

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1868

63rd Legislature
2013 Regular Session

Passed by the House March 4, 2013
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 17, 2013
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1868** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1868

Passed Legislature - 2013 Regular Session

State of Washington

63rd Legislature

2013 Regular Session

By House Appropriations (originally sponsored by Representatives Freeman, Goodman, Van De Wege, Appleton, Morrell, Tarleton, Tharinger, Ryu, Maxwell, Bergquist, and Pollet)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to providing access to health insurance for certain
2 law enforcement officers' and firefighters' plan 2 members
3 catastrophically disabled in the line of duty; amending RCW 41.26.470;
4 and creating a new section.

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

6 NEW SECTION. **Sec. 1.** This act may be known as the Wynn Loiland
7 act.

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

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

1 (2) Any member who receives an allowance under the provisions of
2 this section shall be subject to such comprehensive medical
3 examinations as required by the department. If such medical
4 examinations reveal that such a member has recovered from the
5 incapacitating disability and the member is no longer entitled to
6 benefits under Title 51 RCW, the retirement allowance shall be canceled
7 and the member shall be restored to duty in the same civil service
8 rank, if any, held by the member at the time of retirement or, if
9 unable to perform the duties of the rank, then, at the member's
10 request, in such other like or lesser rank as may be or become open and
11 available, the duties of which the member is then able to perform. In
12 no event shall a member previously drawing a disability allowance be
13 returned or be restored to duty at a salary or rate of pay less than
14 the current salary attached to the rank or position held by the member
15 at the date of the retirement for disability. If the department
16 determines that the member is able to return to service, the member is
17 entitled to notice and a hearing. Both the notice and the hearing
18 shall comply with the requirements of chapter 34.05 RCW, the
19 administrative procedure act.

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

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

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

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

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

34 (e) State contributions shall be as provided in RCW 41.45.060 and
35 41.45.067.

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

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

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

6 (4)(a) If the recipient of a monthly retirement allowance under
7 this section dies before the total of the retirement allowance paid to
8 the recipient equals the amount of the accumulated contributions at the
9 date of retirement, then the balance shall be paid to the member's
10 estate, or such person or persons, trust, or organization as the
11 recipient has nominated by written designation duly executed and filed
12 with the director, or, if there is no such designated person or persons
13 still living at the time of the recipient's death, then to the
14 surviving spouse or domestic partner, or, if there is neither such
15 designated person or persons still living at the time of his or her
16 death nor a surviving spouse or domestic partner, then to his or her
17 legal representative.

18 (b) If a recipient of a monthly retirement allowance under this
19 section died before April 27, 1989, and before the total of the
20 retirement allowance paid to the recipient equaled the amount of his or
21 her accumulated contributions at the date of retirement, then the
22 department shall pay the balance of the accumulated contributions to
23 the member's surviving spouse or, if there is no surviving spouse, then
24 in equal shares to the member's children. If there is no surviving
25 spouse or children, the department shall retain the contributions.

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

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

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

6 (8) A member who became disabled in the line of duty before January
7 1, 2001, and is receiving an allowance under RCW 41.26.430 or
8 subsection (1) of this section shall be entitled to receive a minimum
9 retirement allowance equal to ten percent of such member's final
10 average salary. The member shall additionally receive a retirement
11 allowance equal to two percent of such member's average final salary
12 for each year of service beyond five, and shall have the allowance
13 actuarially reduced to reflect the difference in the number of years
14 between age at disability and the attainment of age fifty-three. An
15 additional benefit shall not result in a total monthly benefit greater
16 than that provided in subsection (1) of this section.

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

21 (a) Temporary disability wage-replacement benefits or permanent
22 total disability benefits provided to the member under Title 51 RCW;
23 and

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

30 A member is considered totally disabled if he or she is unable to
31 perform any substantial gainful activity due to a physical or mental
32 condition that may be expected to result in death or that has lasted or
33 is expected to last at least twelve months. Substantial gainful
34 activity is defined as average earnings in excess of eight hundred
35 sixty dollars a month in 2006 adjusted annually as determined by the
36 director based on federal social security disability standards. The
37 department may require a person in receipt of an allowance under this
38 subsection to provide any financial records that are necessary to

1 determine continued eligibility for such an allowance. A person in
2 receipt of an allowance under this subsection whose earnings exceed the
3 threshold for substantial gainful activity shall have their benefit
4 converted to a line-of-duty disability retirement allowance as provided
5 in subsection (7) of this section.

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

10 (10)(a) In addition to the retirement allowance provided in
11 subsection (9) of this section, the retirement allowance of a member
12 who is totally disabled in the line of duty shall include reimbursement
13 for any payments made by the member after June 10, 2010, for premiums
14 on employer-provided medical insurance, insurance authorized by the
15 consolidated omnibus budget reconciliation act of 1985 (COBRA),
16 medicare part A (hospital insurance), and medicare part B (medical
17 insurance). A member who is entitled to medicare must enroll and
18 maintain enrollment in both medicare part A and medicare part B in
19 order to remain eligible for the reimbursement provided in this
20 subsection. The legislature reserves the right to amend or repeal the
21 benefits provided in this subsection in the future and no member or
22 beneficiary has a contractual right to receive any distribution not
23 granted prior to that time.

24 (b) The retirement allowance of a member who is not eligible for
25 reimbursement provided in (a) of this subsection shall include
26 reimbursement for any payments made after June 30, 2013, for premiums
27 on other medical insurance. However, in no instance shall the
28 reimbursement exceed the amount reimbursed for premiums authorized by
29 the consolidated omnibus budget reconciliation act of 1985 (COBRA).

--- END ---