
SENATE BILL 5659

State of Washington 65th Legislature 2017 Regular Session

By Senators Bailey, Hawkins, Schoesler, and Warnick

Read first time 02/01/17. Referred to Committee on Ways & Means.

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 a new section.

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

6 NEW SECTION. **Sec. 1.** This act is curative and remedial and is
7 intended to clarify that an emergency medical technician employed by
8 a public hospital district does not qualify for membership in a
9 retirement system under chapter 41.26 RCW unless such emergency
10 medical technician was a member of the public employees' retirement
11 system while providing emergency medical services for the public
12 hospital district. This statute applies retroactively.

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

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

17 (1) "Accumulated contributions" means the employee's
18 contributions made by a member, including any amount paid under RCW
19 41.50.165(2), plus accrued interest credited thereon.

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

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

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

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

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

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

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

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

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

8 (i) A natural born child;

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

11 (iii) A posthumous child;

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

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

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

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

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

26 (9) "Disability board" for plan 1 members means either the county
27 disability board or the city disability board established in RCW
28 41.26.110.

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

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

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

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

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

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

14 (i) The legislative authority of any city, town, county, or
15 district;

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

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

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

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

31 (15)(a) "Final average salary" for plan 1 members, means (i) for
32 a member holding the same position or rank for a minimum of twelve
33 months preceding the date of retirement, the basic salary attached to
34 such same position or rank at time of retirement; (ii) for any other
35 member, including a civil service member who has not served a minimum
36 of twelve months in the same position or rank preceding the date of
37 retirement, the average of the greatest basic salaries payable to
38 such member during any consecutive twenty-four month period within
39 such member's last ten years of service for which service credit is
40 allowed, computed by dividing the total basic salaries payable to

1 such member during the selected twenty-four month period by twenty-
2 four; (iii) in the case of disability of any member, the basic salary
3 payable to such member at the time of disability retirement; (iv) in
4 the case of a member who hereafter vests pursuant to RCW 41.26.090,
5 the basic salary payable to such member at the time of vesting.

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

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

14 (i) Any compensation forgone by a member employed by a state
15 agency or institution during the 2009-2011 fiscal biennium as a
16 result of reduced work hours, mandatory or voluntary leave without
17 pay, temporary reduction in pay implemented prior to December 11,
18 2010, or temporary layoffs if the reduced compensation is an integral
19 part of the employer's expenditure reduction efforts, as certified by
20 the employer; and

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

29 (16) "Firefighter" means:

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

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

36 (c) Supervisory firefighter personnel;

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

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

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

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

15 (h) Any person who is employed on a full-time, fully compensated
16 basis by an employer as an emergency medical technician. This
17 subsection (16)(h) does not apply to any person employed by a public
18 hospital district unless such a person was a member of the public
19 employees' retirement system while providing emergency medical
20 services for the public hospital district.

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

39 (18) "Law enforcement officer" beginning January 1, 1994, means
40 any person who is commissioned and employed by an employer on a full

1 time, fully compensated basis to enforce the criminal laws of the
2 state of Washington generally, with the following qualifications:

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

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

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

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

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

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

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

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

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

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

6 (i) The fees of the following:

7 (A) A physician or surgeon licensed under the provisions of
8 chapter 18.71 RCW;

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

11 (C) A chiropractor licensed under the provisions of chapter 18.25
12 RCW.

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

16 (iii) The charges for the following medical services and
17 supplies:

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

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

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

21 (D) Anesthesia and oxygen;

22 (E) Rental of iron lung and other durable medical and surgical
23 equipment;

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

25 (G) Professional ambulance service when used to transport the
26 member to or from a hospital when injured by an accident or stricken
27 by a disease;

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

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

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

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

35 (L) An optometrist licensed under the provisions of chapter 18.53
36 RCW.

37 (20) "Member" means any firefighter, law enforcement officer, or
38 other person as would apply under subsections (16) or (18) of this
39 section whose membership is transferred to the Washington law
40 enforcement officers' and firefighters' retirement system on or after

1 March 1, 1970, and every law enforcement officer and firefighter who
2 is employed in that capacity on or after such date.

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

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

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

13 (24) "Regular interest" means such rate as the director may
14 determine.

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

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

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

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

38 (i) For members retiring after May 21, 1971 who were employed
39 under the coverage of a prior pension act before March 1, 1970,
40 "service" shall also include (A) such military service not exceeding

1 five years as was creditable to the member as of March 1, 1970, under
2 the member's particular prior pension act, and (B) such other periods
3 of service as were then creditable to a particular member under the
4 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
5 event shall credit be allowed for any service rendered prior to March
6 1, 1970, where the member at the time of rendition of such service
7 was employed in a position covered by a prior pension act, unless
8 such service, at the time credit is claimed therefor, is also
9 creditable under the provisions of such prior act.

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

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

22 Members of the retirement system who are elected or appointed to
23 a state elective position may elect to continue to be members of this
24 retirement system.

25 Service credit years of service shall be determined by dividing
26 the total number of service credit months of service by twelve. Any
27 fraction of a service credit year of service as so determined shall
28 be taken into account in the computation of such retirement allowance
29 or benefits.

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

1 (29) "Service credit month" means a full service credit month or
2 an accumulation of partial service credit months that are equal to
3 one.

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

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

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

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

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