
SUBSTITUTE SENATE BILL 6439

State of Washington

64th Legislature

2016 Regular Session

By Senate Ways & Means (originally sponsored by Senators Bailey, Conway, Schoesler, Hewitt, and Roach)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to retirement benefits for volunteer firefighters
2 and reserve officers assisting with state emergencies; amending RCW
3 41.40.023; creating new sections; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** Volunteer and part-time emergency
6 personnel are sometimes called upon to serve extended engagements
7 assisting with emergencies too large for one fire or police agency to
8 handle. Under current law, if those volunteers and part-time
9 personnel work more than a defined number of hours they may be
10 required to switch retirement systems. The legislature finds that
11 this requirement can be detrimental to the benefits of many, but not
12 all, of these personnel.

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

1 The legislature further intends that members who do choose to
2 join the public employees retirement system will be subject to all
3 the same plan choice and default provisions to which any new member
4 of that system is subject.

5 NEW SECTION. **Sec. 2.** Due to the complexity of enacting section
6 3 of this act, the department of retirement systems and board for
7 volunteer firefighters are instructed to do the following by January
8 1, 2017:

9 (1) Jointly submit to the chair and vice chair of the house of
10 representatives and senate fiscal committees a report detailing any
11 additional statutory changes needed to effectively carry out the
12 intent of this act; and

13 (2) Work together to establish coordinated rules for their
14 respective retirement systems to effectively carry out the intent of
15 this act in a manner consistent with applicable federal law.

16 **Sec. 3.** RCW 41.40.023 and 2010 c 80 s 1 are each amended to read
17 as follows:

18 Membership in the retirement system shall consist of all
19 regularly compensated employees and appointive and elective officials
20 of employers, as defined in this chapter, with the following
21 exceptions:

22 (1) Persons in ineligible positions;

23 (2) Employees of the legislature except the officers thereof
24 elected by the members of the senate and the house and legislative
25 committees, unless membership of such employees be authorized by the
26 said committee;

27 (3)(a) Persons holding elective offices or persons appointed
28 directly by the governor: PROVIDED, That such persons shall have the
29 option of applying for membership during such periods of employment:
30 AND PROVIDED FURTHER, That any persons holding or who have held
31 elective offices or persons appointed by the governor who are members
32 in the retirement system and who have, prior to becoming such
33 members, previously held an elective office, and did not at the start
34 of such initial or successive terms of office exercise their option
35 to become members, may apply for membership to be effective during
36 such term or terms of office, and shall be allowed to establish the
37 service credit applicable to such term or terms of office upon
38 payment of the employee contributions therefor by the employee with

1 interest as determined by the director and employer contributions
2 therefor by the employer or employee with interest as determined by
3 the director: AND PROVIDED FURTHER, That all contributions with
4 interest submitted by the employee under this subsection shall be
5 placed in the employee's individual account in the employee's savings
6 fund and be treated as any other contribution made by the employee,
7 with the exception that any contributions submitted by the employee
8 in payment of the employer's obligation, together with the interest
9 the director may apply to the employer's contribution, shall not be
10 considered part of the member's annuity for any purpose except
11 withdrawal of contributions;

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

23 (4) Employees holding membership in, or receiving pension
24 benefits under, any retirement plan operated wholly or in part by an
25 agency of the state or political subdivision thereof, or who are by
26 reason of their current employment contributing to or otherwise
27 establishing the right to receive benefits from any such retirement
28 plan except as follows:

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

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

36 (c) An employee shall not either before or after June 7, 1984, be
37 excluded from membership or denied service credit pursuant to this
38 subsection solely on account of: (i) Membership in the plan created
39 under chapter 2.14 RCW; or (ii) enrollment under the relief and

1 compensation provisions or the pension provisions of the volunteer
2 firefighters' relief and pension fund under chapter 41.24 RCW;

3 (d) Except as provided in RCW 41.40.109, on or after July 25,
4 1999, an employee shall not be excluded from membership or denied
5 service credit pursuant to this subsection solely on account of
6 participation in a defined contribution pension plan qualified under
7 section 401 of the internal revenue code;

8 (e) Employees who have been reported in the retirement system
9 prior to July 25, 1999, and who participated during the same period
10 of time in a defined contribution pension plan qualified under
11 section 401 of the internal revenue code and operated wholly or in
12 part by the employer, shall not be excluded from previous retirement
13 system membership and service credit on account of such
14 participation;

15 (5) Patient and inmate help in state charitable, penal, and
16 correctional institutions;

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

18 (7) Persons employed by an institution of higher learning or
19 community college, primarily as an incident to and in furtherance of
20 their education or training, or the education or training of a
21 spouse;

22 (8) Employees of an institution of higher learning or community
23 college during the period of service necessary to establish
24 eligibility for membership in the retirement plans operated by such
25 institutions;

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

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

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

36 (12) Retirement system retirees: PROVIDED, That following
37 reemployment in an eligible position, a retiree may elect to
38 prospectively become a member of the retirement system if otherwise
39 eligible;

1 (13) Persons employed by or appointed or elected as an official
2 of a first class city that has its own retirement system: PROVIDED,
3 That any member elected or appointed to an elective office on or
4 after April 1, 1971, shall have the option of continuing as a member
5 of this system in lieu of becoming a member of the city system. A
6 member who elects to continue as a member of this system shall pay
7 the appropriate member contributions and the city shall pay the
8 employer contributions at the rates prescribed by this chapter. The
9 city shall also transfer to this system all of such member's
10 accumulated contributions together with such further amounts as
11 necessary to equal all employee and employer contributions which
12 would have been paid into this system on account of such service with
13 the city and thereupon the member shall be granted credit for all
14 such service. Any city that becomes an employer as defined in RCW
15 41.40.010(13) as the result of an individual's election under this
16 subsection shall not be required to have all employees covered for
17 retirement under the provisions of this chapter. Nothing in this
18 subsection shall prohibit a city of the first class with its own
19 retirement system from: (a) Transferring all of its current employees
20 to the retirement system established under this chapter, or (b)
21 allowing newly hired employees the option of continuing coverage
22 under the retirement system established by this chapter.

23 Notwithstanding any other provision of this chapter, persons
24 transferring from employment with a first class city of over four
25 hundred thousand population that has its own retirement system to
26 employment with the state department of agriculture may elect to
27 remain within the retirement system of such city and the state shall
28 pay the employer contributions for such persons at like rates as
29 prescribed for employers of other members of such system;

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

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

39 (16) Employees who are citizens of the United States and who
40 reside and perform duties for an employer outside of the United

1 States: PROVIDED, That unless otherwise excluded under this chapter
2 or chapter 41.04 RCW, the employee may apply for membership (a)
3 within thirty days after employment in an eligible position and
4 membership service credit shall be granted from the first day of
5 membership service, and (b) after this thirty-day period, but
6 membership service credit shall be granted only if payment is made
7 for the noncredited membership service under RCW 41.50.165(2),
8 otherwise service shall be from the date of application;

9 (17) The city manager or chief administrative officer of a city
10 or town, other than a retiree, who serves at the pleasure of an
11 appointing authority: PROVIDED, That such persons shall have the
12 option of applying for membership within thirty days from date of
13 their appointment to such positions. Persons serving in such
14 positions as of April 4, 1986, shall continue to be members in the
15 retirement system unless they notify the director in writing prior to
16 December 31, 1986, of their desire to withdraw from membership in the
17 retirement system. A member who withdraws from membership in the
18 system under this section shall receive a refund of the member's
19 accumulated contributions.

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

24 (18) Persons serving as: (a) The chief administrative officer of
25 a public utility district as defined in RCW 54.16.100; (b) the chief
26 administrative officer of a port district formed under chapter 53.04
27 RCW; or (c) the chief administrative officer of a county who serves
28 at the pleasure of an appointing authority: PROVIDED, That such
29 persons shall have the option of applying for membership within
30 thirty days from the date of their appointment to such positions.
31 Persons serving in such positions as of July 25, 1999, shall continue
32 to be members in the retirement system unless they notify the
33 director in writing prior to December 31, 1999, of their desire to
34 withdraw from membership in the retirement system. A member who
35 withdraws from membership in the system under this section shall
36 receive a refund of the member's accumulated contributions upon
37 termination of employment or as otherwise consistent with the plan's
38 tax qualification status as defined in internal revenue code section
39 401.

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

6 (19) Persons enrolled in state-approved apprenticeship programs,
7 authorized under chapter 49.04 RCW, and who are employed by local
8 governments to earn hours to complete such apprenticeship programs,
9 if the employee is a member of a union-sponsored retirement plan and
10 is making contributions to such a retirement plan or if the employee
11 is a member of a Taft-Hartley retirement plan;

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

18 (21) Employees who are removed from membership under RCW
19 41.40.823 or 41.40.633; (~~and~~)

20 (22) Persons employed as the state director of fire protection
21 under RCW 43.43.938 who were previously members of the law
22 enforcement officers' and firefighters' retirement system plan 2
23 under chapter 41.26 RCW may continue as a member of the law
24 enforcement officers' and firefighters' retirement system in lieu of
25 becoming a member of this system; and

26 (23) Any enrolled member of the relief and compensation
27 provisions or the pension provisions of the volunteer firefighters'
28 and reserve officers' relief and pension principal fund under chapter
29 41.24 RCW whose position becomes eligible under this chapter due to
30 service rendered at a large scale emergency that exhausts all local
31 resources and requires the response of the state and/or federal
32 resources. Such a person shall have the option of applying for
33 membership within ninety days of (a) the position becoming eligible,
34 or (b) the termination of the large scale emergency, whichever comes
35 later.

36 NEW SECTION. Sec. 4. If any provision of this act or its
37 application to any person or circumstance is held invalid, the
38 remainder of the act or the application of the provision to other
39 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect July 1,
2 2017.

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