

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6503

61st Legislature
2010 1st Special Session

Passed by the Senate April 10, 2010
YEAS 26 NAYS 14

President of the Senate

Passed by the House April 2, 2010
YEAS 50 NAYS 38

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6503** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6503

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 1st Special Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Ways & Means (originally sponsored by Senator Prentice)

READ FIRST TIME 01/22/10.

1 AN ACT Relating to the operations of state agencies; amending RCW
2 42.04.060 and 41.04.665; reenacting and amending RCW 41.26.030,
3 41.32.010, 41.37.010, and 43.43.120; adding a new section to chapter
4 41.80 RCW; creating new sections; providing an expiration date; and
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature declares that unprecedented
8 revenue shortfalls necessitate immediate action to reduce expenditures
9 during the 2009-2011 fiscal biennium. From the effective date of this
10 section, it is the intent of the legislature that state agencies of the
11 legislative branch, judicial branch, and executive branch including
12 institutions of higher education, shall achieve a reduction in
13 government operating expenses as provided in this act. It is the
14 legislature's intent that, to the extent that the reductions in
15 expenditures reduce compensation costs, agencies and institutions shall
16 strive to preserve family wage jobs by reducing the impact of temporary
17 layoffs on lower-wage jobs.

1 NEW SECTION. **Sec. 2.** State agencies and institutions shall
2 achieve reductions in compensation expenditures for employees employed
3 by general government state agencies in Washington management services,
4 or exempt positions as managers, as defined in RCW 41.06.022, as
5 provided in the omnibus appropriations act. These reductions shall be
6 sufficient to attain a savings of \$10 million general fund--state for
7 fiscal year 2011. Savings in other funds and accounts shall be
8 achieved as provided in the omnibus appropriations act.

9 NEW SECTION. **Sec. 3.** (1)(a) The office of financial management
10 shall certify to each executive branch state agency and institution of
11 higher education the compensation reduction amount to be achieved by
12 that agency or institution. Each agency and institution shall achieve
13 compensation expenditure reductions as provided in the omnibus
14 appropriations act.

15 (b) Each executive branch state agency other than institutions of
16 higher education may submit to the office of financial management a
17 compensation reduction plan to achieve the cost reductions as provided
18 in the omnibus appropriations act. The compensation reduction plan of
19 each executive branch agency may include, but is not limited to,
20 employee leave without pay, including additional mandatory and
21 voluntary temporary layoffs, reductions in the agency workforce,
22 compensation reductions, and reduced work hours, as well as voluntary
23 retirement, separation, and other incentive programs authorized by
24 section 912, chapter 564, Laws of 2009. The amount of compensation
25 cost reductions to be achieved by each agency shall be adjusted to
26 reflect voluntary and mandatory temporary layoffs at the agency during
27 the 2009-2011 fiscal biennium and implemented prior to January 1, 2010,
28 but not adjusted by other compensation reduction plans adopted as a
29 result of the enactment of chapter 564, Laws of 2009, or the enactment
30 of other compensation cost reduction measures applicable to the 2009-
31 2011 fiscal biennium.

32 (c) Each institution of higher education must submit to the office
33 of financial management a compensation and operations reduction plan to
34 achieve at least the cost reductions as provided in the omnibus
35 appropriations act. For purposes of the reduction plan, the state
36 board of community and technical colleges shall submit a single plan on
37 behalf of all community and technical colleges. The reduction plan of

1 each institution may include, but is not limited to, employee leave
2 without pay, including mandatory and voluntary temporary layoffs,
3 reductions in the institution workforce, compensation reductions, and
4 reduced work hours, as well as voluntary retirement, separation,
5 incentive programs authorized by section 912, chapter 564, Laws of
6 2009, as well as other reductions to the cost of operations. The
7 amount of cost reductions to be achieved by each institution shall be
8 adjusted to reflect voluntary and mandatory temporary layoffs at the
9 institution during the 2009-2011 fiscal biennium and implemented prior
10 to January 1, 2010, but not adjusted by other compensation reduction
11 plans adopted as a result of the enactment of chapter 564, Laws of
12 2009, or the enactment of other compensation cost reduction measures
13 applicable to the 2009-2011 fiscal biennium.

14 (d) The director of financial management shall review, approve, and
15 submit to the legislative fiscal committees those executive branch
16 state agencies and higher education institution plans that achieves the
17 cost reductions as provided in the omnibus appropriations act. For
18 those executive branch state agencies and institutions of higher
19 education that do not have an approved compensation and operations
20 reduction plan, the institution shall be closed on the dates specified
21 in subsection (2) of this section.

22 (e) For each agency of the legislative branch, the chief clerk of
23 the house of representatives and the secretary of the senate shall
24 review and approve a plan of employee mandatory and voluntary leave for
25 the 2009-2011 fiscal biennium that achieves the cost reductions as
26 provided in the omnibus appropriations act. The amount of compensation
27 cost reductions to be achieved shall be adjusted, if necessary, to
28 reflect voluntary and mandatory temporary layoffs at the agencies
29 during the 2009-2011 fiscal biennium and implemented prior to January
30 1, 2010.

31 (f) For each agency of the judicial branch, the supreme court shall
32 review and approve a plan of employee mandatory and voluntary leave for
33 the 2009-2011 fiscal biennium that achieve the cost reductions as
34 provided in the omnibus appropriations act. The amount of compensation
35 cost reductions to be achieved shall be adjusted, if necessary, to
36 reflect voluntary and mandatory temporary layoffs at the agencies
37 during the 2009-2011 fiscal biennium and implemented prior to January
38 1, 2010.

1 (2) Each state agency of the executive, legislative, and judicial
2 branch, and any institution that does not have an approved plan in
3 accordance with subsection (1) of this section shall be closed on the
4 following dates in addition to the legal holidays specified in RCW
5 1.16.050:

- 6 (a) Monday, July 12, 2010;
- 7 (b) Friday, August 6, 2010;
- 8 (c) Tuesday, September 7, 2010;
- 9 (d) Monday, October 11, 2010;
- 10 (e) Monday, December 27, 2010;
- 11 (f) Friday, January 28, 2011;
- 12 (g) Tuesday, February 22, 2011;
- 13 (h) Friday, March 11, 2011;
- 14 (i) Friday, April 22, 2011;
- 15 (j) Friday, June 10, 2011.

16 (3) If the closure of state agencies or institutions under
17 subsection (2) of this section prevents the performance of any action,
18 the action shall be considered timely if performed on the next business
19 day.

20 (4) The following activities of state agencies and institutions of
21 higher education are exempt from subsections (1) and (2) of this
22 section:

23 (a) Direct custody, supervision, and patient care in: (i)
24 Corrections; (ii) juvenile rehabilitation; (iii) institutional care of
25 veterans, or individuals with mental illness, and individuals with
26 developmental disabilities; (iv) state hospitals, the University of
27 Washington medical center, and Harborview medical center; (v) the
28 special commitment center; (vi) the school for the blind; (vii) the
29 state center for childhood deafness and hearing loss; and (viii) the
30 Washington youth academy;

31 (b) Direct protective services to children and other vulnerable
32 populations, child support enforcement, disability determination
33 services, complaint investigators, and residential care licensors and
34 surveyors in the department of social and health services and the
35 department of health;

36 (c) Washington state patrol investigative services and field
37 enforcement;

38 (d) Hazardous materials response or emergency response and cleanup;

1 (e) Emergency public health and patient safety response and the
2 public health laboratory;

3 (f) Military operations and emergency management within the
4 military department;

5 (g) Firefighting;

6 (h) Enforcement officers in the department of fish and wildlife,
7 the liquor control board, the gambling commission, the department of
8 financial institutions, and the department of natural resources;

9 (i) State parks operated by the parks and recreation commission;

10 (j) In institutions of higher education, classroom instruction,
11 operations not funded from state funds or tuition, campus police and
12 security, emergency management and response, work performed by student
13 employees if the duties were not previously assigned to nonstudents
14 during the current or prior school year, and student health care;

15 (k) Operations of liquor control board business enterprises and
16 games conducted by the state lottery;

17 (l) Agricultural commodity commissions and boards, and agricultural
18 inspection programs operated by the department of agriculture;

19 (m) The unemployment insurance program and reemployment services of
20 the employment security department;

21 (n) The workers' compensation program and workplace safety and
22 health compliance activities of the department of labor and industries;

23 (o) The operation, maintenance, and construction of state ferries
24 and state highways;

25 (p) The department of revenue;

26 (q) Licensing service offices in the department of licensing that
27 are open no more than two days per week, and no licensing service
28 office closures may occur on Saturdays as a result of this section;

29 (r) The governor, lieutenant governor, legislative agencies, and
30 the office of financial management, during sessions of the legislature
31 under Article II, section 12 of the state Constitution and the twenty-
32 day veto period under Article IV, section 12 of the state Constitution;

33 (s) The office of the attorney general, except for management and
34 administrative functions not directly related to civil, criminal, or
35 administrative actions;

36 (t) The labor relations office of the office of financial
37 management through November 1, 2010;

1 (u) The minimal use of state employees on the specified closure
2 dates as necessary to protect public assets and information technology
3 systems, and to maintain public safety; and

4 (v) The operations of the office of the insurance commissioner that
5 are funded by industry regulatory fees.

6 (5)(a) The closure of an office of a state agency or institution of
7 higher education under this section shall result in the temporary
8 layoff of the employees of the agency or institution. The compensation
9 of the employees shall be reduced proportionately to the duration of
10 the temporary layoff. Temporary layoffs under this section shall not
11 affect the employees' vacation leave accrual, seniority, health
12 insurance, or sick leave credits. For the purposes of chapter 430,
13 Laws of 2009, the compensation reductions under this section are deemed
14 to be an integral part of an employer's expenditure reduction efforts
15 and shall not result in the loss of retirement benefits in any state
16 defined benefit retirement plan for an employee whose period of average
17 final compensation includes a portion of the period from the effective
18 date of this section through June 30, 2011.

19 (b)(i) During the closure of an office or institution under this
20 section, any employee with a monthly full-time equivalent salary of two
21 thousand five hundred dollars or less may, at the employee's option,
22 use accrued vacation leave in lieu of temporary layoff during the
23 closure. Solely for this purpose, and during the 2009-2011 fiscal
24 biennium only, the department of personnel shall adopt rules to permit
25 employees with less than six months of continuous state employment to
26 use accrued vacation leave.

27 (ii) If an employee with a monthly full-time equivalent salary of
28 two thousand five hundred dollars or less has no accrued vacation
29 leave, that employee may use shared leave, if approved by the agency
30 director, and if made available through donations under RCW 41.04.665
31 in lieu of temporary layoff during the closure.

32 (6) Except as provided in subsection (4) of this section, for
33 employees not scheduled to work on a day specified in subsection (2) of
34 this section, the employing agency must designate an alternative day
35 during that month on which the employee is scheduled to work that the
36 employee will take temporary leave without pay.

37 (7) To the extent that the implementation of this section is
38 subject to collective bargaining under chapter 41.80 RCW, the

1 bargaining shall be conducted pursuant to section 4 of this act. To
2 the extent that the implementation of this section is subject to
3 collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64
4 RCW, the bargaining shall be conducted pursuant to these chapters.

5 (8) For all or a portion of the employees of an agency of the
6 executive branch, the office of financial management may approve the
7 substitution of temporary layoffs on an alternative date during that
8 month for any date specified in subsection (2) of this section as
9 necessary for the critical work of any agency.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.80 RCW
11 to read as follows:

12 (1) To the extent that the implementation of section 3 of this act
13 is subject to collective bargaining:

14 (a) For institutions of higher education that have elected to have
15 negotiations conducted by the governor or governor's designee in
16 accordance with RCW 41.80.010(4), and that have an approved
17 compensation reduction plan under section 3(1) of this act,
18 negotiations regarding impacts of the compensation reduction plan shall
19 be conducted between the governor or governor's designee and a
20 coalition at each college, college district, or university of all of
21 the exclusive bargaining representatives subject to chapter 41.80 RCW;

22 (b) For institutions of higher education that have elected to have
23 negotiations conducted by the governor or governor's designee in
24 accordance with RCW 41.80.010(4), and that do not have an approved
25 compensation reduction plan under section 3(1) of this act,
26 negotiations regarding impacts of the temporary layoffs under section
27 3(2) of this act shall be conducted between the governor or governor's
28 designee and one coalition of all of the exclusive bargaining
29 representatives subject to chapter 41.80 RCW;

30 (c) For institutions of higher education that have not elected to
31 have negotiations conducted by the governor or governor's designee
32 under RCW 41.80.010(4), negotiations regarding impacts of section 3 of
33 this act shall be conducted between each institution of higher
34 education and the exclusive bargaining representatives;

35 (d) For agencies that have an approved compensation reduction plan
36 under section 3(1) of this act, negotiations regarding impacts of the

1 compensation reduction plan shall be conducted between the governor or
2 governor's designee and a coalition at each agency of all of the
3 exclusive bargaining representatives subject to chapter 41.80 RCW; and

4 (e) For agencies that do not have an approved compensation
5 reduction plan under section 3(1) of this act, negotiations regarding
6 impacts of the temporary layoffs under section 3(2) of this act shall
7 be conducted between the governor or governor's designee and the
8 exclusive bargaining representatives subject to chapter 41.80 RCW.

9 (2) This section expires June 30, 2011.

10 **Sec. 5.** RCW 42.04.060 and 2009 c 428 s 1 are each amended to read
11 as follows:

12 Except as provided in section 3 of this act, all state elective and
13 appointive officers shall keep their offices open for the transaction
14 of business for a minimum of forty hours per week, except weeks that
15 include state legal holidays. Customary business hours must be posted
16 on the agency or office's web site and made known by other means
17 designed to provide the public with notice.

18 ~~((This section shall not apply to the courts of record of this
19 state or to their officers nor to the office of the attorney general
20 and the lieutenant governor.))~~

21 **Sec. 6.** RCW 41.26.030 and 2009 c 523 s 3 are each reenacted and
22 amended to read as follows:

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

25 (1) "Accumulated contributions" means the employee's contributions
26 made by a member, including any amount paid under RCW 41.50.165(2),
27 plus accrued interest credited thereon.

28 (2) "Actuarial reserve" means a method of financing a pension or
29 retirement plan wherein reserves are accumulated as the liabilities for
30 benefit payments are incurred in order that sufficient funds will be
31 available on the date of retirement of each member to pay the member's
32 future benefits during the period of retirement.

33 (3) "Actuarial valuation" means a mathematical determination of the
34 financial condition of a retirement plan. It includes the computation
35 of the present monetary value of benefits payable to present members,
36 and the present monetary value of future employer and employee

1 contributions, giving effect to mortality among active and retired
2 members and also to the rates of disability, retirement, withdrawal
3 from service, salary and interest earned on investments.

4 (4)(a) "Basic salary" for plan 1 members, means the basic monthly
5 rate of salary or wages, including longevity pay but not including
6 overtime earnings or special salary or wages, upon which pension or
7 retirement benefits will be computed and upon which employer
8 contributions and salary deductions will be based.

9 (b) "Basic salary" for plan 2 members, means salaries or wages
10 earned by a member during a payroll period for personal services,
11 including overtime payments, and shall include wages and salaries
12 deferred under provisions established pursuant to sections 403(b),
13 414(h), and 457 of the United States Internal Revenue Code, but shall
14 exclude lump sum payments for deferred annual sick leave, unused
15 accumulated vacation, unused accumulated annual leave, or any form of
16 severance pay. In any year in which a member serves in the legislature
17 the member shall have the option of having such member's basic salary
18 be the greater of:

19 (i) The basic salary the member would have received had such member
20 not served in the legislature; or

21 (ii) Such member's actual basic salary received for nonlegislative
22 public employment and legislative service combined. Any additional
23 contributions to the retirement system required because basic salary
24 under (b)(i) of this subsection is greater than basic salary under
25 (b)(ii) of this subsection shall be paid by the member for both member
26 and employer contributions.

27 (5)(a) "Beneficiary" for plan 1 members, means any person in
28 receipt of a retirement allowance, disability allowance, death benefit,
29 or any other benefit described herein.

30 (b) "Beneficiary" for plan 2 members, means any person in receipt
31 of a retirement allowance or other benefit provided by this chapter
32 resulting from service rendered to an employer by another person.

33 (6)(a) "Child" or "children" means an unmarried person who is under
34 the age of eighteen or mentally or physically disabled as determined by
35 the department, except a person who is disabled and in the full time
36 care of a state institution, who is:

37 (i) A natural born child;

1 (ii) A stepchild where that relationship was in existence prior to
2 the date benefits are payable under this chapter;

3 (iii) A posthumous child;

4 (iv) A child legally adopted or made a legal ward of a member prior
5 to the date benefits are payable under this chapter; or

6 (v) An illegitimate child legitimized prior to the date any
7 benefits are payable under this chapter.

8 (b) A person shall also be deemed to be a child up to and including
9 the age of twenty years and eleven months while attending any high
10 school, college, or vocational or other educational institution
11 accredited, licensed, or approved by the state, in which it is located,
12 including the summer vacation months and all other normal and regular
13 vacation periods at the particular educational institution after which
14 the child returns to school.

15 (7) "Department" means the department of retirement systems created
16 in chapter 41.50 RCW.

17 (8) "Director" means the director of the department.

18 (9) "Disability board" for plan 1 members means either the county
19 disability board or the city disability board established in RCW
20 41.26.110.

21 (10) "Disability leave" means the period of six months or any
22 portion thereof during which a member is on leave at an allowance equal
23 to the member's full salary prior to the commencement of disability
24 retirement. The definition contained in this subsection shall apply
25 only to plan 1 members.

26 (11) "Disability retirement" for plan 1 members, means the period
27 following termination of a member's disability leave, during which the
28 member is in receipt of a disability retirement allowance.

29 (12) "Domestic partners" means two adults who have registered as
30 domestic partners under RCW 26.60.020.

31 (13) "Employee" means any law enforcement officer or firefighter as
32 defined in subsections (16) and (18) of this section.

33 (14)(a) "Employer" for plan 1 members, means the legislative
34 authority of any city, town, county, or district or the elected
35 officials of any municipal corporation that employs any law enforcement
36 officer and/or firefighter, any authorized association of such
37 municipalities, and, except for the purposes of RCW 41.26.150, any
38 labor guild, association, or organization, which represents the

1 firefighters or law enforcement officers of at least seven cities of
2 over 20,000 population and the membership of each local lodge or
3 division of which is composed of at least sixty percent law enforcement
4 officers or firefighters as defined in this chapter.

5 (b) "Employer" for plan 2 members, means the following entities to
6 the extent that the entity employs any law enforcement officer and/or
7 firefighter:

8 (i) The legislative authority of any city, town, county, or
9 district;

10 (ii) The elected officials of any municipal corporation;

11 (iii) The governing body of any other general authority law
12 enforcement agency; or

13 (iv) A four-year institution of higher education having a fully
14 operational fire department as of January 1, 1996.

15 (15)(a) "Final average salary" for plan 1 members, means (i) for a
16 member holding the same position or rank for a minimum of twelve months
17 preceding the date of retirement, the basic salary attached to such
18 same position or rank at time of retirement; (ii) for any other member,
19 including a civil service member who has not served a minimum of twelve
20 months in the same position or rank preceding the date of retirement,
21 the average of the greatest basic salaries payable to such member
22 during any consecutive twenty-four month period within such member's
23 last ten years of service for which service credit is allowed, computed
24 by dividing the total basic salaries payable to such member during the
25 selected twenty-four month period by twenty-four; (iii) in the case of
26 disability of any member, the basic salary payable to such member at
27 the time of disability retirement; (iv) in the case of a member who
28 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
29 such member at the time of vesting.

30 (b) "Final average salary" for plan 2 members, means the monthly
31 average of the member's basic salary for the highest consecutive sixty
32 service credit months of service prior to such member's retirement,
33 termination, or death. Periods constituting authorized unpaid leaves
34 of absence may not be used in the calculation of final average salary.

35 (c) In calculating final average salary under (a) or (b) of this
36 subsection, the department of retirement systems shall include any
37 compensation forgone by a member employed by a state agency or
38 institution during the 2009-2011 fiscal biennium as a result of reduced

1 work hours, mandatory or voluntary leave without pay, or temporary
2 layoffs if the reduced compensation is an integral part of the
3 employer's expenditure reduction efforts, as certified by the employer.

4 (16) "Firefighter" means:

5 (a) Any person who is serving on a full time, fully compensated
6 basis as a member of a fire department of an employer and who is
7 serving in a position which requires passing a civil service
8 examination for firefighter, and who is actively employed as such;

9 (b) Anyone who is actively employed as a full time firefighter
10 where the fire department does not have a civil service examination;

11 (c) Supervisory firefighter personnel;

12 (d) Any full time executive secretary of an association of fire
13 protection districts authorized under RCW 52.12.031. The provisions of
14 this subsection (16)(d) shall not apply to plan 2 members;

15 (e) The executive secretary of a labor guild, association or
16 organization (which is an employer under (~~RCW 41.26.030(14) as now or~~
17 ~~hereafter amended~~)) subsection (14) of this section), if such
18 individual has five years previous membership in a retirement system
19 established in chapter 41.16 or 41.18 RCW. The provisions of this
20 subsection (16)(e) shall not apply to plan 2 members;

21 (f) Any person who is serving on a full time, fully compensated
22 basis for an employer, as a fire dispatcher, in a department in which,
23 on March 1, 1970, a dispatcher was required to have passed a civil
24 service examination for firefighter;

25 (g) Any person who on March 1, 1970, was employed on a full time,
26 fully compensated basis by an employer, and who on May 21, 1971, was
27 making retirement contributions under the provisions of chapter 41.16
28 or 41.18 RCW; and

29 (h) Any person who is employed on a full-time, fully compensated
30 basis by an employer as an emergency medical technician.

31 (17) "General authority law enforcement agency" means any agency,
32 department, or division of a municipal corporation, political
33 subdivision, or other unit of local government of this state, and any
34 agency, department, or division of state government, having as its
35 primary function the detection and apprehension of persons committing
36 infractions or violating the traffic or criminal laws in general, but
37 not including the Washington state patrol. Such an agency, department,
38 or division is distinguished from a limited authority law enforcement

1 agency having as one of its functions the apprehension or detection of
2 persons committing infractions or violating the traffic or criminal
3 laws relating to limited subject areas, including but not limited to,
4 the state departments of natural resources and social and health
5 services, the state gambling commission, the state lottery commission,
6 the state parks and recreation commission, the state utilities and
7 transportation commission, the state liquor control board, and the
8 state department of corrections.

9 (18) "Law enforcement officer" beginning January 1, 1994, means any
10 person who is commissioned and employed by an employer on a full time,
11 fully compensated basis to enforce the criminal laws of the state of
12 Washington generally, with the following qualifications:

13 (a) No person who is serving in a position that is basically
14 clerical or secretarial in nature, and who is not commissioned shall be
15 considered a law enforcement officer;

16 (b) Only those deputy sheriffs, including those serving under a
17 different title pursuant to county charter, who have successfully
18 completed a civil service examination for deputy sheriff or the
19 equivalent position, where a different title is used, and those persons
20 serving in unclassified positions authorized by RCW 41.14.070 except a
21 private secretary will be considered law enforcement officers;

22 (c) Only such full time commissioned law enforcement personnel as
23 have been appointed to offices, positions, or ranks in the police
24 department which have been specifically created or otherwise expressly
25 provided for and designated by city charter provision or by ordinance
26 enacted by the legislative body of the city shall be considered city
27 police officers;

28 (d) The term "law enforcement officer" also includes the executive
29 secretary of a labor guild, association or organization (which is an
30 employer under (~~RCW 41.26.030(14)~~) subsection (14) of this section)
31 if that individual has five years previous membership in the retirement
32 system established in chapter 41.20 RCW. The provisions of this
33 subsection (18)(d) shall not apply to plan 2 members; and

34 (e) The term "law enforcement officer" also includes a person
35 employed on or after January 1, 1993, as a public safety officer or
36 director of public safety, so long as the job duties substantially
37 involve only either police or fire duties, or both, and no other duties
38 in a city or town with a population of less than ten thousand. The

1 provisions of this subsection (18)(e) shall not apply to any public
2 safety officer or director of public safety who is receiving a
3 retirement allowance under this chapter as of May 12, 1993.

4 (19) "Medical services" for plan 1 members, shall include the
5 following as minimum services to be provided. Reasonable charges for
6 these services shall be paid in accordance with RCW 41.26.150.

7 (a) Hospital expenses: These are the charges made by a hospital,
8 in its own behalf, for

9 (i) Board and room not to exceed semiprivate room rate unless
10 private room is required by the attending physician due to the
11 condition of the patient.

12 (ii) Necessary hospital services, other than board and room,
13 furnished by the hospital.

14 (b) Other medical expenses: The following charges are considered
15 "other medical expenses", provided that they have not been considered
16 as "hospital expenses".

17 (i) The fees of the following:

18 (A) A physician or surgeon licensed under the provisions of chapter
19 18.71 RCW;

20 (B) An osteopathic physician and surgeon licensed under the
21 provisions of chapter 18.57 RCW;

22 (C) A chiropractor licensed under the provisions of chapter 18.25
23 RCW.

24 (ii) The charges of a registered graduate nurse other than a nurse
25 who ordinarily resides in the member's home, or is a member of the
26 family of either the member or the member's spouse.

27 (iii) The charges for the following medical services and supplies:

28 (A) Drugs and medicines upon a physician's prescription;

29 (B) Diagnostic X-ray and laboratory examinations;

30 (C) X-ray, radium, and radioactive isotopes therapy;

31 (D) Anesthesia and oxygen;

32 (E) Rental of iron lung and other durable medical and surgical
33 equipment;

34 (F) Artificial limbs and eyes, and casts, splints, and trusses;

35 (G) Professional ambulance service when used to transport the
36 member to or from a hospital when injured by an accident or stricken by
37 a disease;

1 (H) Dental charges incurred by a member who sustains an accidental
2 injury to his or her teeth and who commences treatment by a legally
3 licensed dentist within ninety days after the accident;

4 (I) Nursing home confinement or hospital extended care facility;

5 (J) Physical therapy by a registered physical therapist;

6 (K) Blood transfusions, including the cost of blood and blood
7 plasma not replaced by voluntary donors;

8 (L) An optometrist licensed under the provisions of chapter 18.53
9 RCW.

10 (20) "Member" means any firefighter, law enforcement officer, or
11 other person as would apply under subsections (16) or (18) of this
12 section whose membership is transferred to the Washington law
13 enforcement officers' and firefighters' retirement system on or after
14 March 1, 1970, and every law enforcement officer and firefighter who is
15 employed in that capacity on or after such date.

16 (21) "Plan 1" means the law enforcement officers' and firefighters'
17 retirement system, plan 1 providing the benefits and funding provisions
18 covering persons who first became members of the system prior to
19 October 1, 1977.

20 (22) "Plan 2" means the law enforcement officers' and firefighters'
21 retirement system, plan 2 providing the benefits and funding provisions
22 covering persons who first became members of the system on and after
23 October 1, 1977.

24 (23) "Position" means the employment held at any particular time,
25 which may or may not be the same as civil service rank.

26 (24) "Regular interest" means such rate as the director may
27 determine.

28 (25) "Retiree" for persons who establish membership in the
29 retirement system on or after October 1, 1977, means any member in
30 receipt of a retirement allowance or other benefit provided by this
31 chapter resulting from service rendered to an employer by such member.

32 (26) "Retirement fund" means the "Washington law enforcement
33 officers' and firefighters' retirement system fund" as provided for
34 herein.

35 (27) "Retirement system" means the "Washington law enforcement
36 officers' and firefighters' retirement system" provided herein.

37 (28)(a) "Service" for plan 1 members, means all periods of
38 employment for an employer as a firefighter or law enforcement officer,

1 for which compensation is paid, together with periods of suspension not
2 exceeding thirty days in duration. For the purposes of this chapter
3 service shall also include service in the armed forces of the United
4 States as provided in RCW 41.26.190. Credit shall be allowed for all
5 service credit months of service rendered by a member from and after
6 the member's initial commencement of employment as a firefighter or law
7 enforcement officer, during which the member worked for seventy or more
8 hours, or was on disability leave or disability retirement. Only
9 service credit months of service shall be counted in the computation of
10 any retirement allowance or other benefit provided for in this chapter.

11 (i) For members retiring after May 21, 1971 who were employed under
12 the coverage of a prior pension act before March 1, 1970, "service"
13 shall also include (A) such military service not exceeding five years
14 as was creditable to the member as of March 1, 1970, under the member's
15 particular prior pension act, and (B) such other periods of service as
16 were then creditable to a particular member under the provisions of RCW
17 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit
18 be allowed for any service rendered prior to March 1, 1970, where the
19 member at the time of rendition of such service was employed in a
20 position covered by a prior pension act, unless such service, at the
21 time credit is claimed therefor, is also creditable under the
22 provisions of such prior act.

23 (ii) A member who is employed by two employers at the same time
24 shall only be credited with service to one such employer for any month
25 during which the member rendered such dual service.

26 (b) "Service" for plan 2 members, means periods of employment by a
27 member for one or more employers for which basic salary is earned for
28 ninety or more hours per calendar month which shall constitute a
29 service credit month. Periods of employment by a member for one or
30 more employers for which basic salary is earned for at least seventy
31 hours but less than ninety hours per calendar month shall constitute
32 one-half service credit month. Periods of employment by a member for
33 one or more employers for which basic salary is earned for less than
34 seventy hours shall constitute a one-quarter service credit month.

35 Members of the retirement system who are elected or appointed to a
36 state elective position may elect to continue to be members of this
37 retirement system.

1 Service credit years of service shall be determined by dividing the
2 total number of service credit months of service by twelve. Any
3 fraction of a service credit year of service as so determined shall be
4 taken into account in the computation of such retirement allowance or
5 benefits.

6 If a member receives basic salary from two or more employers during
7 any calendar month, the individual shall receive one service credit
8 month's service credit during any calendar month in which multiple
9 service for ninety or more hours is rendered; or one-half service
10 credit month's service credit during any calendar month in which
11 multiple service for at least seventy hours but less than ninety hours
12 is rendered; or one-quarter service credit month during any calendar
13 month in which multiple service for less than seventy hours is
14 rendered.

15 (29) "Service credit month" means a full service credit month or an
16 accumulation of partial service credit months that are equal to one.

17 (30) "Service credit year" means an accumulation of months of
18 service credit which is equal to one when divided by twelve.

19 (31) "State actuary" or "actuary" means the person appointed
20 pursuant to RCW 44.44.010(2).

21 (32) "State elective position" means any position held by any
22 person elected or appointed to statewide office or elected or appointed
23 as a member of the legislature.

24 (33) "Surviving spouse" means the surviving widow or widower of a
25 member. "Surviving spouse" shall not include the divorced spouse of a
26 member except as provided in RCW 41.26.162.

27 **Sec. 7.** RCW 41.32.010 and 2008 c 204 s 1 and 2008 c 175 s 1 are
28 each reenacted and amended to read as follows:

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

31 (1)(a) "Accumulated contributions" for plan 1 members, means the
32 sum of all regular annuity contributions and, except for the purpose of
33 withdrawal at the time of retirement, any amount paid under RCW
34 41.50.165(2) with regular interest thereon.

35 (b) "Accumulated contributions" for plan 2 members, means the sum
36 of all contributions standing to the credit of a member in the member's

1 individual account, including any amount paid under RCW 41.50.165(2),
2 together with the regular interest thereon.

3 (2) "Actuarial equivalent" means a benefit of equal value when
4 computed upon the basis of such mortality tables and regulations as
5 shall be adopted by the director and regular interest.

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

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

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

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

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

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

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

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

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

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

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

37 (iii) "Earnable compensation" for plan 1 members also includes the

1 following actual or imputed payments, which are not paid for personal
2 services:

3 (A) Retroactive payments to an individual by an employer on
4 reinstatement of the employee in a position, or payments by an employer
5 to an individual in lieu of reinstatement in a position which are
6 awarded or granted as the equivalent of the salary or wages which the
7 individual would have earned during a payroll period shall be
8 considered earnable compensation and the individual shall receive the
9 equivalent service credit.

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

22 (iv) For members employed less than full time under written
23 contract with a school district, or community college district, in an
24 instructional position, for which the member receives service credit of
25 less than one year in all of the years used to determine the earnable
26 compensation used for computing benefits due under RCW 41.32.497,
27 41.32.498, and 41.32.520, the member may elect to have earnable
28 compensation defined as provided in RCW 41.32.345. For the purposes of
29 this subsection, the term "instructional position" means a position in
30 which more than seventy-five percent of the member's time is spent as
31 a classroom instructor (including office hours), a librarian, a
32 psychologist, a social worker, a nurse, a physical therapist, an
33 occupational therapist, a speech language pathologist or audiologist,
34 or a counselor. Earnable compensation shall be so defined only for the
35 purpose of the calculation of retirement benefits and only as necessary
36 to insure that members who receive fractional service credit under RCW
37 41.32.270 receive benefits proportional to those received by members
38 who have received full-time service credit.

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

2 (A) Remuneration for unused sick leave authorized under RCW
3 41.04.340, 28A.400.210, or 28A.310.490;

4 (B) Remuneration for unused annual leave in excess of thirty days
5 as authorized by RCW 43.01.044 and 43.01.041.

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

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

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

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

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

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

35 (c) In calculating earnable compensation under (a) or (b) of this
36 subsection, the department of retirement systems shall include any
37 compensation forgone by a member employed by a state agency or
38 institution during the 2009-2011 fiscal biennium as a result of reduced

1 work hours, mandatory or voluntary leave without pay, or temporary
2 layoffs if the reduced compensation is an integral part of the
3 employer's expenditure reduction efforts, as certified by the employer.

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

6 (12) "Fiscal year" means a year which begins July 1st and ends June
7 30th of the following year.

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

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

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

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

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

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

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

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

1 (21) "Public school" means any institution or activity operated by
2 the state of Washington or any instrumentality or political subdivision
3 thereof employing teachers, except the University of Washington and
4 Washington State University.

5 (22) "Regular contributions" means the amounts required to be
6 deducted from the compensation of a member and credited to the member's
7 individual account in the member reserve. This subsection shall apply
8 only to plan 1 members.

9 (23) "Regular interest" means such rate as the director may
10 determine.

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

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

17 (25) "Retirement system" means the Washington state teachers'
18 retirement system.

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

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

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

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

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

34 (i) A member employed in an eligible position or as a substitute
35 shall receive one service credit month for each month of September
36 through August of the following year if he or she earns earnable
37 compensation for eight hundred ten or more hours during that period and
38 is employed during nine of those months, except that a member may not

1 receive credit for any period prior to the member's employment in an
2 eligible position except as provided in RCW 41.32.812 and
3 41.50.132((+))_.

4 (ii) Any other member employed in an eligible position or as a
5 substitute who earns earnable compensation during the period from
6 September through August shall receive service credit according to one
7 of the following methods, whichever provides the most service credit to
8 the member:

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

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

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

24 (I) A service credit month is earned in those calendar months where
25 earnable compensation is earned for ninety or more hours;

26 (II) A half-service credit month is earned in those calendar months
27 where earnable compensation is earned for at least seventy hours but
28 less than ninety hours; and

29 (III) A quarter-service credit month is earned in those calendar
30 months where earnable compensation is earned for less than seventy
31 hours.

32 (iii) Any person who is a member of the teachers' retirement system
33 and who is elected or appointed to a state elective position may
34 continue to be a member of the retirement system and continue to
35 receive a service credit month for each of the months in a state
36 elective position by making the required member contributions.

37 (iv) When an individual is employed by two or more employers the

1 individual shall only receive one month's service credit during any
2 calendar month in which multiple service for ninety or more hours is
3 rendered.

4 (v) As authorized by RCW 28A.400.300, up to forty-five days of sick
5 leave may be creditable as service solely for the purpose of
6 determining eligibility to retire under RCW 41.32.470. For purposes of
7 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
8 to two service credit months. Use of less than forty-five days of sick
9 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

18 (vi) As authorized in RCW 41.32.065, service earned in an out-of-
19 state retirement system that covers teachers in public schools may be
20 applied solely for the purpose of determining eligibility to retire
21 under RCW 41.32.470.

22 (vii) The department shall adopt rules implementing this
23 subsection.

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

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

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

36 (30) "Average final compensation" for plan 2 and plan 3 members,
37 means the member's average earnable compensation of the highest
38 consecutive sixty service credit months prior to such member's

1 retirement, termination, or death. Periods constituting authorized
2 leaves of absence may not be used in the calculation of average final
3 compensation except under RCW 41.32.810(2).

4 (31) "Retiree" means any person who has begun accruing a retirement
5 allowance or other benefit provided by this chapter resulting from
6 service rendered to an employer while a member.

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

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

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

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

15 (36) "Substitute teacher" means:

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

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

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

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

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

34 (d) The elected position of the superintendent of public
35 instruction is an eligible position.

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

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

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

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

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

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

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

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

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

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

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

35 (49) "Employed" or "employee" means a person who is providing
36 services for compensation to an employer, unless the person is free
37 from the employer's direction and control over the performance of work.

1 The department shall adopt rules and interpret this subsection
2 consistent with common law.

3 **Sec. 8.** RCW 41.37.010 and 2007 c 492 s 11 and 2007 c 294 s 1 are
4 each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter,
6 unless the context clearly requires otherwise.

7 (1) "Retirement system" means the Washington public safety
8 employees' retirement system provided for in this chapter.

9 (2) "Department" means the department of retirement systems created
10 in chapter 41.50 RCW.

11 (3) "State treasurer" means the treasurer of the state of
12 Washington.

13 (4) "Employer" means the Washington state department of
14 corrections, the Washington state parks and recreation commission, the
15 Washington state gambling commission, the Washington state patrol, the
16 Washington state department of natural resources, and the Washington
17 state liquor control board; any county corrections department; or any
18 city corrections department not covered under chapter 41.28 RCW.

19 (5) "Member" means any employee employed by an employer on a full-
20 time basis:

21 (a) Who is in a position that requires completion of a certified
22 criminal justice training course and is authorized by their employer to
23 arrest, conduct criminal investigations, enforce the criminal laws of
24 the state of Washington, and carry a firearm as part of the job;

25 (b) Whose primary responsibility is to ensure the custody and
26 security of incarcerated or probationary individuals as a corrections
27 officer, probation officer, or jailer;

28 (c) Who is a limited authority Washington peace officer, as defined
29 in RCW 10.93.020, for an employer; or

30 (d) Whose primary responsibility is to supervise members eligible
31 under this subsection.

32 (6)(a) "Compensation earnable" for members, means salaries or wages
33 earned by a member during a payroll period for personal services,
34 including overtime payments, and shall include wages and salaries
35 deferred under provisions established pursuant to sections 403(b),
36 414(h), and 457 of the United States internal revenue code, but shall

1 exclude nonmoney maintenance compensation and lump sum or other
2 payments for deferred annual sick leave, unused accumulated vacation,
3 unused accumulated annual leave, or any form of severance pay.

4 (b) "Compensation earnable" for members also includes the following
5 actual or imputed payments, which are not paid for personal services:

6 (i) Retroactive payments to an individual by an employer on
7 reinstatement of the employee in a position, or payments by an employer
8 to an individual in lieu of reinstatement, which are awarded or granted
9 as the equivalent of the salary or wage which the individual would have
10 earned during a payroll period shall be considered compensation
11 earnable to the extent provided in this subsection, and the individual
12 shall receive the equivalent service credit;

13 (ii) In any year in which a member serves in the legislature, the
14 member shall have the option of having such member's compensation
15 earnable be the greater of:

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

18 (B) Such member's actual compensation earnable received for
19 nonlegislative public employment and legislative service combined. Any
20 additional contributions to the retirement system required because
21 compensation earnable under (b)(ii)(A) of this subsection is greater
22 than compensation earnable under (b)(ii)(B) of this subsection shall be
23 paid by the member for both member and employer contributions;

24 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
25 and 72.09.240;

26 (iv) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.37.060;

29 (v) Compensation that a member receives due to participation in the
30 leave sharing program only as authorized by RCW 41.04.650 through
31 41.04.670; and

32 (vi) Compensation that a member receives for being in standby
33 status. For the purposes of this section, a member is in standby
34 status when not being paid for time actually worked and the employer
35 requires the member to be prepared to report immediately for work, if
36 the need arises, although the need may not arise.

37 (7) "Service" means periods of employment by a member on or after
38 July 1, 2006, for one or more employers for which compensation earnable

1 is paid. Compensation earnable earned for ninety or more hours in any
2 calendar month shall constitute one service credit month. Compensation
3 earnable earned for at least seventy hours but less than ninety hours
4 in any calendar month shall constitute one-half service credit month of
5 service. Compensation earnable earned for less than seventy hours in
6 any calendar month shall constitute one-quarter service credit month of
7 service. Time spent in standby status, whether compensated or not, is
8 not service.

9 Any fraction of a year of service shall be taken into account in
10 the computation of such retirement allowance or benefits.

11 (a) Service in any state elective position shall be deemed to be
12 full-time service.

13 (b) A member shall receive a total of not more than twelve service
14 credit months of service for such calendar year. If an individual is
15 employed in an eligible position by one or more employers the
16 individual shall receive no more than one service credit month during
17 any calendar month in which multiple service for ninety or more hours
18 is rendered.

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

21 (9) "Service credit month" means a month or an accumulation of
22 months of service credit which is equal to one.

23 (10) "Membership service" means all service rendered as a member.

24 (11) "Beneficiary" means any person in receipt of a retirement
25 allowance or other benefit provided by this chapter resulting from
26 service rendered to an employer by another person.

27 (12) "Regular interest" means such rate as the director may
28 determine.

29 (13) "Accumulated contributions" means the sum of all contributions
30 standing to the credit of a member in the member's individual account,
31 including any amount paid under RCW 41.50.165(2), together with the
32 regular interest thereon.

33 (14)(a) "Average final compensation" means the member's average
34 compensation earnable of the highest consecutive sixty months of
35 service credit months prior to such member's retirement, termination,
36 or death. Periods constituting authorized leaves of absence may not be
37 used in the calculation of average final compensation except under RCW
38 41.37.290.

1 (b) In calculating average final compensation under (a) of this
2 subsection, the department of retirement systems shall include any
3 compensation forgone by a member employed by a state agency or
4 institution during the 2009-2011 fiscal biennium as a result of reduced
5 work hours, mandatory or voluntary leave without pay, or temporary
6 layoffs if the reduced compensation is an integral part of the
7 employer's expenditure reduction efforts, as certified by the employer.

8 (15) "Final compensation" means the annual rate of compensation
9 earnable by a member at the time of termination of employment.

10 (16) "Annuity" means payments for life derived from accumulated
11 contributions of a member. All annuities shall be paid in monthly
12 installments.

13 (17) "Pension" means payments for life derived from contributions
14 made by the employer. All pensions shall be paid in monthly
15 installments.

16 (18) "Retirement allowance" means monthly payments to a retiree or
17 beneficiary as provided in this chapter.

18 (19) "Employee" or "employed" means a person who is providing
19 services for compensation to an employer, unless the person is free
20 from the employer's direction and control over the performance of work.
21 The department shall adopt rules and interpret this subsection
22 consistent with common law.

23 (20) "Actuarial equivalent" means a benefit of equal value when
24 computed upon the basis of such mortality and other tables as may be
25 adopted by the director.

26 (21) "Retirement" means withdrawal from active service with a
27 retirement allowance as provided by this chapter.

28 (22) "Eligible position" means any permanent, full-time position
29 included in subsection (5) of this section.

30 (23) "Ineligible position" means any position which does not
31 conform with the requirements set forth in subsection (22) of this
32 section.

33 (24) "Leave of absence" means the period of time a member is
34 authorized by the employer to be absent from service without being
35 separated from membership.

36 (25) "Retiree" means any person who has begun accruing a retirement
37 allowance or other benefit provided by this chapter resulting from
38 service rendered to an employer while a member.

1 (26) "Director" means the director of the department.

2 (27) "State elective position" means any position held by any
3 person elected or appointed to statewide office or elected or appointed
4 as a member of the legislature.

5 (28) "State actuary" or "actuary" means the person appointed
6 pursuant to RCW 44.44.010(2).

7 (29) "Plan" means the Washington public safety employees'
8 retirement system plan 2.

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

13 (31) "Index A" means the index for the year prior to the
14 determination of a postretirement adjustment.

15 (32) "Index B" means the index for the year prior to index A.

16 (33) "Adjustment ratio" means the value of index A divided by index
17 B.

18 (34) "Separation from service" occurs when a person has terminated
19 all employment with an employer.

20 **Sec. 9.** RCW 43.43.120 and 2009 c 549 s 5124 and 2009 c 522 s 1 are
21 each reenacted and amended to read as follows:

22 As used in ((~~RCW 43.43.120~~)) this section and RCW 43.43.130 through
23 43.43.320, unless a different meaning is plainly required by the
24 context:

25 (1) "Actuarial equivalent" shall mean a benefit of equal value when
26 computed upon the basis of such mortality table as may be adopted and
27 such interest rate as may be determined by the director.

28 (2) "Annual increase" means as of July 1, 1999, seventy-seven cents
29 per month per year of service which amount shall be increased each
30 subsequent July 1st by three percent, rounded to the nearest cent.

31 (3)(a) "Average final salary," for members commissioned prior to
32 January 1, 2003, shall mean the average monthly salary received by a
33 member during the member's last two years of service or any consecutive
34 two-year period of service, whichever is the greater, as an employee of
35 the Washington state patrol; or if the member has less than two years
36 of service, then the average monthly salary received by the member
37 during the member's total years of service.

1 (b) "Average final salary," for members commissioned on or after
2 January 1, 2003, shall mean the average monthly salary received by a
3 member for the highest consecutive sixty service credit months; or if
4 the member has less than sixty months of service, then the average
5 monthly salary received by the member during the member's total months
6 of service.

7 (c) In calculating average final salary under (a) or (b) of this
8 subsection, the department of retirement systems shall include any
9 compensation forgone by the member during the 2009-2011 fiscal biennium
10 as a result of reduced work hours, mandatory or voluntary leave without
11 pay, or temporary layoffs if the reduced compensation is an integral
12 part of the employer's expenditure reduction efforts, as certified by
13 the chief.

14 (4) "Beneficiary" means any person in receipt of retirement
15 allowance or any other benefit allowed by this chapter.

16 (5)(a) "Cadet," for a person who became a member of the retirement
17 system after June 12, 1980, is a person who has passed the Washington
18 state patrol's entry-level oral, written, physical performance, and
19 background examinations and is, thereby, appointed by the chief as a
20 candidate to be a commissioned officer of the Washington state patrol.

21 (b) "Cadet," for a person who became a member of the retirement
22 system before June 12, 1980, is a trooper cadet, patrol cadet, or
23 employee of like classification, employed for the express purpose of
24 receiving the on-the-job training required for attendance at the state
25 patrol academy and for becoming a commissioned trooper. "Like
26 classification" includes: Radio operators or dispatchers; persons
27 providing security for the governor or legislature; patrol officers;
28 drivers' license examiners; weighmasters; vehicle safety inspectors;
29 central wireless operators; and warehouse workers.

30 (6) "Contributions" means the deduction from the compensation of
31 each member in accordance with the contribution rates established under
32 chapter 41.45 RCW.

33 (7) "Current service" shall mean all service as a member rendered
34 on or after August 1, 1947.

35 (8) "Department" means the department of retirement systems created
36 in chapter 41.50 RCW.

37 (9) "Director" means the director of the department of retirement
38 systems.

1 (10) "Domestic partners" means two adults who have registered as
2 domestic partners under RCW ((~~26.60.020~~)) 26.60.040.

3 (11) "Employee" means any commissioned employee of the Washington
4 state patrol.

5 (12) "Insurance commissioner" means the insurance commissioner of
6 the state of Washington.

7 (13) "Lieutenant governor" means the lieutenant governor of the
8 state of Washington.

9 (14) "Member" means any person included in the membership of the
10 retirement fund.

11 (15) "Plan 2" means the Washington state patrol retirement system
12 plan 2, providing the benefits and funding provisions covering
13 commissioned employees who first become members of the system on or
14 after January 1, 2003.

15 (16) "Prior service" shall mean all services rendered by a member
16 to the state of Washington, or any of its political subdivisions prior
17 to August 1, 1947, unless such service has been credited in another
18 public retirement or pension system operating in the state of
19 Washington.

20 (17) "Regular interest" means interest compounded annually at such
21 rates as may be determined by the director.

22 (18) "Retirement board" means the board provided for in this
23 chapter.

24 (19) "Retirement fund" means the Washington state patrol retirement
25 fund.

26 (20) "Retirement system" means the Washington state patrol
27 retirement system.

28 (21)(a) "Salary," for members commissioned prior to July 1, 2001,
29 shall exclude any overtime earnings related to RCW 47.46.040, or any
30 voluntary overtime, earned on or after July 1, 2001.

31 (b) "Salary," for members commissioned on or after July 1, 2001,
32 shall exclude any overtime earnings related to RCW 47.46.040 or any
33 voluntary overtime, lump sum payments for deferred annual sick leave,
34 unused accumulated vacation, unused accumulated annual leave, holiday
35 pay, or any form of severance pay.

36 (22) "Service" shall mean services rendered to the state of
37 Washington or any political subdivisions thereof for which compensation
38 has been paid. Full time employment for seventy or more hours in any

1 given calendar month shall constitute one month of service. An
2 employee who is reinstated in accordance with RCW 43.43.110 shall
3 suffer no loss of service for the period reinstated subject to the
4 contribution requirements of this chapter. Only months of service
5 shall be counted in the computation of any retirement allowance or
6 other benefit provided for herein. Years of service shall be
7 determined by dividing the total number of months of service by twelve.
8 Any fraction of a year of service as so determined shall be taken into
9 account in the computation of such retirement allowance or benefit.

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

12 (24) "State treasurer" means the treasurer of the state of
13 Washington.

14 ~~((+25))~~ Unless the context expressly indicates otherwise, words
15 importing the masculine gender shall be extended to include the
16 feminine gender and words importing the feminine gender shall be
17 extended to include the masculine gender.

18 **Sec. 10.** RCW 41.04.665 and 2008 c 36 s 3 are each amended to read
19 as follows:

20 (1) An agency head may permit an employee to receive leave under
21 this section if:

22 (a)(i) The employee suffers from, or has a relative or household
23 member suffering from, an illness, injury, impairment, or physical or
24 mental condition which is of an extraordinary or severe nature;

25 (ii) The employee has been called to service in the uniformed
26 services;

27 (iii) A state of emergency has been declared anywhere within the
28 United States by the federal or any state government and the employee
29 has needed skills to assist in responding to the emergency or its
30 aftermath and volunteers his or her services to either a governmental
31 agency or to a nonprofit organization engaged in humanitarian relief in
32 the devastated area, and the governmental agency or nonprofit
33 organization accepts the employee's offer of volunteer services; ~~((or))~~

34 (iv) The employee is a victim of domestic violence, sexual assault,
35 or stalking; or

36 (v) During the 2009-2011 fiscal biennium only, the employee is

1 eligible to use leave in lieu of temporary layoff under section 3(5) of
2 this act;

3 (b) The illness, injury, impairment, condition, call to service,
4 emergency volunteer service, or consequence of domestic violence,
5 sexual assault, temporary layoff under section 3(5) of this act, or
6 stalking has caused, or is likely to cause, the employee to:

7 (i) Go on leave without pay status; or

8 (ii) Terminate state employment;

9 (c) The employee's absence and the use of shared leave are
10 justified;

11 (d) The employee has depleted or will shortly deplete his or her:

12 (i) Annual leave and sick leave reserves if he or she qualifies
13 under (a)(i) of this subsection;

14 (ii) Annual leave and paid military leave allowed under RCW
15 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

16 (iii) Annual leave if he or she qualifies under (a)(iii) ~~((or))~~,
17 (iv), or (v) of this subsection;

18 (e) The employee has abided by agency rules regarding:

19 (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of
20 this subsection; or

21 (ii) Military leave if he or she qualifies under (a)(ii) of this
22 subsection; and

23 (f) The employee has diligently pursued and been found to be
24 ineligible for benefits under chapter 51.32 RCW if he or she qualifies
25 under (a)(i) of this subsection.

26 (2) The agency head shall determine the amount of leave, if any,
27 which an employee may receive under this section. However, an employee
28 shall not receive a total of more than two hundred sixty-one days of
29 leave, except that shared leave received under the uniformed service
30 shared leave pool in RCW 41.04.685 is not included in this total.

31 (3) An employee may transfer annual leave, sick leave, and his or
32 her personal holiday, as follows:

33 (a) An employee who has an accrued annual leave balance of more
34 than ten days may request that the head of the agency for which the
35 employee works transfer a specified amount of annual leave to another
36 employee authorized to receive leave under subsection (1) of this
37 section. In no event may the employee request a transfer of an amount
38 of leave that would result in his or her annual leave account going

1 below ten days. For purposes of this subsection (3)(a), annual leave
2 does not accrue if the employee receives compensation in lieu of
3 accumulating a balance of annual leave.

4 (b) An employee may transfer a specified amount of sick leave to an
5 employee requesting shared leave only when the donating employee
6 retains a minimum of one hundred seventy-six hours of sick leave after
7 the transfer.

8 (c) An employee may transfer, under the provisions of this section
9 relating to the transfer of leave, all or part of his or her personal
10 holiday, as that term is defined under RCW 1.16.050, or as such
11 holidays are provided to employees by agreement with a school
12 district's board of directors if the leave transferred under this
13 subsection does not exceed the amount of time provided for personal
14 holidays under RCW 1.16.050.

15 (4) An employee of an institution of higher education under RCW
16 28B.10.016, school district, or educational service district who does
17 not accrue annual leave but does accrue sick leave and who has an
18 accrued sick leave balance of more than twenty-two days may request
19 that the head of the agency for which the employee works transfer a
20 specified amount of sick leave to another employee authorized to
21 receive leave under subsection (1) of this section. In no event may
22 such an employee request a transfer that would result in his or her
23 sick leave account going below twenty-two days. Transfers of sick
24 leave under this subsection are limited to transfers from employees who
25 do not accrue annual leave. Under this subsection, "sick leave" also
26 includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1)
27 with compensation for illness, injury, and emergencies.

28 (5) Transfers of leave made by an agency head under subsections (3)
29 and (4) of this section shall not exceed the requested amount.

30 (6) Leave transferred under this section may be transferred from
31 employees of one agency to an employee of the same agency or, with the
32 approval of the heads of both agencies, to an employee of another state
33 agency. However, leave transferred to or from employees of school
34 districts or educational service districts is limited to transfers to
35 or from employees within the same employing district.

36 (7) While an employee is on leave transferred under this section,
37 he or she shall continue to be classified as a state employee and shall

1 receive the same treatment in respect to salary, wages, and employee
2 benefits as the employee would normally receive if using accrued annual
3 leave or sick leave.

4 (a) All salary and wage payments made to employees while on leave
5 transferred under this section shall be made by the agency employing
6 the person receiving the leave. The value of leave transferred shall
7 be based upon the leave value of the person receiving the leave.

8 (b) In the case of leave transferred by an employee of one agency
9 to an employee of another agency, the agencies involved shall arrange
10 for the transfer of funds and credit for the appropriate value of
11 leave.

12 (i) Pursuant to rules adopted by the office of financial
13 management, funds shall not be transferred under this section if the
14 transfer would violate any constitutional or statutory restrictions on
15 the funds being transferred.

16 (ii) The office of financial management may adjust the
17 appropriation authority of an agency receiving funds under this section
18 only if and to the extent that the agency's existing appropriation
19 authority would prevent it from expending the funds received.

20 (iii) Where any questions arise in the transfer of funds or the
21 adjustment of appropriation authority, the director of financial
22 management shall determine the appropriate transfer or adjustment.

23 (8) Leave transferred under this section shall not be used in any
24 calculation to determine an agency's allocation of full time equivalent
25 staff positions.

26 (9) The value of any leave transferred under this section which
27 remains unused shall be returned at its original value to the employee
28 or employees who transferred the leave when the agency head finds that
29 the leave is no longer needed or will not be needed at a future time in
30 connection with the illness or injury for which the leave was
31 transferred or for any other qualifying condition. Before the agency
32 head makes a determination to return unused leave in connection with an
33 illness or injury, or any other qualifying condition, he or she must
34 receive from the affected employee a statement from the employee's
35 doctor verifying that the illness or injury is resolved. To the extent
36 administratively feasible, the value of unused leave which was
37 transferred by more than one employee shall be returned on a pro rata
38 basis.

1 (10) An employee who uses leave that is transferred to him or her
2 under this section may not be required to repay the value of the leave
3 that he or she used.

4 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
5 conflict with federal requirements that are a prescribed condition to
6 the allocation of federal funds to the state, the conflicting part of
7 this act is inoperative solely to the extent of the conflict and with
8 respect to the agencies directly affected, and this finding does not
9 affect the operation of the remainder of this act in its application to
10 the agencies concerned. Rules adopted under this act must meet federal
11 requirements that are a necessary condition to the receipt of federal
12 funds by the state.

13 NEW SECTION. **Sec. 12.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 immediately.

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