
SENATE BILL 5853

State of Washington

63rd Legislature

2013 Regular Session

By Senators Conway, Schlicher, Braun, Keiser, Billig, Hatfield, Hasegawa, and Kline

Read first time 02/25/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to membership in the Washington public safety
2 employees' retirement system for employees at public utility districts
3 who are qualified trades people who maintain electrical transmission
4 lines; amending RCW 41.37.010; and adding a new section to chapter
5 41.37 RCW.

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

7 **Sec. 1.** RCW 41.37.010 and 2012 c 236 s 5 are each amended to read
8 as follows:

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

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

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

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

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

4 (5)(a) "Average final compensation" means the member's average
5 compensation earnable of the highest consecutive sixty months of
6 service credit months prior to such member's retirement, termination,
7 or death. Periods constituting authorized leaves of absence may not be
8 used in the calculation of average final compensation except under RCW
9 41.37.290.

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

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

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

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

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

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

1 (i) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an employer
3 to an individual in lieu of reinstatement, which are awarded or granted
4 as the equivalent of the salary or wage which the individual would have
5 earned during a payroll period shall be considered compensation
6 earnable to the extent provided in this subsection, and the individual
7 shall receive the equivalent service credit;

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

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

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

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

21 (iv) Compensation that a member would have received but for a
22 disability occurring in the line of duty only as authorized by RCW
23 41.37.060;

24 (v) Compensation that a member receives due to participation in the
25 leave sharing program only as authorized by RCW 41.04.650 through
26 41.04.670; and

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

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

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

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

37 (11) "Employee" or "employed" means a person who is providing
38 services for compensation to an employer, unless the person is free

1 from the employer's direction and control over the performance of work.
2 The department shall adopt rules and interpret this subsection
3 consistent with common law.

4 (12) "Employer" means the Washington state department of
5 corrections, the Washington state parks and recreation commission, the
6 Washington state gambling commission, the Washington state patrol, the
7 Washington state department of natural resources, and the Washington
8 state liquor control board; any public utility district established
9 under chapter 54.04 RCW that participates in the public employees'
10 retirement system and provides electrical services; any county
11 corrections department; any city corrections department not covered
12 under chapter 41.28 RCW; and any public corrections entity created
13 under RCW 39.34.030 by counties, cities not covered under chapter 41.28
14 RCW, or both. Except as otherwise specifically provided in this
15 chapter, "employer" does not include a government contractor. For
16 purposes of this subsection, a "government contractor" is any entity,
17 including a partnership, limited liability company, for-profit or
18 nonprofit corporation, or person, that provides services pursuant to a
19 contract with an employer. The determination whether an employer-
20 employee relationship has been established is not based on the
21 relationship between a government contractor and an employer, but is
22 based solely on the relationship between a government contractor's
23 employee and an employer under this chapter.

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

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

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

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

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

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

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

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

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

10 (c) Who is a limited authority Washington peace officer, as defined
11 in RCW 10.93.020, for an employer; (~~(e)~~)

12 (d) Who is a qualified trades person and whose primary
13 responsibility is to:

14 (i) Construct and maintain electrical transmission lines and
15 transformers, and restore electricity in the event of an emergency; or

16 (ii) Provide direct support at a worksite for members described in
17 (d)(i) of this subsection including, but not limited to, ground
18 workers, journey level tree trimmers, substation wire workers, and
19 equipment operators; or

20 (e) Whose primary responsibility is to supervise members eligible
21 under this subsection.

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

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

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

28 (23) "Regular interest" means such rate as the director may
29 determine.

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

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

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

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

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

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

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

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

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

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

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

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

29 (33) "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 (34) "State treasurer" means the treasurer of the state of
33 Washington.

34 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.37 RCW
35 to read as follows:

36 (1) An employee of a public utility district who was a member of
37 the public employees' retirement system plan 2 or plan 3 before January

1 1, 2014, and on January 1, 2014, meets the eligibility requirements set
2 forth in RCW 41.37.010(19), has the following options during the
3 election period defined in subsection (2) of this section:

4 (a) Remain in the public employees' retirement system; or

5 (b) Become a member of the public safety employees' retirement
6 system plan 2 and, be a dual member as provided in chapter 41.54 RCW,
7 and public employees' retirement system service credit may not be
8 transferred to the public safety employees' retirement system.

9 (2) The "election period" is the period between January 1, 2014,
10 and March 1, 2014.

11 (3) During the election period, public utility district employees
12 remain members of the public employees' retirement system plan 2 or
13 plan 3, until they elect to join the public safety employees'
14 retirement system. Members who elect to join the public safety
15 employees' retirement system as described in this section will have
16 their membership begin prospectively from the date of their election.

17 (4) If after March 1, 2014, the member has not made an election to
18 join the public safety employees' retirement system he or she will
19 remain in the public employees' retirement system plan 2 or plan 3.

20 (5) An employee who was a member of the public employees'
21 retirement system plan 1 on or before January 1, 2014, and on or after
22 January 1, 2014, is employed by an employer as defined in RCW
23 41.37.010(12) as an employee who meets the eligibility requirements
24 included in RCW 41.37.010(19), shall remain a member of the public
25 employees' retirement system plan 1.

26 (6) All new employees hired on or after January 1, 2014, who become
27 employed by an employer as defined in RCW 41.37.010(12) as an employee
28 who meets the eligibility requirements under RCW 41.37.010(19) will
29 become members of the public safety employees' retirement system.

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