

SSB 6657 - S AMD TO S AMD (S-5171.6/16) 768
By Senator Bailey

1 On page 19, after line 9 of the amendment, insert the following:

2 "PART 4
3 VOLUNTEER FIREFIGHTERS

4 NEW SECTION. **Sec. 401.** LEGISLATIVE FINDINGS. Volunteer and
5 part-time emergency personnel are sometimes called upon to serve
6 extended engagements assisting with emergencies too large for one
7 fire or police agency to handle. Under current law, if those
8 volunteers and part-time personnel work more than a defined number of
9 hours, they may be required to switch retirement systems. The
10 legislature finds that this requirement can be detrimental to the
11 benefits of many, but not all, of these personnel.

12 Therefore, the legislature intends that when members of the
13 volunteer firefighters' and reserve officers' retirement plan in
14 chapter 41.24 RCW exceed the hours needed for the position to become
15 an eligible position as defined in RCW 41.40.010(11) due to service
16 in a large-scale state emergency, the affected individuals shall have
17 a ninety-day window from the eligibility date or the end of the
18 emergency, whichever comes last, to choose whether to join the public
19 employees' retirement system or remain with the volunteer
20 firefighters' and reserve officers' retirement plan.

21 The legislature further intends that members who do choose to
22 join the public employees' retirement system will be subject to all
23 the same plan choice and default provisions to which any new member
24 of that system is subject.

25 NEW SECTION. **Sec. 402.** RECOMMENDATIONS AND COORDINATED RULE
26 MAKING REQUIRED. Due to the complexity of enacting section 403 of
27 this act, the department of retirement systems and board for
28 volunteer firefighters and reserve officers are instructed to do the
29 following by January 1, 2017:

1 (1) Jointly submit to the chair and vice chair of the house of
2 representatives and senate fiscal committees a report detailing any
3 additional statutory changes needed to effectively carry out the
4 intent of section 403 of this act; and

5 (2) Work together to establish coordinated rules for their
6 respective retirement systems to effectively carry out the intent of
7 section 403 of this act in a manner consistent with applicable
8 federal law.

9 **Sec. 403.** RCW 41.40.023 and 2010 c 80 s 1 are each amended to
10 read as follows:

11 OPTION TO APPLY FOR RETIREMENT SYSTEM MEMBERSHIP CREATED.
12 Membership in the retirement system shall consist of all regularly
13 compensated employees and appointive and elective officials of
14 employers, as defined in this chapter, with the following exceptions:

15 (1) Persons in ineligible positions;

16 (2) Employees of the legislature except the officers thereof
17 elected by the members of the senate and the house and legislative
18 committees, unless membership of such employees be authorized by the
19 said committee;

20 (3)(a) Persons holding elective offices or persons appointed
21 directly by the governor: PROVIDED, That such persons shall have the
22 option of applying for membership during such periods of employment:
23 AND PROVIDED FURTHER, That any persons holding or who have held
24 elective offices or persons appointed by the governor who are members
25 in the retirement system and who have, prior to becoming such
26 members, previously held an elective office, and did not at the start
27 of such initial or successive terms of office exercise their option
28 to become members, may apply for membership to be effective during
29 such term or terms of office, and shall be allowed to establish the
30 service credit applicable to such term or terms of office upon
31 payment of the employee contributions therefor by the employee with
32 interest as determined by the director and employer contributions
33 therefor by the employer or employee with interest as determined by
34 the director: AND PROVIDED FURTHER, That all contributions with
35 interest submitted by the employee under this subsection shall be
36 placed in the employee's individual account in the employee's savings
37 fund and be treated as any other contribution made by the employee,
38 with the exception that any contributions submitted by the employee
39 in payment of the employer's obligation, together with the interest

1 the director may apply to the employer's contribution, shall not be
2 considered part of the member's annuity for any purpose except
3 withdrawal of contributions;

4 (b) A member holding elective office who has elected to apply for
5 membership pursuant to (a) of this subsection and who later wishes to
6 be eligible for a retirement allowance shall have the option of
7 ending his or her membership in the retirement system. A member
8 wishing to end his or her membership under this subsection must file,
9 on a form supplied by the department, a statement indicating that the
10 member agrees to irrevocably abandon any claim for service for future
11 periods served as an elected official. A member who receives more
12 than fifteen thousand dollars per year in compensation for his or her
13 elective service, adjusted annually for inflation by the director, is
14 not eligible for the option provided by this subsection (3)(b);

15 (4) Employees holding membership in, or receiving pension
16 benefits under, any retirement plan operated wholly or in part by an
17 agency of the state or political subdivision thereof, or who are by
18 reason of their current employment contributing to or otherwise
19 establishing the right to receive benefits from any such retirement
20 plan except as follows:

21 (a) In any case where the retirement system has in existence an
22 agreement with another retirement system in connection with exchange
23 of service credit or an agreement whereby members can retain service
24 credit in more than one system, such an employee shall be allowed
25 membership rights should the agreement so provide;

26 (b) An employee shall be allowed membership if otherwise eligible
27 while receiving survivor's benefits;

28 (c) An employee shall not either before or after June 7, 1984, be
29 excluded from membership or denied service credit pursuant to this
30 subsection solely on account of: (i) Membership in the plan created
31 under chapter 2.14 RCW; or (ii) enrollment under the relief and
32 compensation provisions or the pension provisions of the volunteer
33 firefighters' relief and pension fund under chapter 41.24 RCW;

34 (d) Except as provided in RCW 41.40.109, on or after July 25,
35 1999, an employee shall not be excluded from membership or denied
36 service credit pursuant to this subsection solely on account of
37 participation in a defined contribution pension plan qualified under
38 section 401 of the internal revenue code;

39 (e) Employees who have been reported in the retirement system
40 prior to July 25, 1999, and who participated during the same period

1 of time in a defined contribution pension plan qualified under
2 section 401 of the internal revenue code and operated wholly or in
3 part by the employer, shall not be excluded from previous retirement
4 system membership and service credit on account of such
5 participation;

6 (5) Patient and inmate help in state charitable, penal, and
7 correctional institutions;

8 (6) "Members" of a state veterans' home or state soldiers' home;

9 (7) Persons employed by an institution of higher learning or
10 community college, primarily as an incident to and in furtherance of
11 their education or training, or the education or training of a
12 spouse;

13 (8) Employees of an institution of higher learning or community
14 college during the period of service necessary to establish
15 eligibility for membership in the retirement plans operated by such
16 institutions;

17 (9) Persons rendering professional services to an employer on a
18 fee, retainer, or contract basis or when the income from these
19 services is less than fifty percent of the gross income received from
20 the person's practice of a profession;

21 (10) Persons appointed after April 1, 1963, by the liquor
22 (~~control~~) and cannabis board as contract liquor store managers;

23 (11) Employees of a labor guild, association, or organization:
24 PROVIDED, That elective officials and employees of a labor guild,
25 association, or organization which qualifies as an employer within
26 this chapter shall have the option of applying for membership;

27 (12) Retirement system retirees: PROVIDED, That following
28 reemployment in an eligible position, a retiree may elect to
29 prospectively become a member of the retirement system if otherwise
30 eligible;

31 (13) Persons employed by or appointed or elected as an official
32 of a first class city that has its own retirement system: PROVIDED,
33 That any member elected or appointed to an elective office on or
34 after April 1, 1971, shall have the option of continuing as a member
35 of this system in lieu of becoming a member of the city system. A
36 member who elects to continue as a member of this system shall pay
37 the appropriate member contributions and the city shall pay the
38 employer contributions at the rates prescribed by this chapter. The
39 city shall also transfer to this system all of such member's
40 accumulated contributions together with such further amounts as

1 necessary to equal all employee and employer contributions which
2 would have been paid into this system on account of such service with
3 the city and thereupon the member shall be granted credit for all
4 such service. Any city that becomes an employer as defined in RCW
5 41.40.010(13) as the result of an individual's election under this
6 subsection shall not be required to have all employees covered for
7 retirement under the provisions of this chapter. Nothing in this
8 subsection shall prohibit a city of the first class with its own
9 retirement system from: (a) Transferring all of its current employees
10 to the retirement system established under this chapter, or (b)
11 allowing newly hired employees the option of continuing coverage
12 under the retirement system established by this chapter.

13 Notwithstanding any other provision of this chapter, persons
14 transferring from employment with a first class city of over four
15 hundred thousand population that has its own retirement system to
16 employment with the state department of agriculture may elect to
17 remain within the retirement system of such city and the state shall
18 pay the employer contributions for such persons at like rates as
19 prescribed for employers of other members of such system;

20 (14) Employees who (a) are not citizens of the United States, (b)
21 do not reside in the United States, and (c) perform duties outside of
22 the United States;

23 (15) Employees who (a) are not citizens of the United States, (b)
24 are not covered by chapter 41.48 RCW, (c) are not excluded from
25 membership under this chapter or chapter 41.04 RCW, (d) are residents
26 of this state, and (e) make an irrevocable election to be excluded
27 from membership, in writing, which is submitted to the director
28 within thirty days after employment in an eligible position;

29 (16) Employees who are citizens of the United States and who
30 reside and perform duties for an employer outside of the United
31 States: PROVIDED, That unless otherwise excluded under this chapter
32 or chapter 41.04 RCW, the employee may apply for membership (a)
33 within thirty days after employment in an eligible position and
34 membership service credit shall be granted from the first day of
35 membership service, and (b) after this thirty-day period, but
36 membership service credit shall be granted only if payment is made
37 for the noncredited membership service under RCW 41.50.165(2),
38 otherwise service shall be from the date of application;

39 (17) The city manager or chief administrative officer of a city
40 or town, other than a retiree, who serves at the pleasure of an

1 appointing authority: PROVIDED, That such persons shall have the
2 option of applying for membership within thirty days from date of
3 their appointment to such positions. Persons serving in such
4 positions as of April 4, 1986, shall continue to be members in the
5 retirement system unless they notify the director in writing prior to
6 December 31, 1986, of their desire to withdraw from membership in the
7 retirement system. A member who withdraws from membership in the
8 system under this section shall receive a refund of the member's
9 accumulated contributions.

10 Persons serving in such positions who have not opted for
11 membership within the specified thirty days, may do so by paying the
12 amount required under RCW 41.50.165(2) for the period from the date
13 of their appointment to the date of acceptance into membership;

14 (18) Persons serving as: (a) The chief administrative officer of
15 a public utility district as defined in RCW 54.16.100; (b) the chief
16 administrative officer of a port district formed under chapter 53.04
17 RCW; or (c) the chief administrative officer of a county who serves
18 at the pleasure of an appointing authority: PROVIDED, That such
19 persons shall have the option of applying for membership within
20 thirty days from the date of their appointment to such positions.
21 Persons serving in such positions as of July 25, 1999, shall continue
22 to be members in the retirement system unless they notify the
23 director in writing prior to December 31, 1999, of their desire to
24 withdraw from membership in the retirement system. A member who
25 withdraws from membership in the system under this section shall
26 receive a refund of the member's accumulated contributions upon
27 termination of employment or as otherwise consistent with the plan's
28 tax qualification status as defined in internal revenue code section
29 401.

30 Persons serving in such positions who have not opted for
31 membership within the specified thirty days, may do so at a later
32 date by paying the amount required under RCW 41.50.165(2) for the
33 period from the date of their appointment to the date of acceptance
34 into membership;

35 (19) Persons enrolled in state-approved apprenticeship programs,
36 authorized under chapter 49.04 RCW, and who are employed by local
37 governments to earn hours to complete such apprenticeship programs,
38 if the employee is a member of a union-sponsored retirement plan and
39 is making contributions to such a retirement plan or if the employee
40 is a member of a Taft-Hartley retirement plan;

1 (20) Beginning on July 22, 2001, persons employed exclusively as
2 trainers or trainees in resident apprentice training programs
3 operated by housing authorities authorized under chapter 35.82 RCW,
4 (a) if the trainer or trainee is a member of a union-sponsored
5 retirement plan and is making contributions to such a retirement plan
6 or (b) if the employee is a member of a Taft-Hartley retirement plan;

7 (21) Employees who are removed from membership under RCW
8 41.40.823 or 41.40.633; (~~and~~)

9 (22) Persons employed as the state director of fire protection
10 under RCW 43.43.938 who were previously members of the law
11 enforcement officers' and firefighters' retirement system plan 2
12 under chapter 41.26 RCW may continue as a member of the law
13 enforcement officers' and firefighters' retirement system in lieu of
14 becoming a member of this system; and

15 (23) Any enrolled member of the relief and compensation
16 provisions or the pension provisions of the volunteer firefighters'
17 and reserve officers' relief and pension principal fund under chapter
18 41.24 RCW whose position becomes eligible under this chapter due to
19 service rendered at a large-scale emergency that exhausts all local
20 resources and requires the response of the state and/or federal
21 resources. Such a person shall have the option of applying for
22 membership within ninety days of (a) the position becoming eligible,
23 or (b) the termination of the large-scale emergency, whichever comes
24 later.

25 NEW SECTION. Sec. 404. Section 403 of this act takes effect
26 July 1, 2017."

27 Renumber the remaining part and sections consecutively and
28 correct any internal references accordingly.

29 On page 19, line 14 of the amendment, after "**402.**" strike "This"
30 and insert "Except for section 403 of this act, this"

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1 On page 19, line 24 of the title amendment, after "76.04.315,"
2 strike "and 38.52.070" and insert "38.52.070, and 41.40.023" and on
3 line 26 after "sections;" insert "providing an effective date;"

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