

HB 2391 - H AMD

By Representative Conway

ADOPTED 04/21/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 41.31A.020 and 2003 c 294 s 4 are each amended to  
4 read as follows:

5 (1) On January 1, 2004, and on January 1st of even-numbered years  
6 thereafter, the member account of a person meeting the requirements of  
7 this section shall be credited by the extraordinary investment gain  
8 amount.

9 (2) The following persons, hired prior to July 1, 2007, shall be  
10 eligible for the benefit provided in subsection (1) of this section:

11 (a) Any member of the teachers' retirement system plan 3, the  
12 Washington school employees' retirement system plan 3, or the public  
13 employees' retirement system plan 3 who earned service credit during  
14 the twelve-month period from September 1st to August 31st immediately  
15 preceding the distribution and had a balance of at least one thousand  
16 dollars in their member account on August 31st of the year immediately  
17 preceding the distribution; or

18 (b) Any person in receipt of a benefit pursuant to RCW 41.32.875,  
19 41.35.680, or 41.40.820; or

20 (c) Any person who is a retiree pursuant to RCW 41.34.020(8) and  
21 who:

22 (i) Completed ten service credit years; or

23 (ii) Completed five service credit years, including twelve service  
24 months after attaining age fifty-four; or

25 (d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and  
26 who has completed five service credit years by July 1, 1996, under plan  
27 2 and who transferred to plan 3 under RCW 41.32.817; or

28 (e) Any classified employee who is a retiree pursuant to RCW  
29 41.34.020(8) and who has completed five service credit years by

1 September 1, 2000, and who transferred to plan 3 under RCW 41.35.510;  
2 or

3 (f) Any public employee who is a retiree pursuant to RCW  
4 41.34.020(8) and who has completed five service credit years by March  
5 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

6 (g) Any person who had a balance of at least one thousand dollars  
7 in their member account on August 31st of the year immediately  
8 preceding the distribution and who:

9 (i) Completed ten service credit years; or

10 (ii) Completed five service credit years, including twelve service  
11 months after attaining age fifty-four; or

12 (h) Any teacher who had a balance of at least one thousand dollars  
13 in their member account on August 31st of the year immediately  
14 preceding the distribution and who has completed five service credit  
15 years by July 1, 1996, under plan 2 and who transferred to plan 3 under  
16 RCW 41.32.817; or

17 (i) Any classified employee who had a balance of at least one  
18 thousand dollars in their member account on August 31st of the year  
19 immediately preceding the distribution and who has completed five  
20 service credit years by September 1, 2000, and who transferred to plan  
21 3 under RCW 41.35.510; or

22 (j) Any public employee who had a balance of at least one thousand  
23 dollars in their member account on August 31st of the year immediately  
24 preceding the distribution and who has completed five service credit  
25 years by March 1, 2002, and who transferred to plan 3 under RCW  
26 41.40.795.

27 (3) The extraordinary investment gain amount shall be calculated as  
28 follows:

29 (a) One-half of the sum of the value of the net assets held in  
30 trust for pension benefits in the teachers' retirement system combined  
31 plan 2 and 3 fund, the Washington school employees' retirement system  
32 combined plan 2 and 3 fund, and the public employees' retirement system  
33 combined plan 2 and 3 fund at the close of the previous state fiscal  
34 year not including the amount attributable to member accounts;

35 (b) Multiplied by the amount which the compound average of  
36 investment returns on those assets over the previous four state fiscal  
37 years exceeds ten percent;

38 (c) Multiplied by the proportion of:

1 (i) The sum of the service credit on August 31st of the previous  
2 year of all persons eligible for the benefit provided in subsection (1)  
3 of this section; to

4 (ii) The sum of the service credit on August 31st of the previous  
5 year of:

6 (A) All persons eligible for the benefit provided in subsection (1)  
7 of this section;

8 (B) Any person who earned service credit in the teachers'  
9 retirement system plan 2, the Washington school employees' retirement  
10 system plan 2, or the public employees' retirement system plan 2 during  
11 the twelve-month period from September 1st to August 31st immediately  
12 preceding the distribution;

13 (C) Any person in receipt of a benefit pursuant to RCW 41.32.765,  
14 41.35.420, or 41.40.630; and

15 (D) Any person with five or more years of service in the teachers'  
16 retirement system plan 2, the Washington school employees' retirement  
17 system plan 2, or the public employees' retirement system plan 2;

18 (d) Divided proportionally among persons eligible for the benefit  
19 provided in subsection (1) of this section on the basis of their  
20 service credit total on August 31st of the previous year.

21 (4) The legislature reserves the right to amend or repeal this  
22 section in the future and no member or beneficiary has a contractual  
23 right to receive this distribution not granted prior to that time.

24 **Sec. 2.** RCW 41.32.765 and 2000 c 247 s 902 are each amended to  
25 read as follows:

26 (1) NORMAL RETIREMENT. Any member with at least five service  
27 credit years of service who has attained at least age sixty-five shall  
28 be eligible to retire and to receive a retirement allowance computed  
29 according to the provisions of RCW 41.32.760.

30 (2) EARLY RETIREMENT. Any member who has completed at least twenty  
31 service credit years of service who has attained at least age fifty-  
32 five shall be eligible to retire and to receive a retirement allowance  
33 computed according to the provisions of RCW 41.32.760, except that a  
34 member retiring pursuant to this subsection shall have the retirement  
35 allowance actuarially reduced to reflect the difference in the number  
36 of years between age at retirement and the attainment of age sixty-  
37 five.

1 (3) ALTERNATE EARLY RETIREMENT.

2 (a) Any member who has completed at least thirty service credit  
3 years and has attained age fifty-five shall be eligible to retire and  
4 to receive a retirement allowance computed according to the provisions  
5 of RCW 41.32.760, except that a member retiring pursuant to this  
6 subsection shall have the retirement allowance reduced by three percent  
7 per year to reflect the difference in the number of years between age  
8 at retirement and the attainment of age sixty-five.

9 (b) On or after September 1, 2008, any member who has completed at  
10 least thirty service credit years and has attained age fifty-five shall  
11 be eligible to retire and to receive a retirement allowance computed  
12 according to the provisions of RCW 41.32.760, except that a member  
13 retiring pursuant to this subsection shall have the retirement  
14 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

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27 Any member who retires under the provisions of this subsection is  
28 ineligible for the postretirement employment provisions of RCW  
29 41.32.802(2) until the retired member has reached sixty-five years of  
30 age. For purposes of this subsection, employment with an employer also  
31 includes any personal service contract, service by an employer as a  
32 temporary or project employee, or any other similar compensated  
33 relationship with any employer included under the provisions of RCW  
34 41.32.800(1).

35 The subsidized reductions for alternate early retirement in this  
36 subsection as set forth in section 2, chapter . . . (this act), Laws of

1 2007 were intended by the legislature as replacement benefits for gain-  
2 sharing. Until there is legal certainty with respect to the repeal of  
3 chapter 41.31A RCW, the right to retire under this subsection is  
4 noncontractual, and the legislature reserves the right to amend or  
5 repeal this subsection. Legal certainty includes, but is not limited  
6 to, the expiration of any: Applicable limitations on actions; and  
7 periods of time for seeking appellate review, up to and including  
8 reconsideration by the Washington supreme court and the supreme court  
9 of the United States. Until that time, eligible members may still  
10 retire under this subsection, and upon receipt of the first installment  
11 of a retirement allowance computed under this subsection, the resulting  
12 benefit becomes contractual for the recipient. If the repeal of  
13 chapter 41.31A RCW is held to be invalid in a final determination of a  
14 court of law, and the court orders reinstatement of gain-sharing or  
15 other alternate benefits as a remedy, then retirement benefits for any  
16 member who has completed at least thirty service credit years and has  
17 attained age fifty-five but has not yet received the first installment  
18 of a retirement allowance under this subsection shall be computed using  
19 the reductions in (a) of this subsection.

20 **Sec. 3.** RCW 41.32.835 and 1995 c 239 s 105 are each amended to  
21 read as follows:

22 (1) All teachers who first become employed by an employer in an  
23 eligible position on or after July 1, ((1996, shall be members of plan  
24 3)) 2007, shall have a period of ninety days to make an irrevocable  
25 choice to become a member of plan 2 or plan 3. At the end of ninety  
26 days, if the member has not made a choice to become a member of plan 2,  
27 he or she becomes a member of plan 3.

28 (2) For administrative efficiency, until a member elects to become  
29 a member of plan 3, or becomes a member of plan 3 by default under  
30 subsection (1) of this section, the member shall be reported to the  
31 department in plan 2, with member and employer contributions. Upon  
32 becoming a member of plan 3 by election or by default, all service  
33 credit shall be transferred to the member's plan 3 defined benefit, and  
34 all employee accumulated contributions shall be transferred to the  
35 member's plan 3 defined contribution account.

36 (3) The plan choice provision as set forth in section 3, chapter .  
37 . (this act), Laws of 2007 was intended by the legislature as a

1 replacement benefit for gain-sharing. Until there is legal certainty  
2 with respect to the repeal of chapter 41.31A RCW, the right to plan  
3 choice under this section is noncontractual, and the legislature  
4 reserves the right to amend or repeal this section. Legal certainty  
5 includes, but is not limited to, the expiration of any: Applicable  
6 limitations on actions; and periods of time for seeking appellate  
7 review, up to and including reconsideration by the Washington supreme  
8 court and the supreme court of the United States. Until that time, all  
9 teachers who first become employed by an employer in an eligible  
10 position on or after July 1, 2007, may choose either plan 2 or plan 3  
11 under this section. If the repeal of chapter 41.31A RCW is held to be  
12 invalid in a final determination of a court of law, and the court  
13 orders reinstatement of gain-sharing or other alternate benefits as a  
14 remedy, then all teachers who first become employed by an employer in  
15 an eligible position on or after the date of such reinstatement shall  
16 be members of plan 3.

17 **Sec. 4.** RCW 41.32.875 and 2006 c 33 s 1 are each amended to read  
18 as follows:

19 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
20 and who has:

21 (a) Completed ten service credit years; or

22 (b) Completed five service credit years, including twelve service  
23 credit months after attaining age forty-four; or

24 (c) Completed five service credit years by July 1, 1996, under plan  
25 2 and who transferred to plan 3 under RCW 41.32.817;

26 shall be eligible to retire and to receive a retirement allowance  
27 computed according to the provisions of RCW 41.32.840.

28 (2) EARLY RETIREMENT. Any member who has attained at least age  
29 fifty-five and has completed at least ten years of service shall be  
30 eligible to retire and to receive a retirement allowance computed  
31 according to the provisions of RCW 41.32.840, except that a member  
32 retiring pursuant to this subsection shall have the retirement  
33 allowance actuarially reduced to reflect the difference in the number  
34 of years between age at retirement and the attainment of age sixty-  
35 five.

36 (3) ALTERNATE EARLY RETIREMENT.

1       (a) Any member who has completed at least thirty service credit  
2 years and has attained age fifty-five shall be eligible to retire and  
3 to receive a retirement allowance computed according to the provisions  
4 of RCW 41.32.840, except that a member retiring pursuant to this  
5 subsection shall have the retirement allowance reduced by three percent  
6 per year to reflect the difference in the number of years between age  
7 at retirement and the attainment of age sixty-five.

8       (b) On or after September 1, 2008, any member who has completed at  
9 least thirty service credit years and has attained age fifty-five shall  
10 be eligible to retire and to receive a retirement allowance computed  
11 according to the provisions of RCW 41.32.840, except that a member  
12 retiring pursuant to this subsection shall have the retirement  
13 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

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26       Any member who retires under the provisions of this subsection is  
27 ineligible for the postretirement employment provisions of RCW  
28 41.32.862(2) until the retired member has reached sixty-five years of  
29 age. For purposes of this subsection, employment with an employer also  
30 includes any personal service contract, service by an employer as a  
31 temporary or project employee, or any other similar compensated  
32 relationship with any employer included under the provisions of RCW  
33 41.32.860(1).

34       The subsidized reductions for alternate early retirement in this  
35 subsection as set forth in section 4, chapter . . . (this act), Laws of  
36 2007 were intended by the legislature as replacement benefits for gain-

1 sharing. Until there is legal certainty with respect to the repeal of  
2 chapter 41.31A RCW, the right to retire under this subsection is  
3 noncontractual, and the legislature reserves the right to amend or  
4 repeal this subsection. Legal certainty includes, but is not limited  
5 to, the expiration of any: Applicable limitations on actions; and  
6 periods of time for seeking appellate review, up to and including  
7 reconsideration by the Washington supreme court and the supreme court  
8 of the United States. Until that time, eligible members may still  
9 retire under this subsection, and upon receipt of the first installment  
10 of a retirement allowance computed under this subsection, the resulting  
11 benefit becomes contractual for the recipient. If the repeal of  
12 chapter 41.31A RCW is held to be invalid in a final determination of a  
13 court of law, and the court orders reinstatement of gain-sharing or  
14 other alternate benefits as a remedy, then retirement benefits for any  
15 member who has completed at least thirty service credit years and has  
16 attained age fifty-five but has not yet received the first installment  
17 of a retirement allowance under this subsection shall be computed using  
18 the reductions in (a) of this subsection.

19 NEW SECTION. Sec. 5. A new section is added to chapter 41.32 RCW  
20 under the subchapter heading "plan 1" to read as follows:

21 (1) Beginning July 1, 2009, the annual increase amount as defined  
22 in RCW 41.32.010(46) shall be increased by an amount equal to \$0.40 per  
23 month per year of service minus the 2008 gain-sharing increase amount  
24 under RCW 41.31.010 as it exists on the effective date of this section.  
25 This adjustment shall not decrease the annual increase amount, and is  
26 not to exceed \$0.20 per month per year of service. The legislature  
27 reserves the right to amend or repeal this section in the future and no  
28 member or beneficiary has the contractual right to receive this  
29 adjustment to the annual increase amount not granted prior to that  
30 time.

31 (2) The adjustment to the annual increase amount as set forth in  
32 section 5, chapter . . . (this act), Laws of 2007 was intended by the  
33 legislature as a replacement benefit for gain-sharing. If the repeal  
34 of chapter 41.31 RCW is held to be invalid in a final determination of  
35 a court of law, and the court orders reinstatement of gain-sharing or  
36 other alternate benefits as a remedy, then this adjustment to the



1 annual increase amount shall not be included in future annual increase  
2 amounts paid on or after the date of such reinstatement.

3 **Sec. 6.** RCW 41.35.420 and 2000 c 247 s 905 are each amended to  
4 read as follows:

5 (1) NORMAL RETIREMENT. Any member with at least five service  
6 credit years who has attained at least age sixty-five shall be eligible  
7 to retire and to receive a retirement allowance computed according to  
8 the provisions of RCW 41.35.400.

9 (2) EARLY RETIREMENT. Any member who has completed at least twenty  
10 service credit years and has attained age fifty-five shall be eligible  
11 to retire and to receive a retirement allowance computed according to  
12 the provisions of RCW 41.35.400, except that a member retiring pursuant  
13 to this subsection shall have the retirement allowance actuarially  
14 reduced to reflect the difference in the number of years between age at  
15 retirement and the attainment of age sixty-five.

16 (3) ALTERNATE EARLY RETIREMENT.

17 (a) Any member who has completed at least thirty service credit  
18 years and has attained age fifty-five shall be eligible to retire and  
19 to receive a retirement allowance computed according to the provisions  
20 of RCW 41.35.400, except that a member retiring pursuant to this  
21 subsection shall have the retirement allowance reduced by three percent  
22 per year to reflect the difference in the number of years between age  
23 at retirement and the attainment of age sixty-five.

24 (b) On or after September 1, 2008, any member who has completed at  
25 least thirty service credit years and has attained age fifty-five shall  
26 be eligible to retire and to receive a retirement allowance computed  
27 according to the provisions of RCW 41.35.400, except that a member  
28 retiring pursuant to this subsection shall have the retirement  
29 allowance reduced as follows:

	<u>Retirement</u>	<u>Percent</u>
	<u>Age</u>	<u>Reduction</u>
30		
31	<u>55</u>	<u>20%</u>
32		
33	<u>56</u>	<u>17%</u>
34		
35	<u>57</u>	<u>14%</u>
	<u>58</u>	<u>11%</u>

1	<u>59</u>	<u>8%</u>
2	<u>60</u>	<u>5%</u>
3	<u>61</u>	<u>2%</u>
4	<u>62</u>	<u>0%</u>
5	<u>63</u>	<u>0%</u>
6	<u>64</u>	<u>0%</u>

7 Any member who retires under the provisions of this subsection is  
8 ineligible for the postretirement employment provisions of RCW  
9 41.35.060(2) until the retired member has reached sixty-five years of  
10 age. For purposes of this subsection, employment with an employer also  
11 includes any personal service contract, service by an employer as a  
12 temporary or project employee, or any other similar compensated  
13 relationship with any employer included under the provisions of RCW  
14 41.35.230(1).

15 The subsidized reductions for alternate early retirement in this  
16 subsection as set forth in section 6, chapter . . . (this act), Laws of  
17 2007 were intended by the legislature as replacement benefits for gain-  
18 sharing. Until there is legal certainty with respect to the repeal of  
19 chapter 41.31A RCW, the right to retire under this subsection is  
20 noncontractual, and the legislature reserves the right to amend or  
21 repeal this subsection. Legal certainty includes, but is not limited  
22 to, the expiration of any: Applicable limitations on actions; and  
23 periods of time for seeking appellate review, up to and including  
24 reconsideration by the Washington supreme court and the supreme court  
25 of the United States. Until that time, eligible members may still  
26 retire under this subsection, and upon receipt of the first installment  
27 of a retirement allowance computed under this subsection, the resulting  
28 benefit becomes contractual for the recipient. If the repeal of  
29 chapter 41.31A RCW is held to be invalid in a final determination of a  
30 court of law, and the court orders reinstatement of gain-sharing or  
31 other alternate benefits as a remedy, then retirement benefits for any  
32 member who has completed at least thirty service credit years and has  
33 attained age fifty-five but has not yet received the first installment  
34 of a retirement allowance under this subsection shall be computed using  
35 the reductions in (a) of this subsection.

36 **Sec. 7.** RCW 41.35.610 and 1998 c 341 s 202 are each amended to  
37 read as follows:

1       (1) All classified employees who first become employed by an  
2 employer in an eligible position on or after ((September 1, 2000, shall  
3 be members of plan 3)) July 1, 2007, shall have a period of ninety days  
4 to make an irrevocable choice to become a member of plan 2 or plan 3.  
5 At the end of ninety days, if the member has not made a choice to  
6 become a member of plan 2, he or she becomes a member of plan 3.

7       (2) For administrative efficiency, until a member elects to become  
8 a member of plan 3, or becomes a member of plan 3 by default under  
9 subsection (1) of this section, the member shall be reported to the  
10 department in plan 2, with member and employer contributions. Upon  
11 becoming a member of plan 3 by election or by default, all service  
12 credit shall be transferred to the member's plan 3 defined benefit, and  
13 all employee accumulated contributions shall be transferred to the  
14 member's plan 3 defined contribution account.

15       (3) The plan choice provision as set forth in section 7, chapter .  
16 . . (this act), Laws of 2007 was intended by the legislature as a  
17 replacement benefit for gain-sharing. Until there is legal certainty  
18 with respect to the repeal of chapter 41.31A RCW, the right to plan  
19 choice under this section is noncontractual, and the legislature  
20 reserves the right to amend or repeal this section. Legal certainty  
21 includes, but is not limited to, the expiration of any: Applicable  
22 limitations on actions; and periods of time for seeking appellate  
23 review, up to and including reconsideration by the Washington supreme  
24 court and the supreme court of the United States. Until that time, all  
25 classified employees who first become employed by an employer in an  
26 eligible position on or after July 1, 2007, may choose either plan 2 or  
27 plan 3 under this section. If the repeal of chapter 41.31A RCW is held  
28 to be invalid in a final determination of a court of law, and the court  
29 orders reinstatement of gain-sharing or other alternate benefits as a  
30 remedy, then all classified employees who first become employed by an  
31 employer in an eligible position on or after the date of such  
32 reinstatement shall be members of plan 3.

33       **Sec. 8.** RCW 41.35.680 and 2006 c 33 s 2 are each amended to read  
34 as follows:

35       (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
36 and who has:

37       (a) Completed ten service credit years; or

1 (b) Completed five service credit years, including twelve service  
2 credit months after attaining age forty-four; or

3 (c) Completed five service credit years by September 1, 2000, under  
4 the public employees' retirement system plan 2 and who transferred to  
5 plan 3 under RCW 41.35.510;

6 shall be eligible to retire and to receive a retirement allowance  
7 computed according to the provisions of RCW 41.35.620.

8 (2) EARLY RETIREMENT. Any member who has attained at least age  
9 fifty-five and has completed at least ten years of service shall be  
10 eligible to retire and to receive a retirement allowance computed  
11 according to the provisions of RCW 41.35.620, except that a member  
12 retiring pursuant to this subsection shall have the retirement  
13 allowance actuarially reduced to reflect the difference in the number  
14 of years between age at retirement and the attainment of age sixty-  
15 five.

16 (3) ALTERNATE EARLY RETIREMENT.

17 (a) Any member who has completed at least thirty service credit  
18 years and has attained age fifty-five shall be eligible to retire and  
19 to receive a retirement allowance computed according to the provisions  
20 of RCW 41.35.620, except that a member retiring pursuant to this  
21 subsection shall have the retirement allowance reduced by three percent  
22 per year to reflect the difference in the number of years between age  
23 at retirement and the attainment of age sixty-five.

24 (b) On or after September 1, 2008, any member who has completed at  
25 least thirty service credit years and has attained age fifty-five shall  
26 be eligible to retire and to receive a retirement allowance computed  
27 according to the provisions of RCW 41.35.620, except that a member  
28 retiring pursuant to this subsection shall have the retirement  
29 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>

1	<u>60</u>	<u>5%</u>
2	<u>61</u>	<u>2%</u>
3	<u>62</u>	<u>0%</u>
4	<u>63</u>	<u>0%</u>
5	<u>64</u>	<u>0%</u>

6 Any member who retires under the provisions of this subsection is  
7 ineligible for the postretirement employment provisions of RCW  
8 41.35.060(2) until the retired member has reached sixty-five years of  
9 age. For purposes of this subsection, employment with an employer also  
10 includes any personal service contract, service by an employer as a  
11 temporary or project employee, or any other similar compensated  
12 relationship with any employer included under the provisions of RCW  
13 41.35.230(1).

14 The subsidized reductions for alternate early retirement in this  
15 subsection as set forth in section 8, chapter . . . (this act), Laws of  
16 2007 were intended by the legislature as replacement benefits for gain-  
17 sharing. Until there is legal certainty with respect to the repeal of  
18 chapter 41.31A RCW, the right to retire under this subsection is  
19 noncontractual, and the legislature reserves the right to amend or  
20 repeal this subsection. Legal certainty includes, but is not limited  
21 to, the expiration of any: Applicable limitations on actions; and  
22 periods of time for seeking appellate review, up to and including  
23 reconsideration by the Washington supreme court and the supreme court  
24 of the United States. Until that time, eligible members may still  
25 retire under this subsection, and upon receipt of the first installment  
26 of a retirement allowance computed under this subsection, the resulting  
27 benefit becomes contractual for the recipient. If the repeal of  
28 chapter 41.31A RCW is held to be invalid in a final determination of a  
29 court of law, and the court orders reinstatement of gain-sharing or  
30 other alternate benefits as a remedy, then retirement benefits for any  
31 member who has completed at least thirty service credit years and has  
32 attained age fifty-five but has not yet received the first installment  
33 of a retirement allowance under this subsection shall be computed using  
34 the reductions in (a) of this subsection.

35 **Sec. 9.** RCW 41.40.630 and 2000 c 247 s 901 are each amended to  
36 read as follows:

37 (1) NORMAL RETIREMENT. Any member with at least five service

1 credit years who has attained at least age sixty-five shall be eligible  
2 to retire and to receive a retirement allowance computed according to  
3 the provisions of RCW 41.40.620.

4 (2) EARLY RETIREMENT. Any member who has completed at least twenty  
5 service credit years and has attained age fifty-five shall be eligible  
6 to retire and to receive a retirement allowance computed according to  
7 the provisions of RCW 41.40.620, except that a member retiring pursuant  
8 to this subsection shall have the retirement allowance actuarially  
9 reduced to reflect the difference in the number of years between age at  
10 retirement and the attainment of age sixty-five.

11 (3) ALTERNATE EARLY RETIREMENT.

12 (a) Any member who has completed at least thirty service credit  
13 years and has attained age fifty-five shall be eligible to retire and  
14 to receive a retirement allowance computed according to the provisions  
15 of RCW 41.40.620, except that a member retiring pursuant to this  
16 subsection shall have the retirement allowance reduced by three percent  
17 per year to reflect the difference in the number of years between age  
18 at retirement and the attainment of age sixty-five.

19 (b) On or after July 1, 2008, any member who has completed at least  
20 thirty service credit years and has attained age fifty-five shall be  
21 eligible to retire and to receive a retirement allowance computed  
22 according to the provisions of RCW 41.40.620, except that a member  
23 retiring pursuant to this subsection shall have the retirement  
24 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>
<u>62</u>	<u>0%</u>
<u>63</u>	<u>0%</u>
<u>64</u>	<u>0%</u>

1        Any member who retires under the provisions of this subsection is  
2 ineligible for the postretirement employment provisions of RCW  
3 41.40.037(2)(d) until the retired member has reached sixty-five years  
4 of age. For purposes of this subsection, employment with an employer  
5 also includes any personal service contract, service by an employer as  
6 a temporary or project employee, or any other similar compensated  
7 relationship with any employer included under the provisions of RCW  
8 41.40.690(1).

9        The subsidized reductions for alternate early retirement in this  
10 subsection as set forth in section 9, chapter . . . (this act), Laws of  
11 2007 were intended by the legislature as replacement benefits for gain-  
12 sharing. Until there is legal certainty with respect to the repeal of  
13 chapter 41.31A RCW, the right to retire under this subsection is  
14 noncontractual, and the legislature reserves the right to amend or  
15 repeal this subsection. Legal certainty includes, but is not limited  
16 to, the expiration of any: Applicable limitations on actions; and  
17 periods of time for seeking appellate review, up to and including  
18 reconsideration by the Washington supreme court and the supreme court  
19 of the United States. Until that time, eligible members may still  
20 retire under this subsection, and upon receipt of the first installment  
21 of a retirement allowance computed under this subsection, the resulting  
22 benefit becomes contractual for the recipient. If the repeal of  
23 chapter 41.31A RCW is held to be invalid in a final determination of a  
24 court of law, and the court orders reinstatement of gain-sharing or  
25 other alternate benefits as a remedy, then retirement benefits for any  
26 member who has completed at least thirty service credit years and has  
27 attained age fifty-five but has not yet received the first installment  
28 of a retirement allowance under this subsection shall be computed using  
29 the reductions in (a) of this subsection.

30        **Sec. 10.** RCW 41.40.820 and 2006 c 33 s 3 are each amended to read  
31 as follows:

32        (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
33 and who has:

34        (a) Completed ten service credit years; or

35        (b) Completed five service credit years, including twelve service  
36 credit months after attaining age forty-four; or

1 (c) Completed five service credit years by the transfer payment  
2 date specified in RCW 41.40.795, under the public employees' retirement  
3 system plan 2 and who transferred to plan 3 under RCW 41.40.795;  
4 shall be eligible to retire and to receive a retirement allowance  
5 computed according to the provisions of RCW 41.40.790.

6 (2) EARLY RETIREMENT. Any member who has attained at least age  
7 fifty-five and has completed at least ten years of service shall be  
8 eligible to retire and to receive a retirement allowance computed  
9 according to the provisions of RCW 41.40.790, except that a member  
10 retiring pursuant to this subsection shall have the retirement  
11 allowance actuarially reduced to reflect the difference in the number  
12 of years between age at retirement and the attainment of age sixty-  
13 five.

14 (3) ALTERNATE EARLY RETIREMENT.

15 (a) Any member who has completed at least thirty service credit  
16 years and has attained age fifty-five shall be eligible to retire and  
17 to receive a retirement allowance computed according to the provisions  
18 of RCW 41.40.790, except that a member retiring pursuant to this  
19 subsection shall have the retirement allowance reduced by three percent  
20 per year to reflect the difference in the number of years between age  
21 at retirement and the attainment of age sixty-five.

22 (b) On or after July 1, 2008, any member who has completed at least  
23 thirty service credit years and has attained age fifty-five shall be  
24 eligible to retire and to receive a retirement allowance computed  
25 according to the provisions of RCW 41.40.790, except that a member  
26 retiring pursuant to this subsection shall have the retirement  
27 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>
<u>56</u>	<u>17%</u>
<u>57</u>	<u>14%</u>
<u>58</u>	<u>11%</u>
<u>59</u>	<u>8%</u>
<u>60</u>	<u>5%</u>
<u>61</u>	<u>2%</u>



1	<u>62</u>	<u>0%</u>
2	<u>63</u>	<u>0%</u>
3	<u>64</u>	<u>0%</u>

4        Any member who retires under the provisions of this subsection is  
5 ineligible for the postretirement employment provisions of RCW  
6 41.40.037(2)(d) until the retired member has reached sixty-five years  
7 of age. For purposes of this subsection, employment with an employer  
8 also includes any personal service contract, service by an employer as  
9 a temporary or project employee, or any other similar compensated  
10 relationship with any employer included under the provisions of RCW  
11 41.40.850(1).

12        The subsidized reductions for alternate early retirement in this  
13 subsection as set forth in section 10, chapter . . . (this act), Laws  
14 of 2007 were intended by the legislature as replacement benefits for  
15 gain-sharing. Until there is legal certainty with respect to the  
16 repeal of chapter 41.31A RCW, the right to retire under this subsection  
17 is noncontractual, and the legislature reserves the right to amend or  
18 repeal this subsection. Legal certainty includes, but is not limited  
19 to, the expiration of any: Applicable limitations on actions; and  
20 periods of time for seeking appellate review, up to and including  
21 reconsideration by the Washington supreme court and the supreme court  
22 of the United States. Until that time, eligible members may still  
23 retire under this subsection, and upon receipt of the first installment  
24 of a retirement allowance computed under this subsection, the resulting  
25 benefit becomes contractual for the recipient. If the repeal of  
26 chapter 41.31A RCW is held to be invalid in a final determination of a  
27 court of law, and the court orders reinstatement of gain-sharing or  
28 other alternate benefits as a remedy, then retirement benefits for any  
29 member who has completed at least thirty service credit years and has  
30 attained age fifty-five but has not yet received the first installment  
31 of a retirement allowance under this subsection shall be computed using  
32 the reductions in (a) of this subsection.

33        NEW SECTION. Sec. 11. A new section is added to chapter 41.40 RCW  
34 under the subchapter heading "plan 1" to read as follows:

35        (1) Beginning July 1, 2009, the annual increase amount as defined  
36 in RCW 41.40.010(41) shall be increased by an amount equal to \$0.40 per  
37 month per year of service minus the 2008 gain-sharing increase amount

1 under RCW 41.31.010 as it exists on the effective date of this section.  
2 This adjustment shall not decrease the annual increase amount, and is  
3 not to exceed \$0.20 per month per year of service. The legislature  
4 reserves the right to amend or repeal this section in the future and no  
5 member or beneficiary has the contractual right to receive this  
6 adjustment to the annual increase amount not granted prior to that  
7 time.

8 (2) The adjustment to the annual increase amount as set forth in  
9 section 11, chapter . . . (this act), Laws of 2007 was intended by the  
10 legislature as a replacement benefit for gain-sharing. If the repeal  
11 of chapter 41.31 RCW is held to be invalid in a final determination of  
12 a court of law, and the court orders reinstatement of gain-sharing or  
13 other alternate benefits as a remedy, then this adjustment to the  
14 annual increase amount shall not be included in future annual increase  
15 amounts paid on or after the date of such reinstatement.

16 **Sec. 12.** RCW 41.45.070 and 2006 c 94 s 3 are each amended to read  
17 as follows:

18 (1) In addition to the basic employer contribution rate established  
19 in RCW 41.45.060 or 41.45.054, the department shall also charge  
20 employers of public employees' retirement system, teachers' retirement  
21 system, school employees' retirement system, public safety employees'  
22 retirement system, or Washington state patrol retirement system members  
23 an additional supplemental rate to pay for the cost of additional  
24 benefits, if any, granted to members of those systems. Except as  
25 provided in subsections (6) (~~and~~), (7), and (9) of this section, the  
26 supplemental contribution rates required by this section shall be  
27 calculated by the state actuary and shall be charged regardless of  
28 language to the contrary contained in the statute which authorizes  
29 additional benefits.

30 (2) In addition to the basic member, employer, and state  
31 contribution rate established in RCW 41.45.0604 for the law enforcement  
32 officers' and firefighters' retirement system plan 2, the department  
33 shall also establish supplemental rates to pay for the cost of  
34 additional benefits, if any, granted to members of the law enforcement  
35 officers' and firefighters' retirement system plan 2. Except as  
36 provided in subsection (6) of this section, these supplemental rates  
37 shall be calculated by the actuary retained by the law enforcement

1 officers' and firefighters' board and the state actuary through the  
2 process provided in RCW 41.26.720(1)(a) and the state treasurer shall  
3 transfer the additional required contributions regardless of language  
4 to the contrary contained in the statute which authorizes the  
5 additional benefits.

6 (3) The supplemental rate charged under this section to fund  
7 benefit increases provided to active members of the public employees'  
8 retirement system plan 1, the teachers' retirement system plan 1, and  
9 Washington state patrol retirement system, shall be calculated as the  
10 level percentage of all members' pay needed to fund the cost of the  
11 benefit not later than June 30, 2024.

12 (4) The supplemental rate charged under this section to fund  
13 benefit increases provided to active and retired members of the public  
14 employees' retirement system plan 2 and plan 3, the teachers'  
15 retirement system plan 2 and plan 3, the public safety employees'  
16 retirement system plan 2, or the school employees' retirement system  
17 plan 2 and plan 3 shall be calculated as the level percentage of all  
18 members' pay needed to fund the cost of the benefit, as calculated  
19 under RCW 41.45.060, 41.45.061, or 41.45.067.

20 (5) The supplemental rate charged under this section to fund  
21 postretirement adjustments which are provided on a nonautomatic basis  
22 to current retirees shall be calculated as the percentage of pay needed  
23 to fund the adjustments as they are paid to the retirees. The  
24 supplemental rate charged under this section to fund automatic  
25 postretirement adjustments for active or retired members of the public  
26 employees' retirement system plan 1 and the teachers' retirement system  
27 plan 1 shall be calculated as the level percentage of pay needed to  
28 fund the cost of the automatic adjustments not later than June 30,  
29 2024.

30 (6) A supplemental rate shall not be charged to pay for the cost of  
31 additional benefits granted to members pursuant to chapter 340, Laws of  
32 1998.

33 (7) A supplemental rate shall not be charged to pay for the cost of  
34 additional benefits granted to members pursuant to chapter 41.31A RCW;  
35 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,  
36 Laws of 1998.

37 (8) A supplemental rate shall not be charged to pay for the cost of

1 additional benefits granted to members and survivors pursuant to  
2 chapter 94, Laws of 2006.

3 (9) A supplemental rate shall not be charged to pay for the cost of  
4 the additional benefits granted to members of the teachers' retirement  
5 system and the school employees' retirement system plans 2 and 3 in  
6 sections 2, 4, 6, and 8 of this act until September 1, 2008. A  
7 supplemental rate shall not be charged to pay for the cost of the  
8 additional benefits granted to members of the public employees'  
9 retirement system plans 2 and 3 under sections 9 and 10 of this act  
10 until July 1, 2008.

11 NEW SECTION. Sec. 13. The following acts or parts of acts are  
12 each repealed, effective January 2, 2008:

13 (1) RCW 41.31.010 (Annual pension increases--Increased by gain-  
14 sharing increase amount) and 1998 c 340 s 1;

15 (2) RCW 41.31.020 (Gain-sharing increase amount calculated) and  
16 1998 c 340 s 2;

17 (3) RCW 41.31.030 (Contractual right to increase not granted) and  
18 1998 c 340 s 3;

19 (4) RCW 41.31A.010 (Definitions) and 2000 c 247 s 407 & 1998 c 341  
20 s 311;

21 (5) RCW 41.31A.020 (Extraordinary investment gain--Credited to  
22 member accounts--Persons eligible--Calculation of amount--Contractual  
23 right not granted) and 2003 c 294 s 4, 2000 c 247 s 408, & 1998 c 341  
24 s 312;

25 (6) RCW 41.31A.030 (Retroactive extraordinary investment gain--  
26 Credited to member accounts--Persons eligible--Calculation of amount--  
27 Contractual right not granted) and 1998 c 341 s 313; and

28 (7) RCW 41.31A.040 (Retroactive extraordinary investment gain--  
29 Credited to member accounts--Persons eligible--Calculation of amount--  
30 Contractual right not granted) and 2000 c 247 s 409.

31 NEW SECTION. Sec. 14. If any part of this act is found to be in  
32 conflict with a final determination by the federal internal revenue  
33 service that is a prescribed condition to favorable tax treatment of  
34 one or more of the retirement plans, the conflicting part of this act  
35 is inoperative solely to the extent of the conflict and with respect to  
36 the individual members directly affected. This finding does not affect

1 the operation of the remainder of this act in its application to the  
2 members concerned. The legislature reserves the right to amend or  
3 repeal this act in the future as may be required to comply with a final  
4 federal determination that amendment or repeal is necessary to maintain  
5 the favorable tax treatment of a plan.

6 NEW SECTION. **Sec. 15.** The new benefits provided pursuant to  
7 sections 2(3)(b), 4(3)(b), 6(3)(b), and 8(3)(b) of this act are not  
8 provided to employees as a matter of contractual right prior to  
9 September 1, 2008, and will not become a contractual right thereafter  
10 if the repeal of chapter 41.31A RCW is held to be invalid in a final  
11 determination of a court of law. The legislature retains the right to  
12 alter or abolish these benefits at any time prior to September 1, 2008.

13 NEW SECTION. **Sec. 16.** The new benefits provided pursuant to  
14 sections 9(3)(b) and 10(3)(b) of this act are not provided to employees  
15 as a matter of contractual right prior to July 1, 2008, and will not  
16 become a contractual right thereafter if the repeal of chapter 41.31A  
17 RCW is held to be invalid in a final determination of a court of law.  
18 The legislature retains the right to alter or abolish these benefits at  
19 any time prior to July 1, 2008.

20 NEW SECTION. **Sec. 17.** Any action brought under this act must be  
21 commenced within three years after the effective date of this section.

22 NEW SECTION. **Sec. 18.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 19.** Sections 1, 3, and 7 of this act are  
27 necessary for the immediate preservation of the public peace, health,  
28 or safety, or support of the state government and its existing public  
29 institutions, and take effect July 1, 2007."

30 Correct the title.

EFFECT: Amends the bill to provide a different early retirement

option for Plans 2 and 3 of the Public Employees' Retirement System (PERS), the School Employees' Retirement System (SERS) and the Teachers' Retirement System (TRS) in lieu of gain sharing. Permits members with 30 years of service to retire with unreduced benefits at age 62. A member who elects to retire under these improved early retirement reduction provisions is not eligible for reemployment or a compensated relationship with a retirement system-participating employer without immediate suspension of retirement benefits.

The improvements to the early retirement reduction factors are not matters of contractual right until September 1, 2008, for the TRS and SERS Plans 2 and 3, and July 1, 2008, for PERS Plans 2 and 3, and are subject to alteration or abolishment until those dates. A supplemental contribution rate will not be collected for these benefits until the benefits become contractual rights.

In the underlying bill, the new benefits are contingent upon the repeal of gain sharing. If the courts strike down the repeal and orders reinstatement of gain sharing benefits, for persons who have not retired under the improved retirement formulas provided in the bill, the new benefits are repealed.

The July 1, 2009, increase to the PERS and TRS Plan 1 annual increase amount (Uniform COLA) is increased from the original bill to \$0.40 cents per year of service less the January 1, 2008, gain-sharing distribution, up to a maximum of \$0.20. Similarly to the improvements to the Plan 3 retirement formula, if the courts strike down the repeal of Plan 1 gain sharing, then the July 1, 2009, adjustment to the Uniform COLA provided in this bill will not be included in future Uniform COLA increases.

--- END ---