

CERTIFICATION OF ENROLLMENT

HOUSE BILL 3019

60th Legislature
2008 Regular Session

Passed by the House February 19, 2008
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 7, 2008
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 3019** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 3019

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Representatives Fromhold, Conway, Bailey, Crouse, Hurst, and Simpson; by request of Select Committee on Pension Policy

Read first time 01/21/08. Referred to Committee on Appropriations.

1 AN ACT Relating to service credit for members working a partial
2 year in plans 2 and 3 of the teachers' retirement system and the school
3 employees' retirement system; amending RCW 41.35.180; and reenacting
4 and amending RCW 41.32.010.

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

6 **Sec. 1.** RCW 41.32.010 and 2007 c 398 s 3 and 2007 c 50 s 1 are
7 each reenacted and amended to read as follows:

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

10 (1)(a) "Accumulated contributions" for plan 1 members, means the
11 sum of all regular annuity contributions and, except for the purpose of
12 withdrawal at the time of retirement, any amount paid under RCW
13 41.50.165(2) with regular interest thereon.

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

18 (2) "Actuarial equivalent" means a benefit of equal value when

1 computed upon the basis of such mortality tables and regulations as
2 shall be adopted by the director and regular interest.

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

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

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

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

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

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

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

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

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

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

29 (ii) For an employee member of the retirement system teaching in an
30 extended school year program, two consecutive extended school years, as
31 defined by the employer school district, may be used as the annual
32 period for determining earnable compensation in lieu of the two fiscal
33 years.

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

37 (A) Retroactive payments to an individual by an employer on
38 reinstatement of the employee in a position, or payments by an employer

1 to an individual in lieu of reinstatement in a position which are
2 awarded or granted as the equivalent of the salary or wages which the
3 individual would have earned during a payroll period shall be
4 considered earnable compensation and the individual shall receive the
5 equivalent service credit.

6 (B) If a leave of absence, without pay, is taken by a member for
7 the purpose of serving as a member of the state legislature, and such
8 member has served in the legislature five or more years, the salary
9 which would have been received for the position from which the leave of
10 absence was taken shall be considered as compensation earnable if the
11 employee's contribution thereon is paid by the employee. In addition,
12 where a member has been a member of the state legislature for five or
13 more years, earnable compensation for the member's two highest
14 compensated consecutive years of service shall include a sum not to
15 exceed thirty-six hundred dollars for each of such two consecutive
16 years, regardless of whether or not legislative service was rendered
17 during those two years.

18 (iv) For members employed less than full time under written
19 contract with a school district, or community college district, in an
20 instructional position, for which the member receives service credit of
21 less than one year in all of the years used to determine the earnable
22 compensation used for computing benefits due under RCW 41.32.497,
23 41.32.498, and 41.32.520, the member may elect to have earnable
24 compensation defined as provided in RCW 41.32.345. For the purposes of
25 this subsection, the term "instructional position" means a position in
26 which more than seventy-five percent of the member's time is spent as
27 a classroom instructor (including office hours), a librarian, a
28 psychologist, a social worker, a nurse, a physical therapist, an
29 occupational therapist, a speech language pathologist or audiologist,
30 or a counselor. Earnable compensation shall be so defined only for the
31 purpose of the calculation of retirement benefits and only as necessary
32 to insure that members who receive fractional service credit under RCW
33 41.32.270 receive benefits proportional to those received by members
34 who have received full-time service credit.

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

36 (A) Remuneration for unused sick leave authorized under RCW
37 41.04.340, 28A.400.210, or 28A.310.490;

1 (B) Remuneration for unused annual leave in excess of thirty days
2 as authorized by RCW 43.01.044 and 43.01.041;

3 (C) Bonuses for certification from the national board for
4 professional teaching standards authorized under RCW 28A.405.415.

5 (b) "Earnable compensation" for plan 2 and plan 3 members, means
6 salaries or wages earned by a member during a payroll period for
7 personal services, including overtime payments, and shall include wages
8 and salaries deferred under provisions established pursuant to sections
9 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
10 shall exclude lump sum payments for deferred annual sick leave, unused
11 accumulated vacation, unused accumulated annual leave, bonuses for
12 certification from the national board for professional teaching
13 standards authorized under RCW 28A.405.415, or any form of severance
14 pay.

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

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

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

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

30 (B) Such member's actual earnable compensation received for
31 teaching and legislative service combined. Any additional
32 contributions to the retirement system required because compensation
33 earnable under (b)(ii)(A) of this subsection is greater than
34 compensation earnable under (b)(ii)(B) of this subsection shall be paid
35 by the member for both member and employer contributions.

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

1 (12) "Fiscal year" means a year which begins July 1st and ends June
2 30th of the following year.

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

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

8 (15) "Member" means any teacher included in the membership of the
9 retirement system who has not been removed from membership under RCW
10 41.32.878 or 41.32.768. Also, any other employee of the public schools
11 who, on July 1, 1947, had not elected to be exempt from membership and
12 who, prior to that date, had by an authorized payroll deduction,
13 contributed to the member reserve.

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

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

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

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

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

33 (21) "Public school" means any institution or activity operated by
34 the state of Washington or any instrumentality or political subdivision
35 thereof employing teachers, except the University of Washington and
36 Washington State University.

37 (22) "Regular contributions" means the amounts required to be

1 deducted from the compensation of a member and credited to the member's
2 individual account in the member reserve. This subsection shall apply
3 only to plan 1 members.

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

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

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

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

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

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

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

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

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

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

36 (ii) Any other member employed in an eligible position or as a
37 substitute who earns earnable compensation during the period from

1 September through August shall receive service credit according to one
2 of the following methods, whichever provides the most service credit to
3 the member:

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

10 ~~((+iii))~~ (B) If a member is employed in an eligible position or as
11 a substitute teacher for at least five months of a six-month period
12 between September through August of the following year and earns
13 earnable compensation for six hundred thirty or more hours within the
14 six-month period, he or she will receive a maximum of six service
15 credit months for the school year, which shall be recorded as one
16 service credit month for each month of the six-month period;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (~~(viii)~~) (vii) The department shall adopt rules implementing this
18 subsection.

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

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

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

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

37 (31) "Retiree" means any person who has begun accruing a retirement

1 allowance or other benefit provided by this chapter resulting from
2 service rendered to an employer while a member.

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

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

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

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

11 (36) "Substitute teacher" means:

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

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

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

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

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

30 (d) The elected position of the superintendent of public
31 instruction is an eligible position.

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

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

1 (40) "Plan 3" means the teachers' retirement system, plan 3
2 providing the benefits and funding provisions covering persons who
3 first become members of the system on and after July 1, 1996, or who
4 transfer under RCW 41.32.817.

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

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

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

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

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

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

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

22 (48) "Separation from service or employment" occurs when a person
23 has terminated all employment with an employer. Separation from
24 service or employment does not occur, and if claimed by an employer or
25 employee may be a violation of RCW 41.32.055, when an employee and
26 employer have a written or oral agreement to resume employment with the
27 same employer following termination. Mere expressions or inquiries
28 about postretirement employment by an employer or employee that do not
29 constitute a commitment to reemploy the employee after retirement are
30 not an agreement under this section.

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

36 **Sec. 2.** RCW 41.35.180 and 1998 c 341 s 19 are each amended to read
37 as follows:

1 (1) Except for any period prior to the member's employment in an
2 eligible position, a plan 2 or plan 3 member who is employed by a
3 school district or districts or an educational service district:

4 (a) Shall receive a service credit month for each month of the
5 period from September through August of the following year if he or she
6 is employed in an eligible position, earns compensation earnable for
7 eight hundred ten hours or more during that period, and is employed
8 during nine months of that period;

9 (b) Who earns earnable compensation in an eligible position during
10 the period from September through August, except under (a) of this
11 subsection, shall receive service credit according to one of the
12 following methods, whichever provides the most service credit to the
13 member:

14 (i) If a member in an eligible position for each month of the
15 period from September through August of the following year does not
16 meet the hours requirements of (a) of this subsection, the member is
17 entitled to one-half service credit month for each month of the period
18 if he or she earns earnable compensation for at least six hundred
19 thirty hours but less than eight hundred ten hours during that period,
20 and is employed nine months of that period;

21 ~~((e))~~ (ii) A member employed in an eligible position for at least
22 five months of a six-month period between September through August of
23 the following year who earns earnable compensation for six hundred
24 thirty or more hours within the six-month period will receive a maximum
25 of six service credit months for the school year, recorded as one
26 service credit month for each month of the six-month period;

27 (iii) In all other instances, a member in an eligible position is
28 entitled to service credit months as follows:

29 ~~((i))~~ (A) One service credit month for each month in which
30 compensation is earned for ninety or more hours;

31 ~~((ii))~~ (B) One-half service credit month for each month in which
32 compensation is earned for at least seventy hours but less than ninety
33 hours; and

34 ~~((iii))~~ (C) One-quarter service credit month for each month in
35 which compensation is earned for less than seventy hours.

36 (2) The department shall adopt rules implementing this section.

--- END ---