
SENATE BILL 6546

State of Washington

61st Legislature

2010 Regular Session

By Senator Pridemore

Read first time 01/18/10. Referred to Committee on Ways & Means.

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

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

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

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

10 (1) Persons in ineligible positions;

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

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

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

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

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

35 (a) In any case where the retirement system has in existence an
36 agreement with another retirement system in connection with exchange of
37 service credit or an agreement whereby members can retain service

1 credit in more than one system, such an employee shall be allowed
2 membership rights should the agreement so provide;

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

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

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

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

22 (5) Patient and inmate help in state charitable, penal, and
23 correctional institutions;

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

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

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

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

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

37 (11) Employees of a labor guild, association, or organization:

1 PROVIDED, That elective officials and employees of a labor guild,
2 association, or organization which qualifies as an employer within this
3 chapter shall have the option of applying for membership;

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

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

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

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

1 (15) Employees who (a) are not citizens of the United States, (b)
2 are not covered by chapter 41.48 RCW, (c) are not excluded from
3 membership under this chapter or chapter 41.04 RCW, (d) are residents
4 of this state, and (e) make an irrevocable election to be excluded from
5 membership, in writing, which is submitted to the director within
6 thirty days after employment in an eligible position;

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

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

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

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

1 the retirement system unless they notify the director in writing prior
2 to December 31, 1999, of their desire to withdraw from membership in
3 the retirement system. A member who withdraws from membership in the
4 system under this section shall receive a refund of the member's
5 accumulated contributions upon termination of employment or as
6 otherwise consistent with the plan's tax qualification status as
7 defined in internal revenue code section 401.

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

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

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

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

26 (22) Persons employed as the state director of fire protection
27 under RCW 43.43.938 who were previously members of the law enforcement
28 officers' and firefighters' retirement system plan 2 under chapter
29 41.26 RCW may continue as a member of the law enforcement officers' and
30 firefighters' retirement system in lieu of becoming a member of this
31 system.

32 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the
34 state government and its existing public institutions, and takes effect
35 immediately.

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