
SENATE BILL 5383

State of Washington

63rd Legislature

2013 Regular Session

By Senators Benton, Cleveland, and Rivers

Read first time 01/28/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to restrictions on collecting a pension in the
2 public employees' retirement system for retirees returning to work; and
3 amending RCW 41.40.037 and 41.40.630.

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

5 **Sec. 1.** RCW 41.40.037 and 2011 1st sp.s. c 47 s 19 are each
6 amended to read as follows:

7 (1)(a) If a retiree enters employment with an employer sooner than
8 one calendar month after his or her accrual date, the retiree's monthly
9 retirement allowance will be reduced by five and one-half percent for
10 every eight hours worked during that month. This reduction will be
11 applied each month until the retiree remains absent from employment
12 with an employer for one full calendar month.

13 (b) The benefit reduction provided in (a) of this subsection will
14 accrue for a maximum of one hundred sixty hours per month. Any benefit
15 reduction over one hundred percent will be applied to the benefit the
16 retiree is eligible to receive in subsequent months.

17 (2) A retiree from plan 1, plan 2, or plan 3 who enters employment
18 with an employer at least one calendar month after his or her accrual
19 date may continue to receive pension payments while engaged in such

1 service for up to eight hundred sixty-seven hours of service in a
2 calendar year without a reduction of pension. For purposes of this
3 section, employment includes positions covered by annuity and
4 retirement income plans offered by institutions of higher education
5 pursuant to RCW 28B.10.400.

6 (3) A retiree who retires under the provisions of RCW 41.40.630(3)
7 may enter employment with the elections division of a county auditor as
8 defined in RCW 29A.04.025 at least one calendar month after his or her
9 accrual date at a rate of compensation not exceeding their rate at
10 retirement and continue to receive pension payments while engaged in
11 such service for up to sixty days without a reduction of pension.

12 (4) If the retiree opts to reestablish membership under RCW
13 41.40.023(12), he or she terminates his or her retirement status and
14 becomes a member. Retirement benefits shall not accrue during the
15 period of membership and the individual shall make contributions and
16 receive membership credit. Such a member shall have the right to again
17 retire if eligible in accordance with RCW 41.40.180. However, if the
18 right to retire is exercised to become effective before the member has
19 rendered two uninterrupted years of service, the retirement formula and
20 survivor options the member had at the time of the member's previous
21 retirement shall be reinstated.

22 ~~((+4))~~ (5) The department shall collect and provide the state
23 actuary with information relevant to the use of this section for the
24 select committee on pension policy.

25 ~~((+5))~~ (6) The legislature reserves the right to amend or repeal
26 this section in the future and no member or beneficiary has a
27 contractual right to be employed for more than five months in a
28 calendar year without a reduction of his or her pension.

29 **Sec. 2.** RCW 41.40.630 and 2012 1st sp.s. c 7 s 5 are each amended
30 to read as follows:

31 (1) NORMAL RETIREMENT. Any member with at least five service
32 credit years who has attained at least age sixty-five shall be eligible
33 to retire and to receive a retirement allowance computed according to
34 the provisions of RCW 41.40.620.

35 (2) EARLY RETIREMENT. Any member who has completed at least twenty
36 service credit years and has attained age fifty-five shall be eligible
37 to retire and to receive a retirement allowance computed according to

1 the provisions of RCW 41.40.620, except that a member retiring pursuant
2 to this subsection shall have the retirement allowance actuarially
3 reduced to reflect the difference in the number of years between age at
4 retirement and the attainment of age sixty-five.

5 (3) ALTERNATE EARLY RETIREMENT.

6 (a) Any member who has completed at least thirty service credit
7 years and has attained age fifty-five shall be eligible to retire and
8 to receive a retirement allowance computed according to the provisions
9 of RCW 41.40.620, except that a member retiring pursuant to this
10 subsection shall have the retirement allowance reduced by three percent
11 per year to reflect the difference in the number of years between age
12 at retirement and the attainment of age sixty-five.

13 (b) On or after July 1, 2008, any member who has completed at least
14 thirty service credit years and has attained age fifty-five shall be
15 eligible to retire and to receive a retirement allowance computed
16 according to the provisions of RCW 41.40.620, except that a member
17 retiring pursuant to this subsection shall have the retirement
18 allowance reduced as follows:

Retirement	Percent
Age	Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

31 Any member who retires under the provisions of this subsection is
32 ineligible for the postretirement employment provisions of RCW
33 41.40.037(2)~~((+d))~~ until the retired member has reached sixty-five
34 years of age, or when under the postretirement employment provisions of
35 RCW 41.40.037(3), the retired member has engaged in such service for

1 more than sixty days. For purposes of this subsection, employment with
2 an employer also includes any personal service contract, service by an
3 employer as a temporary or project employee, or any other similar
4 compensated relationship with any employer included under the
5 provisions of RCW 41.40.690(1).

6 The subsidized reductions for alternate early retirement in this
7 subsection as set forth in section 9, chapter 491, Laws of 2007 were
8 intended by the legislature as replacement benefits for gain-sharing.
9 Until there is legal certainty with respect to the repeal of chapter
10 41.31A RCW, the right to retire under this subsection is
11 noncontractual, and the legislature reserves the right to amend or
12 repeal this subsection. Legal certainty includes, but is not limited
13 to, the expiration of any: Applicable limitations on actions; and
14 periods of time for seeking appellate review, up to and including
15 reconsideration by the Washington supreme court and the supreme court
16 of the United States. Until that time, eligible members may still
17 retire under this subsection, and upon receipt of the first installment
18 of a retirement allowance computed under this subsection, the resulting
19 benefit becomes contractual for the recipient. If the repeal of
20 chapter 41.31A RCW is held to be invalid in a final determination of a
21 court of law, and the court orders reinstatement of gain-sharing or
22 other alternate benefits as a remedy, then retirement benefits for any
23 member who has completed at least thirty service credit years and has
24 attained age fifty-five but has not yet received the first installment
25 of a retirement allowance under this subsection shall be computed using
26 the reductions in (a) of this subsection.

27 (c) Members who first become employed by an employer in an eligible
28 position on or after May 1, 2013, are not eligible for the alternate
29 early retirement provisions of (a) or (b) of this subsection. Any
30 member who first becomes employed by an employer in an eligible
31 position on or after May 1, 2013, and has completed at least thirty
32 service credit years and has attained age fifty-five shall be eligible
33 to retire and to receive a retirement allowance computed according to
34 the provisions of RCW 41.40.620, except that a member retiring pursuant
35 to this subsection shall have the retirement allowance reduced by five
36 percent per year to reflect the difference in the number of years

1 between age at retirement and the attainment of age sixty-five.

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