
SENATE BILL 6722

State of Washington

59th Legislature

2006 Regular Session

By Senators Franklin, Delvin, Keiser, Kohl-Welles and Rasmussen; by request of LEOFF Plan 2 Retirement Board

Read first time 01/19/2006. Referred to Committee on Ways & Means.

1 AN ACT Relating to receiving a catastrophic disability allowance
2 under the law enforcement officers' and fire fighters' retirement
3 system, plan 2; amending RCW 41.26.470 and 77.12.264; and declaring an
4 emergency.

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

6 **Sec. 1.** RCW 41.26.470 and 2005 c 451 s 1 are each amended to read
7 as follows:

8 (1) A member of the retirement system who becomes totally
9 incapacitated for continued employment by an employer as determined by
10 the director shall be eligible to receive an allowance under the
11 provisions of RCW 41.26.410 through 41.26.550. Such member shall
12 receive a monthly disability allowance computed as provided for in RCW
13 41.26.420 and shall have such allowance actuarially reduced to reflect
14 the difference in the number of years between age at disability and the
15 attainment of age fifty-three, except under subsection (7) of this
16 section.

17 (2) Any member who receives an allowance under the provisions of
18 this section shall be subject to such comprehensive medical
19 examinations as required by the department. If such medical

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

17 (3) Those members subject to this chapter who became disabled in
18 the line of duty on or after July 23, 1989, and who receive benefits
19 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW
20 41.04.535 shall receive or continue to receive service credit subject
21 to the following:

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

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

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

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

31 (e) State contributions shall be as provided in RCW 41.45.060 and
32 41.45.067.

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

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

37 (h) Should the legislature revoke the service credit authorized

1 under this section or repeal this section, no affected employee is
2 entitled to receive the credit as a matter of contractual right.

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

14 (b) If a recipient of a monthly retirement allowance under this
15 section died before April 27, 1989, and before the total of the
16 retirement allowance paid to the recipient equaled the amount of his or
17 her accumulated contributions at the date of retirement, then the
18 department shall pay the balance of the accumulated contributions to
19 the member's surviving spouse or, if there is no surviving spouse, then
20 in equal shares to the member's children. If there is no surviving
21 spouse or children, the department shall retain the contributions.

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

27 (6) A member who becomes disabled in the line of duty, and who
28 ceases to be an employee of an employer except by service or disability
29 retirement, may request a refund of one hundred fifty percent of the
30 member's accumulated contributions. Any accumulated contributions
31 attributable to restorations made under RCW 41.50.165(2) shall be
32 refunded at one hundred percent. A person in receipt of this benefit
33 is a retiree.

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

1 (8) A member who is totally disabled in the line of duty is
2 entitled to receive a retirement allowance equal to seventy percent of
3 the member's final average salary. The allowance provided under this
4 subsection shall be offset by:

5 (a) Temporary disability wage-replacement benefits or permanent
6 total disability benefits provided to the member under Title 51 RCW;
7 and

8 (b) Federal social security disability benefits, if any;
9 so that such an allowance does not result in the member receiving
10 combined benefits that exceed one hundred percent of the member's final
11 average salary. However, the offsets shall not in any case reduce the
12 allowance provided under this subsection below the member's accrued
13 retirement allowance.

14 A member is considered totally disabled if he or she is unable to
15 perform any substantial gainful activity due to a physical or mental
16 condition that may be expected to result in death or that has lasted or
17 is expected to last at least twelve months. Substantial gainful
18 activity is defined as average earnings in excess of eight hundred
19 sixty dollars a month in 2006 adjusted annually as determined by the
20 director based on federal social security disability standards. The
21 department may require a person in receipt of an allowance under this
22 subsection to provide any financial records that are necessary to
23 determine continued eligibility for such an allowance. A person in
24 receipt of an allowance under this subsection whose earnings exceed the
25 threshold for substantial gainful activity shall have their benefit
26 converted to a line-of-duty disability retirement allowance as provided
27 in subsection (7) of this section.

28 Any person in receipt of an allowance under the provisions of this
29 section is subject to comprehensive medical examinations as may be
30 required by the department under subsection (2) of this section in
31 order to determine continued eligibility for such an allowance.

32 **Sec. 2.** RCW 77.12.264 and 2001 c 253 s 18 are each amended to read
33 as follows:

34 The director shall relieve from active duty fish and wildlife
35 officers who are injured in the performance of their official duties to
36 such an extent as to be incapable of active service. While relieved

1 from active duty, the employees shall receive one-half of their salary
2 less any compensation received through the provisions of RCW 41.26.470,
3 41.40.200, 41.40.220, and 77.12.262.

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

--- END ---