
ENGROSSED SUBSTITUTE SENATE BILL 5659

State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Bailey, Hawkins, Schoesler, and Warnick)

READ FIRST TIME 02/24/17.

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 amending RCW 41.26.030; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) In amending the definition of
7 firefighter in RCW 41.26.030 in chapter 459, Laws of 2005, to include
8 emergency medical technicians, the legislature intended to limit
9 membership to persons who provided emergency medical services as
10 defined in RCW 18.73.030(10).

11 (2) The purpose of this act is to clarify that only emergency
12 medical technicians who provide such services qualify as firefighters
13 under the 2005 act. This act is curative and remedial and is
14 retroactive to July 24, 2005.

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

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

1 (1) "Accumulated contributions" means the employee's
2 contributions made by a member, including any amount paid under RCW
3 41.50.165(2), plus accrued interest credited thereon.

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

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

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

21 (b) "Basic salary" for plan 2 members, means salaries or wages
22 earned by a member during a payroll period for personal services,
23 including overtime payments, and shall include wages and salaries
24 deferred under provisions established pursuant to sections 403(b),
25 414(h), and 457 of the United States Internal Revenue Code, but shall
26 exclude lump sum payments for deferred annual sick leave, unused
27 accumulated vacation, unused accumulated annual leave, or any form of
28 severance pay. In any year in which a member serves in the
29 legislature the member shall have the option of having such member's
30 basic salary be the greater of:

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

33 (ii) Such member's actual basic salary received for
34 nonlegislative public employment and legislative service combined.
35 Any additional contributions to the retirement system required
36 because basic salary under (b)(i) of this subsection is greater than
37 basic salary under (b)(ii) of this subsection shall be paid by the
38 member for both member and employer contributions.

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

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

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

11 (i) A natural born child;

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

14 (iii) A posthumous child;

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

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

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

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

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

29 (9) "Disability board" for plan 1 members means either the county
30 disability board or the city disability board established in RCW
31 41.26.110.

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

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

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

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

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

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

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

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

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

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

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

36 (15)(a) "Final average salary" for plan 1 members, means (i) for
37 a member holding the same position or rank for a minimum of twelve
38 months preceding the date of retirement, the basic salary attached to
39 such same position or rank at time of retirement; (ii) for any other
40 member, including a civil service member who has not served a minimum

1 of twelve months in the same position or rank preceding the date of
2 retirement, the average of the greatest basic salaries payable to
3 such member during any consecutive twenty-four month period within
4 such member's last ten years of service for which service credit is
5 allowed, computed by dividing the total basic salaries payable to
6 such member during the selected twenty-four month period by twenty-
7 four; (iii) in the case of disability of any member, the basic salary
8 payable to such member at the time of disability retirement; (iv) in
9 the case of a member who hereafter vests pursuant to RCW 41.26.090,
10 the basic salary payable to such member at the time of vesting.

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

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

19 (i) Any compensation forgone by a member employed by a state
20 agency or institution during the 2009-2011 fiscal biennium as a
21 result of reduced work hours, mandatory or voluntary leave without
22 pay, temporary reduction in pay implemented prior to December 11,
23 2010, or temporary layoffs if the reduced compensation is an integral
24 part of the employer's expenditure reduction efforts, as certified by
25 the employer; and

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

34 (16) "Firefighter" means:

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

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

1 (c) Supervisory firefighter personnel;

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

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

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

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

19 (h) Any person who is employed on a full-time, fully compensated
20 basis by an employer as an emergency medical technician whose duties
21 include providing emergency medical services as defined in RCW
22 18.73.030(10).

23 (17) "General authority law enforcement agency" means any agency,
24 department, or division of a municipal corporation, political
25 subdivision, or other unit of local government of this state, and any
26 agency, department, or division of state government, having as its
27 primary function the detection and apprehension of persons committing
28 infractions or violating the traffic or criminal laws in general, but
29 not including the Washington state patrol. Such an agency,
30 department, or division is distinguished from a limited authority law
31 enforcement agency having as one of its functions the apprehension or
32 detection of persons committing infractions or violating the traffic
33 or criminal laws relating to limited subject areas, including but not
34 limited to, the state departments of natural resources and social and
35 health services, the state gambling commission, the state lottery
36 commission, the state parks and recreation commission, the state
37 utilities and transportation commission, the state liquor ~~((control))~~
38 and cannabis board, and the state department of corrections. A
39 general authority law enforcement agency under this chapter does not
40 include a government contractor.

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

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

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

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

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

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

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

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

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

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

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

9 (i) The fees of the following:

10 (A) A physician or surgeon licensed under the provisions of
11 chapter 18.71 RCW;

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

14 (C) A chiropractor licensed under the provisions of chapter 18.25
15 RCW.

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

19 (iii) The charges for the following medical services and
20 supplies:

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

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

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

24 (D) Anesthesia and oxygen;

25 (E) Rental of iron lung and other durable medical and surgical
26 equipment;

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

28 (G) Professional ambulance service when used to transport the
29 member to or from a hospital when injured by an accident or stricken
30 by a disease;

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

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

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

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

38 (L) An optometrist licensed under the provisions of chapter 18.53
39 RCW.

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

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

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

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

17 (24) "Regular interest" means such rate as the director may
18 determine.

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

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

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

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

1 counted in the computation of any retirement allowance or other
2 benefit provided for in this chapter.

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

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

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

27 Members of the retirement system who are elected or appointed to
28 a state elective position may elect to continue to be members of this
29 retirement system.

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

35 If a member receives basic salary from two or more employers
36 during any calendar month, the individual shall receive one service
37 credit month's service credit during any calendar month in which
38 multiple service for ninety or more hours is rendered; or one-half
39 service credit month's service credit during any calendar month in
40 which multiple service for at least seventy hours but less than

1 ninety hours is rendered; or one-quarter service credit month during
2 any calendar month in which multiple service for less than seventy
3 hours is rendered.

4 (29) "Service credit month" means a full service credit month or
5 an accumulation of partial service credit months that are equal to
6 one.

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

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

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

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

17 NEW SECTION. **Sec. 3.** (1) A member who provided emergency
18 medical services on behalf of a public hospital district or public
19 corporation established under RCW 35.21.730 to provide emergency
20 medical services as defined in RCW 18.73.030(10) may establish credit
21 for such service rendered on or after July 24, 2005. Upon receipt of
22 a written request the department of retirement systems must notify
23 the member of the cost to establish credit for all or part of such
24 service.

25 (a) A member has one year from July 1, 2017, to elect to
26 establish credit in plan 2 under this section. Such election must be
27 filed in writing with the department of retirement systems by June
28 30, 2018. The elected period must be in contiguous monthly increments
29 beginning with the oldest service.

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

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

36 (B) Prior to retirement.

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

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

1 (B) Bill the employer for the employer contributions it would
2 have paid if such member had been participating in the retirement
3 system at the time of such service. The amount billed to the employer
4 by the department of retirement systems must be reduced by the amount
5 of any employer contributions to an employee's retirement account
6 prior to December 1, 2011.

7 (iii) The employer shall pay the required amount prior to July 1,
8 2028.

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

11 (A) Make an election in writing to the department of retirement
12 systems by July 1, 2017, to remain a member of the public employees'
13 retirement system and not participate in the law enforcement
14 officers' and firefighters' retirement system plan 2;

15 (B) Leave any service credit earned as a member of the public
16 employees' retirement system in the public employees' retirement
17 system, and have service rendered on or after July 1, 2017, as an
18 emergency medical technician in the law enforcement officers' and
19 firefighters' retirement system plan 2, becoming a dual member under
20 the provisions of chapter 41.54 RCW; or

21 (C) Within one year from July 1, 2017, to elect to transfer
22 service credit previously earned as an emergency medical technician
23 for a public hospital district or public corporation established
24 under RCW 35.21.730 to provide emergency medical services as defined
25 in RCW 18.73.030(10) to the law enforcement officers' and
26 firefighters' retirement system plan 2 as defined in RCW 41.26.030.
27 Such election must be filed in writing with the department of
28 retirement systems by June 30, 2018.

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

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

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

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

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

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

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

31 (a) Pay the bill in full;

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

35 (c) Continue to make payment against the obligation under section
36 3 of this act, provided that payment in full is made no later than
37 five years from the member's original election date.

1 NEW SECTION. **Sec. 5.** This act is curative and remedial and is
2 effective retroactively to July 24, 2005.

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