services of the United States shall be entitled to retirement
21 system service credit for up to five years of military service if
22 within ninety days of the member's honorable discharge from the
23 uniformed services of the United States, the member applies for
24 reemployment with the employer who employed the member immediately
25 prior to the member entering the uniformed services. This subsection
26 shall be administered in a manner consistent with the requirements of
27 the federal uniformed services employment and reemployment rights act.

28 The department shall establish the member's service credit and
29 shall bill the employer for its contribution required under RCW
30 41.45.060 and 41.45.067 for the period of military service, plus
31 interest as determined by the department. Service credit under this
32 subsection may be obtained only if the member makes the employee
33 contribution to the defined contribution portion as determined by the
34 department.

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

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

9 (i) Provide((s)) to the director proof of the member's death while
10 serving in the uniformed services;

11 (ii) Provide((s)) to the director proof of the member's honorable
12 service in the uniformed services prior to the date of death; and

13 (iii) Pay((s)) the employee contributions required under this
14 subsection within five years of the date of death or prior to the
15 distribution of any benefit, whichever comes first.

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

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

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

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

31 **Sec. 59.** RCW 41.44.030 and 1967 ex.s. c 28 s 6 are each amended to
32 read as follows:

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

35 (1) "Retirement system" means the statewide city employees
36 retirement system provided for herein.

37 (2) "City" or "cities" includes town or towns.

1 (3) "Employee" means any appointive officer or employee and shall
2 include elective officials to the extent specified herein.

3 (4) "Member" means any person included in the membership of the
4 retirement system as provided herein.

5 (5) "Board" means the "board of trustees" provided for herein.

6 (6) "Retirement fund" means "statewide city employees retirement
7 fund" provided for herein.

8 (7) "Service" means service rendered to a city for compensation;
9 and for the purpose of this chapter a member shall be considered as
10 being in service only while he is receiving compensation from the city
11 for such service or is on leave granted for service in the armed forces
12 of the United States as contemplated in RCW 41.44.120.

13 (8) "Prior service" means the service of a member for compensation
14 rendered a city prior to the effective date and shall include service
15 in the armed forces of the United States to the extent specified herein
16 and service specified in RCW 41.44.120(5).

17 (9) "Current service" means service after the employee has become
18 a member of the system.

19 (10) "Creditable service" means such service as is evidenced by the
20 record of normal contributions, plus prior service as evidenced by
21 prior service certificate.

22 (11) "Beneficiary" means any person in receipt of a pension,
23 annuity, retirement allowance, disability allowance, or any other
24 benefit herein.

25 (12) "Compensation" means the compensation payable in cash, plus
26 the monetary value, as determined by the board of trustees, of any
27 allowance in lieu thereof (but for the purposes of this chapter such
28 "compensation" shall not exceed three hundred dollars per month, except
29 as to those employees of any member city the legislative body of which
30 shall not later than July 1, 1953, have irrevocably elected by
31 resolution or ordinance to increase the limitation herein contained,
32 effective as to all of its employees, from three hundred dollars to
33 four hundred dollars, commencing on said date, or which shall so elect
34 prior to January 1st of any succeeding year, effective as of January
35 1st of any such succeeding year, and as to such employees shall,
36 commencing on the specified date, not exceed four hundred dollars or an
37 amount equal to such increased limitation established by such ordinance

1 or resolution per month): PROVIDED HOWEVER, That the foregoing
2 limitation shall not apply to uniformed personnel.

3 (13) "Compensation earnable" means the full rate of compensation
4 that would be payable to an employee if he worked the full normal
5 working time (but for the purposes of this chapter, such "compensation
6 earnable" shall not exceed three hundred dollars per month, except as
7 to those employees of any member city the legislative body of which
8 shall not later than July 1, 1953, have irrevocably elected by
9 resolution or ordinance to increase the limitation herein contained,
10 effective as to all of its employees, from three hundred dollars to
11 four hundred dollars, commencing on said date, or which shall so elect
12 prior to January 1st of any succeeding year, effective as of January
13 1st of any such succeeding year, and as to such employees shall,
14 commencing on the specified date, not exceed four hundred dollars or an
15 amount equal to such increased limitation established by such ordinance
16 or resolution per month): PROVIDED, HOWEVER, That the foregoing
17 limitation shall not apply to uniformed personnel: PROVIDED FURTHER,
18 That after January 1, 1968 this term shall mean the full rate of
19 compensation payable to an employee if he worked the full normal
20 working time.

21 (14) "Final compensation" means the highest average annual
22 compensation earnable in any five consecutive years of actual service
23 rendered during the ten years immediately preceding retirement, or
24 where the employee has less than five consecutive years of actual
25 service, the earnable compensation for the last five years preceding
26 his retirement.

27 (15) "Matching contribution" means the contribution of the city
28 deposited in an amount equal to the normal contributions of the
29 employee.

30 (16) "Normal contributions" means the contributions at the rate
31 provided for in RCW 41.44.130, excluding those referred to in
32 subsection (6).

33 (17) "Released matching contributions" means such "matching
34 contributions" as are no longer held for the benefit of the employee.

35 (18) "Regular interest" means interest compounded annually at such
36 rate as shall have been adopted by the board of trustees in accordance
37 with the provisions of this chapter.

1 (19) "Accumulated normal contributions" means the sum of all normal
2 contributions, deducted from the compensation of a member, standing to
3 the credit of his individual account, together with regular interest
4 thereon.

5 (20) "Pension" means payments derived from contributions made by
6 the city as provided herein.

7 (21) "Annuity" means payments derived from contributions made by a
8 member as provided herein.

9 (22) "Retirement allowance" means the pension plus annuity.

10 (23) "Fiscal year" means any year commencing with January 1st and
11 ending with December 31st next following.

12 (24) "Miscellaneous personnel" means officers and employees other
13 than those in the uniformed police or fire service: PROVIDED, Those
14 members of the fire department who are ineligible to the benefits of a
15 firemen's pension system established by or pursuant to any other state
16 law, are also included in the miscellaneous personnel.

17 (25) "Uniformed personnel" means any employee who is a policeman in
18 service or who is subject to call to active service or duty as such.

19 (26) "Effective date" when used with regard to employees means the
20 date on which any individual or group of employees became members of
21 any retirement system and when used with regard to any city or town
22 shall mean the date on which it became a participant.

23 (27) "Actuarial equivalent" means a benefit of equal value when
24 computed at regular interest upon the basis of such mortality tables as
25 shall be adopted by the board of trustees.

26 (28) "Persons having an insurable interest in his life" means and
27 includes only such persons who, because of relationship from ties of
28 blood or marriage, have reason to expect some benefit from the
29 continuation of the life of the member.

30 (29) "Additional contributions" means contributions made pursuant
31 to subsection (6) of RCW 41.44.130.

32 (30) "Accumulated additional contributions" means the sum of all
33 "additional contributions" made by a member standing to the credit of
34 the individual account, together with regular interest thereon.

35 (31) "Part time employees" means those employees who, although
36 regularly and continuously employed, do not regularly perform their
37 duties the full number of hours required of other regular employees,

1 including but not confined to such employees as police judges, city
2 attorneys and other officers and employees who are also engaged in
3 outside employment or occupations.

4 (32) "Excess interest income" means that interest income earned and
5 received from investments in excess of the interest income on
6 investments required to meet actuarial funding requirements.

7 (33) "Domestic partner" has the definition in RCW 41.40.010.

8 **Sec. 60.** RCW 41.40.835 and 2003 c 155 s 8 are each amended to read
9 as follows:

10 (1) If a member dies prior to retirement, the surviving spouse,
11 domestic partner, or eligible child or children shall receive a
12 retirement allowance computed as provided in RCW 41.40.790 actuarially
13 reduced to reflect a joint and one hundred percent survivor option and,
14 except under subsection (2) of this section, if the member was not
15 eligible for normal retirement at the date of death a further reduction
16 as described in RCW 41.40.820.

17 If the surviving spouse or domestic partner who is receiving the
18 retirement allowance dies leaving a child or children under the age of
19 majority, then such child or children shall continue to receive an
20 allowance in an amount equal to that which was being received by the
21 surviving spouse or domestic partner, share and share alike, until such
22 child or children reach the age of majority.

23 If there is no surviving spouse or domestic partner eligible to
24 receive an allowance at the time of the member's death, such member's
25 child or children under the age of majority shall receive an allowance,
26 share and share alike. The allowance shall be calculated with the
27 assumption that the age of the spouse or domestic partner and member
28 were equal at the time of the member's death.

29 (2) A member who is killed in the course of employment, as
30 determined by the director of the department of labor and industries,
31 is not subject to an actuarial reduction under RCW 41.40.820. The
32 member's retirement allowance is computed under RCW 41.40.790.

33 **Sec. 61.** RCW 41.44.170 and 1973 1st ex.s. c 154 s 78 are each
34 amended to read as follows:

35 On retirement for permanent and total disability not incurred in

1 line of duty a member shall receive a retirement allowance which shall
2 consist of:

3 (1) An annuity which shall be the actuarial equivalent of his or
4 her accumulated normal contributions; and

5 (2) A pension provided by the contributions of the city which,
6 together with his or her annuity provided by his or her accumulated
7 normal contributions, shall make his or her retirement allowance equal
8 to thirty percent of his or her final compensation for the first ten
9 years of service, which allowance shall be increased by one and one-
10 half percent for each year of service in excess of ten years to a
11 maximum of fifty percent of his or her final compensation; otherwise he
12 or she shall receive a retirement allowance of forty dollars per month
13 or, except as to a part-time employee, such sum, monthly, not in excess
14 of sixty dollars per month, as is equal to six dollars per month for
15 each year of ((his)) creditable service, whichever is greater. If the
16 retirement allowance of a part-time employee, based upon the pension
17 ((hereinabove)) provided in this subsection, does not exceed forty
18 dollars per month, then such part-time employee shall receive a
19 retirement allowance of forty dollars per month and no more.

20 Nothing ((herein contained)) in this section shall be construed in
21 a manner to increase or to decrease any pension being paid or to be
22 paid to a member retired prior to August 6, 1965.

23 (3) If it appears to the satisfaction of the board that permanent
24 and total disability was incurred in line of duty, a member shall
25 receive in lieu of the retirement allowance provided under
26 ((subdivisions)) subsections (1) and (2) of this section full pay from,
27 and be furnished all hospital and medical care by, the city for a
28 period of six months from the date of his or her disability, and
29 commencing at the expiration of such six-month period, shall receive a
30 retirement allowance, regardless of his or her age or years of service,
31 equal to fifty percent of his or her final compensation exclusive of
32 any other benefit he or she may receive.

33 (4) No disability retirement allowance shall exceed seventy-five
34 percent of final compensation, anything herein to the contrary
35 notwithstanding, except as provided in ((subdivision)) subsection (7)
36 of this section.

37 (5) Upon the death of a member while in receipt of a disability
38 retirement allowance, ((his)) accumulated contributions, as they were

1 at the date of (~~his~~) retirement, less any annuity payments made to
2 (~~him~~) the member, shall be paid to (~~his~~) the member's estate, or to
3 such persons having an insurable interest in (~~his~~) the member's life
4 as he or she shall have nominated by written designation duly executed
5 and filed with the board. In the alternative, if there be a surviving
6 spouse or domestic partner as defined in RCW 41.40.010, or if no
7 surviving spouse or domestic partner, there are surviving a child or
8 children under the age of eighteen years, upon written notice to the
9 board by such spouse or domestic partner, or if there be no such spouse
10 or domestic partner, by the duly appointed, qualified and acting
11 guardian of such child or children, within sixty days of the date of
12 such member's death, there shall be paid to such spouse or domestic
13 partner during his or her lifetime, or, if there be no such spouse or
14 domestic partner, to such child or children, until they shall reach the
15 age of eighteen years, a monthly pension equal to one-half of the
16 monthly final compensation of such deceased member. If any such spouse
17 or domestic partner or child or children shall marry, then such person
18 so marrying shall thereafter receive no further pension herein
19 provided.

20 (6) If disability is due to intemperance, willful misconduct, or
21 violation of law, on the part of the member, the board, in its
22 discretion, may pay to said member, in one lump sum (~~his~~) the
23 member's accumulated contribution, in lieu of a retirement allowance,
24 and such payment shall constitute full satisfaction of all obligations
25 of the city to such member.

26 (7) In addition to the annuity and pension provided for in
27 (~~subdivisions~~) subsections (1) and (2) of this section, a member
28 shall receive an annuity which shall be the actuarial equivalent of his
29 or her accumulated additional contributions.

30 **Sec. 62.** RCW 41.44.190 and 1967 ex.s. c 28 s 5 are each amended to
31 read as follows:

32 (1) Should service of a member of the miscellaneous personnel be
33 discontinued except by death or retirement, (~~he~~) the member shall be
34 paid six months after the day of discontinuance such part of his or her
35 accumulated contributions as he or she shall demand. Six months after
36 the date of such discontinuance, unless on leave of absence regularly
37 granted, or unless he or she has exercised the option hereinafter

1 provided, his or her rights to all benefits as a member shall cease,
2 without notice, and (~~his~~) the member's accumulated contributions
3 shall be returned to him or her in any event or held for his or her
4 account if for any reason the return of the same is prevented. Should
5 service of a member of the uniformed personnel be discontinued except
6 by death or retirement, (~~he~~) the member shall be paid six months
7 after the day of discontinuance such part of his or her accumulated
8 contributions as he or she shall demand, and six months after the date
9 of such discontinuance, unless on leave of absence regularly granted,
10 his or her rights to all benefits as a member shall cease, without
11 notice, and (~~his~~) the member's accumulated contributions shall be
12 returned to him or her in any event, or held for his or her account if
13 for any reason the same is prevented: PROVIDED, That the board may in
14 its discretion, grant the privilege of withdrawal in the amounts above
15 specified at any time following such discontinuance. Any member whose
16 service is discontinued except by death or retirement, and who has five
17 or more years of creditable service when such discontinuance occurs,
18 may, at his or her option, leave his or her accumulated contributions
19 in the fund and thereby be entitled to receive a deferred retirement
20 allowance commencing at retirement age sixty for miscellaneous
21 personnel and at age fifty-five for uniformed personnel, such
22 retirement allowance to be computed in the same manner provided in
23 (~~subsection (1) of~~) RCW 41.44.150(1): PROVIDED, That this option may
24 be revoked at any time prior to commencement of annuity payments by
25 filing a written notice of such intention with the board together with
26 a written application for a refund of such accumulated contributions.
27 The board may establish rules (~~and regulations~~) to govern withdrawal
28 and redeposit of contributions.

29 (2) Should a former member, within five years after discontinuance
30 of service, return to service in the same city in which he or she was
31 employed he or she may restore to the fund in such manner as may be
32 agreed upon by such person and the board, his or her withdrawn normal
33 accumulated contributions as they were at the time of his or her
34 separation from service and upon completion of such redeposit all his
35 or her rights and privileges existing at the time of discontinuance of
36 service shall be restored and his or her obligations as a member shall
37 begin again. The rate of contribution of such returning member shall

1 be the same as it was at the time ((he)) the member separated from
2 service.

3 (3) Upon the death of any person who has not been retired, pursuant
4 to the provisions hereof, there shall be paid to his or her estate, or
5 to such persons having an insurable interest in his or her life as he
6 or she shall have nominated by written designation duly executed and
7 filed with the board, his or her accumulated contributions less any
8 payments therefrom already made to him or her. Such payment may be
9 made in one lump sum or may be paid in installments over a period of
10 not to exceed five years, as may be designated by the member or his or
11 her beneficiary, with such rate of interest as may be determined by the
12 board.

13 (4) In lieu of the death benefit otherwise payable under subsection
14 (3) of this section, there shall be paid a total allowance equal to
15 one-fourth average final compensation per month to the surviving spouse
16 or domestic partner as defined in RCW 41.40.010 of a member with at
17 least twenty years service as such, at the time of death and who has
18 not been retired and who, by reason of membership in the system, is
19 covered by the Old Age and Survivors Insurance provisions of the
20 Federal Social Security Act, but not at the time of death qualified to
21 receive the benefits thereof. Said allowance shall become payable upon
22 the death of said member or upon the date the surviving spouse or
23 domestic partner becomes ineligible for any benefit payment from the
24 Federal OASI, if later, and shall cease upon death or remarriage, or
25 upon the date the surviving spouse or domestic partner would become
26 entitled, upon application therefor; to any insurance benefit from the
27 Federal OASI system, whichever event shall first occur: PROVIDED, That
28 said benefit shall cease upon the beneficiary becoming employed by any
29 member city of said system: PROVIDED FURTHER, That this allowance
30 shall consist of:

31 (a) An amount which shall be the actuarial equivalent of the normal
32 contributions at the time specified for retirement;

33 (b) An amount provided by the contributions of the city, equal to
34 the annuity purchased by the accumulated normal contributions of the
35 member;

36 (c) Such additional amount, provided by the contributions of the
37 city, as will make the total allowance equal to one-fourth average
38 final compensation per month;

1 (d) An annuity purchased by the accumulated additional
2 contributions, if any, in addition to the minimum guaranteed.

3 (5) In lieu of the death benefit otherwise payable under subsection
4 (3) of this section, the surviving spouse or domestic partner of a
5 member who dies after having attained the minimum requirements for his
6 or her service retirement as required by RCW 41.44.140 may elect to
7 receive the allowance which would have been paid to such surviving
8 spouse or domestic partner had the member been retired on the date of
9 (~~his~~) death and had (~~he~~) the member elected to receive the lesser
10 retirement allowances provided for in option C of RCW 41.44.220.

11 (6) If a former member shall, within one year from date of
12 discontinuance of service, be employed by another city participating in
13 this retirement system he or she shall have the privilege of
14 re depositing and the matching contributions deposited by the city or
15 cities in which he or she was formerly employed shall again be held for
16 the benefit of such member. If such re depositing member possessed a
17 prior service certificate the city employing him or her at time of
18 retirement shall accept the liability evidenced by such certificate.

19 Reinstatement of a prior service certificate shall be effective
20 only upon a showing that normal contributions are on deposit in the
21 retirement fund, to the credit of the member, covering all current
22 service.

23 **Sec. 63.** RCW 41.44.210 and 1973 1st ex.s. c 154 s 79 are each
24 amended to read as follows:

25 Upon the death of any member who dies from injuries or disease
26 arising out of or incurred in the performance of his or her duty or
27 duties, of which the board of trustees shall be the judge, if death
28 occurs within one year from date of discontinuance of city service
29 caused by such injury, there shall be paid to his or her estate or to
30 such person or persons having an insurable interest in his or her life,
31 as he or she shall have nominated by written designation duly executed
32 and filed with the board, the sum of one thousand dollars, purchased by
33 the contributions of the cities participating in the retirement system;
34 and in addition thereto there shall be paid to the surviving spouse or
35 domestic partner as defined in RCW 41.40.010 during such spouse's or
36 domestic partner's lifetime, or if there be no surviving spouse or
37 domestic partner, then to his or her minor child or children until they

1 shall have reached the age of eighteen years, a monthly pension equal
2 to one-half the monthly final compensation of such deceased member. If
3 any such spouse or domestic partner, or child or children shall marry,
4 then such person so marrying shall thereafter receive no further
5 pension herein provided. Cost of the lump sum benefit above provided
6 shall be determined by actuarial calculation and prorated equitably to
7 each city. The benefits provided in this section shall be exclusive of
8 any other benefits due the member under this chapter.

9 **Sec. 64.** RCW 41.44.220 and 1965 ex.s. c 99 s 9 are each amended to
10 read as follows:

11 A member may elect to receive in lieu of the retirement allowance
12 provided for in RCW 41.44.150, its actuarial equivalent in the form of
13 a lesser retirement allowance, payable in accordance with the terms and
14 conditions of one of the options set forth below in this section.
15 Election of any option must be made by written application filed with
16 the board at least thirty days in advance of retirement, or may be made
17 by any member after he or she has attained the minimum requirements for
18 his or her service retirement as required by RCW 41.44.140, and shall
19 not be effective unless approved by the board prior to retirement of
20 the member.

21 Option A. The lesser retirement allowance shall be payable to the
22 member throughout his or her life: PROVIDED, That if he or she dies
23 before he or she receives in annuity payments referred to in
24 (~~paragraph (a) of subsection (1) of~~) RCW 41.44.150(1)(a) a total
25 amount equal to the amount of his or her accumulated contributions as
26 it was at date of (~~his~~) retirement, the balance of such accumulated
27 contributions shall be paid in one sum to his or her estate or to such
28 person having an insurable interest in his or her life as he or she
29 shall nominate by written designation duly executed and filed with the
30 board.

31 Option B. The lesser retirement allowance shall be payable to the
32 member throughout life, and after death of the member, one-half of the
33 lesser retirement allowance shall be continued throughout the life of
34 and paid to the (~~wife or husband~~) spouse or domestic partner as
35 defined in RCW 41.40.010 of this member.

36 Option C. The lesser retirement allowance shall be payable to the

1 member throughout life, and after death of the member it shall be
2 continued throughout the life of and paid to the (~~wife or husband~~)
3 spouse or domestic partner of the member.

4 A member may apply for some other benefit or benefits and the board
5 may grant such application provided such other benefit or benefits,
6 together with the reduced retirement allowance, shall be certified by
7 the actuary to be of equivalent value to his or her retirement
8 allowance.

9 The surviving spouse or domestic partner may elect to receive a
10 cash refund of the member's accumulated contributions in lieu of the
11 monthly benefit under either Option B or Option C.

12 **Sec. 65.** RCW 41.50.700 and 2003 c 294 s 12 are each amended to
13 read as follows:

14 (1) Except under subsection (3) of this section and RCW
15 41.26.460(5), 41.32.530(5), 41.32.785(5), 41.32.851(4), 41.35.220(4),
16 41.40.188(5), 41.40.660(5), 41.40.845(4), 43.43.271(4), and 41.34.080,
17 the department's obligation to provide direct payment of a property
18 division obligation to an obligee under RCW 41.50.670 shall cease upon
19 the death of the obligee or upon the death of the obligor, whichever
20 comes first. However, if an obligor dies and is eligible for a lump
21 sum death benefit, the department shall be obligated to provide direct
22 payment to the obligee of all or a portion of the withdrawal of
23 accumulated contributions pursuant to a court order that complies with
24 RCW 41.50.670.

25 (2) The direct payment of a property division obligation to an
26 obligee under RCW 41.50.670 shall be paid as a deduction from the
27 member's periodic retirement payment. An obligee may not direct the
28 department to withhold any funds from such payment.

29 (3) The department's obligation to provide direct payment to a
30 nonmember ex spouse from a preretirement divorce meeting the criteria
31 of RCW 41.26.162(2) or 43.43.270(2) may continue for the life of the
32 member's surviving spouse or domestic partner as defined in RCW
33 41.40.010 qualifying for benefits under RCW 41.26.160, 41.26.161, or
34 43.43.270(2). Upon the death of the member's surviving spouse or
35 domestic partner as defined in RCW 41.40.010 qualifying for benefits
36 under RCW 41.26.160, 41.26.161, or 43.43.270(2), the department's
37 obligation under this subsection shall cease. The department's

1 obligation to provide direct payment to a nonmember ex spouse
2 qualifying for a continued split benefit payment under RCW 41.26.162(3)
3 shall continue for the life of that nonmember ex spouse.

4 **Sec. 66.** RCW 41.54.034 and 1996 c 55 s 2 are each amended to read
5 as follows:

6 (1) If a dual member dies in service in any system, the member's
7 service in all systems may be combined for the sole purpose of
8 determining (~~(the surviving spouse's)~~) eligibility of the surviving
9 spouse or of a domestic partner as defined in RCW 41.40.010 to receive
10 a death benefit from each of the member's current and prior systems.

11 (2) Each system shall use its own criteria to:

12 (a) Determine (~~(the surviving spouse's)~~) eligibility of the
13 surviving spouse or of a domestic partner as defined in RCW 41.40.010
14 for a death benefit; and

15 (b) Calculate the death benefit based on service actually
16 established in that system.

17 (3) The surviving spouse or domestic partner shall receive the same
18 benefit from each system that would have been received if the member
19 were active in the system at the time of death. The spouse or domestic
20 partner shall be allowed to substitute the member's base salary from
21 any system as the compensation used in calculating the allowance.

22 (4) This section shall not apply to the Washington state patrol
23 retirement system established under chapter 43.43 RCW.

24 NEW SECTION. **Sec. 67.** Except as otherwise specifically provided,
25 this act applies with regard to retirements occurring July 1, 2006, and
26 thereafter.

27 NEW SECTION. **Sec. 68.** Sections 1 through 10 and 12 through 67 of
28 this act take effect July 1, 2006.

29 NEW SECTION. **Sec. 69.** Section 11 of this act takes effect July 1,
30 2013.

31 NEW SECTION. **Sec. 70.** Section 10 of this act expires July 1,

1 2013.

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