
ENGROSSED SUBSTITUTE HOUSE BILL 1820

State of Washington

63rd Legislature

2014 Regular Session

By House Appropriations (originally sponsored by Representatives Bergquist, Fitzgibbon, and Hurst)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to determining average salary for the pension
2 purposes of state and local government employees as certified by their
3 employer; amending RCW 41.26.030, 41.32.010, 41.35.010, 41.37.010,
4 41.40.010, and 43.43.120; adding a new section to chapter 41.50 RCW;
5 providing an effective date; and declaring an emergency.

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

7 **Sec. 1.** RCW 41.26.030 and 2012 c 236 s 2 are each amended to read
8 as follows:

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

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

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

1 (3) "Actuarial valuation" means a mathematical determination of the
2 financial condition of a retirement plan. It includes the computation
3 of the present monetary value of benefits payable to present members,
4 and the present monetary value of future employer and employee
5 contributions, giving effect to mortality among active and retired
6 members and also to the rates of disability, retirement, withdrawal
7 from service, salary and interest earned on investments.

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

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

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

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

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

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

37 (6)(a) "Child" or "children" means an unmarried person who is under

1 the age of eighteen or mentally or physically disabled as determined by
2 the department, except a person who is disabled and in the full time
3 care of a state institution, who is:

4 (i) A natural born child;

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

7 (iii) A posthumous child;

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

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

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

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

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

22 (9) "Disability board" for plan 1 members means either the county
23 disability board or the city disability board established in RCW
24 41.26.110.

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

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

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

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

37 (14)(a) "Employer" for plan 1 members, means the legislative
38 authority of any city, town, county, or district or the elected

1 officials of any municipal corporation that employs any law enforcement
2 officer and/or firefighter, any authorized association of such
3 municipalities, and, except for the purposes of RCW 41.26.150, any
4 labor guild, association, or organization, which represents the
5 firefighters or law enforcement officers of at least seven cities of
6 over 20,000 population and the membership of each local lodge or
7 division of which is composed of at least sixty percent law enforcement
8 officers or firefighters as defined in this chapter.

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

12 (i) The legislative authority of any city, town, county, or
13 district;

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

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

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

19 (c) Except as otherwise specifically provided in this chapter,
20 "employer" does not include a government contractor. For purposes of
21 this subsection, a "government contractor" is any entity, including a
22 partnership, limited liability company, for-profit or nonprofit
23 corporation, or person, that provides services pursuant to a contract
24 with an "employer." The determination whether an employer-employee
25 relationship has been established is not based on the relationship
26 between a government contractor and an "employer," but is based solely
27 on the relationship between a government contractor's employee and an
28 "employer" under this chapter.

29 (15)(a) "Final average salary" for plan 1 members, means (i) for a
30 member holding the same position or rank for a minimum of twelve months
31 preceding the date of retirement, the basic salary attached to such
32 same position or rank at time of retirement; (ii) for any other member,
33 including a civil service member who has not served a minimum of twelve
34 months in the same position or rank preceding the date of retirement,
35 the average of the greatest basic salaries payable to such member
36 during any consecutive twenty-four month period within such member's
37 last ten years of service for which service credit is allowed, computed
38 by dividing the total basic salaries payable to such member during the

1 selected twenty-four month period by twenty-four; (iii) in the case of
2 disability of any member, the basic salary payable to such member at
3 the time of disability retirement; (iv) in the case of a member who
4 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
5 such member at the time of vesting.

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

11 (c) In calculating final average salary under (a) or (b) of this
12 subsection, the department of retirement systems shall include:

13 (i) Any compensation forgone by a member employed by a state agency
14 or institution during the 2009-2011 fiscal biennium as a result of
15 reduced work hours, mandatory or voluntary leave without pay, temporary
16 reduction in pay implemented prior to December 11, 2010, or temporary
17 layoffs if the reduced compensation is an integral part of the
18 employer's expenditure reduction efforts, as certified by the employer;
19 and

20 (ii) Any compensation forgone by a member employed by the state or
21 a local government employer during the 2011-2013 and 2013-2015 fiscal
22 ~~((biennium))~~ biennia as a result of reduced work hours, mandatory leave
23 without pay, temporary layoffs, or reductions to current pay if the
24 reduced compensation is an integral part of the employer's expenditure
25 reduction efforts, as certified by the employer. Reductions to current
26 pay shall not include elimination of previously agreed upon future
27 salary increases. The department shall recalculate any retirement
28 benefits begun during the 2013-2015 fiscal biennium and prior to the
29 effective date of this section for any compensation foregone by a
30 member consistent with the requirements of this subsection.

31 (16) "Firefighter" means:

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

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

38 (c) Supervisory firefighter personnel;

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

4 (e) The executive secretary of a labor guild, association or
5 organization (which is an employer under subsection (14) of this
6 section), if such individual has five years previous membership in a
7 retirement system established in chapter 41.16 or 41.18 RCW. The
8 provisions of this subsection (16)(e) shall not apply to plan 2
9 members;

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

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

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

20 (17) "General authority law enforcement agency" means any agency,
21 department, or division of a municipal corporation, political
22 subdivision, or other unit of local government of this state, and any
23 agency, department, or division of state government, having as its
24 primary function the detection and apprehension of persons committing
25 infractions or violating the traffic or criminal laws in general, but
26 not including the Washington state patrol. Such an agency, department,
27 or division is distinguished from a limited authority law enforcement
28 agency having as one of its functions the apprehension or detection of
29 persons committing infractions or violating the traffic or criminal
30 laws relating to limited subject areas, including but not limited to,
31 the state departments of natural resources and social and health
32 services, the state gambling commission, the state lottery commission,
33 the state parks and recreation commission, the state utilities and
34 transportation commission, the state liquor control board, and the
35 state department of corrections. A general authority law enforcement
36 agency under this chapter does not include a government contractor.

37 (18) "Law enforcement officer" beginning January 1, 1994, means any

1 person who is commissioned and employed by an employer on a full time,
2 fully compensated basis to enforce the criminal laws of the state of
3 Washington generally, with the following qualifications:

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

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

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

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

25 (e) The term "law enforcement officer" also includes a person
26 employed on or after January 1, 1993, as a public safety officer or
27 director of public safety, so long as the job duties substantially
28 involve only either police or fire duties, or both, and no other duties
29 in a city or town with a population of less than ten thousand. The
30 provisions of this subsection (18)(e) shall not apply to any public
31 safety officer or director of public safety who is receiving a
32 retirement allowance under this chapter as of May 12, 1993.

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

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

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

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

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

9 (i) The fees of the following:

10 (A) A physician or surgeon licensed under the provisions of chapter
11 18.71 RCW;

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

14 (C) A chiropractor licensed under the provisions of chapter 18.25
15 RCW.

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

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

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

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

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

23 (D) Anesthesia and oxygen;

24 (E) Rental of iron lung and other durable medical and surgical
25 equipment;

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

27 (G) Professional ambulance service when used to transport the
28 member to or from a hospital when injured by an accident or stricken by
29 a disease;

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

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

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

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

37 (L) An optometrist licensed under the provisions of chapter 18.53
38 RCW.

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

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

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

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

17 (24) "Regular interest" means such rate as the director may
18 determine.

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

23 (26) "Retirement fund" means the "Washington law enforcement
24 officers' and firefighters' retirement system fund" as provided for
25 herein.

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

28 (28)(a) "Service" for plan 1 members, means all periods of
29 employment for an employer as a firefighter or law enforcement officer,
30 for which compensation is paid, together with periods of suspension not
31 exceeding thirty days in duration. For the purposes of this chapter
32 service shall also include service in the armed forces of the United
33 States as provided in RCW 41.26.190. Credit shall be allowed for all
34 service credit months of service rendered by a member from and after
35 the member's initial commencement of employment as a firefighter or law
36 enforcement officer, during which the member worked for seventy or more
37 hours, or was on disability leave or disability retirement. Only

1 service credit months of service shall be counted in the computation of
2 any retirement allowance or other benefit provided for in this chapter.

3 (i) For members retiring after May 21, 1971 who were employed under
4 the coverage of a prior pension act before March 1, 1970, "service"
5 shall also include (A) such military service not exceeding five years
6 as was creditable to the member as of March 1, 1970, under the member's
7 particular prior pension act, and (B) such other periods of service as
8 were then creditable to a particular member under the provisions of RCW
9 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit
10 be allowed for any service rendered prior to March 1, 1970, where the
11 member at the time of rendition of such service was employed in a
12 position covered by a prior pension act, unless such service, at the
13 time credit is claimed therefor, is also creditable under the
14 provisions of such prior act.

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

18 (b) "Service" for plan 2 members, means periods of employment by a
19 member for one or more employers for which basic salary is earned for
20 ninety or more hours per calendar month which shall constitute a
21 service credit month. Periods of employment by a member for one or
22 more employers for which basic salary is earned for at least seventy
23 hours but less than ninety hours per calendar month shall constitute
24 one-half service credit month. Periods of employment by a member for
25 one or more employers for which basic salary is earned for less than
26 seventy hours shall constitute a one-quarter service credit month.

27 Members of the retirement system who are elected or appointed to a
28 state elective position may elect to continue to be members of this
29 retirement system.

30 Service credit years of service shall be determined by dividing the
31 total number of service credit months of service by twelve. Any
32 fraction of a service credit year of service as so determined shall be
33 taken into account in the computation of such retirement allowance or
34 benefits.

35 If a member receives basic salary from two or more employers during
36 any calendar month, the individual shall receive one service credit
37 month's service credit during any calendar month in which multiple
38 service for ninety or more hours is rendered; or one-half service

1 credit month's service credit during any calendar month in which
2 multiple service for at least seventy hours but less than ninety hours
3 is rendered; or one-quarter service credit month during any calendar
4 month in which multiple service for less than seventy hours is
5 rendered.

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

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

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

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

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

18 **Sec. 2.** RCW 41.32.010 and 2012 c 236 s 3 are each amended to read
19 as follows:

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

22 (1)(a) "Accumulated contributions" for plan 1 members, means the
23 sum of all regular annuity contributions and, except for the purpose of
24 withdrawal at the time of retirement, any amount paid under RCW
25 41.50.165(2) with regular interest thereon.

26 (b) "Accumulated contributions" for plan 2 members, means the sum
27 of all contributions standing to the credit of a member in the member's
28 individual account, including any amount paid under RCW 41.50.165(2),
29 together with the regular interest thereon.

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

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

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

1 (5) "Annuity" means the moneys payable per year during life by
2 reason of accumulated contributions of a member.

3 (6) "Average final compensation" for plan 2 and plan 3 members,
4 means the member's average earnable compensation of the highest
5 consecutive sixty service credit months prior to such member's
6 retirement, termination, or death. Periods constituting authorized
7 leaves of absence may not be used in the calculation of average final
8 compensation except under RCW 41.32.810(2).

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

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

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

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

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

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

25 (12) "Director" means the director of the department.

26 (13) "Disability allowance" means monthly payments during
27 disability. This subsection shall apply only to plan 1 members.

28 (14)(a) "Earnable compensation" for plan 1 members, means:

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

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

1 (iii) "Earnable compensation" for plan 1 members also includes the
2 following actual or imputed payments, which are not paid for personal
3 services:

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

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

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

1 41.32.270 receive benefits proportional to those received by members
2 who have received full-time service credit.

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

4 (A) Remuneration for unused sick leave authorized under RCW
5 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

37 (c) In calculating earnable compensation under (a) or (b) of this
38 subsection, the department of retirement systems shall include:

1 (i) Any compensation forgone by a member employed by a state agency
2 or institution during the 2009-2011 fiscal biennium as a result of
3 reduced work hours, mandatory or voluntary leave without pay, temporary
4 reduction in pay implemented prior to December 11, 2010, or temporary
5 layoffs if the reduced compensation is an integral part of the
6 employer's expenditure reduction efforts, as certified by the employer;
7 and

8 (ii) Any compensation forgone by a member during the 2011-2013 and
9 2013-2015 fiscal (~~(biennium)~~) biennia as a result of reduced work
10 hours, mandatory leave without pay, temporary layoffs, or reductions to
11 current pay if the reduced compensation is an integral part of the
12 employer's expenditure reduction efforts, as certified by the employer.
13 Reductions to current pay shall not include elimination of previously
14 agreed upon future salary reductions. The department shall recalculate
15 any retirement benefits begun during the 2013-2015 fiscal biennium and
16 prior to the effective date of this section for any compensation
17 foregone by a member consistent with the requirements of this
18 subsection.

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

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

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

31 (d) The elected position of the superintendent of public
32 instruction is an eligible position.

33 (16) "Employed" or "employee" means a person who is providing
34 services for compensation to an employer, unless the person is free
35 from the employer's direction and control over the performance of work.
36 The department shall adopt rules and interpret this subsection
37 consistent with common law.

1 (17) "Employer" means the state of Washington, the school district,
2 or any agency of the state of Washington by which the member is paid.
3 Except as otherwise specifically provided in this chapter, "employer"
4 does not include a government contractor. For purposes of this
5 subsection, a "government contractor" is any entity, including a
6 partnership, limited liability company, for-profit or nonprofit
7 corporation, or person, that provides services pursuant to a contract
8 with an employer. The determination whether an employer-employee
9 relationship has been established is not based on the relationship
10 between a government contractor and an employer, but is based solely on
11 the relationship between a government contractor's employee and an
12 employer under this chapter.

13 (18) "Fiscal year" means a year which begins July 1st and ends June
14 30th of the following year.

15 (19) "Former state fund" means the state retirement fund in
16 operation for teachers under chapter 187, Laws of 1923, as amended.

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

21 (21) "Index A" means the index for the year prior to the
22 determination of a postretirement adjustment.

23 (22) "Index B" means the index for the year prior to index A.

24 (23) "Index year" means the earliest calendar year in which the
25 index is more than sixty percent of index A.

26 (24) "Local fund" means any of the local retirement funds for
27 teachers operated in any school district in accordance with the
28 provisions of chapter 163, Laws of 1917 as amended.

29 (25) "Member" means any teacher included in the membership of the
30 retirement system who has not been removed from membership under RCW
31 41.32.878 or 41.32.768. Also, any other employee of the public schools
32 who, on July 1, 1947, had not elected to be exempt from membership and
33 who, prior to that date, had by an authorized payroll deduction,
34 contributed to the member reserve.

35 (26) "Member account" or "member's account" for purposes of plan 3
36 means the sum of the contributions and earnings on behalf of the member
37 in the defined contribution portion of plan 3.

- 1 (27) "Member reserve" means the fund in which all of the
2 accumulated contributions of members are held.
- 3 (28) "Membership service" means service rendered subsequent to the
4 first day of eligibility of a person to membership in the retirement
5 system: PROVIDED, That where a member is employed by two or more
6 employers the individual shall receive no more than one service credit
7 month during any calendar month in which multiple service is rendered.
8 The provisions of this subsection shall apply only to plan 1 members.
- 9 (29) "Pension" means the moneys payable per year during life from
10 the pension reserve.
- 11 (30) "Pension reserve" is a fund in which shall be accumulated an
12 actuarial reserve adequate to meet present and future pension
13 liabilities of the system and from which all pension obligations are to
14 be paid.
- 15 (31) "Plan 1" means the teachers' retirement system, plan 1
16 providing the benefits and funding provisions covering persons who
17 first became members of the system prior to October 1, 1977.
- 18 (32) "Plan 2" means the teachers' retirement system, plan 2
19 providing the benefits and funding provisions covering persons who
20 first became members of the system on and after October 1, 1977, and
21 prior to July 1, 1996.
- 22 (33) "Plan 3" means the teachers' retirement system, plan 3
23 providing the benefits and funding provisions covering persons who
24 first become members of the system on and after July 1, 1996, or who
25 transfer under RCW 41.32.817.
- 26 (34) "Prior service" means service rendered prior to the first date
27 of eligibility to membership in the retirement system for which credit
28 is allowable. The provisions of this subsection shall apply only to
29 plan 1 members.
- 30 (35) "Prior service contributions" means contributions made by a
31 member to secure credit for prior service. The provisions of this
32 subsection shall apply only to plan 1 members.
- 33 (36) "Public school" means any institution or activity operated by
34 the state of Washington or any instrumentality or political subdivision
35 thereof employing teachers, except the University of Washington and
36 Washington State University.
- 37 (37) "Regular contributions" means the amounts required to be

1 deducted from the compensation of a member and credited to the member's
2 individual account in the member reserve. This subsection shall apply
3 only to plan 1 members.

4 (38) "Regular interest" means such rate as the director may
5 determine.

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

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

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

15 (41) "Retirement system" means the Washington state teachers'
16 retirement system.

17 (42) "Separation from service or employment" occurs when a person
18 has terminated all employment with an employer. Separation from
19 service or employment does not occur, and if claimed by an employer or
20 employee may be a violation of RCW 41.32.055, when an employee and
21 employer have a written or oral agreement to resume employment with the
22 same employer following termination. Mere expressions or inquiries
23 about postretirement employment by an employer or employee that do not
24 constitute a commitment to reemploy the employee after retirement are
25 not an agreement under this section.

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

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

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

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

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

4 (i) A member employed in an eligible position or as a substitute
5 shall receive one service credit month for each month of September
6 through August of the following year if he or she earns earnable
7 compensation for eight hundred ten or more hours during that period and
8 is employed during nine of those months, except that a member may not
9 receive credit for any period prior to the member's employment in an
10 eligible position except as provided in RCW 41.32.812 and 41.50.132.

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

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

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

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

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

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

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

1 (iii) Any person who is a member of the teachers' retirement system
2 and who is elected or appointed to a state elective position may
3 continue to be a member of the retirement system and continue to
4 receive a service credit month for each of the months in a state
5 elective position by making the required member contributions.

6 (iv) When an individual is employed by two or more employers the
7 individual shall only receive one month's service credit during any
8 calendar month in which multiple service for ninety or more hours is
9 rendered.

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

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

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

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

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

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

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

28 (vii) The department shall adopt rules implementing this
29 subsection.

30 (44) "Service credit month" means a full service credit month or an
31 accumulation of partial service credit months that are equal to one.

32 (45) "Service credit year" means an accumulation of months of
33 service credit which is equal to one when divided by twelve.

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

36 (47) "State elective position" means any position held by any
37 person elected or appointed to statewide office or elected or appointed
38 as a member of the legislature.

1 (48) "Substitute teacher" means:

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

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

8 (49) "Teacher" means any person qualified to teach who is engaged
9 by a public school in an instructional, administrative, or supervisory
10 capacity. The term includes state, educational service district, and
11 school district superintendents and their assistants and all employees
12 certificated by the superintendent of public instruction; and in
13 addition thereto any full time school doctor who is employed by a
14 public school and renders service of an instructional or educational
15 nature.

16 **Sec. 3.** RCW 41.35.010 and 2012 c 236 s 4 are each amended to read
17 as follows:

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

20 (1) "Accumulated contributions" means the sum of all contributions
21 standing to the credit of a member in the member's individual account,
22 including any amount paid under RCW 41.50.165(2), together with the
23 regular interest thereon.

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

27 (3) "Adjustment ratio" means the value of index A divided by index
28 B.

29 (4) "Annuity" means payments for life derived from accumulated
30 contributions of a member. All annuities shall be paid in monthly
31 installments.

32 (5)(a) "Average final compensation" for plan 2 and plan 3 members
33 means the member's average compensation earnable of the highest
34 consecutive sixty months of service credit months prior to such
35 member's retirement, termination, or death. Periods constituting
36 authorized leaves of absence may not be used in the calculation of
37 average final compensation except under RCW 41.40.710(2).

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 during the 2011-2013 and 2013-2015
4 fiscal (~~biennium~~) biennia as a result of reduced work hours,
5 mandatory leave without pay, temporary layoffs, or reductions to
6 current pay if the reduced compensation is an integral part of the
7 employer's expenditure reduction efforts, as certified by the employer.
8 Reductions to current pay shall not include elimination of previously
9 agreed upon future salary reductions. The department shall recalculate
10 any retirement benefits begun during the 2013-2015 fiscal biennium and
11 prior to the effective date of this section for any compensation
12 foregone by a member consistent with the requirements of this
13 subsection.

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

18 (7) "Classified employee" means an employee of a school district or
19 an educational service district who is not eligible for membership in
20 the teachers' retirement system established under chapter 41.32 RCW.

21 (8)(a) "Compensation earnable" for plan 2 and plan 3 members, means
22 salaries or wages earned by a member during a payroll period for
23 personal services, including overtime payments, and shall include wages
24 and salaries deferred under provisions established pursuant to sections
25 403(b), 414(h), and 457 of the United States internal revenue code, but
26 shall exclude nonmoney maintenance compensation and lump sum or other
27 payments for deferred annual sick leave, unused accumulated vacation,
28 unused accumulated annual leave, or any form of severance pay.

29 (b) "Compensation earnable" for plan 2 and plan 3 members also
30 includes the following actual or imputed payments, which are not paid
31 for personal services:

32 (i) Retroactive payments to an individual by an employer on
33 reinstatement of the employee in a position, or payments by an employer
34 to an individual in lieu of reinstatement, which are awarded or granted
35 as the equivalent of the salary or wage which the individual would have
36 earned during a payroll period shall be considered compensation
37 earnable to the extent provided in this subsection, and the individual
38 shall receive the equivalent service credit;

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

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

6 (B) Such member's actual compensation earnable received for
7 nonlegislative public employment and legislative service combined. Any
8 additional contributions to the retirement system required because
9 compensation earnable under (b)(ii)(A) of this subsection is greater
10 than compensation earnable under this (b)(ii)(B) of this subsection
11 shall be paid by the member for both member and employer contributions;

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

14 (iv) Compensation that a member would have received but for a
15 disability occurring in the line of duty only as authorized by RCW
16 41.40.038;

17 (v) Compensation that a member receives due to participation in the
18 leave sharing program only as authorized by RCW 41.04.650 through
19 41.04.670; and

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

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

27 (10) "Director" means the director of the department.

28 (11) "Eligible position" means any position that, as defined by the
29 employer, normally requires five or more months of service a year for
30 which regular compensation for at least seventy hours is earned by the
31 occupant thereof. For purposes of this chapter an employer shall not
32 define "position" in such a manner that an employee's monthly work for
33 that employer is divided into more than one position.

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

1 (13) "Employer," for plan 2 and plan 3 members, means a school
2 district or an educational service district. Except as otherwise
3 specifically provided in this chapter, "employer" does not include a
4 government contractor. For purposes of this subsection, a "government
5 contractor" is any entity, including a partnership, limited liability
6 company, for-profit or nonprofit corporation, or person, that provides
7 services pursuant to a contract with an employer. The determination
8 whether an employer-employee relationship has been established is not
9 based on the relationship between a government contractor and an
10 employer, but is based solely on the relationship between a government
11 contractor's employee and an employer under this chapter.

12 (14) "Final compensation" means the annual rate of compensation
13 earnable by a member at the time of termination of employment.

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

18 (16) "Index A" means the index for the year prior to the
19 determination of a postretirement adjustment.

20 (17) "Index B" means the index for the year prior to index A.

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

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

27 (20) "Member" means any employee included in the membership of the
28 retirement system, as provided for in RCW 41.35.030.

29 (21) "Member account" or "member's account" for purposes of plan 3
30 means the sum of the contributions and earnings on behalf of the member
31 in the defined contribution portion of plan 3.

32 (22) "Membership service" means all service rendered as a member.

33 (23) "Pension" means payments for life derived from contributions
34 made by the employer. All pensions shall be paid in monthly
35 installments.

36 (24) "Plan 2" means the Washington school employees' retirement
37 system plan 2 providing the benefits and funding provisions covering

1 persons who first became members of the public employees' retirement
2 system on and after October 1, 1977, and transferred to the Washington
3 school employees' retirement system under RCW 41.40.750.

4 (25) "Plan 3" means the Washington school employees' retirement
5 system plan 3 providing the benefits and funding provisions covering
6 persons who first became members of the system on and after September
7 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

8 (26) "Regular interest" means such rate as the director may
9 determine.

10 (27) "Retiree" means any person who has begun accruing a retirement
11 allowance or other benefit provided by this chapter resulting from
12 service rendered to an employer while a member.

13 (28) "Retirement" means withdrawal from active service with a
14 retirement allowance as provided by this chapter.

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

18 (30) "Retirement system" means the Washington school employees'
19 retirement system provided for in this chapter.

20 (31) "Separation from service" occurs when a person has terminated
21 all employment with an employer.

22 (32) "Service" for plan 2 and plan 3 members means periods of
23 employment by a member in an eligible position or positions for one or
24 more employers for which compensation earnable is paid. Compensation
25 earnable earned for ninety or more hours in any calendar month shall
26 constitute one service credit month except as provided in RCW
27 41.35.180. Compensation earnable earned for at least seventy hours but
28 less than ninety hours in any calendar month shall constitute one-half
29 service credit month of service. Compensation earnable earned for less
30 than seventy hours in any calendar month shall constitute one-quarter
31 service credit month of service. Time spent in standby status, whether
32 compensated or not, is not service.

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

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

37 (b) A member shall receive a total of not more than twelve service
38 credit months of service for such calendar year. If an individual is

1 employed in an eligible position by one or more employers the
2 individual shall receive no more than one service credit month during
3 any calendar month in which multiple service for ninety or more hours
4 is rendered.

5 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
6 28A.400.300 is equal to two service credit months. Use of less than
7 forty-five days of sick leave is creditable as allowed under this
8 subsection as follows:

9 (i) Less than eleven days equals one-quarter service credit month;

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

12 (iii) Twenty-two days equals one service credit month;

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

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

17 (33) "Service credit month" means a month or an accumulation of
18 months of service credit which is equal to one.

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

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

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

26 (37) "State treasurer" means the treasurer of the state of
27 Washington.

28 (38) "Substitute employee" means a classified employee who is
29 employed by an employer exclusively as a substitute for an absent
30 employee.

31 **Sec. 4.** RCW 41.37.010 and 2012 c 236 s 5 are each amended to read
32 as follows:

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

35 (1) "Accumulated contributions" means the sum of all contributions
36 standing to the credit of a member in the member's individual account,

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

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

6 (3) "Adjustment ratio" means the value of index A divided by index
7 B.

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

11 (5)(a) "Average final compensation" means the member's average
12 compensation earnable of the highest consecutive sixty months of
13 service credit months prior to such member's retirement, termination,
14 or death. Periods constituting authorized leaves of absence may not be
15 used in the calculation of average final compensation except under RCW
16 41.37.290.

17 (b) In calculating average final compensation under (a) of this
18 subsection, the department of retirement systems shall include:

19 (i) Any compensation forgone by a member employed by a state agency
20 or institution during the 2009-2011 fiscal biennium as a result of
21 reduced work hours, mandatory or voluntary leave without pay, temporary
22 reduction in pay implemented prior to December 11, 2010, or temporary
23 layoffs if the reduced compensation is an integral part of the
24 employer's expenditure reduction efforts, as certified by the employer;
25 and

26 (ii) Any compensation forgone by a member employed by the state or
27 a local government employer during the 2011-2013 and 2013-2015 fiscal
28 ~~((biennium))~~ biennia as a result of reduced work hours, mandatory leave
29 without pay, temporary layoffs, or reductions to current pay if the
30 reduced compensation is an integral part of the employer's expenditure
31 reduction efforts, as certified by the employer. Reductions to current
32 pay shall not include elimination of previously agreed upon future
33 salary increases. The department shall recalculate any retirement
34 benefits begun during the 2013-2015 fiscal biennium and prior to the
35 effective date of this section for any compensation foregone by a
36 member consistent with the requirements of this subsection.

37 (6) "Beneficiary" means any person in receipt of a retirement

1 allowance or other benefit provided by this chapter resulting from
2 service rendered to an employer by another person.

3 (7)(a) "Compensation earnable" for members, means salaries or wages
4 earned by a member during a payroll period for personal services,
5 including overtime payments, and shall include wages and salaries
6 deferred under provisions established pursuant to sections 403(b),
7 414(h), and 457 of the United States internal revenue code, but shall
8 exclude nonmoney maintenance compensation and lump sum or other
9 payments for deferred annual sick leave, unused accumulated vacation,
10 unused accumulated annual leave, or any form of severance pay.

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

13 (i) Retroactive payments to an individual by an employer on
14 reinstatement of the employee in a position, or payments by an employer
15 to an individual in lieu of reinstatement, which are awarded or granted
16 as the equivalent of the salary or wage which the individual would have
17 earned during a payroll period shall be considered compensation
18 earnable to the extent provided in this subsection, and the individual
19 shall receive the equivalent service credit;

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

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

25 (B) Such member's actual compensation earnable received for
26 nonlegislative public employment and legislative service combined. Any
27 additional contributions to the retirement system required because
28 compensation earnable under (b)(ii)(A) of this subsection is greater
29 than compensation earnable under (b)(ii)(B) of this subsection shall be
30 paid by the member for both member and employer contributions;

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

33 (iv) Compensation that a member would have received but for a
34 disability occurring in the line of duty only as authorized by RCW
35 41.37.060;

36 (v) Compensation that a member receives due to participation in the
37 leave sharing program only as authorized by RCW 41.04.650 through
38 41.04.670; and

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

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

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

9 (10) "Eligible position" means any permanent, full-time position
10 included in subsection (19) of this section.

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

16 (12) "Employer" means the Washington state department of
17 corrections, the Washington state parks and recreation commission, the
18 Washington state gambling commission, the Washington state patrol, the
19 Washington state department of natural resources, and the Washington
20 state liquor control board; any county corrections department; any city
21 corrections department not covered under chapter 41.28 RCW; and any
22 public corrections entity created under RCW 39.34.030 by counties,
23 cities not covered under chapter 41.28 RCW, or both. Except as
24 otherwise specifically provided in this chapter, "employer" does not
25 include a government contractor. For purposes of this subsection, a
26 "government contractor" is any entity, including a partnership, limited
27 liability company, for-profit or nonprofit corporation, or person, that
28 provides services pursuant to a contract with an employer. The
29 determination whether an employer-employee relationship has been
30 established is not based on the relationship between a government
31 contractor and an employer, but is based solely on the relationship
32 between a government contractor's employee and an employer under this
33 chapter.

34 (13) "Final compensation" means the annual rate of compensation
35 earnable by a member at the time of termination of employment.

36 (14) "Index" means, for any calendar year, that year's annual
37 average consumer price index, Seattle, Washington area, for urban wage

1 earners and clerical workers, all items, compiled by the bureau of
2 labor statistics, United States department of labor.

3 (15) "Index A" means the index for the year prior to the
4 determination of a postretirement adjustment.

5 (16) "Index B" means the index for the year prior to index A.

6 (17) "Ineligible position" means any position which does not
7 conform with the requirements set forth in subsection (10) of this
8 section.

9 (18) "Leave of absence" means the period of time a member is
10 authorized by the employer to be absent from service without being
11 separated from membership.

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

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

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

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

23 (d) Whose primary responsibility is to supervise members eligible
24 under this subsection.

25 (20) "Membership service" means all service rendered as a member.

26 (21) "Pension" means payments for life derived from contributions
27 made by the employer. All pensions shall be paid in monthly
28 installments.

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

31 (23) "Regular interest" means such rate as the director may
32 determine.

33 (24) "Retiree" means any person who has begun accruing a retirement
34 allowance or other benefit provided by this chapter resulting from
35 service rendered to an employer while a member.

36 (25) "Retirement" means withdrawal from active service with a
37 retirement allowance as provided by this chapter.

1 (26) "Retirement allowance" means monthly payments to a retiree or
2 beneficiary as provided in this chapter.

3 (27) "Retirement system" means the Washington public safety
4 employees' retirement system provided for in this chapter.

5 (28) "Separation from service" occurs when a person has terminated
6 all employment with an employer.

7 (29) "Service" means periods of employment by a member on or after
8 July 1, 2006, for one or more employers for which compensation earnable
9 is paid. Compensation earnable earned for ninety or more hours in any
10 calendar month shall constitute one service credit month. Compensation
11 earnable earned for at least seventy hours but less than ninety hours
12 in any calendar month shall constitute one-half service credit month of
13 service. Compensation earnable earned for less than seventy hours in
14 any calendar month shall constitute one-quarter service credit month of
15 service. Time spent in standby status, whether compensated or not, is
16 not service.

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

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

21 (b) A member shall receive a total of not more than twelve service
22 credit months of service for such calendar year. If an individual is
23 employed in an eligible position by one or more employers the
24 individual shall receive no more than one service credit month during
25 any calendar month in which multiple service for ninety or more hours
26 is rendered.

27 (30) "Service credit month" means a month or an accumulation of
28 months of service credit which is equal to one.

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

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

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

36 (34) "State treasurer" means the treasurer of the state of
37 Washington.

1 **Sec. 5.** RCW 41.40.010 and 2012 c 236 s 6 are each amended to read
2 as follows:

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

5 (1) "Accumulated contributions" means the sum of all contributions
6 standing to the credit of a member in the member's individual account,
7 including any amount paid under RCW 41.50.165(2), together with the
8 regular interest thereon.

9 (2) "Actuarial equivalent" means a benefit of equal value when
10 computed upon the basis of such mortality and other tables as may be
11 adopted by the director.

12 (3) "Adjustment ratio" means the value of index A divided by index
13 B.

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

17 (5) "Annuity" means payments for life derived from accumulated
18 contributions of a member. All annuities shall be paid in monthly
19 installments.

20 (6)(a) "Average final compensation" for plan 1 members, means the
21 annual average of the greatest compensation earnable by a member during
22 any consecutive two year period of service credit months for which
23 service credit is allowed; or if the member has less than two years of
24 service credit months then the annual average compensation earnable
25 during the total years of service for which service credit is allowed.

26 (b) "Average final compensation" for plan 2 and plan 3 members,
27 means the member's average compensation earnable of the highest
28 consecutive sixty months of service credit months prior to such
29 member's retirement, termination, or death. Periods constituting
30 authorized leaves of absence may not be used in the calculation of
31 average final compensation except under RCW 41.40.710(2) or (c) of this
32 subsection.

33 (c) In calculating average final compensation under this subsection
34 for a member of plan 1, 2, or 3, the department of retirement systems
35 shall include:

36 (i) Any compensation forgone by the member during the 2009-2011
37 fiscal biennium as a result of reduced work hours, voluntary leave
38 without pay, temporary reduction in pay implemented prior to December

1 11, 2010, or temporary furloughs if the reduced compensation is an
2 integral part of the employer's expenditure reduction efforts, as
3 certified by the employer; and

4 (ii) Any compensation forgone by a member employed by the state or
5 a local government during the 2011-2013 and 2013-2015 fiscal
6 ~~((biennium))~~ biennia as a result of reduced work hours, mandatory leave
7 without pay, temporary layoffs, or reductions to current pay if the
8 reduced compensation is an integral part of the employer's expenditure
9 reduction efforts, as certified by the employer. Reductions to current
10 pay shall not include elimination of previously agreed upon future
11 salary increases. The department shall recalculate any retirement
12 benefits begun during the 2013-2015 fiscal biennium and prior to the
13 effective date of this section for any compensation foregone by a
14 member consistent with the requirements of this subsection.

15 (7)(a) "Beneficiary" for plan 1 members, means any person in
16 receipt of a retirement allowance, pension or other benefit provided by
17 this chapter.

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

22 (8)(a) "Compensation earnable" for plan 1 members, means salaries
23 or wages earned during a payroll period for personal services and where
24 the compensation is not all paid in money, maintenance compensation
25 shall be included upon the basis of the schedules established by the
26 member's employer.

27 (i) "Compensation earnable" for plan 1 members also includes the
28 following actual or imputed payments, which are not paid for personal
29 services:

30 (A) Retroactive payments to an individual by an employer on
31 reinstatement of the employee in a position, or payments by an employer
32 to an individual in lieu of reinstatement in a position which are
33 awarded or granted as the equivalent of the salary or wage which the
34 individual would have earned during a payroll period shall be
35 considered compensation earnable and the individual shall receive the
36 equivalent service credit;

37 (B) If a leave of absence is taken by an individual for the purpose
38 of serving in the state legislature, the salary which would have been

1 received for the position from which the leave of absence was taken,
2 shall be considered as compensation earnable if the employee's
3 contribution is paid by the employee and the employer's contribution is
4 paid by the employer or employee;

5 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
6 72.09.240;

7 (D) Compensation that a member would have received but for a
8 disability occurring in the line of duty only as authorized by RCW
9 41.40.038;

10 (E) Compensation that a member receives due to participation in the
11 leave sharing program only as authorized by RCW 41.04.650 through
12 41.04.670; and

13 (F) Compensation that a member receives for being in standby
14 status. For the purposes of this section, a member is in standby
15 status when not being paid for time actually worked and the employer
16 requires the member to be prepared to report immediately for work, if
17 the need arises, although the need may not arise.

18 (ii) "Compensation earnable" does not include:

19 (A) Remuneration for unused sick leave authorized under RCW
20 41.04.340, 28A.400.210, or 28A.310.490;

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

23 (b) "Compensation earnable" for plan 2 and plan 3 members, means
24 salaries or wages earned by a member during a payroll period for
25 personal services, including overtime payments, and shall include wages
26 and salaries deferred under provisions established pursuant to sections
27 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
28 shall exclude nonmoney maintenance compensation and lump sum or other
29 payments for deferred annual sick leave, unused accumulated vacation,
30 unused accumulated annual leave, or any form of severance pay.

31 "Compensation earnable" for plan 2 and plan 3 members also includes
32 the following actual or imputed payments, which are not paid for
33 personal services:

34 (i) Retroactive payments to an individual by an employer on
35 reinstatement of the employee in a position, or payments by an employer
36 to an individual in lieu of reinstatement in a position which are
37 awarded or granted as the equivalent of the salary or wage which the

1 individual would have earned during a payroll period shall be
2 considered compensation earnable to the extent provided above, and the
3 individual shall receive the equivalent service credit;

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

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

9 (B) Such member's actual compensation earnable received for
10 nonlegislative public employment and legislative service combined. Any
11 additional contributions to the retirement system required because
12 compensation earnable under (b)(ii)(A) of this subsection is greater
13 than compensation earnable under (b)(ii)(B) of this subsection shall be
14 paid by the member for both member and employer contributions;

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

17 (iv) Compensation that a member would have received but for a
18 disability occurring in the line of duty only as authorized by RCW
19 41.40.038;

20 (v) Compensation that a member receives due to participation in the
21 leave sharing program only as authorized by RCW 41.04.650 through
22 41.04.670; and

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

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

30 (10) "Director" means the director of the department.

31 (11) "Eligible position" means:

32 (a) Any position that, as defined by the employer, normally
33 requires five or more months of service a year for which regular
34 compensation for at least seventy hours is earned by the occupant
35 thereof. For purposes of this chapter an employer shall not define
36 "position" in such a manner that an employee's monthly work for that
37 employer is divided into more than one position;

1 (b) Any position occupied by an elected official or person
2 appointed directly by the governor, or appointed by the chief justice
3 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
4 compensation is paid.

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

10 (13)(a) "Employer" for plan 1 members, means every branch,
11 department, agency, commission, board, and office of the state, any
12 political subdivision or association of political subdivisions of the
13 state admitted into the retirement system, and legal entities
14 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
15 term shall also include any labor guild, association, or organization
16 the membership of a local lodge or division of which is comprised of at
17 least forty percent employees of an employer (other than such labor
18 guild, association, or organization) within this chapter. The term may
19 also include any city of the first class that has its own retirement
20 system.

21 (b) "Employer" for plan 2 and plan 3 members, means every branch,
22 department, agency, commission, board, and office of the state, and any
23 political subdivision and municipal corporation of the state admitted
24 into the retirement system, including public agencies created pursuant
25 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
26 31, 2000, school districts and educational service districts will no
27 longer be employers for the public employees' retirement system plan 2.

28 (c) Except as otherwise specifically provided in this chapter,
29 "employer" does not include a government contractor. For purposes of
30 this subsection, a "government contractor" is any entity, including a
31 partnership, limited liability company, for-profit or nonprofit
32 corporation, or person, that provides services pursuant to a contract
33 with an "employer." The determination whether an employer-employee
34 relationship has been established is not based on the relationship
35 between a government contractor and an "employer," but is based solely
36 on the relationship between a government contractor's employee and an
37 "employer" under this chapter.

1 (14) "Final compensation" means the annual rate of compensation
2 earnable by a member at the time of termination of employment.

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

7 (16) "Index A" means the index for the year prior to the
8 determination of a postretirement adjustment.

9 (17) "Index B" means the index for the year prior to index A.

10 (18) "Index year" means the earliest calendar year in which the
11 index is more than sixty percent of index A.

12 (19) "Ineligible position" means any position which does not
13 conform with the requirements set forth in subsection (11) of this
14 section.

15 (20) "Leave of absence" means the period of time a member is
16 authorized by the employer to be absent from service without being
17 separated from membership.

18 (21) "Member" means any employee included in the membership of the
19 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
20 does not prohibit a person otherwise eligible for membership in the
21 retirement system from establishing such membership effective when he
22 or she first entered an eligible position.

23 (22) "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 (23) "Membership service" means:

27 (a) All service rendered, as a member, after October 1, 1947;

28 (b) All service after October 1, 1947, to any employer prior to the
29 time of its admission into the retirement system for which member and
30 employer contributions, plus interest as required by RCW 41.50.125,
31 have been paid under RCW 41.40.056 or 41.40.057;

32 (c) Service not to exceed six consecutive months of probationary
33 service rendered after April 1, 1949, and prior to becoming a member,
34 in the case of any member, upon payment in full by such member of the
35 total amount of the employer's contribution to the retirement fund
36 which would have been required under the law in effect when such
37 probationary service was rendered if the member had been a member

1 during such period, except that the amount of the employer's
2 contribution shall be calculated by the director based on the first
3 month's compensation earnable as a member;

4 (d) Service not to exceed six consecutive months of probationary
5 service, rendered after October 1, 1947, and before April 1, 1949, and
6 prior to becoming a member, in the case of any member, upon payment in
7 full by such member of five percent of such member's salary during said
8 period of probationary service, except that the amount of the
9 employer's contribution shall be calculated by the director based on
10 the first month's compensation earnable as a member.

11 (24) "New member" means a person who becomes a member on or after
12 April 1, 1949, except as otherwise provided in this section.

13 (25) "Original member" of this retirement system means:

14 (a) Any person who became a member of the system prior to April 1,
15 1949;

16 (b) Any person who becomes a member through the admission of an
17 employer into the retirement system on and after April 1, 1949, and
18 prior to April 1, 1951;

19 (c) Any person who first becomes a member by securing employment
20 with an employer prior to April 1, 1951, provided the member has
21 rendered at least one or more years of service to any employer prior to
22 October 1, 1947;

23 (d) Any person who first becomes a member through the admission of
24 an employer into the retirement system on or after April 1, 1951,
25 provided, such person has been in the regular employ of the employer
26 for at least six months of the twelve-month period preceding the said
27 admission date;

28 (e) Any member who has restored all contributions that may have
29 been withdrawn as provided by RCW 41.40.150 and who on the effective
30 date of the individual's retirement becomes entitled to be credited
31 with ten years or more of membership service except that the provisions
32 relating to the minimum amount of retirement allowance for the member
33 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
34 apply to the member;

35 (f) Any member who has been a contributor under the system for two
36 or more years and who has restored all contributions that may have been
37 withdrawn as provided by RCW 41.40.150 and who on the effective date of
38 the individual's retirement has rendered five or more years of service

1 for the state or any political subdivision prior to the time of the
2 admission of the employer into the system; except that the provisions
3 relating to the minimum amount of retirement allowance for the member
4 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
5 apply to the member.

6 (26) "Pension" means payments for life derived from contributions
7 made by the employer. All pensions shall be paid in monthly
8 installments.

9 (27) "Plan 1" means the public employees' retirement system, plan
10 1 providing the benefits and funding provisions covering persons who
11 first became members of the system prior to October 1, 1977.

12 (28) "Plan 2" means the public employees' retirement system, plan
13 2 providing the benefits and funding provisions covering persons who
14 first became members of the system on and after October 1, 1977, and
15 are not included in plan 3.

16 (29) "Plan 3" means the public employees' retirement system, plan
17 3 providing the benefits and funding provisions covering persons who:

18 (a) First become a member on or after:

19 (i) March 1, 2002, and are employed by a state agency or institute
20 of higher education and who did not choose to enter plan 2; or

21 (ii) September 1, 2002, and are employed by other than a state
22 agency or institute of higher education and who did not choose to enter
23 plan 2; or

24 (b) Transferred to plan 3 under RCW 41.40.795.

25 (30) "Prior service" means all service of an original member
26 rendered to any employer prior to October 1, 1947.

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

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

32 (33) "Retirement" means withdrawal from active service with a
33 retirement allowance as provided by this chapter.

34 (34) "Retirement allowance" means the sum of the annuity and the
35 pension.

36 (35) "Retirement system" means the public employees' retirement
37 system provided for in this chapter.

1 (36) "Separation from service" occurs when a person has terminated
2 all employment with an employer. Separation from service or employment
3 does not occur, and if claimed by an employer or employee may be a
4 violation of RCW 41.40.055, when an employee and employer have a
5 written or oral agreement to resume employment with the same employer
6 following termination. Mere expressions or inquiries about
7 postretirement employment by an employer or employee that do not
8 constitute a commitment to reemploy the employee after retirement are
9 not an agreement under this subsection.

10 (37)(a) "Service" for plan 1 members, except as provided in RCW
11 41.40.088, means periods of employment in an eligible position or
12 positions for one or more employers rendered to any employer for which
13 compensation is paid, and includes time spent in office as an elected
14 or appointed official of an employer. Compensation earnable earned in
15 full time work for seventy hours or more in any given calendar month
16 shall constitute one service credit month except as provided in RCW
17 41.40.088. Compensation earnable earned for less than seventy hours in
18 any calendar month shall constitute one-quarter service credit month of
19 service except as provided in RCW 41.40.088. Only service credit
20 months and one-quarter service credit months shall be counted in the
21 computation of any retirement allowance or other benefit provided for
22 in this chapter. Any fraction of a year of service shall be taken into
23 account in the computation of such retirement allowance or benefits.
24 Time spent in standby status, whether compensated or not, is not
25 service.

26 (i) Service by a state employee officially assigned by the state on
27 a temporary basis to assist another public agency, shall be considered
28 as service as a state employee: PROVIDED, That service to any other
29 public agency shall not be considered service as a state employee if
30 such service has been used to establish benefits in any other public
31 retirement system.

32 (ii) An individual shall receive no more than a total of twelve
33 service credit months of service during any calendar year. If an
34 individual is employed in an eligible position by one or more employers
35 the individual shall receive no more than one service credit month
36 during any calendar month in which multiple service for seventy or more
37 hours is rendered.

1 (iii) A school district employee may count up to forty-five days of
2 sick leave as creditable service solely for the purpose of determining
3 eligibility to retire under RCW 41.40.180 as authorized by RCW
4 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
5 28A.400.300 is equal to two service credit months. Use of less than
6 forty-five days of sick leave is creditable as allowed under this
7 subsection as follows:

8 (A) Less than twenty-two days equals one-quarter service credit
9 month;

10 (B) Twenty-two days equals one service credit month;

11 (C) More than twenty-two days but less than forty-five days equals
12 one and one-quarter service credit month.

13 (b) "Service" for plan 2 and plan 3 members, means periods of
14 employment by a member in an eligible position or positions for one or
15 more employers for which compensation earnable is paid. Compensation
16 earnable earned for ninety or more hours in any calendar month shall
17 constitute one service credit month except as provided in RCW
18 41.40.088. Compensation earnable earned for at least seventy hours but
19 less than ninety hours in any calendar month shall constitute one-half
20 service credit month of service. Compensation earnable earned for less
21 than seventy hours in any calendar month shall constitute one-quarter
22 service credit month of service. Time spent in standby status, whether
23 compensated or not, is not service.

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

26 (i) Service in any state elective position shall be deemed to be
27 full time service, except that persons serving in state elective
28 positions who are members of the Washington school employees'
29 retirement system, teachers' retirement system, public safety
30 employees' retirement system, or law enforcement officers' and
31 firefighters' retirement system at the time of election or appointment
32 to such position may elect to continue membership in the Washington
33 school employees' retirement system, teachers' retirement system,
34 public safety employees' retirement system, or law enforcement
35 officers' and firefighters' retirement system.

36 (ii) A member shall receive a total of not more than twelve service
37 credit months of service for such calendar year. If an individual is
38 employed in an eligible position by one or more employers the

1 individual shall receive no more than one service credit month during
2 any calendar month in which multiple service for ninety or more hours
3 is rendered.

4 (iii) Up to forty-five days of sick leave may be creditable as
5 service solely for the purpose of determining eligibility to retire
6 under RCW 41.40.180 as authorized by RCW 28A.400.300. 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 (38) "Service credit month" means a month or an accumulation of
19 months of service credit which is equal to one.

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

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

24 (41) "State elective position" means any position held by any
25 person elected or appointed to statewide office or elected or appointed
26 as a member of the legislature.

27 (42) "State treasurer" means the treasurer of the state of
28 Washington.

29 (43) "Totally incapacitated for duty" means total inability to
30 perform the duties of a member's employment or office or any other work
31 for which the member is qualified by training or experience.

32 **Sec. 6.** RCW 43.43.120 and 2011 1st sp.s. c 5 s 6 are each amended
33 to read as follows:

34 As used in this section and RCW 43.43.130 through 43.43.320, unless
35 a different meaning is plainly required by the context:

- 36 (1) "Actuarial equivalent" shall mean a benefit of equal value when

1 computed upon the basis of such mortality table as may be adopted and
2 such interest rate as may be determined by the director.

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

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

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

19 (c) In calculating average final salary under (a) or (b) of this
20 subsection, the department of retirement systems shall include:

21 (i) Any compensation forgone by the member during the 2009-2011
22 fiscal biennium as a result of reduced work hours, mandatory or
23 voluntary leave without pay, temporary reduction in pay implemented
24 prior to December 11, 2010, or temporary layoffs if the reduced
25 compensation is an integral part of the employer's expenditure
26 reduction efforts, as certified by the chief; and

27 (ii) Any compensation forgone by a member during the 2011-2013 and
28 2013-2015 fiscal (~~biennium~~) biennia as a result of reduced work
29 hours, mandatory leave without pay, temporary layoffs, or reductions to
30 current pay if the reduced compensation is an integral part of the
31 employer's expenditure reduction efforts, as certified by the chief.
32 Reductions to current pay shall not include elimination of previously
33 agreed upon future salary reductions. The department shall recalculate
34 any retirement benefits begun during the 2013-2015 fiscal biennium and
35 prior to the effective date of this section for any compensation
36 foregone by a member consistent with the requirements of this
37 subsection.

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

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

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

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

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

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

24 (9) "Director" means the director of the department of retirement
25 systems.

26 (10) "Domestic partners" means two adults who have registered as
27 domestic partners under RCW 26.60.040.

28 (11) "Employee" means any commissioned employee of the Washington
29 state patrol.

30 (12) "Insurance commissioner" means the insurance commissioner of
31 the state of Washington.

32 (13) "Lieutenant governor" means the lieutenant governor of the
33 state of Washington.

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

36 (15) "Plan 2" means the Washington state patrol retirement system
37 plan 2, providing the benefits and funding provisions covering

1 commissioned employees who first become members of the system on or
2 after January 1, 2003.

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

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

10 (18) "Retirement board" means the board provided for in this
11 chapter.

12 (19) "Retirement fund" means the Washington state patrol retirement
13 fund.

14 (20) "Retirement system" means the Washington state patrol
15 retirement system.

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

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

24 (22) "Service" shall mean services rendered to the state of
25 Washington or any political subdivisions thereof for which compensation
26 has been paid. Full time employment for seventy or more hours in any
27 given calendar month shall constitute one month of service. An
28 employee who is reinstated in accordance with RCW 43.43.110 shall
29 suffer no loss of service for the period reinstated subject to the
30 contribution requirements of this chapter. Only months of service
31 shall be counted in the computation of any retirement allowance or
32 other benefit provided for herein. Years of service shall be
33 determined by dividing the total number of months of service by twelve.
34 Any fraction of a year of service as so determined shall be taken into
35 account in the computation of such retirement allowance or benefit.

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

1 (24) "State treasurer" means the treasurer of the state of
2 Washington.

3 Unless the context expressly indicates otherwise, words importing
4 the masculine gender shall be extended to include the feminine gender
5 and words importing the feminine gender shall be extended to include
6 the masculine gender.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.50 RCW
8 to read as follows:

9 If the department determines that a reduction in compensation
10 during the 2013-2015 fiscal biennium was implemented through a
11 certified expenditure reduction plan, and the compensation plan would
12 have reduced average final salary or earnable compensation if not for
13 RCW 41.26.030(15)(c)(ii), 41.32.010(14)(c)(ii), 41.35.010(5)(b),
14 41.37.010(5)(b)(ii), 41.40.010(6)(c)(ii), or 43.43.120(3)(c)(ii), the
15 department shall bill the employer for additional employer
16 contributions that are the equivalent of the additional employer and
17 employee contributions that would have been made if there was not a
18 certified expenditure reduction plan in place.

19 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 July 1, 2014.

--- END ---