
HOUSE BILL 2391

State of Washington 60th Legislature 2007 Regular Session

By Representatives Fromhold, Conway and Moeller

Read first time 03/19/2007. Referred to Committee on Appropriations.

1 AN ACT Relating to retirement system gain-sharing and alternate
2 benefits; amending RCW 41.31A.020, 41.32.765, 41.32.835, 41.32.875,
3 41.35.420, 41.35.610, 41.35.680, 41.40.630, and 41.40.820; adding a new
4 section to chapter 41.32 RCW; adding a new section to chapter 41.40
5 RCW; creating new sections; repealing RCW 41.31.010, 41.31.020,
6 41.31.030, 41.31A.010, 41.31A.020, 41.31A.030, and 41.31A.040;
7 providing effective dates; and declaring an emergency.

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

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

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

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

17 (a) Any member of the teachers' retirement system plan 3, the
18 Washington school employees' retirement system plan 3, or the public
19 employees' retirement system plan 3 who earned service credit during

1 the twelve-month period from September 1st to August 31st immediately
2 preceding the distribution and had a balance of at least one thousand
3 dollars in their member account on August 31st of the year immediately
4 preceding the distribution; or

5 (b) Any person in receipt of a benefit pursuant to RCW 41.32.875,
6 41.35.680, or 41.40.820; or

7 (c) Any person who is a retiree pursuant to RCW 41.34.020(8) and
8 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 (d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and
13 who has completed five service credit years by July 1, 1996, under plan
14 2 and who transferred to plan 3 under RCW 41.32.817; or

15 (e) Any classified employee who is a retiree pursuant to RCW
16 41.34.020(8) and who has completed five service credit years by
17 September 1, 2000, and who transferred to plan 3 under RCW 41.35.510;
18 or

19 (f) Any public employee who is a retiree pursuant to RCW
20 41.34.020(8) and who has completed five service credit years by March
21 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

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

25 (i) Completed ten service credit years; or

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

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

33 (i) Any classified employee who had a balance of at least one
34 thousand dollars in their member account on August 31st of the year
35 immediately preceding the distribution and who has completed five
36 service credit years by September 1, 2000, and who transferred to plan
37 3 under RCW 41.35.510; or

1 (j) Any public employee who had a balance of at least one thousand
2 dollars in their member account on August 31st of the year immediately
3 preceding the distribution and who has completed five service credit
4 years by March 1, 2002, and who transferred to plan 3 under RCW
5 41.40.795.

6 (3) The extraordinary investment gain amount shall be calculated as
7 follows:

8 (a) One-half of the sum of the value of the net assets held in
9 trust for pension benefits in the teachers' retirement system combined
10 plan 2 and 3 fund, the Washington school employees' retirement system
11 combined plan 2 and 3 fund, and the public employees' retirement system
12 combined plan 2 and 3 fund at the close of the previous state fiscal
13 year not including the amount attributable to member accounts;

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

17 (c) Multiplied by the proportion of:

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

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

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

25 (B) Any person who earned service credit in the teachers'
26 retirement system plan 2, the Washington school employees' retirement
27 system plan 2, or the public employees' retirement system plan 2 during
28 the twelve-month period from September 1st to August 31st immediately
29 preceding the distribution;

30 (C) Any person in receipt of a benefit pursuant to RCW 41.32.765,
31 41.35.420, or 41.40.630; and

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

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

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

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

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

10 (2) EARLY RETIREMENT. Any member who has completed at least twenty
11 service credit years of service who has attained at least age fifty-
12 five shall be eligible to retire and to receive a retirement allowance
13 computed according to the provisions of RCW 41.32.760, except that a
14 member retiring pursuant to this subsection shall have the retirement
15 allowance actuarially reduced to reflect the difference in the number
16 of years between age at retirement and the attainment of age sixty-
17 five.

18 (3) ALTERNATE EARLY RETIREMENT.

19 (a) Prior to January 2, 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 41.32.760, except that a member
23 retiring pursuant to this subsection shall have the retirement
24 allowance reduced by three percent per year to reflect the difference
25 in the number of years between age at retirement and the attainment of
26 age sixty-five.

27 (b) On or after January 2, 2008, any member who has completed at
28 least thirty service credit years and has attained age fifty-five shall
29 be eligible to retire and to receive a retirement allowance computed
30 according to the provisions of RCW 41.32.760, except that a member
31 retiring pursuant to this subsection shall have the retirement
32 allowance reduced as follows:

<u>Retirement</u>	<u>Percent</u>
<u>Age</u>	<u>Reduction</u>
<u>55</u>	<u>20%</u>

1	<u>56</u>	<u>17%</u>
2	<u>57</u>	<u>14%</u>
3	<u>58</u>	<u>11%</u>
4	<u>59</u>	<u>8%</u>
5	<u>60</u>	<u>5%</u>
6	<u>61</u>	<u>4%</u>
7	<u>62</u>	<u>3%</u>
8	<u>63</u>	<u>2%</u>
9	<u>64</u>	<u>1%</u>

10 Reductions for periods between ages shall be calculated using linear
11 interpolation as determined by the director.

12 The subsidized reductions for alternate early retirement in this
13 subsection as set forth in section 2, chapter . . . (this act), Laws of
14 2007 were intended by the legislature as replacement benefits for gain-
15 sharing. Until there is legal certainty with respect to the repeal of
16 chapter 41.31A RCW, the right to retire under this subsection is
17 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 **Sec. 3.** RCW 41.32.835 and 1995 c 239 s 105 are each amended to
34 read as follows:

35 (1) All teachers who first become employed by an employer in an
36 eligible position on or after ((July 1, 1996, shall be members of plan
37 3)) July 1, 2007, shall have a period of ninety days to make an

1 irrevocable choice to become a member of plan 2 or plan 3. At the end
2 of ninety days, if the member has not made a choice to become a member
3 of plan 2, he or she becomes a member of plan 3.

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

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

30 **Sec. 4.** RCW 41.32.875 and 2006 c 33 s 1 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 July 1, 1996, under plan
2 2 and who transferred to plan 3 under RCW 41.32.817;
3 shall be eligible to retire and to receive a retirement allowance
4 computed according to the provisions of RCW 41.32.840.

5 (2) EARLY RETIREMENT. Any member who has attained at least age
6 fifty-five and has completed at least ten years of service shall be
7 eligible to retire and to receive a retirement allowance computed
8 according to the provisions of RCW 41.32.840, except that a member
9 retiring pursuant to this subsection shall have the retirement
10 allowance actuarially reduced to reflect the difference in the number
11 of years between age at retirement and the attainment of age sixty-
12 five.

13 (3) ALTERNATE EARLY RETIREMENT.

14 (a) Prior to January 2, 2008, any member who has completed at least
15 thirty service credit years and has attained age fifty-five shall be
16 eligible to retire and to receive a retirement allowance computed
17 according to the provisions of RCW 41.32.840, except that a member
18 retiring pursuant to this subsection shall have the retirement
19 allowance reduced by three percent per year to reflect the difference
20 in the number of years between age at retirement and the attainment of
21 age sixty-five.

22 (b) On or after January 2, 2008, any member who has completed at
23 least thirty service credit years and has attained age fifty-five shall
24 be eligible to retire and to receive a retirement allowance computed
25 according to the provisions of RCW 41.32.840, 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>4%</u>

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

4 Reductions for periods between ages shall be calculated using linear
5 interpolation as determined by the director.

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

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

29 (1) Beginning July 1, 2009, the annual increase amount as defined
30 in RCW 41.32.010(46) shall be increased by an amount equal to \$0.34 per
31 month per year of service minus the 2008 gain-sharing increase amount
32 under RCW 41.31.010 as it exists on the effective date of this section.
33 This adjustment shall not decrease the annual increase amount, and is
34 not to exceed \$0.13 per month per year of service. The legislature
35 reserves the right to amend or repeal this section in the future and no
36 member or beneficiary has the contractual right to receive this

1 adjustment to the annual increase amount not granted prior to that
2 time.

3 (2) The adjustment to the annual increase amount as set forth in
4 section 5, chapter . . . (this act), Laws of 2007 was intended by the
5 legislature as a replacement benefit for gain-sharing. If the repeal
6 of chapter 41.31 RCW is held to be invalid in a final determination of
7 a court of law, and the court orders reinstatement of gain-sharing or
8 other alternate benefits as a remedy, then this adjustment to the
9 annual increase amount shall not be included in future annual increase
10 amounts paid on or after the date of such reinstatement.

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

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

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

24 (3) ALTERNATE EARLY RETIREMENT.

25 (a) Prior to January 2, 2008, any member who has completed at least
26 thirty service credit years and has attained age fifty-five shall be
27 eligible to retire and to receive a retirement allowance computed
28 according to the provisions of RCW 41.35.400, except that a member
29 retiring pursuant to this subsection shall have the retirement
30 allowance reduced by three percent per year to reflect the difference
31 in the number of years between age at retirement and the attainment of
32 age sixty-five.

33 (b) On or after January 2, 2008, any member who has completed at
34 least thirty service credit years and has attained age fifty-five shall
35 be eligible to retire and to receive a retirement allowance computed
36 according to the provisions of RCW 41.35.400, except that a member

1 retiring pursuant to this subsection shall have the retirement
2 allowance reduced as follows:

3	<u>Retirement</u>	<u>Percent</u>
4	<u>Age</u>	<u>Reduction</u>
5	<u>55</u>	<u>20%</u>
6	<u>56</u>	<u>17%</u>
7	<u>57</u>	<u>14%</u>
8	<u>58</u>	<u>11%</u>
9	<u>59</u>	<u>8%</u>
10	<u>60</u>	<u>5%</u>
11	<u>61</u>	<u>4%</u>
12	<u>62</u>	<u>3%</u>
13	<u>63</u>	<u>2%</u>
14	<u>64</u>	<u>1%</u>

15 Reductions for periods between ages shall be calculated using linear
16 interpolation as determined by the director.

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

1 of a retirement allowance under this subsection shall be computed using
2 the reductions in (a) of this subsection.

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

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

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

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

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

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

5 (a) Completed ten service credit years; or

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

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

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

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

21 (3) ALTERNATE EARLY RETIREMENT.

22 (a) Prior to January 2, 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 41.35.620, except that a member
26 retiring pursuant to this subsection shall have the retirement
27 allowance reduced by three percent per year to reflect the difference
28 in the number of years between age at retirement and the attainment of
29 age sixty-five.

30 (b) On or after January 2, 2008, any member who has completed at
31 least thirty service credit years and has attained age fifty-five shall
32 be eligible to retire and to receive a retirement allowance computed
33 according to the provisions of RCW 41.35.620, except that a member
34 retiring pursuant to this subsection shall have the retirement
35 allowance reduced as follows:

	<u>Retirement</u>	<u>Percent</u>
	<u>Age</u>	<u>Reduction</u>
1		
2		
3	<u>55</u>	<u>20%</u>
4	<u>56</u>	<u>17%</u>
5	<u>57</u>	<u>14%</u>
6	<u>58</u>	<u>11%</u>
7	<u>59</u>	<u>8%</u>
8	<u>60</u>	<u>5%</u>
9	<u>61</u>	<u>4%</u>
10	<u>62</u>	<u>3%</u>
11	<u>63</u>	<u>2%</u>
12	<u>64</u>	<u>1%</u>

13 Reductions for periods between ages shall be calculated using linear
14 interpolation as determined by the director.

15 The subsidized reductions for alternate early retirement in this
16 subsection as set forth in section 8, 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.

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

3 (1) NORMAL RETIREMENT. Any member with at least five service
4 credit years who has attained at least age sixty-five shall be eligible
5 to retire and to receive a retirement allowance computed according to
6 the provisions of RCW 41.40.620.

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

14 (3) ALTERNATE EARLY RETIREMENT.

15 (a) Prior to January 2, 2008, any member who has completed at least
16 thirty service credit years and has attained age fifty-five shall be
17 eligible to retire and to receive a retirement allowance computed
18 according to the provisions of RCW 41.40.620, except that a member
19 retiring pursuant to this subsection shall have the retirement
20 allowance reduced by three percent per year to reflect the difference
21 in the number of years between age at retirement and the attainment of
22 age sixty-five.

23 (b) On or after January 2, 2008, any member who has completed at
24 least thirty service credit years and has attained age fifty-five shall
25 be eligible to retire and to receive a retirement allowance computed
26 according to the provisions of RCW 41.40.620, except that a member
27 retiring pursuant to this subsection shall have the retirement
28 allowance reduced as follows:

29

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

6 Reductions for periods between ages shall be calculated using linear
7 interpolation as determined by the director.

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

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

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

33 (a) Completed ten service credit years; or

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

36 (c) Completed five service credit years by the transfer payment

1 date specified in RCW 41.40.795, under the public employees' retirement
2 system plan 2 and who transferred to plan 3 under RCW 41.40.795;
3 shall be eligible to retire and to receive a retirement allowance
4 computed according to the provisions of RCW 41.40.790.

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

13 (3) ALTERNATE EARLY RETIREMENT.

14 (a) Prior to January 2, 2008, any member who has completed at least
15 thirty service credit years and has attained age fifty-five shall be
16 eligible to retire and to receive a retirement allowance computed
17 according to the provisions of RCW 41.40.790, except that a member
18 retiring pursuant to this subsection shall have the retirement
19 allowance reduced by three percent per year to reflect the difference
20 in the number of years between age at retirement and the attainment of
21 age sixty-five.

22 (b) On or after January 2, 2008, any member who has completed at
23 least thirty service credit years and has attained age fifty-five shall
24 be 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>4%</u>

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

4 Reductions for periods between ages shall be calculated using linear
5 interpolation as determined by the director.

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

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

29 (1) Beginning July 1, 2009, the annual increase amount as defined
30 in RCW 41.40.010(41) shall be increased by an amount equal to \$0.34 per
31 month per year of service minus the 2008 gain-sharing increase amount
32 under RCW 41.31.010 as it exists on the effective date of this section.
33 This adjustment shall not decrease the annual increase amount, and is
34 not to exceed \$0.13 per month per year of service. The legislature
35 reserves the right to amend or repeal this section in the future and no
36 member or beneficiary has the contractual right to receive this

1 adjustment to the annual increase amount not granted prior to that
2 time.

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

11 NEW SECTION. **Sec. 12.** 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. 13.** 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. 14.** Any action brought under this act must be
7 commenced within three years after the effective date of this section.

8 NEW SECTION. **Sec. 15.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 16.** Sections 1, 3, and 7 of this act are
13 necessary for the immediate preservation of the public peace, health,
14 or safety, or support of the state government and its existing public
15 institutions, and take effect July 1, 2007.

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