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SENATE BILL 5162

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Murray, Schoesler, Conway, Hobbs, Carrell, and Rockefeller; by request of Select Committee on Pension Policy

Read first time 01/17/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to public employees' annuities and retirement  
2 plans; amending RCW 28B.10.400, 28B.10.423, and 41.40.037; providing an  
3 effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 28B.10.400 and 2010 c 21 s 1 are each amended to read  
6 as follows:

7 (1) The boards of regents of the state universities, the boards of  
8 trustees of the regional universities and of The Evergreen State  
9 College, ~~((and))~~ the state board for community and technical colleges,  
10 and the higher education coordinating board are authorized and  
11 empowered:

12 ~~((+1))~~ (a) To assist the faculties and ~~((such—other))~~ senior  
13 academic administrator employees as any such board may designate in the  
14 purchase of old age annuities or retirement income plans under such  
15 rules as any such board may prescribe, subject to the restrictions in  
16 subsection (2) of this section. County agricultural agents, home  
17 demonstration agents, 4-H club agents, and assistant county  
18 agricultural agents paid jointly by the Washington State University and

1 the several counties shall be deemed to be full time employees of the  
2 Washington State University for the purposes ~~((hereof))~~ of this  
3 section;

4 ~~((+2))~~ (b) To provide, under such rules ~~((and regulations))~~ as any  
5 such board may prescribe for the faculty members or ~~((other))~~ senior  
6 academic administrator employees under its supervision, for the  
7 retirement of any such faculty member or ~~((other))~~ senior academic  
8 administrator employee on account of age or condition of health,  
9 retirement on account of age to be not earlier than the sixty-fifth  
10 birthday: PROVIDED, That such faculty member or ~~((such other))~~ senior  
11 academic administrator employee may elect to retire at the earliest age  
12 specified for retirement by federal social security law: PROVIDED  
13 FURTHER, That any supplemental payment authorized by ~~((subsection (3))~~  
14 (c) of this ~~((section))~~ subsection and paid as a result of retirement  
15 earlier than age sixty-five shall be at an actuarially reduced rate;

16 ~~((+3))~~ (c) To pay to any such retired person first employed in a  
17 position covered by an old age annuity or retirement income plan  
18 authorized by this section prior to the effective date of this section  
19 or to his or her designated beneficiary(s), each year after his or her  
20 retirement, a supplemental amount which, when added to the amount of  
21 such annuity or retirement income plan, or retirement income benefit  
22 pursuant to RCW 28B.10.415, received by the retired person or the  
23 retired person's designated beneficiary(s) in such year, will not  
24 exceed fifty percent of the average annual salary paid to such retired  
25 person for his or her highest two consecutive years of full time  
26 service under an annuity or retirement income plan established pursuant  
27 to ~~((subsection (1))~~ (a) of this ~~((section))~~ subsection at an  
28 institution of higher education: PROVIDED, HOWEVER, That if such  
29 retired person prior to retirement elected a supplemental payment  
30 survivors option, any such supplemental payments to such retired person  
31 or the retired person's designated beneficiary(s) shall be at  
32 actuarially reduced rates: PROVIDED FURTHER, That if a faculty member  
33 or other employee of an institution of higher education who is a  
34 participant in a retirement plan authorized by this section dies, or  
35 has died before retirement but after becoming eligible for retirement  
36 on account of age, the designated beneficiary(s) shall be entitled to  
37 receive the supplemental payment authorized by this subsection to which  
38 such designated beneficiary(s) would have been entitled had said

1 deceased faculty member or other employee retired on the date of death  
2 after electing a supplemental payment survivors option: PROVIDED  
3 FURTHER, That for the purpose of this subsection, the designated  
4 beneficiary(s) shall be ~~((a))~~ (i) the surviving spouse of the  
5 retiree; or, ~~((b))~~ (ii) with the written consent of such spouse, if  
6 any, such other person or persons as shall have an insurable interest  
7 in the retiree's life and shall have been nominated by written  
8 designation duly executed and filed with the retiree's institution of  
9 higher education;

10 ~~((4))~~ (2) Boards are prohibited from offering a purchased annuity  
11 or retirement income plan authorized under this section to employees  
12 hired on or after July 1, 2011, who have retired, or are eligible to  
13 retire from a public employees' retirement system described in RCW  
14 41.50.030. The higher education coordinating board ~~((is—also~~  
15 ~~authorized and empowered as described in this section, subject to the~~  
16 ~~following:—The board))~~ shall only offer participation in a purchased  
17 annuity or retirement income plan authorized under this section to  
18 employees who have previously contributed premiums to a similar  
19 qualified plan~~(, and the board is prohibited from offering or funding~~  
20 ~~such a plan authorized under this section for the benefit of any~~  
21 ~~retiree who is receiving or accruing a retirement allowance from a~~  
22 ~~public employees' retirement system under Title 41 RCW or chapter 43.43~~  
23 ~~RCW)).~~

24 (3) For purposes of this section, "senior academic administrator"  
25 means institution presidents; vice presidents; deans, directors, and  
26 chairs; and executive heads of major administrative or academic  
27 divisions who hold concurrent faculty appointment with rank.

28 **Sec. 2.** RCW 28B.10.423 and 1973 1st ex.s. c 149 s 8 are each  
29 amended to read as follows:

30 It is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410,  
31 28B.10.415, 28B.10.420, and 28B.10.423 ~~((and—83.20.030))~~ that the  
32 retirement income resulting from the contributions described herein  
33 from the state of Washington and the employee shall be projected  
34 actuarially so that it shall not exceed sixty percent of the average of  
35 the highest two consecutive years salary. Periodic review of the  
36 retirement systems established pursuant to RCW 28B.10.400, 28B.10.405,  
37 28B.10.410, 28B.10.415, 28B.10.420, and 28B.10.423 ~~((and—83.20.030))~~

1 will be undertaken at such time and in such manner as determined by the  
2 committees on ways and means of the senate and of the house of  
3 representatives and the ((~~public pension commission~~)) select committee  
4 on pension policy, and joint contribution rates will be adjusted if  
5 necessary to accomplish this intent.

6 **Sec. 3.** RCW 41.40.037 and 2007 c 50 s 5 are each amended to read  
7 as follows:

8 (1)(a) If a retiree enters employment with an employer sooner than  
9 one calendar month after his or her accrual date, the retiree's monthly  
10 retirement allowance will be reduced by five and one-half percent for  
11 every eight hours worked during that month. This reduction will be  
12 applied each month until the retiree remains absent from employment  
13 with an employer for one full calendar month.

14 (b) The benefit reduction provided in (a) of this subsection will  
15 accrue for a maximum of one hundred sixty hours per month. Any benefit  
16 reduction over one hundred percent will be applied to the benefit the  
17 retiree is eligible to receive in subsequent months.

18 (2)(a) Except as provided in (b) of this subsection, a retiree from  
19 plan 1 who enters employment with an employer at least one calendar  
20 month after his or her accrual date may continue to receive pension  
21 payments while engaged in such service for up to eight hundred sixty-  
22 seven hours of service in a calendar year without a reduction of  
23 pension.

24 (b) A retiree from plan 1 who enters employment with an employer at  
25 least three calendar months after his or her accrual date and:

26 (i) Is hired pursuant to a written policy into a position for which  
27 the employer has documented a justifiable need to hire a retiree into  
28 the position;

29 (ii) Is hired through the established process for the position with  
30 the approval of: A school board for a school district; the chief  
31 executive officer of a state agency employer; the secretary of the  
32 senate for the senate; the chief clerk of the house of representatives  
33 for the house of representatives; the secretary of the senate and the  
34 chief clerk of the house of representatives jointly for the joint  
35 legislative audit and review committee, the select committee on pension  
36 policy, the legislative evaluation and accountability program, the

1 legislative systems committee, and the statute law committee; or  
2 according to rules adopted for the rehiring of retired plan 1 members  
3 for a local government employer;

4 (iii) The employer retains records of the procedures followed and  
5 decisions made in hiring the retiree, and provides those records in the  
6 event of an audit; and

7 (iv) The employee has not already rendered a cumulative total of  
8 more than one thousand nine hundred hours of service while in receipt  
9 of pension payments beyond an annual threshold of eight hundred sixty-  
10 seven hours;

11 shall cease to receive pension payments while engaged in that service  
12 after the retiree has rendered service for more than one thousand five  
13 hundred hours in a calendar year. The one thousand nine hundred hour  
14 cumulative total under this subsection applies prospectively to those  
15 retiring after July 27, 2003, and retroactively to those who retired  
16 prior to July 27, 2003, and shall be calculated from the date of  
17 retirement.

18 (c) When a plan 1 member renders service beyond eight hundred  
19 sixty-seven hours, the department shall collect from the employer the  
20 applicable employer retirement contributions for the entire duration of  
21 the member's employment during that calendar year.

22 (d) A retiree from plan 2 or plan 3 who has satisfied the break in  
23 employment requirement of subsection (1) of this section may work up to  
24 eight hundred sixty-seven hours in a calendar year in an eligible  
25 position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or  
26 41.40.010, or as a firefighter or law enforcement officer, as defined  
27 in RCW 41.26.030, without suspension of his or her benefit.

28 (3) If the retiree opts to reestablish membership under RCW  
29 41.40.023(12), he or she terminates his or her retirement status and  
30 becomes a member. Retirement benefits shall not accrue during the  
31 period of membership and the individual shall make contributions and  
32 receive membership credit. Such a member shall have the right to again  
33 retire if eligible in accordance with RCW 41.40.180. However, if the  
34 right to retire is exercised to become effective before the member has  
35 rendered two uninterrupted years of service, the retirement formula and  
36 survivor options the member had at the time of the member's previous  
37 retirement shall be reinstated.

1       (4) When a retiree is reemployed by the same employer from which he  
2 or she retired fewer than three calendar months after his or her  
3 accrual date, the retiree is presumed to have not separated from  
4 service.

5       (5) The department shall collect and provide the state actuary with  
6 information relevant to the use of this section for the select  
7 committee on pension policy.

8       (~~(+5)~~) (6) For purposes of this section, "employment" or  
9 "reemployment" includes positions covered by the old age annuities or  
10 retirement income plans authorized by 28B.10.400.

11       (7) The legislature reserves the right to amend or repeal this  
12 section in the future and no member or beneficiary has a contractual  
13 right to be employed for more than five months in a calendar year  
14 without a reduction of his or her pension.

15       NEW SECTION.   **Sec. 4.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of the  
17 state government and its existing public institutions, and takes effect  
18 July 1, 2011.

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