

SHB 1868 - S COMM AMD

By Committee on Ways & Means

NOT ADOPTED 04/17/2013

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** This act may be known as the Wynn Loiland  
4 act.

5 **Sec. 2.** RCW 41.26.470 and 2010 c 259 s 2 are each amended to read  
6 as follows:

7 (1) A member of the retirement system who becomes totally  
8 incapacitated for continued employment by an employer as determined by  
9 the director shall be eligible to receive an allowance under the  
10 provisions of RCW 41.26.410 through 41.26.550. Such member shall  
11 receive a monthly disability allowance computed as provided for in RCW  
12 41.26.420 and shall have such allowance actuarially reduced to reflect  
13 the difference in the number of years between age at disability and the  
14 attainment of age fifty-three, except under subsection (7) of this  
15 section.

16 (2) Any member who receives an allowance under the provisions of  
17 this section shall be subject to such comprehensive medical  
18 examinations as required by the department. If such medical  
19 examinations reveal that such a member has recovered from the  
20 incapacitating disability and the member is no longer entitled to  
21 benefits under Title 51 RCW, the retirement allowance shall be canceled  
22 and the member shall be restored to duty in the same civil service  
23 rank, if any, held by the member at the time of retirement or, if  
24 unable to perform the duties of the rank, then, at the member's  
25 request, in such other like or lesser rank as may be or become open and  
26 available, the duties of which the member is then able to perform. In  
27 no event shall a member previously drawing a disability allowance be  
28 returned or be restored to duty at a salary or rate of pay less than  
29 the current salary attached to the rank or position held by the member

1 at the date of the retirement for disability. If the department  
2 determines that the member is able to return to service, the member is  
3 entitled to notice and a hearing. Both the notice and the hearing  
4 shall comply with the requirements of chapter 34.05 RCW, the  
5 administrative procedure act.

6 (3) Those members subject to this chapter who became disabled in  
7 the line of duty on or after July 23, 1989, and who receive benefits  
8 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW  
9 41.04.535 shall receive or continue to receive service credit subject  
10 to the following:

11 (a) No member may receive more than one month's service credit in  
12 a calendar month.

13 (b) No service credit under this section may be allowed after a  
14 member separates or is separated without leave of absence.

15 (c) Employer contributions shall be paid by the employer at the  
16 rate in effect for the period of the service credited.

17 (d) Employee contributions shall be collected by the employer and  
18 paid to the department at the rate in effect for the period of service  
19 credited.

20 (e) State contributions shall be as provided in RCW 41.45.060 and  
21 41.45.067.

22 (f) Contributions shall be based on the regular compensation which  
23 the member would have received had the disability not occurred.

24 (g) The service and compensation credit under this section shall be  
25 granted for a period not to exceed six consecutive months.

26 (h) Should the legislature revoke the service credit authorized  
27 under this section or repeal this section, no affected employee is  
28 entitled to receive the credit as a matter of contractual right.

29 (4)(a) If the recipient of a monthly retirement allowance under  
30 this section dies before the total of the retirement allowance paid to  
31 the recipient equals the amount of the accumulated contributions at the  
32 date of retirement, then the balance shall be paid to the member's  
33 estate, or such person or persons, trust, or organization as the  
34 recipient has nominated by written designation duly executed and filed  
35 with the director, or, if there is no such designated person or persons  
36 still living at the time of the recipient's death, then to the  
37 surviving spouse or domestic partner, or, if there is neither such

1 designated person or persons still living at the time of his or her  
2 death nor a surviving spouse or domestic partner, then to his or her  
3 legal representative.

4 (b) If a recipient of a monthly retirement allowance under this  
5 section died before April 27, 1989, and before the total of the  
6 retirement allowance paid to the recipient equaled the amount of his or  
7 her accumulated contributions at the date of retirement, then the  
8 department shall pay the balance of the accumulated contributions to  
9 the member's surviving spouse or, if there is no surviving spouse, then  
10 in equal shares to the member's children. If there is no surviving  
11 spouse or children, the department shall retain the contributions.

12 (5) Should the disability retirement allowance of any disability  
13 beneficiary be canceled for any cause other than reentrance into  
14 service or retirement for service, he or she shall be paid the excess,  
15 if any, of the accumulated contributions at the time of retirement over  
16 all payments made on his or her behalf under this chapter.

17 (6) A member who becomes disabled in the line of duty, and who  
18 ceases to be an employee of an employer except by service or disability  
19 retirement, may request a refund of one hundred fifty percent of the  
20 member's accumulated contributions. Any accumulated contributions  
21 attributable to restorations made under RCW 41.50.165(2) shall be  
22 refunded at one hundred percent. A person in receipt of this benefit  
23 is a retiree.

24 (7) A member who becomes disabled in the line of duty shall be  
25 entitled to receive a minimum retirement allowance equal to ten percent  
26 of such member's final average salary. The member shall additionally  
27 receive a retirement allowance equal to two percent of such member's  
28 average final salary for each year of service beyond five.

29 (8) A member who became disabled in the line of duty before January  
30 1, 2001, and is receiving an allowance under RCW 41.26.430 or  
31 subsection (1) of this section shall be entitled to receive a minimum  
32 retirement allowance equal to ten percent of such member's final  
33 average salary. The member shall additionally receive a retirement  
34 allowance equal to two percent of such member's average final salary  
35 for each year of service beyond five, and shall have the allowance  
36 actuarially reduced to reflect the difference in the number of years  
37 between age at disability and the attainment of age fifty-three. An

1 additional benefit shall not result in a total monthly benefit greater  
2 than that provided in subsection (1) of this section.

3 (9) A member who is totally disabled in the line of duty is  
4 entitled to receive a retirement allowance equal to seventy percent of  
5 the member's final average salary. The allowance provided under this  
6 subsection shall be offset by:

7 (a) Temporary disability wage-replacement benefits or permanent  
8 total disability benefits provided to the member under Title 51 RCW;  
9 and

10 (b) Federal social security disability benefits, if any;  
11 so that such an allowance does not result in the member receiving  
12 combined benefits that exceed one hundred percent of the member's final  
13 average salary. However, the offsets shall not in any case reduce the  
14 allowance provided under this subsection below the member's accrued  
15 retirement allowance.

16 A member is considered totally disabled if he or she is unable to  
17 perform any substantial gainful activity due to a physical or mental  
18 condition that may be expected to result in death or that has lasted or  
19 is expected to last at least twelve months. Substantial gainful  
20 activity is defined as average earnings in excess of eight hundred  
21 sixty dollars a month in 2006 adjusted annually as determined by the  
22 director based on federal social security disability standards. The  
23 department may require a person in receipt of an allowance under this  
24 subsection to provide any financial records that are necessary to  
25 determine continued eligibility for such an allowance. A person in  
26 receipt of an allowance under this subsection whose earnings exceed the  
27 threshold for substantial gainful activity shall have their benefit  
28 converted to a line-of-duty disability retirement allowance as provided  
29 in subsection (7) of this section.

30 Any person in receipt of an allowance under the provisions of this  
31 section is subject to comprehensive medical examinations as may be  
32 required by the department under subsection (2) of this section in  
33 order to determine continued eligibility for such an allowance.

34 (10)(a) In addition to the retirement allowance provided in  
35 subsection (9) of this section, the retirement allowance of a member  
36 who is totally disabled in the line of duty shall include reimbursement  
37 for any payments made by the member after June 10, 2010, for premiums  
38 on employer-provided medical insurance, insurance authorized by the

1 consolidated omnibus budget reconciliation act of 1985 (COBRA),  
2 medicare part A (hospital insurance), and medicare part B (medical  
3 insurance). A member who is entitled to medicare must enroll and  
4 maintain enrollment in both medicare part A and medicare part B in  
5 order to remain eligible for the reimbursement provided in this  
6 subsection. The legislature reserves the right to amend or repeal the  
7 benefits provided in this subsection in the future and no member or  
8 beneficiary has a contractual right to receive any distribution not  
9 granted prior to that time.

10 (b) The retirement allowance of a member who became disabled prior  
11 to July 1, 2013, and who is not eligible for reimbursement provided in  
12 (a) of this subsection shall include reimbursement for any payments  
13 made after June 30, 2013, for premiums on other medical insurance.  
14 However, in no instance shall the reimbursement exceed the amount  
15 reimbursed for premiums authorized by the consolidated omnibus budget  
16 reconciliation act of 1985 (COBRA)."

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17 On page 1, line 3 of the title, after "duty;" strike the remainder  
18 of the title and insert "amending RCW 41.26.470; and creating a new  
19 section."

EFFECT: Limits the effect of the bill to persons disabled prior  
to July 1, 2013.

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