

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2189

66th Legislature
2020 Regular Session

Passed by the House February 12, 2020
Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate March 10, 2020
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2189** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2189

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

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By Representatives Leavitt, Irwin, Sells, MacEwen, Fitzgibbon, Wylie, Corry, Tharinger, Kilduff, Callan, Davis, Robinson, Doglio, Slatter, Ryu, Griffey, Ormsby, and Harris

Prefiled 12/03/19. Read first time 01/13/20. Referred to Committee on Appropriations.

1 AN ACT Relating to including specified competency restoration
2 workers at department of social and health services institutional and
3 residential sites in the public safety employees retirement system;
4 and amending RCW 41.37.010.

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

6 **Sec. 1.** RCW 41.37.010 and 2019 c 470 s 7 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this
9 chapter((7)) unless the context clearly requires otherwise.

10 (1) "Accumulated contributions" means the sum of all
11 contributions standing to the credit of a member in the member's
12 individual account, including any amount paid under RCW 41.50.165(2),
13 together with the regular interest thereon.

14 (2) "Actuarial equivalent" means a benefit of equal value when
15 computed upon the basis of such mortality and other tables as may be
16 adopted by the director.

17 (3) "Adjustment ratio" means the value of index A divided by
18 index B.

19 (4) "Annuity" means payments for life derived from accumulated
20 contributions of a member. All annuities shall be paid in monthly
21 installments.

1 (5) (a) "Average final compensation" means the member's average
2 compensation earnable of the highest consecutive sixty months of
3 service credit months prior to such member's retirement, termination,
4 or death. Periods constituting authorized leaves of absence may not
5 be used in the calculation of average final compensation except under
6 RCW 41.37.290.

7 (b) In calculating average final compensation under (a) of this
8 subsection, the department of retirement systems shall include:

9 (i) Any compensation forgone by a member employed by a state
10 agency or institution during the 2009-2011 fiscal biennium as a
11 result of reduced work hours, mandatory or voluntary leave without
12 pay, temporary reduction in pay implemented prior to December 11,
13 2010, or temporary layoffs if the reduced compensation is an integral
14 part of the employer's expenditure reduction efforts, as certified by
15 the employer; and

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

24 (6) "Beneficiary" means any person in receipt of a retirement
25 allowance or other benefit provided by this chapter resulting from
26 service rendered to an employer by another person.

27 (7) (a) "Compensation earnable" for members, means salaries or
28 wages earned by a member during a payroll period for personal
29 services, including overtime payments, and shall include wages and
30 salaries deferred under provisions established pursuant to sections
31 403(b), 414(h), and 457 of the United States internal revenue code,
32 but shall exclude nonmoney maintenance compensation and lump sum or
33 other payments for deferred annual sick leave, unused accumulated
34 vacation, unused accumulated annual leave, or any form of severance
35 pay.

36 (b) "Compensation earnable" for members also includes the
37 following actual or imputed payments, which are not paid for personal
38 services:

39 (i) Retroactive payments to an individual by an employer on
40 reinstatement of the employee in a position, or payments by an

1 employer to an individual in lieu of reinstatement, which are awarded
2 or granted as the equivalent of the salary or wage which the
3 individual would have earned during a payroll period shall be
4 considered compensation earnable to the extent provided in this
5 subsection, and the individual shall receive the equivalent service
6 credit;

7 (ii) In any year in which a member serves in the legislature, the
8 member shall have the option of having such member's compensation
9 earnable be the greater of:

10 (A) The compensation earnable the member would have received had
11 such member not served in the legislature; or

12 (B) Such member's actual compensation earnable received for
13 nonlegislative public employment and legislative service combined.
14 Any additional contributions to the retirement system required
15 because compensation earnable under (b)(ii)(A) of this subsection is
16 greater than compensation earnable under (b)(ii)(B) of this
17 subsection shall be paid by the member for both member and employer
18 contributions;

19 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
20 and 72.09.240;

21 (iv) Compensation that a member would have received but for a
22 disability occurring in the line of duty only as authorized by RCW
23 41.37.060;

24 (v) Compensation that a member receives due to participation in
25 the leave sharing program only as authorized by RCW 41.04.650 through
26 41.04.670; and

27 (vi) Compensation that a member receives for being in standby
28 status. For the purposes of this section, a member is in standby
29 status when not being paid for time actually worked and the employer
30 requires the member to be prepared to report immediately for work, if
31 the need arises, although the need may not arise.

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

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

35 (10) "Eligible position" means any permanent, full-time position
36 included in subsection (19) of this section.

37 (11) "Employee" or "employed" means a person who is providing
38 services for compensation to an employer, unless the person is free
39 from the employer's direction and control over the performance of

1 work. The department shall adopt rules and interpret this subsection
2 consistent with common law.

3 (12) "Employer" means the Washington state department of
4 corrections, the Washington state parks and recreation commission,
5 the Washington state gambling commission, the Washington state
6 patrol, the Washington state department of natural resources, the
7 Washington state liquor and cannabis board, the Washington state
8 department of veterans affairs, the Washington state department of
9 children, youth, and families, and the Washington state department of
10 social and health services; any county corrections department; any
11 city corrections department not covered under chapter 41.28 RCW; and
12 any public corrections entity created under RCW 39.34.030 by
13 counties, cities not covered under chapter 41.28 RCW, or both. Except
14 as otherwise specifically provided in this chapter, "employer" does
15 not include a government contractor. For purposes of this subsection,
16 a "government contractor" is any entity, including a partnership,
17 limited liability company, for-profit or nonprofit corporation, or
18 person, that provides services pursuant to a contract with an
19 employer. The determination whether an employer-employee relationship
20 has been established is not based on the relationship between a
21 government contractor and an employer, but is based solely on the
22 relationship between a government contractor's employee and an
23 employer under this chapter.

24 (13) "Final compensation" means the annual rate of compensation
25 earnable by a member at the time of termination of employment.

26 (14) "Index" means, for any calendar year, that year's annual
27 average consumer price index, Seattle, Washington area, for urban
28 wage earners and clerical workers, all items, compiled by the bureau
29 of labor statistics, United States department of labor.

30 (15) "Index A" means the index for the year prior to the
31 determination of a postretirement adjustment.

32 (16) "Index B" means the index for the year prior to index A.

33 (17) "Ineligible position" means any position which does not
34 conform with the requirements set forth in subsection (10) of this
35 section.

36 (18) "Leave of absence" means the period of time a member is
37 authorized by the employer to be absent from service without being
38 separated from membership.

39 (19) "Member" means any employee employed by an employer on a
40 full-time basis:

1 (a) Who is in a position that requires completion of a certified
2 criminal justice training course and is authorized by their employer
3 to arrest, conduct criminal investigations, enforce the criminal laws
4 of the state of Washington, and carry a firearm as part of the job;

5 (b) Whose primary responsibility is to ensure the custody and
6 security of incarcerated or probationary individuals as a corrections
7 officer, probation officer, or jailer;

8 (c) Who is a limited authority Washington peace officer, as
9 defined in RCW 10.93.020, for an employer;

10 (d) Whose primary responsibility is to provide nursing care to,
11 or to ensure the custody and safety of, offender, adult probationary,
12 or patient populations; and who is in a position that requires
13 completion of defensive tactics training or de-escalation training;
14 and who is employed by one of the following state institutions or
15 centers operated by the department of social and health services or
16 the department of children, youth, and families:

17 (i) Juvenile rehabilitation administration institutions, not
18 including community facilities;

19 (ii) Mental health hospitals;

20 (iii) Child study and treatment centers; or

21 (iv) Institutions or residential sites that serve developmentally
22 disabled patients or offenders, or perform competency restoration
23 services, except for state-operated living alternatives facilities;

24 (e) Whose primary responsibility is to provide nursing care to
25 offender and patient populations in institutions and centers operated
26 by the following employers: A city or county corrections department
27 as set forth in subsection (12) of this section, a public corrections
28 entity as set forth in subsection (12) of this section, the
29 Washington state department of corrections, or the Washington state
30 department of veterans affairs; or

31 (f) Whose primary responsibility is to supervise members eligible
32 under this subsection.

33 (20) "Membership service" means all service rendered as a member.

34 (21) "Pension" means payments for life derived from contributions
35 made by the employer. All pensions shall be paid in monthly
36 installments.

37 (22) "Plan" means the Washington public safety employees'
38 retirement system plan 2.

39 (23) "Regular interest" means such rate as the director may
40 determine.

1 (24) "Retiree" means any person who has begun accruing a
2 retirement allowance or other benefit provided by this chapter
3 resulting from service rendered to an employer while a member.

4 (25) "Retirement" means withdrawal from active service with a
5 retirement allowance as provided by this chapter.

6 (26) "Retirement allowance" means monthly payments to a retiree
7 or beneficiary as provided in this chapter.

8 (27) "Retirement system" means the Washington public safety
9 employees' retirement system provided for in this chapter.

10 (28) "Separation from service" occurs when a person has
11 terminated all employment with an employer.

12 (29) "Service" means periods of employment by a member on or
13 after July 1, 2006, for one or more employers for which compensation
14 earnable is paid. Compensation earnable earned for ninety or more
15 hours in any calendar month shall constitute one service credit
16 month. Compensation earnable earned for at least seventy hours but
17 less than ninety hours in any calendar month shall constitute one-
18 half service credit month of service. Compensation earnable earned
19 for less than seventy hours in any calendar month shall constitute
20 one-quarter service credit month of service. Time spent in standby
21 status, whether compensated or not, is not service.

22 Any fraction of a year of service shall be taken into account in
23 the computation of such retirement allowance or benefits.

24 (a) Service in any state elective position shall be deemed to be
25 full-time service.

26 (b) A member shall receive a total of not more than twelve
27 service credit months of service for such calendar year. If an
28 individual is employed in an eligible position by one or more
29 employers the individual shall receive no more than one service
30 credit month during any calendar month in which multiple service for
31 ninety or more hours is rendered.

32 (30) "Service credit month" means a month or an accumulation of
33 months of service credit which is equal to one.

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

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

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

1 (34) "State treasurer" means the treasurer of the state of
2 Washington.

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