
HOUSE BILL 2187

State of Washington 65th Legislature 2017 Regular Session

By Representatives Manweller, Hayes, and Griffey

Read first time 03/28/17. Referred to Committee on Appropriations.

1 AN ACT Relating to the eligibility of emergency medical
2 technicians employed by public hospital districts for membership in
3 the law enforcement officers' and firefighters' retirement system
4 plan 2; amending RCW 41.26.030; adding a new section to chapter 41.26
5 RCW; and creating new sections.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that many
8 emergency medical technicians employed by public hospital districts
9 provide the same type of emergency medical services as firefighters.
10 In amending the definition of firefighter in RCW 41.26.030 by section
11 1, chapter 459, Laws of 2005, to include emergency medical
12 technicians, the legislature intended to limit membership to persons
13 who provided emergency medical services as defined in RCW
14 18.73.030(10).

15 (2) The purpose of this act is to clarify that only emergency
16 medical technicians who provide such services qualify as firefighters
17 under the 2005 act.

18 (3) The legislature finds that providing payment options to those
19 members who should have been enrolled into the law enforcement
20 officers' and firefighters' retirement system plan 2 under the 2005

1 act, but have not yet been enrolled, is in the best interest of those
2 members, their employers, the plan and the state.

3 **Sec. 2.** RCW 41.26.030 and 2012 c 236 s 2 are each amended to
4 read as follows:

5 As used in this chapter, unless a different meaning is plainly
6 required by the context:

7 (1) "Accumulated contributions" means the employee's
8 contributions made by a member, including any amount paid under RCW
9 41.50.165(2), plus accrued interest credited thereon.

10 (2) "Actuarial reserve" means a method of financing a pension or
11 retirement plan wherein reserves are accumulated as the liabilities
12 for benefit payments are incurred in order that sufficient funds will
13 be available on the date of retirement of each member to pay the
14 member's future benefits during the period of retirement.

15 (3) "Actuarial valuation" means a mathematical determination of
16 the financial condition of a retirement plan. It includes the
17 computation of the present monetary value of benefits payable to
18 present members, and the present monetary value of future employer
19 and employee contributions, giving effect to mortality among active
20 and retired members and also to the rates of disability, retirement,
21 withdrawal from service, salary and interest earned on investments.

22 (4)(a) "Basic salary" for plan 1 members, means the basic monthly
23 rate of salary or wages, including longevity pay but not including
24 overtime earnings or special salary or wages, upon which pension or
25 retirement benefits will be computed and upon which employer
26 contributions and salary deductions will be based.

27 (b) "Basic salary" for plan 2 members, means salaries or wages
28 earned by a member during a payroll period for personal services,
29 including overtime payments, and shall include wages and salaries
30 deferred under provisions established pursuant to sections 403(b),
31 414(h), and 457 of the United States Internal Revenue Code, but shall
32 exclude lump sum payments for deferred annual sick leave, unused
33 accumulated vacation, unused accumulated annual leave, or any form of
34 severance pay. In any year in which a member serves in the
35 legislature the member shall have the option of having such member's
36 basic salary be the greater of:

37 (i) The basic salary the member would have received had such
38 member not served in the legislature; or

1 (ii) Such member's actual basic salary received for
2 nonlegislative public employment and legislative service combined.
3 Any additional contributions to the retirement system required
4 because basic salary under (b)(i) of this subsection is greater than
5 basic salary under (b)(ii) of this subsection shall be paid by the
6 member for both member and employer contributions.

7 (5)(a) "Beneficiary" for plan 1 members, means any person in
8 receipt of a retirement allowance, disability allowance, death
9 benefit, or any other benefit described herein.

10 (b) "Beneficiary" for plan 2 members, means any person in receipt
11 of a retirement allowance or other benefit provided by this chapter
12 resulting from service rendered to an employer by another person.

13 (6)(a) "Child" or "children" means an unmarried person who is
14 under the age of eighteen or mentally or physically disabled as
15 determined by the department, except a person who is disabled and in
16 the full time care of a state institution, who is:

17 (i) A natural born child;

18 (ii) A stepchild where that relationship was in existence prior
19 to the date benefits are payable under this chapter;

20 (iii) A posthumous child;

21 (iv) A child legally adopted or made a legal ward of a member
22 prior to the date benefits are payable under this chapter; or

23 (v) An illegitimate child legitimized prior to the date any
24 benefits are payable under this chapter.

25 (b) A person shall also be deemed to be a child up to and
26 including the age of twenty years and eleven months while attending
27 any high school, college, or vocational or other educational
28 institution accredited, licensed, or approved by the state, in which
29 it is located, including the summer vacation months and all other
30 normal and regular vacation periods at the particular educational
31 institution after which the child returns to school.

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

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

35 (9) "Disability board" for plan 1 members means either the county
36 disability board or the city disability board established in RCW
37 41.26.110.

38 (10) "Disability leave" means the period of six months or any
39 portion thereof during which a member is on leave at an allowance
40 equal to the member's full salary prior to the commencement of

1 disability retirement. The definition contained in this subsection
2 shall apply only to plan 1 members.

3 (11) "Disability retirement" for plan 1 members, means the period
4 following termination of a member's disability leave, during which
5 the member is in receipt of a disability retirement allowance.

6 (12) "Domestic partners" means two adults who have registered as
7 domestic partners under RCW 26.60.020.

8 (13) "Employee" means any law enforcement officer or firefighter
9 as defined in subsections (16) and (18) of this section.

10 (14)(a) "Employer" for plan 1 members, means the legislative
11 authority of any city, town, county, or district or the elected
12 officials of any municipal corporation that employs any law
13 enforcement officer and/or firefighter, any authorized association of
14 such municipalities, and, except for the purposes of RCW 41.26.150,
15 any labor guild, association, or organization, which represents the
16 firefighters or law enforcement officers of at least seven cities of
17 over 20,000 population and the membership of each local lodge or
18 division of which is composed of at least sixty percent law
19 enforcement officers or firefighters as defined in this chapter.

20 (b) "Employer" for plan 2 members, means the following entities
21 to the extent that the entity employs any law enforcement officer
22 and/or firefighter:

23 (i) The legislative authority of any city, town, county, ~~((or))~~
24 district, or public corporation established under RCW 35.21.730 to
25 provide emergency medical services as defined in RCW 18.73.030(10);

26 (ii) The elected officials of any municipal corporation;

27 (iii) The governing body of any other general authority law
28 enforcement agency; or

29 (iv) A four-year institution of higher education having a fully
30 operational fire department as of January 1, 1996.

31 (c) Except as otherwise specifically provided in this chapter,
32 "employer" does not include a government contractor. For purposes of
33 this subsection, a "government contractor" is any entity, including a
34 partnership, limited liability company, for-profit or nonprofit
35 corporation, or person, that provides services pursuant to a contract
36 with an "employer." The determination whether an employer-employee
37 relationship has been established is not based on the relationship
38 between a government contractor and an "employer," but is based
39 solely on the relationship between a government contractor's employee
40 and an "employer" under this chapter.

1 (15)(a) "Final average salary" for plan 1 members, means (i) for
2 a member holding the same position or rank for a minimum of twelve
3 months preceding the date of retirement, the basic salary attached to
4 such same position or rank at time of retirement; (ii) for any other
5 member, including a civil service member who has not served a minimum
6 of twelve months in the same position or rank preceding the date of
7 retirement, the average of the greatest basic salaries payable to
8 such member during any consecutive twenty-four month period within
9 such member's last ten years of service for which service credit is
10 allowed, computed by dividing the total basic salaries payable to
11 such member during the selected twenty-four month period by twenty-
12 four; (iii) in the case of disability of any member, the basic salary
13 payable to such member at the time of disability retirement; (iv) in
14 the case of a member who hereafter vests pursuant to RCW 41.26.090,
15 the basic salary payable to such member at the time of vesting.

16 (b) "Final average salary" for plan 2 members, means the monthly
17 average of the member's basic salary for the highest consecutive
18 sixty service credit months of service prior to such member's
19 retirement, termination, or death. Periods constituting authorized
20 unpaid leaves of absence may not be used in the calculation of final
21 average salary.

22 (c) In calculating final average salary under (a) or (b) of this
23 subsection, the department of retirement systems shall include:

24 (i) Any compensation forgone by a member employed by a state
25 agency or institution during the 2009-2011 fiscal biennium as a
26 result of reduced work hours, mandatory or voluntary leave without
27 pay, temporary reduction in pay implemented prior to December 11,
28 2010, or temporary layoffs if the reduced compensation is an integral
29 part of the employer's expenditure reduction efforts, as certified by
30 the employer; and

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

39 (16) "Firefighter" means:

1 (a) Any person who is serving on a full time, fully compensated
2 basis as a member of a fire department of an employer and who is
3 serving in a position which requires passing a civil service
4 examination for firefighter, and who is actively employed as such;

5 (b) Anyone who is actively employed as a full time firefighter
6 where the fire department does not have a civil service examination;

7 (c) Supervisory firefighter personnel;

8 (d) Any full time executive secretary of an association of fire
9 protection districts authorized under RCW 52.12.031. The provisions
10 of this subsection (16)(d) shall not apply to plan 2 members;

11 (e) The executive secretary of a labor guild, association or
12 organization (which is an employer under subsection (14) of this
13 section), if such individual has five years previous membership in a
14 retirement system established in chapter 41.16 or 41.18 RCW. The
15 provisions of this subsection (16)(e) shall not apply to plan 2
16 members;

17 (f) Any person who is serving on a full time, fully compensated
18 basis for an employer, as a fire dispatcher, in a department in
19 which, on March 1, 1970, a dispatcher was required to have passed a
20 civil service examination for firefighter;

21 (g) Any person who on March 1, 1970, was employed on a full time,
22 fully compensated basis by an employer, and who on May 21, 1971, was
23 making retirement contributions under the provisions of chapter 41.16
24 or 41.18 RCW; and

25 (h) Any person who is employed on a full-time, fully compensated
26 basis by an employer as an emergency medical technician whose duties
27 include providing emergency medical services as defined in RCW
28 18.73.030(10).

29 (17) "General authority law enforcement agency" means any agency,
30 department, or division of a municipal corporation, political
31 subdivision, or other unit of local government of this state, and any
32 agency, department, or division of state government, having as its
33 primary function the detection and apprehension of persons committing
34 infractions or violating the traffic or criminal laws in general, but
35 not including the Washington state patrol. Such an agency,
36 department, or division is distinguished from a limited authority law
37 enforcement agency having as one of its functions the apprehension or
38 detection of persons committing infractions or violating the traffic
39 or criminal laws relating to limited subject areas, including but not
40 limited to, the state departments of natural resources and social and

1 health services, the state gambling commission, the state lottery
2 commission, the state parks and recreation commission, the state
3 utilities and transportation commission, the state liquor (~~control~~)
4 and cannabis board, and the state department of corrections. A
5 general authority law enforcement agency under this chapter does not
6 include a government contractor.

7 (18) "Law enforcement officer" beginning January 1, 1994, means
8 any person who is commissioned and employed by an employer on a full
9 time, fully compensated basis to enforce the criminal laws of the
10 state of Washington generally, with the following qualifications:

11 (a) No person who is serving in a position that is basically
12 clerical or secretarial in nature, and who is not commissioned shall
13 be considered a law enforcement officer;

14 (b) Only those deputy sheriffs, including those serving under a
15 different title pursuant to county charter, who have successfully
16 completed a civil service examination for deputy sheriff or the
17 equivalent position, where a different title is used, and those
18 persons serving in unclassified positions authorized by RCW 41.14.070
19 except a private secretary will be considered law enforcement
20 officers;

21 (c) Only such full time commissioned law enforcement personnel as
22 have been appointed to offices, positions, or ranks in the police
23 department which have been specifically created or otherwise
24 expressly provided for and designated by city charter provision or by
25 ordinance enacted by the legislative body of the city shall be
26 considered city police officers;

27 (d) The term "law enforcement officer" also includes the
28 executive secretary of a labor guild, association or organization
29 (which is an employer under subsection (14) of this section) if that
30 individual has five years previous membership in the retirement
31 system established in chapter 41.20 RCW. The provisions of this
32 subsection (18)(d) shall not apply to plan 2 members; and

33 (e) The term "law enforcement officer" also includes a person
34 employed on or after January 1, 1993, as a public safety officer or
35 director of public safety, so long as the job duties substantially
36 involve only either police or fire duties, or both, and no other
37 duties in a city or town with a population of less than ten thousand.
38 The provisions of this subsection (18)(e) shall not apply to any
39 public safety officer or director of public safety who is receiving a
40 retirement allowance under this chapter as of May 12, 1993.

1 (19) "Medical services" for plan 1 members, shall include the
2 following as minimum services to be provided. Reasonable charges for
3 these services shall be paid in accordance with RCW 41.26.150.

4 (a) Hospital expenses: These are the charges made by a hospital,
5 in its own behalf, for

6 (i) Board and room not to exceed semiprivate room rate unless
7 private room is required by the attending physician due to the
8 condition of the patient.

9 (ii) Necessary hospital services, other than board and room,
10 furnished by the hospital.

11 (b) Other medical expenses: The following charges are considered
12 "other medical expenses", provided that they have not been considered
13 as "hospital expenses".

14 (i) The fees of the following:

15 (A) A physician or surgeon licensed under the provisions of
16 chapter 18.71 RCW;

17 (B) An osteopathic physician and surgeon licensed under the
18 provisions of chapter 18.57 RCW;

19 (C) A chiropractor licensed under the provisions of chapter 18.25
20 RCW.

21 (ii) The charges of a registered graduate nurse other than a
22 nurse who ordinarily resides in the member's home, or is a member of
23 the family of either the member or the member's spouse.

24 (iii) The charges for the following medical services and
25 supplies:

26 (A) Drugs and medicines upon a physician's prescription;

27 (B) Diagnostic X-ray and laboratory examinations;

28 (C) X-ray, radium, and radioactive isotopes therapy;

29 (D) Anesthesia and oxygen;

30 (E) Rental of iron lung and other durable medical and surgical
31 equipment;

32 (F) Artificial limbs and eyes, and casts, splints, and trusses;

33 (G) Professional ambulance service when used to transport the
34 member to or from a hospital when injured by an accident or stricken
35 by a disease;

36 (H) Dental charges incurred by a member who sustains an
37 accidental injury to his or her teeth and who commences treatment by
38 a legally licensed dentist within ninety days after the accident;

39 (I) Nursing home confinement or hospital extended care facility;

40 (J) Physical therapy by a registered physical therapist;

1 (K) Blood transfusions, including the cost of blood and blood
2 plasma not replaced by voluntary donors;

3 (L) An optometrist licensed under the provisions of chapter 18.53
4 RCW.

5 (20) "Member" means any firefighter, law enforcement officer, or
6 other person as would apply under subsections (16) or (18) of this
7 section whose membership is transferred to the Washington law
8 enforcement officers' and firefighters' retirement system on or after
9 March 1, 1970, and every law enforcement officer and firefighter who
10 is employed in that capacity on or after such date.

11 (21) "Plan 1" means the law enforcement officers' and
12 firefighters' retirement system, plan 1 providing the benefits and
13 funding provisions covering persons who first became members of the
14 system prior to October 1, 1977.

15 (22) "Plan 2" means the law enforcement officers' and
16 firefighters' retirement system, plan 2 providing the benefits and
17 funding provisions covering persons who first became members of the
18 system on and after October 1, 1977.

19 (23) "Position" means the employment held at any particular time,
20 which may or may not be the same as civil service rank.

21 (24) "Regular interest" means such rate as the director may
22 determine.

23 (25) "Retiree" for persons who establish membership in the
24 retirement system on or after October 1, 1977, means any member in
25 receipt of a retirement allowance or other benefit provided by this
26 chapter resulting from service rendered to an employer by such
27 member.

28 (26) "Retirement fund" means the "Washington law enforcement
29 officers' and firefighters' retirement system fund" as provided for
30 herein.

31 (27) "Retirement system" means the "Washington law enforcement
32 officers' and firefighters' retirement system" provided herein.

33 (28)(a) "Service" for plan 1 members, means all periods of
34 employment for an employer as a firefighter or law enforcement
35 officer, for which compensation is paid, together with periods of
36 suspension not exceeding thirty days in duration. For the purposes of
37 this chapter service shall also include service in the armed forces
38 of the United States as provided in RCW 41.26.190. Credit shall be
39 allowed for all service credit months of service rendered by a member
40 from and after the member's initial commencement of employment as a

1 firefighter or law enforcement officer, during which the member
2 worked for seventy or more hours, or was on disability leave or
3 disability retirement. Only service credit months of service shall be
4 counted in the computation of any retirement allowance or other
5 benefit provided for in this chapter.

6 (i) For members retiring after May 21, 1971 who were employed
7 under the coverage of a prior pension act before March 1, 1970,
8 "service" shall also include (A) such military service not exceeding
9 five years as was creditable to the member as of March 1, 1970, under
10 the member's particular prior pension act, and (B) such other periods
11 of service as were then creditable to a particular member under the
12 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
13 event shall credit be allowed for any service rendered prior to March
14 1, 1970, where the member at the time of rendition of such service
15 was employed in a position covered by a prior pension act, unless
16 such service, at the time credit is claimed therefor, is also
17 creditable under the provisions of such prior act.

18 (ii) A member who is employed by two employers at the same time
19 shall only be credited with service to one such employer for any
20 month during which the member rendered such dual service.

21 (b) "Service" for plan 2 members, means periods of employment by
22 a member for one or more employers for which basic salary is earned
23 for ninety or more hours per calendar month which shall constitute a
24 service credit month. Periods of employment by a member for one or
25 more employers for which basic salary is earned for at least seventy
26 hours but less than ninety hours per calendar month shall constitute
27 one-half service credit month. Periods of employment by a member for
28 one or more employers for which basic salary is earned for less than
29 seventy hours shall constitute a one-quarter service credit month.

30 Members of the retirement system who are elected or appointed to
31 a state elective position may elect to continue to be members of this
32 retirement system.

33 Service credit years of service shall be determined by dividing
34 the total number of service credit months of service by twelve. Any
35 fraction of a service credit year of service as so determined shall
36 be taken into account in the computation of such retirement allowance
37 or benefits.

38 If a member receives basic salary from two or more employers
39 during any calendar month, the individual shall receive one service
40 credit month's service credit during any calendar month in which

1 multiple service for ninety or more hours is rendered; or one-half
2 service credit month's service credit during any calendar month in
3 which multiple service for at least seventy hours but less than
4 ninety hours is rendered; or one-quarter service credit month during
5 any calendar month in which multiple service for less than seventy
6 hours is rendered.

7 (29) "Service credit month" means a full service credit month or
8 an accumulation of partial service credit months that are equal to
9 one.

10 (30) "Service credit year" means an accumulation of months of
11 service credit which is equal to one when divided by twelve.

12 (31) "State actuary" or "actuary" means the person appointed
13 pursuant to RCW 44.44.010(2).

14 (32) "State elective position" means any position held by any
15 person elected or appointed to statewide office or elected or
16 appointed as a member of the legislature.

17 (33) "Surviving spouse" means the surviving widow or widower of a
18 member. "Surviving spouse" shall not include the divorced spouse of a
19 member except as provided in RCW 41.26.162.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.26
21 RCW under subchapter heading "plan 2" to read as follows:

22 (1) A member who provided emergency medical services on behalf of
23 a public hospital district or public corporation established under
24 RCW 35.21.730 to provide emergency medical services as defined in RCW
25 18.73.030(10) may establish credit for such service rendered on or
26 after July 24, 2005. Upon receipt of a written request, the
27 department of retirement systems must notify the member of the cost
28 to establish credit for all or part of such service.

29 (a) Before July 1, 2018, a member may elect to establish credit
30 in plan 2 under this section. Such election must be filed in writing
31 with the department of retirement systems by June 30, 2018. The
32 elected period must be in contiguous monthly increments beginning
33 with the oldest service.

34 (i) To establish service under this section, except as provided
35 in section 4 of this act, the member must pay the employee
36 contributions he or she would have paid if he or she had been
37 participating in the retirement system at the time of the service:

38 (A) No later than five years from the effective date of the
39 election made under this section; and

1 (B) Prior to retirement.

2 (ii) Upon full payment of employee contributions for the elected
3 period of service the department of retirement systems must:

4 (A) Credit the member with the service; and

5 (B) Bill the employer for the employer contributions it would
6 have paid if such member had been participating in the retirement
7 system at the time of such service. The amount billed to the employer
8 by the department of retirement systems must be reduced by the amount
9 of any employer contributions to an employee's retirement account
10 prior to January 1, 2016, not to exceed three percent of the member's
11 basic salary from July 1, 2005, through December 31, 2015.

12 (iii) The employer shall pay the required amount prior to July 1,
13 2028.

14 (b)(i) A member of the public employees' retirement system who is
15 eligible for membership in plan 2 under this section may:

16 (A) Make an election in writing to the department of retirement
17 systems by January 1, 2018, to remain a member of the public
18 employees' retirement system and not participate in the law
19 enforcement officers' and firefighters' retirement system plan 2;

20 (B) Leave any service credit earned as a member of the public
21 employees' retirement system in the public employees' retirement
22 system, and have service rendered on or after January 1, 2018, as an
23 emergency medical technician in the law enforcement officers' and
24 firefighters' retirement system plan 2, becoming a dual member under
25 the provisions of chapter 41.54 RCW; or

26 (C) Before July 1, 2018, elect to transfer service credit
27 previously earned as an emergency medical technician for a public
28 hospital district or public corporation established under RCW
29 35.21.730 to provide emergency medical services as defined in RCW
30 18.73.030(10) to the law enforcement officers' and firefighters'
31 retirement system plan 2 as defined in RCW 41.26.030. Such election
32 must be filed in writing with the department of retirement systems by
33 June 30, 2018.

34 (I) A member who elects to transfer service credit under this
35 subsection shall pay, for the applicable period of service, the
36 difference between the contributions the employee paid to the public
37 employees' retirement system plan and the contributions that would
38 have been paid by the employee had the employee been a member of the
39 law enforcement officers' and firefighters' retirement system plan 2,
40 plus interest on this difference as determined by the director.

1 (II) The payment under (a) of this subsection must be made no
2 later than five years from the effective date of the election and
3 must be made prior to retirement, except as provided under section 4
4 of this act.

5 (2) Upon transfer or establishment of service credit,
6 contributions, and interest under this section, the employee is
7 permanently excluded from membership in the public employees'
8 retirement system for all service transfers related to their time
9 served as an emergency medical technician for a public hospital
10 district or public corporation established under RCW 35.21.730 to
11 provide emergency medical services as defined in RCW 18.73.030(10)
12 under the public employees' retirement system.

13 (3) A public hospital district or public corporation established
14 under RCW 35.21.730 to provide emergency medical services as defined
15 in RCW 18.73.030(10) shall provide the department of retirement
16 systems with a list of former employees who were employed as
17 emergency medical technicians and whose duties included providing
18 emergency medical services as defined in RCW 18.73.030(10) on or
19 after July 24, 2005, and who are eligible to establish credit for
20 service under this section. The list must include a former employee's
21 name, last known address, and period of employment. The department of
22 retirement systems must notify former employees of the process and
23 cost to establish credit for service under this section.

24 NEW SECTION. **Sec. 4.** If a member who elected to transfer
25 pursuant to section 3 of this act dies or retires for disability
26 prior to five years from their election date, the member's benefit is
27 calculated as follows:

28 (1) All of the applicable service credit, accumulated
29 contributions, and interest is transferred to or established in the
30 law enforcement officers' and firefighters' retirement system plan 2
31 and used in the calculation of a benefit.

32 (2) If a member's obligation under section 3 of this act has not
33 been paid in full at the time of death or disability retirement, the
34 member, or in the case of death the surviving spouse or eligible
35 minor children, have the following options:

36 (a) Pay the bill in full;

37 (b) If a continuing monthly benefit is chosen, have the benefit
38 actuarially reduced to reflect the amount of the unpaid obligation
39 under section 3 of this act; or

1 (c) Continue to make payment against the obligation under section
2 3 of this act, provided that payment in full is made no later than
3 five years from the member's original election date.

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