
SENATE BILL 6873

State of Washington

59th Legislature

2006 Regular Session

By Senator Keiser

Read first time 01/30/2006. Referred to Committee on Ways & Means.

1 AN ACT Relating to membership in the public employees' retirement
2 system; and reenacting and amending RCW 41.40.023.

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

4 **Sec. 1.** RCW 41.40.023 and 2005 c 151 s 12 and 2005 c 131 s 7 are
5 each reenacted and amended to read as follows:

6 Membership in the retirement system shall consist of all regularly
7 compensated employees and appointive and elective officials of
8 employers, as defined in this chapter, with the following exceptions:

9 (1) Persons in ineligible positions;

10 (2) Employees of the legislature except the officers thereof
11 elected by the members of the senate and the house and legislative
12 committees, unless membership of such employees be authorized by the
13 said committee;

14 (3)(a) Persons holding elective offices or persons appointed
15 directly by the governor: PROVIDED, That such persons shall have the
16 option of applying for membership during such periods of employment:
17 AND PROVIDED FURTHER, That any persons holding or who have held
18 elective offices or persons appointed by the governor who are members
19 in the retirement system and who have, prior to becoming such members,

1 previously held an elective office, and did not at the start of such
2 initial or successive terms of office exercise their option to become
3 members, may apply for membership to be effective during such term or
4 terms of office, and shall be allowed to establish the service credit
5 applicable to such term or terms of office upon payment of the employee
6 contributions therefor by the employee with interest as determined by
7 the director and employer contributions therefor by the employer or
8 employee with interest as determined by the director: AND PROVIDED
9 FURTHER, That all contributions with interest submitted by the employee
10 under this subsection shall be placed in the employee's individual
11 account in the employee's savings fund and be treated as any other
12 contribution made by the employee, with the exception that any
13 contributions submitted by the employee in payment of the employer's
14 obligation, together with the interest the director may apply to the
15 employer's contribution, shall not be considered part of the member's
16 annuity for any purpose except withdrawal of contributions;

17 (b) A member holding elective office who has elected to apply for
18 membership pursuant to (a) of this subsection and who later wishes to
19 be eligible for a retirement allowance shall have the option of ending
20 his or her membership in the retirement system. A member wishing to
21 end his or her membership under this subsection must file, on a form
22 supplied by the department, a statement indicating that the member
23 agrees to irrevocably abandon any claim for service for future periods
24 served as an elected official. A member who receives more than fifteen
25 thousand dollars per year in compensation for his or her elective
26 service, adjusted annually for inflation by the director, is not
27 eligible for the option provided by this subsection (3)(b);

28 (4) Employees holding membership in, or receiving pension benefits
29 under, any retirement plan operated wholly or in part by an agency of
30 the state or political subdivision thereof, or who are by reason of
31 their current employment contributing to or otherwise establishing the
32 right to receive benefits from any such retirement plan except as
33 follows:

34 (a) In any case where the retirement system has in existence an
35 agreement with another retirement system in connection with exchange of
36 service credit or an agreement whereby members can retain service
37 credit in more than one system, such an employee shall be allowed
38 membership rights should the agreement so provide;

1 (b) An employee shall be allowed membership if otherwise eligible
2 while receiving survivor's benefits;

3 (c) An employee shall not either before or after June 7, 1984, be
4 excluded from membership or denied service credit pursuant to this
5 subsection solely on account of: (i) Membership in the plan created
6 under chapter 2.14 RCW; or (ii) enrollment under the relief and
7 compensation provisions or the pension provisions of the volunteer fire
8 fighters' relief and pension fund under chapter 41.24 RCW;

9 (d) Except as provided in RCW 41.40.109, on or after July 25, 1999,
10 an employee shall not be excluded from membership or denied service
11 credit pursuant to this subsection solely on account of participation
12 in a defined contribution pension plan qualified under section 401 of
13 the internal revenue code;

14 (e) Employees who have been reported in the retirement system prior
15 to July 25, 1999, and who participated during the same period of time
16 in a defined contribution pension plan qualified under section 401 of
17 the internal revenue code and operated wholly or in part by the
18 employer, shall not be excluded from previous retirement system
19 membership and service credit on account of such participation;

20 (5) Patient and inmate help in state charitable, penal, and
21 correctional institutions;

22 (6) "Members" of a state veterans' home or state soldiers' home;

23 (7) Persons employed by an institution of higher learning or
24 community college, primarily as an incident to and in furtherance of
25 their education or training, or the education or training of a spouse;

26 (8) Employees of an institution of higher learning or community
27 college during the period of service necessary to establish eligibility
28 for membership in the retirement plans operated by such institutions;

29 (9) Persons rendering professional services to an employer on a
30 fee, retainer, or contract basis or when the income from these services
31 is less than fifty percent of the gross income received from the
32 person's practice of a profession;

33 (10) Persons appointed after April 1, 1963, by the liquor control
34 board as contract liquor store managers;

35 (11) Employees of a labor guild, association, or organization:
36 PROVIDED, That elective officials and employees of a labor guild,
37 association, or organization which qualifies as an employer within this
38 chapter shall have the option of applying for membership;

1 (12) Retirement system retirees: PROVIDED, That following
2 reemployment in an eligible position, a retiree may elect to
3 prospectively become a member of the retirement system if otherwise
4 eligible;

5 (13) Persons employed by or appointed or elected as an official of
6 a first class city that has its own retirement system: PROVIDED, That
7 any member elected or appointed to an elective office on or after April
8 1, 1971, shall have the option of continuing as a member of this system
9 in lieu of becoming a member of the city system. A member who elects
10 to continue as a member of this system shall pay the appropriate member
11 contributions and the city shall pay the employer contributions at the
12 rates prescribed by this chapter. The city shall also transfer to this
13 system all of such member's accumulated contributions together with
14 such further amounts as necessary to equal all employee and employer
15 contributions which would have been paid into this system on account of
16 such service with the city and thereupon the member shall be granted
17 credit for all such service. Any city that becomes an employer as
18 defined in RCW 41.40.010(4) as the result of an individual's election
19 under this subsection shall not be required to have all employees
20 covered for retirement under the provisions of this chapter. Nothing
21 in this subsection shall prohibit a city of the first class with its
22 own retirement system from: (a) Transferring all of its current
23 employees to the retirement system established under this chapter, or
24 (b) allowing newly hired employees the option of continuing coverage
25 under the retirement system established by this chapter.

26 Notwithstanding any other provision of this chapter, persons
27 transferring from employment with a first class city of over four
28 hundred thousand population that has its own retirement system to
29 employment with the state department of agriculture may elect to remain
30 within the retirement system of such city and the state shall pay the
31 employer contributions for such persons at like rates as prescribed for
32 employers of other members of such system;

33 (14) Employees who (a) are not citizens of the United States, (b)
34 do not reside in the United States, and (c) perform duties outside of
35 the United States;

36 (15) Employees who (a) are not citizens of the United States, (b)
37 are not covered by chapter 41.48 RCW, (c) are not excluded from
38 membership under this chapter or chapter 41.04 RCW, (d) are residents

1 of this state, and (e) make an irrevocable election to be excluded from
2 membership, in writing, which is submitted to the director within
3 thirty days after employment in an eligible position;

4 (16) Employees who are citizens of the United States and who reside
5 and perform duties for an employer outside of the United States:
6 PROVIDED, That unless otherwise excluded under this chapter or chapter
7 41.04 RCW, the employee may apply for membership (a) within thirty days
8 after employment in an eligible position and membership service credit
9 shall be granted from the first day of membership service, and (b)
10 after this thirty-day period, but membership service credit shall be
11 granted only if payment is made for the noncredited membership service
12 under RCW 41.50.165(2), otherwise service shall be from the date of
13 application;

14 (17) The city manager or chief administrative officer of a city or
15 town, other than a retiree, who serves at the pleasure of an appointing
16 authority: PROVIDED, That such persons shall have the option of
17 applying for membership within thirty days from date of their
18 appointment to such positions. Persons serving in such positions as of
19 April 4, 1986, shall continue to be members in the retirement system
20 unless they notify the director in writing prior to December 31, 1986,
21 of their desire to withdraw from membership in the retirement system.
22 A member who withdraws from membership in the system under this section
23 shall receive a refund of the member's accumulated contributions.

24 Persons serving in such positions who have not opted for membership
25 within the specified thirty days, may do so by paying the amount
26 required under RCW 41.50.165(2) for the period from the date of their
27 appointment to the date of acceptance into membership;

28 (18) Persons serving as: (a) The chief administrative officer of
29 a public utility district as defined in RCW 54.16.100; (b) the chief
30 administrative officer of a port district formed under chapter 53.04
31 RCW; or (c) the chief administrative officer of a county who serves at
32 the pleasure of an appointing authority: PROVIDED, That such persons
33 shall have the option of applying for membership within thirty days
34 from the date of their appointment to such positions. Persons serving
35 in such positions as of July 25, 1999, shall continue to be members in
36 the retirement system unless they notify the director in writing prior
37 to December 31, 1999, of their desire to withdraw from membership in
38 the retirement system. A member who withdraws from membership in the

1 system under this section shall receive a refund of the member's
2 accumulated contributions upon termination of employment or as
3 otherwise consistent with the plan's tax qualification status as
4 defined in internal revenue code section 401.

5 Persons serving in such positions who have not opted for membership
6 within the specified thirty days, may do so at a later date by paying
7 the amount required under RCW 41.50.165(2) for the period from the date
8 of their appointment to the date of acceptance into membership;

9 (19) Persons enrolled in state-approved apprenticeship programs,
10 authorized under chapter 49.04 RCW, and who are employed by local
11 governments to earn hours to complete such apprenticeship programs, if
12 the employee is a member of a union-sponsored retirement plan and is
13 making contributions to such a retirement plan or if the employee is a
14 member of a Taft-Hartley retirement plan;

15 (20) Beginning on July 22, 2001, persons employed exclusively as
16 trainers or trainees in resident apprentice training programs operated
17 by housing authorities authorized under chapter 35.82 RCW, (a) if the
18 trainer or trainee is a member of a union-sponsored retirement plan and
19 is making contributions to such a retirement plan or (b) if the
20 employee is a member of a Taft-Hartley retirement plan; (~~and~~)

21 (21) Employees who are removed from membership under RCW 41.40.823
22 or 41.40.633; and

23 (22) Persons employed as the state director of fire protection
24 under RCW 43.43.938 who were previously members of the law enforcement
25 officers' and fire fighters' retirement system plan 2 under chapter
26 41.26 RCW shall have the option of continuing as a member of the law
27 enforcement officers' and fire fighters' retirement system in lieu of
28 becoming a member of this system.

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