
HOUSE BILL 2202

State of Washington

65th Legislature

2017 Regular Session

By Representatives Manweller and Ormsby

Read first time 04/12/17. Referred to Committee on Appropriations.

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

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

7 **Sec. 1.** RCW 41.26.030 and 2012 c 236 s 2 are each amended to
8 read as follows:

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

11 (1) "Accumulated contributions" means the employee's
12 contributions made by a member, including any amount paid under RCW
13 41.50.165(2), plus accrued interest credited thereon.

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

19 (3) "Actuarial valuation" means a mathematical determination of
20 the financial condition of a retirement plan. It includes the
21 computation of the present monetary value of benefits payable to

1 present members, and the present monetary value of future employer
2 and employee contributions, giving effect to mortality among active
3 and retired members and also to the rates of disability, retirement,
4 withdrawal from service, salary and interest earned on investments.

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

10 (b) "Basic salary" for plan 2 members, means salaries or wages
11 earned by a member during a payroll period for personal services,
12 including overtime payments, and shall include wages and salaries
13 deferred under provisions established pursuant to sections 403(b),
14 414(h), and 457 of the United States Internal Revenue Code, but shall
15 exclude lump sum payments for deferred annual sick leave, unused
16 accumulated vacation, unused accumulated annual leave, or any form of
17 severance pay. In any year in which a member serves in the
18 legislature the member shall have the option of having such member's
19 basic salary be the greater of:

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

22 (ii) Such member's actual basic salary received for
23 nonlegislative public employment and legislative service combined.
24 Any additional contributions to the retirement system required
25 because basic salary under (b)(i) of this subsection is greater than
26 basic salary under (b)(ii) of this subsection shall be paid by the
27 member for both member and employer contributions.

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

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

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

38 (i) A natural born child;

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

1 (iii) A posthumous child;

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

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

6 (b) A person shall also be deemed to be a child up to and
7 including the age of twenty years and eleven months while attending
8 any high school, college, or vocational or other educational
9 institution accredited, licensed, or approved by the state, in which
10 it is located, including the summer vacation months and all other
11 normal and regular vacation periods at the particular educational
12 institution after which the child returns to school.

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

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

16 (9) "Disability board" for plan 1 members means either the county
17 disability board or the city disability board established in RCW
18 41.26.110.

19 (10) "Disability leave" means the period of six months or any
20 portion thereof during which a member is on leave at an allowance
21 equal to the member's full salary prior to the commencement of
22 disability retirement. The definition contained in this subsection
23 shall apply only to plan 1 members.

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

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

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

31 (14)(a) "Employer" for plan 1 members, means the legislative
32 authority of any city, town, county, or district or the elected
33 officials of any municipal corporation that employs any law
34 enforcement officer and/or firefighter, any authorized association of
35 such municipalities, and, except for the purposes of RCW 41.26.150,
36 any labor guild, association, or organization, which represents the
37 firefighters or law enforcement officers of at least seven cities of
38 over 20,000 population and the membership of each local lodge or
39 division of which is composed of at least sixty percent law
40 enforcement officers or firefighters as defined in this chapter.

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

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

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

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

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

12 (c) Except as otherwise specifically provided in this chapter,
13 "employer" does not include a government contractor. For purposes of
14 this subsection, a "government contractor" is any entity, including a
15 partnership, limited liability company, for-profit or nonprofit
16 corporation, or person, that provides services pursuant to a contract
17 with an "employer." The determination whether an employer-employee
18 relationship has been established is not based on the relationship
19 between a government contractor and an "employer," but is based
20 solely on the relationship between a government contractor's employee
21 and an "employer" under this chapter.

22 (15)(a) "Final average salary" for plan 1 members, means (i) for
23 a member holding the same position or rank for a minimum of twelve
24 months preceding the date of retirement, the basic salary attached to
25 such same position or rank at time of retirement; (ii) for any other
26 member, including a civil service member who has not served a minimum
27 of twelve months in the same position or rank preceding the date of
28 retirement, the average of the greatest basic salaries payable to
29 such member during any consecutive twenty-four month period within
30 such member's last ten years of service for which service credit is
31 allowed, computed by dividing the total basic salaries payable to
32 such member during the selected twenty-four month period by twenty-
33 four; (iii) in the case of disability of any member, the basic salary
34 payable to such member at the time of disability retirement; (iv) in
35 the case of a member who hereafter vests pursuant to RCW 41.26.090,
36 the basic salary payable to such member at the time of vesting.

37 (b) "Final average salary" for plan 2 members, means the monthly
38 average of the member's basic salary for the highest consecutive
39 sixty service credit months of service prior to such member's
40 retirement, termination, or death. Periods constituting authorized

1 unpaid leaves of absence may not be used in the calculation of final
2 average salary.

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

5 (i) Any compensation forgone by a member employed by a state
6 agency or institution during the 2009-2011 fiscal biennium as a
7 result of reduced work hours, mandatory or voluntary leave without
8 pay, temporary reduction in pay implemented prior to December 11,
9 2010, or temporary layoffs if the reduced compensation is an integral
10 part of the employer's expenditure reduction efforts, as certified by
11 the employer; and

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

20 (16) "Firefighter" means:

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

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

27 (c) Supervisory firefighter personnel;

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

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

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

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

5 (h) Any person who is employed on a full-time, fully compensated
6 basis by an employer as an emergency medical technician that meets
7 the requirements of RCW 18.71.200 or 18.73.030(12), and whose duties
8 include providing emergency medical services as defined in RCW
9 18.73.030.

10 (17) "General authority law enforcement agency" means any agency,
11 department, or division of a municipal corporation, political
12 subdivision, or other unit of local government of this state, and any
13 agency, department, or division of state government, having as its
14 primary function the detection and apprehension of persons committing
15 infractions or violating the traffic or criminal laws in general, but
16 not including the Washington state patrol. Such an agency,
17 department, or division is distinguished from a limited authority law
18 enforcement agency having as one of its functions the apprehension or
19 detection of persons committing infractions or violating the traffic
20 or criminal laws relating to limited subject areas, including but not
21 limited to, the state departments of natural resources and social and
22 health services, the state gambling commission, the state lottery
23 commission, the state parks and recreation commission, the state
24 utilities and transportation commission, the state liquor (~~control~~)
25 and cannabis board, and the state department of corrections. A
26 general authority law enforcement agency under this chapter does not
27 include a government contractor.

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

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

35 (b) Only those deputy sheriffs, including those serving under a
36 different title pursuant to county charter, who have successfully
37 completed a civil service examination for deputy sheriff or the
38 equivalent position, where a different title is used, and those
39 persons serving in unclassified positions authorized by RCW 41.14.070

1 except a private secretary will be considered law enforcement
2 officers;

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

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

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

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

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

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

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

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

36 (i) The fees of the following:

37 (A) A physician or surgeon licensed under the provisions of
38 chapter 18.71 RCW;

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

1 (C) A chiropractor licensed under the provisions of chapter 18.25
2 RCW.

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

6 (iii) The charges for the following medical services and
7 supplies:

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

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

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

11 (D) Anesthesia and oxygen;

12 (E) Rental of iron lung and other durable medical and surgical
13 equipment;

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

15 (G) Professional ambulance service when used to transport the
16 member to or from a hospital when injured by an accident or stricken
17 by a disease;

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

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

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

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

25 (L) An optometrist licensed under the provisions of chapter 18.53
26 RCW.

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

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

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

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

3 (24) "Regular interest" means such rate as the director may
4 determine.

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

10 (26) "Retirement fund" means the "Washington law enforcement
11 officers' and firefighters' retirement system fund" as provided for
12 herein.

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

15 (28)(a) "Service" for plan 1 members, means all periods of
16 employment for an employer as a firefighter or law enforcement
17 officer, for which compensation is paid, together with periods of
18 suspension not exceeding thirty days in duration. For the purposes of
19 this chapter service shall also include service in the armed forces
20 of the United States as provided in RCW 41.26.190. Credit shall be
21 allowed for all service credit months of service rendered by a member
22 from and after the member's initial commencement of employment as a
23 firefighter or law enforcement officer, during which the member
24 worked for seventy or more hours, or was on disability leave or
25 disability retirement. Only service credit months of service shall be
26 counted in the computation of any retirement allowance or other
27 benefit provided for in this chapter.

28 (i) For members retiring after May 21, 1971 who were employed
29 under the coverage of a prior pension act before March 1, 1970,
30 "service" shall also include (A) such military service not exceeding
31 five years as was creditable to the member as of March 1, 1970, under
32 the member's particular prior pension act, and (B) such other periods
33 of service as were then creditable to a particular member under the
34 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
35 event shall credit be allowed for any service rendered prior to March
36 1, 1970, where the member at the time of rendition of such service
37 was employed in a position covered by a prior pension act, unless
38 such service, at the time credit is claimed therefor, is also
39 creditable under the provisions of such prior act.

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

4 (b) "Service" for plan 2 members, means periods of employment by
5 a member for one or more employers for which basic salary is earned
6 for ninety or more hours per calendar month which shall constitute a
7 service credit month. Periods of employment by a member for one or
8 more employers for which basic salary is earned for at least seventy
9 hours but less than ninety hours per calendar month shall constitute
10 one-half service credit month. Periods of employment by a member for
11 one or more employers for which basic salary is earned for less than
12 seventy hours shall constitute a one-quarter service credit month.

13 Members of the retirement system who are elected or appointed to
14 a state elective position may elect to continue to be members of this
15 retirement system.

16 Service credit years of service shall be determined by dividing
17 the total number of service credit months of service by twelve. Any
18 fraction of a service credit year of service as so determined shall
19 be taken into account in the computation of such retirement allowance
20 or benefits.

21 If a member receives basic salary from two or more employers
22 during any calendar month, the individual shall receive one service
23 credit month's service credit during any calendar month in which
24 multiple service for ninety or more hours is rendered; or one-half
25 service credit month's service credit during any calendar month in
26 which multiple service for at least seventy hours but less than
27 ninety hours is rendered; or one-quarter service credit month during
28 any calendar month in which multiple service for less than seventy
29 hours is rendered.

30 (29) "Service credit month" means a full service credit month or
31 an accumulation of partial service credit months that are equal to
32 one.

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

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

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

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

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

6 (1) A member who provided emergency medical services to an
7 employer may establish credit for such service rendered on or after
8 July 24, 2005, and prior to the effective date of this section,
9 unless that service is already credited. Upon receipt of a written
10 request, the department of retirement systems must notify the member
11 of the cost to establish credit for all or part of such service.

12 (a) Before July 1, 2018, a member not enrolled in the public
13 employees' retirement system for service between July 24, 2005, and
14 the effective date of this section may elect to establish credit in
15 plan 2 under this section. Such election must be filed in writing
16 with the department of retirement systems by June 30, 2018. The
17 elected period must be in contiguous monthly increments beginning
18 with the oldest service.

19 (i) To establish service under this section, except as provided
20 in section 3 of this act, the member must pay the employee
21 contributions he or she would have paid if he or she had been
22 participating in the retirement system at the time of the service:

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

25 (B) Prior to retirement.

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

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

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

36 (iii) The employer shall pay the required amount prior to July 1,
37 2028.

1 (b)(i) A member of the public employees' retirement system who is
2 eligible for membership in the law enforcement officers' and
3 firefighters' retirement system plan 2 under this section may:

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

8 (B) Leave any service credit earned as a member of the public
9 employees' retirement system in the public employees' retirement
10 system, and have service rendered on or after January 1, 2018, as an
11 emergency medical technician in the law enforcement officers' and
12 firefighters' retirement system plan 2, becoming a dual member under
13 the provisions of chapter 41.54 RCW; or

14 (C) Before July 1, 2018, elect to transfer service credit
15 previously earned as an emergency medical technician to the law
16 enforcement officers' and firefighters' retirement system plan 2 as
17 defined in RCW 41.26.030. Such election must be filed in writing with
18 the department of retirement systems by June 30, 2018.

19 (I) A member who elects to transfer service credit under this
20 subsection (1)(b) shall pay, for the applicable period of service,
21 the difference between the contributions the employee paid to the
22 public employees' retirement system plan and the contributions that
23 would have been paid by the employee had the employee been a member
24 of the law enforcement officers' and firefighters' retirement system
25 plan 2, plus interest on this difference as determined by the
26 director.

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

31 (2) Upon transfer or establishment of service credit,
32 contributions, and interest under this section, the employee is
33 permanently excluded from membership in the public employees'
34 retirement system for all service transfers related to their time
35 served as an emergency medical technician under the public employees'
36 retirement system.

37 (3) Employers shall provide the department of retirement systems
38 with a list of former employees who were employed as emergency
39 medical technicians on or after July 24, 2005, and who are eligible
40 to establish credit for service under this section. The list must

1 include a former employee's name, last known address, and period of
2 employment. The department of retirement systems must notify former
3 employees of the process and cost to establish credit for service
4 under this section.

5 NEW SECTION. **Sec. 3.** If a member who elected to transfer
6 pursuant to section 2 of this act dies or retires for disability
7 prior to five years from their election date, the member's benefit is
8 calculated as follows:

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

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

17 (a) Pay the bill in full;

18 (b) If a continuing monthly benefit is chosen, have the benefit
19 actuarially reduced to reflect the amount of the unpaid obligation
20 under section 2 of this act; or

21 (c) Continue to make payment against the obligation under section
22 2 of this act, provided that payment in full is made no later than
23 five years from the member's original election date.

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