
HOUSE BILL 1820

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Bergquist, Fitzgibbon, and Hurst

Read first time 02/11/13. Referred to Committee on Appropriations.

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; providing an effective date; and declaring an
5 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.

28 (16) "Firefighter" means:

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

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

35 (c) Supervisory firefighter personnel;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (i) The fees of the following:

7 (A) A physician or surgeon licensed under the provisions of chapter
8 18.71 RCW;

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

11 (C) A chiropractor licensed under the provisions of chapter 18.25
12 RCW.

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

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

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

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

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

20 (D) Anesthesia and oxygen;

21 (E) Rental of iron lung and other durable medical and surgical
22 equipment;

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

24 (G) Professional ambulance service when used to transport the
25 member to or from a hospital when injured by an accident or stricken by
26 a disease;

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

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

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

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

34 (L) An optometrist licensed under the provisions of chapter 18.53
35 RCW.

36 (20) "Member" means any firefighter, law enforcement officer, or
37 other person as would apply under subsections (16) or (18) of this
38 section whose membership is transferred to the Washington law

1 enforcement officers' and firefighters' retirement system on or after
2 March 1, 1970, and every law enforcement officer and firefighter who is
3 employed in that capacity on or after such date.

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

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

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

14 (24) "Regular interest" means such rate as the director may
15 determine.

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

20 (26) "Retirement fund" means the "Washington law enforcement
21 officers' and firefighters' retirement system fund" as provided for
22 herein.

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

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

37 (i) For members retiring after May 21, 1971 who were employed under
38 the coverage of a prior pension act before March 1, 1970, "service"

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

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

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

23 Members of the retirement system who are elected or appointed to a
24 state elective position may elect to continue to be members of this
25 retirement system.

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

31 If a member receives basic salary from two or more employers during
32 any calendar month, the individual shall receive one service credit
33 month's service credit during any calendar month in which multiple
34 service for ninety or more hours is rendered; or one-half service
35 credit month's service credit during any calendar month in which
36 multiple service for at least seventy hours but less than ninety hours
37 is rendered; or one-quarter service credit month during any calendar

1 month in which multiple service for less than seventy hours is
2 rendered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (i) Any compensation forgone by a member employed by a state agency
38 or institution during the 2009-2011 fiscal biennium as a result of

1 reduced work hours, mandatory or voluntary leave without pay, temporary
2 reduction in pay implemented prior to December 11, 2010, or temporary
3 layoffs if the reduced compensation is an integral part of the
4 employer's expenditure reduction efforts, as certified by the employer;
5 and

6 (ii) Any compensation forgone by a member during the 2011-2013 and
7 2013-2015 fiscal (~~(biennium))~~ biennia as a result of reduced work
8 hours, mandatory leave without pay, temporary layoffs, or reductions to
9 current pay if the reduced compensation is an integral part of the
10 employer's expenditure reduction efforts, as certified by the employer.
11 Reductions to current pay shall not include elimination of previously
12 agreed upon future salary reductions.

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

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

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

25 (d) The elected position of the superintendent of public
26 instruction is an eligible position.

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

32 (17) "Employer" means the state of Washington, the school district,
33 or any agency of the state of Washington by which the member is paid.
34 Except as otherwise specifically provided in this chapter, "employer"
35 does not include a government contractor. For purposes of this
36 subsection, a "government contractor" is any entity, including a
37 partnership, limited liability company, for-profit or nonprofit
38 corporation, or person, that provides services pursuant to a contract

1 with an employer. The determination whether an employer-employee
2 relationship has been established is not based on the relationship
3 between a government contractor and an employer, but is based solely on
4 the relationship between a government contractor's employee and an
5 employer under this chapter.

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

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

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

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

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

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

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

22 (25) "Member" means any teacher included in the membership of the
23 retirement system who has not been removed from membership under RCW
24 41.32.878 or 41.32.768. Also, any other employee of the public schools
25 who, on July 1, 1947, had not elected to be exempt from membership and
26 who, prior to that date, had by an authorized payroll deduction,
27 contributed to the member reserve.

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

31 (27) "Member reserve" means the fund in which all of the
32 accumulated contributions of members are held.

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

1 (29) "Pension" means the moneys payable per year during life from
2 the pension reserve.

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

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

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

14 (33) "Plan 3" means the teachers' retirement system, plan 3
15 providing the benefits and funding provisions covering persons who
16 first become members of the system on and after July 1, 1996, or who
17 transfer under RCW 41.32.817.

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

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

25 (36) "Public school" means any institution or activity operated by
26 the state of Washington or any instrumentality or political subdivision
27 thereof employing teachers, except the University of Washington and
28 Washington State University.

29 (37) "Regular contributions" means the amounts required to be
30 deducted from the compensation of a member and credited to the member's
31 individual account in the member reserve. This subsection shall apply
32 only to plan 1 members.

33 (38) "Regular interest" means such rate as the director may
34 determine.

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

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

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

7 (41) "Retirement system" means the Washington state teachers'
8 retirement system.

9 (42) "Separation from service or employment" occurs when a person
10 has terminated all employment with an employer. Separation from
11 service or employment does not occur, and if claimed by an employer or
12 employee may be a violation of RCW 41.32.055, when an employee and
13 employer have a written or oral agreement to resume employment with the
14 same employer following termination. Mere expressions or inquiries
15 about postretirement employment by an employer or employee that do not
16 constitute a commitment to reemploy the employee after retirement are
17 not an agreement under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (iv) When an individual is employed by two or more employers the
37 individual shall only receive one month's service credit during any

1 calendar month in which multiple service for ninety or more hours is
2 rendered.

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

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

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

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

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

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

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

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

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

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

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

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

32 (48) "Substitute teacher" means:

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

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

1 (49) "Teacher" means any person qualified to teach who is engaged
2 by a public school in an instructional, administrative, or supervisory
3 capacity. The term includes state, educational service district, and
4 school district superintendents and their assistants and all employees
5 certificated by the superintendent of public instruction; and in
6 addition thereto any full time school doctor who is employed by a
7 public school and renders service of an instructional or educational
8 nature.

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

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

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

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

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

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

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

31 (b) In calculating average final compensation under (a) of this
32 subsection, the department of retirement systems shall include any
33 compensation forgone by a member during the 2011-2013 and 2013-2015
34 fiscal (~~biennium~~) biennia as a result of reduced work hours,
35 mandatory leave without pay, temporary layoffs, or reductions to
36 current pay if the reduced compensation is an integral part of the

1 employer's expenditure reduction efforts, as certified by the employer.
2 Reductions to current pay shall not include elimination of previously
3 agreed upon future salary reductions.

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

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

11 (8)(a) "Compensation earnable" for plan 2 and plan 3 members, means
12 salaries or wages earned by a member during a payroll period for
13 personal services, including overtime payments, and shall include wages
14 and salaries deferred under provisions established pursuant to sections
15 403(b), 414(h), and 457 of the United States internal revenue code, but
16 shall exclude nonmoney maintenance compensation and lump sum or other
17 payments for deferred annual sick leave, unused accumulated vacation,
18 unused accumulated annual leave, or any form of severance pay.

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

22 (i) Retroactive payments to an individual by an employer on
23 reinstatement of the employee in a position, or payments by an employer
24 to an individual in lieu of reinstatement, which are awarded or granted
25 as the equivalent of the salary or wage which the individual would have
26 earned during a payroll period shall be considered compensation
27 earnable to the extent provided in this subsection, and the individual
28 shall receive the equivalent service credit;

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

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

34 (B) Such member's actual compensation earnable received for
35 nonlegislative public employment and legislative service combined. Any
36 additional contributions to the retirement system required because
37 compensation earnable under (b)(ii)(A) of this subsection is greater

1 than compensation earnable under this (b)(ii)(B) of this subsection
2 shall be paid by the member for both member and employer contributions;
3 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
4 and 72.09.240;
5 (iv) Compensation that a member would have received but for a
6 disability occurring in the line of duty only as authorized by RCW
7 41.40.038;
8 (v) Compensation that a member receives due to participation in the
9 leave sharing program only as authorized by RCW 41.04.650 through
10 41.04.670; and
11 (vi) Compensation that a member receives for being in standby
12 status. For the purposes of this section, a member is in standby
13 status when not being paid for time actually worked and the employer
14 requires the member to be prepared to report immediately for work, if
15 the need arises, although the need may not arise.
16 (9) "Department" means the department of retirement systems created
17 in chapter 41.50 RCW.
18 (10) "Director" means the director of the department.
19 (11) "Eligible position" means any position that, as defined by the
20 employer, normally requires five or more months of service a year for
21 which regular compensation for at least seventy hours is earned by the
22 occupant thereof. For purposes of this chapter an employer shall not
23 define "position" in such a manner that an employee's monthly work for
24 that employer is divided into more than one position.
25 (12) "Employee" or "employed" means a person who is providing
26 services for compensation to an employer, unless the person is free
27 from the employer's direction and control over the performance of work.
28 The department shall adopt rules and interpret this subsection
29 consistent with common law.
30 (13) "Employer," for plan 2 and plan 3 members, means a school
31 district or an educational service district. Except as otherwise
32 specifically provided in this chapter, "employer" does not include a
33 government contractor. For purposes of this subsection, a "government
34 contractor" is any entity, including a partnership, limited liability
35 company, for-profit or nonprofit corporation, or person, that provides
36 services pursuant to a contract with an employer. The determination
37 whether an employer-employee relationship has been established is not

1 based on the relationship between a government contractor and an
2 employer, but is based solely on the relationship between a government
3 contractor's employee and an employer under this chapter.

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

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

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

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

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

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

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

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

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

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

28 (24) "Plan 2" means the Washington school employees' retirement
29 system plan 2 providing the benefits and funding provisions covering
30 persons who first became members of the public employees' retirement
31 system on and after October 1, 1977, and transferred to the Washington
32 school employees' retirement system under RCW 41.40.750.

33 (25) "Plan 3" means the Washington school employees' retirement
34 system plan 3 providing the benefits and funding provisions covering
35 persons who first became members of the system on and after September
36 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

37 (26) "Regular interest" means such rate as the director may
38 determine.

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

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

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

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

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

13 (32) "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 41.35.180. 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 (a) Service in any state elective position shall be deemed to be
27 full-time service.

28 (b) A member shall receive a total of not more than twelve service
29 credit months of service for such calendar year. If an individual is
30 employed in an eligible position by one or more employers the
31 individual shall receive no more than one service credit month during
32 any calendar month in which multiple service for ninety or more hours
33 is rendered.

34 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
35 28A.400.300 is equal to two service credit months. Use of less than
36 forty-five days of sick leave is creditable as allowed under this
37 subsection as follows:

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

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

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

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

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

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

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

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

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

17 (37) "State treasurer" means the treasurer of the state of
18 Washington.

19 (38) "Substitute employee" means a classified employee who is
20 employed by an employer exclusively as a substitute for an absent
21 employee.

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

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

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

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

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

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

1 (5)(a) "Average final compensation" means the member's average
2 compensation earnable of the highest consecutive sixty months of
3 service credit months prior to such member's retirement, termination,
4 or death. Periods constituting authorized leaves of absence may not be
5 used in the calculation of average final compensation except under RCW
6 41.37.290.

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

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

16 (ii) Any compensation forgone by a member employed by the state or
17 a local government employer during the 2011-2013 and 2013-2015 fiscal
18 (~~biennium~~) biennia as a result of reduced work hours, mandatory leave
19 without pay, temporary layoffs, or reductions to current pay if the
20 reduced compensation is an integral part of the employer's expenditure
21 reduction efforts, as certified by the employer. Reductions to current
22 pay shall not include elimination of previously agreed upon future
23 salary increases.

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

27 (7)(a) "Compensation earnable" for members, means salaries or wages
28 earned by a member during a payroll period for personal services,
29 including overtime payments, and shall include wages and salaries
30 deferred under provisions established pursuant to sections 403(b),
31 414(h), and 457 of the United States internal revenue code, but shall
32 exclude nonmoney maintenance compensation and lump sum or other
33 payments for deferred annual sick leave, unused accumulated vacation,
34 unused accumulated annual leave, or any form of severance pay.

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

37 (i) Retroactive payments to an individual by an employer on
38 reinstatement of the employee in a position, or payments by an employer

1 to an individual in lieu of reinstatement, which are awarded or granted
2 as the equivalent of the salary or wage which the individual would have
3 earned during a payroll period shall be considered compensation
4 earnable to the extent provided in this subsection, and the individual
5 shall receive the equivalent service credit;

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

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

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

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

19 (iv) Compensation that a member would have received but for a
20 disability occurring in the line of duty only as authorized by RCW
21 41.37.060;

22 (v) Compensation that a member receives due to participation in the
23 leave sharing program only as authorized by RCW 41.04.650 through
24 41.04.670; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (d) Whose primary responsibility is to supervise members eligible
11 under this subsection.

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

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

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

18 (23) "Regular interest" means such rate as the director may
19 determine.

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

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

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

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

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

31 (29) "Service" means periods of employment by a member on or after
32 July 1, 2006, for one or more employers for which compensation earnable
33 is paid. Compensation earnable earned for ninety or more hours in any
34 calendar month shall constitute one service credit month. Compensation
35 earnable earned for at least seventy hours but less than ninety hours
36 in any calendar month shall constitute one-half service credit month of
37 service. Compensation earnable earned for less than seventy hours in

1 any calendar month shall constitute one-quarter service credit month of
2 service. Time spent in standby status, whether compensated or not, is
3 not service.

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

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

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

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

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

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

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

23 (34) "State treasurer" means the treasurer of the state of
24 Washington.

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

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

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

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

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

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

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

7 (6)(a) "Average final compensation" for plan 1 members, means the
8 annual average of the greatest compensation earnable by a member during
9 any consecutive two year period of service credit months for which
10 service credit is allowed; or if the member has less than two years of
11 service credit months then the annual average compensation earnable
12 during the total years of service for which service credit is allowed.

13 (b) "Average final compensation" for plan 2 and plan 3 members,
14 means the member's average compensation earnable of the highest
15 consecutive sixty months of service credit months prior to such
16 member's retirement, termination, or death. Periods constituting
17 authorized leaves of absence may not be used in the calculation of
18 average final compensation except under RCW 41.40.710(2) or (c) of this
19 subsection.

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

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

29 (ii) Any compensation forgone by a member employed by the state or
30 a local government during the 2011-2013 and 2013-2015 fiscal
31 (~~biennium~~) biennia as a result of reduced work hours, mandatory leave
32 without pay, temporary layoffs, or reductions to current pay if the
33 reduced compensation is an integral part of the employer's expenditure
34 reduction efforts, as certified by the employer. Reductions to current
35 pay shall not include elimination of previously agreed upon future
36 salary increases.

37 (7)(a) "Beneficiary" for plan 1 members, means any person in

1 receipt of a retirement allowance, pension or other benefit provided by
2 this chapter.

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

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

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

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

22 (B) If a leave of absence is taken by an individual for the purpose
23 of serving in the state legislature, the salary which would have been
24 received for the position from which the leave of absence was taken,
25 shall be considered as compensation earnable if the employee's
26 contribution is paid by the employee and the employer's contribution is
27 paid by the employer or employee;

28 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
29 72.09.240;

30 (D) Compensation that a member would have received but for a
31 disability occurring in the line of duty only as authorized by RCW
32 41.40.038;

33 (E) Compensation that a member receives due to participation in the
34 leave sharing program only as authorized by RCW 41.04.650 through
35 41.04.670; and

36 (F) Compensation that a member receives for being in standby
37 status. For the purposes of this section, a member is in standby

1 status when not being paid for time actually worked and the employer
2 requires the member to be prepared to report immediately for work, if
3 the need arises, although the need may not arise.

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

5 (A) Remuneration for unused sick leave authorized under RCW
6 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

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

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

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

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

3 (iv) Compensation that a member would have received but for a
4 disability occurring in the line of duty only as authorized by RCW
5 41.40.038;

6 (v) Compensation that a member receives due to participation in the
7 leave sharing program only as authorized by RCW 41.04.650 through
8 41.04.670; and

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

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

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

17 (11) "Eligible position" means:

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

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

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

33 (13)(a) "Employer" for plan 1 members, means every branch,
34 department, agency, commission, board, and office of the state, any
35 political subdivision or association of political subdivisions of the
36 state admitted into the retirement system, and legal entities
37 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
38 term shall also include any labor guild, association, or organization

1 the membership of a local lodge or division of which is comprised of at
2 least forty percent employees of an employer (other than such labor
3 guild, association, or organization) within this chapter. The term may
4 also include any city of the first class that has its own retirement
5 system.

6 (b) "Employer" for plan 2 and plan 3 members, means every branch,
7 department, agency, commission, board, and office of the state, and any
8 political subdivision and municipal corporation of the state admitted
9 into the retirement system, including public agencies created pursuant
10 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
11 31, 2000, school districts and educational service districts will no
12 longer be employers for the public employees' retirement system plan 2.

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

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

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

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

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

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

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

37 (20) "Leave of absence" means the period of time a member is

1 authorized by the employer to be absent from service without being
2 separated from membership.

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

8 (22) "Member account" or "member's account" for purposes of plan 3
9 means the sum of the contributions and earnings on behalf of the member
10 in the defined contribution portion of plan 3.

11 (23) "Membership service" means:

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

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

17 (c) Service not to exceed six consecutive months of probationary
18 service rendered after April 1, 1949, and prior to becoming a member,
19 in the case of any member, upon payment in full by such member of the
20 total amount of the employer's contribution to the retirement fund
21 which would have been required under the law in effect when such
22 probationary service was rendered if the member had been a member
23 during such period, except that the amount of the employer's
24 contribution shall be calculated by the director based on the first
25 month's compensation earnable as a member;

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

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

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

36 (a) Any person who became a member of the system prior to April 1,
37 1949;

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

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

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

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

20 (f) Any member who has been a contributor under the system for two
21 or more years and who has restored all contributions that may have been
22 withdrawn as provided by RCW 41.40.150 and who on the effective date of
23 the individual's retirement has rendered five or more years of service
24 for the state or any political subdivision prior to the time of the
25 admission of the employer into the system; except that the provisions
26 relating to the minimum amount of retirement allowance for the member
27 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
28 apply to the member.

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

32 (27) "Plan 1" means the public employees' retirement system, plan
33 1 providing the benefits and funding provisions covering persons who
34 first became members of the system prior to October 1, 1977.

35 (28) "Plan 2" means the public employees' retirement system, plan
36 2 providing the benefits and funding provisions covering persons who
37 first became members of the system on and after October 1, 1977, and
38 are not included in plan 3.

1 (29) "Plan 3" means the public employees' retirement system, plan
2 3 providing the benefits and funding provisions covering persons who:
3 (a) First become a member on or after:
4 (i) March 1, 2002, and are employed by a state agency or institute
5 of higher education and who did not choose to enter plan 2; or
6 (ii) September 1, 2002, and are employed by other than a state
7 agency or institute of higher education and who did not choose to enter
8 plan 2; or
9 (b) Transferred to plan 3 under RCW 41.40.795.

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

12 (31) "Regular interest" means such rate as the director may
13 determine.

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

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

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

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

23 (36) "Separation from service" occurs when a person has terminated
24 all employment with an employer. Separation from service or employment
25 does not occur, and if claimed by an employer or employee may be a
26 violation of RCW 41.40.055, when an employee and employer have a
27 written or oral agreement to resume employment with the same employer
28 following termination. Mere expressions or inquiries about
29 postretirement employment by an employer or employee that do not
30 constitute a commitment to reemploy the employee after retirement are
31 not an agreement under this subsection.

32 (37)(a) "Service" for plan 1 members, except as provided in RCW
33 41.40.088, means periods of employment in an eligible position or
34 positions for one or more employers rendered to any employer for which
35 compensation is paid, and includes time spent in office as an elected
36 or appointed official of an employer. Compensation earnable earned in
37 full time work for seventy hours or more in any given calendar month
38 shall constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for less than seventy hours in
2 any calendar month shall constitute one-quarter service credit month of
3 service except as provided in RCW 41.40.088. Only service credit
4 months and one-quarter service credit months shall be counted in the
5 computation of any retirement allowance or other benefit provided for
6 in this chapter. Any fraction of a year of service shall be taken into
7 account in the computation of such retirement allowance or benefits.
8 Time spent in standby status, whether compensated or not, is not
9 service.

10 (i) Service by a state employee officially assigned by the state on
11 a temporary basis to assist another public agency, shall be considered
12 as service as a state employee: PROVIDED, That service to any other
13 public agency shall not be considered service as a state employee if
14 such service has been used to establish benefits in any other public
15 retirement system.

16 (ii) An individual shall receive no more than a total of twelve
17 service credit months of service during any calendar year. If an
18 individual is employed in an eligible position by one or more employers
19 the individual shall receive no more than one service credit month
20 during any calendar month in which multiple service for seventy or more
21 hours is rendered.

22 (iii) A school district employee may count up to forty-five days of
23 sick leave as creditable service solely for the purpose of determining
24 eligibility to retire under RCW 41.40.180 as authorized by RCW
25 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
26 28A.400.300 is equal to two service credit months. Use of less than
27 forty-five days of sick leave is creditable as allowed under this
28 subsection as follows:

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

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

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

34 (b) "Service" for plan 2 and plan 3 members, means periods of
35 employment by a member in an eligible position or positions for one or
36 more employers for which compensation earnable is paid. Compensation
37 earnable earned for ninety or more hours in any calendar month shall
38 constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for at least seventy hours but
2 less than ninety hours in any calendar month shall constitute one-half
3 service credit month of service. Compensation earnable earned for less
4 than seventy hours in any calendar month shall constitute one-quarter
5 service credit month of service. Time spent in standby status, whether
6 compensated or not, is not service.

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

9 (i) Service in any state elective position shall be deemed to be
10 full time service, except that persons serving in state elective
11 positions who are members of the Washington school employees'
12 retirement system, teachers' retirement system, public safety
13 employees' retirement system, or law enforcement officers' and
14 firefighters' retirement system at the time of election or appointment
15 to such position may elect to continue membership in the Washington
16 school employees' retirement system, teachers' retirement system,
17 public safety employees' retirement system, or law enforcement
18 officers' and firefighters' retirement system.

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

25 (iii) Up to forty-five days of sick leave may be creditable as
26 service solely for the purpose of determining eligibility to retire
27 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
28 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
29 to two service credit months. Use of less than forty-five days of sick
30 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

1 (38) "Service credit month" means a month or an accumulation of
2 months of service credit which is equal to one.

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

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

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

10 (42) "State treasurer" means the treasurer of the state of
11 Washington.

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

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

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

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

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

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

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

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

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

9 (ii) Any compensation forgone by a member during the 2011-2013 and
10 2013-2015 fiscal (~~(biennium)~~) biennia as a result of reduced work
11 hours, mandatory leave without pay, temporary layoffs, or reductions to
12 current pay if the reduced compensation is an integral part of the
13 employer's expenditure reduction efforts, as certified by the chief.
14 Reductions to current pay shall not include elimination of previously
15 agreed upon future salary reductions.

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

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

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

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

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

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

1 (9) "Director" means the director of the department of retirement
2 systems.

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

5 (11) "Employee" means any commissioned employee of the Washington
6 state patrol.

7 (12) "Insurance commissioner" means the insurance commissioner of
8 the state of Washington.

9 (13) "Lieutenant governor" means the lieutenant governor of the
10 state of Washington.

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

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

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

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

24 (18) "Retirement board" means the board provided for in this
25 chapter.

26 (19) "Retirement fund" means the Washington state patrol retirement
27 fund.

28 (20) "Retirement system" means the Washington state patrol
29 retirement system.

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

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

1 (22) "Service" shall mean services rendered to the state of
2 Washington or any political subdivisions thereof for which compensation
3 has been paid. Full time employment for seventy or more hours in any
4 given calendar month shall constitute one month of service. An
5 employee who is reinstated in accordance with RCW 43.43.110 shall
6 suffer no loss of service for the period reinstated subject to the
7 contribution requirements of this chapter. Only months of service
8 shall be counted in the computation of any retirement allowance or
9 other benefit provided for herein. Years of service shall be
10 determined by dividing the total number of months of service by twelve.
11 Any fraction of a year of service as so determined shall be taken into
12 account in the computation of such retirement allowance or benefit.

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

15 (24) "State treasurer" means the treasurer of the state of
16 Washington.

17 Unless the context expressly indicates otherwise, words importing
18 the masculine gender shall be extended to include the feminine gender
19 and words importing the feminine gender shall be extended to include
20 the masculine gender.

21 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 July 1, 2013.

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