
SENATE BILL 5833

State of Washington

62nd Legislature

2011 Regular Session

By Senator Fraser

Read first time 02/18/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to employment of members of the public employees'
2 retirement system plan 1 by labor guilds, associations, or
3 organizations; and amending RCW 41.40.023.

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

5 **Sec. 1.** RCW 41.40.023 and 2010 c 80 s 1 are each amended to read
6 as follows:

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

10 (1) Persons in ineligible positions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (11) Employees of a labor guild, association, or organization:
38 PROVIDED, That elective officials and employees of a labor guild,

1 association, or organization which qualifies as an employer within this
2 chapter shall have the option of applying for membership. If an
3 employee of a labor guild, association, or organization which qualifies
4 as an employer within this chapter declines membership and agrees to
5 irrevocably abandon any claim for service for future periods with that
6 employer, the employee's employment is deemed thereafter to be in an
7 ineligible position;

8 (12) Retirement system retirees: PROVIDED, That following
9 reemployment in an eligible position, a retiree may elect to
10 prospectively become a member of the retirement system if otherwise
11 eligible;

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

33 Notwithstanding any other provision of this chapter, persons
34 transferring from employment with a first class city of over four
35 hundred thousand population that has its own retirement system to
36 employment with the state department of agriculture may elect to remain
37 within the retirement system of such city and the state shall pay the

1 employer contributions for such persons at like rates as prescribed for
2 employers of other members of such system;

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

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

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

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

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

36 (18) Persons serving as: (a) The chief administrative officer of
37 a public utility district as defined in RCW 54.16.100; (b) the chief
38 administrative officer of a port district formed under chapter 53.04

1 RCW; or (c) the chief administrative officer of a county who serves at
2 the pleasure of an appointing authority: PROVIDED, That such persons
3 shall have the option of applying for membership within thirty days
4 from the date of their appointment to such positions. Persons serving
5 in such positions as of July 25, 1999, shall continue to be members in
6 the retirement system unless they notify the director in writing prior
7 to December 31, 1999, of their desire to withdraw from membership in
8 the retirement system. A member who withdraws from membership in the
9 system under this section shall receive a refund of the member's
10 accumulated contributions upon termination of employment or as
11 otherwise consistent with the plan's tax qualification status as
12 defined in internal revenue code section 401.

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

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

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

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

31 (22) Persons employed as the state director of fire protection
32 under RCW 43.43.938 who were previously members of the law enforcement
33 officers' and firefighters' retirement system plan 2 under chapter
34 41.26 RCW may continue as a member of the law enforcement officers' and
35 firefighters' retirement system in lieu of becoming a member of this
36 system.

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