

SSB 6197 - H COMM AMD  
By Committee on Appropriations

ADOPTED 03/01/2024

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Part I**

4 **Statute of Limitations for Applying for the Special Death Benefit**

5 **Sec. 101.** RCW 41.26.048 and 2010 c 261 s 2 are each amended to  
6 read as follows:

7 (1) A two hundred fourteen thousand dollar death benefit shall be  
8 paid to the member's estate, or such person or persons, trust or  
9 organization as the member shall have nominated by written  
10 designation duly executed and filed with the department. If there be  
11 no such designated person or persons still living at the time of the  
12 member's death, such member's death benefit shall be paid to the  
13 member's surviving spouse or domestic partner as if in fact such  
14 spouse or domestic partner had been nominated by written designation,  
15 or if there be no such surviving spouse or domestic partner, then to  
16 such member's legal representatives.

17 (2) The benefit under this section shall be paid only when death  
18 occurs: (a) As a result of injuries sustained in the course of  
19 employment; or (b) as a result of an occupational disease or  
20 infection that arises naturally and proximately out of employment  
21 covered under this chapter. The determination of eligibility for the  
22 benefit shall be made consistent with Title 51 RCW by the department  
23 of labor and industries. There is no statute of limitations for this  
24 benefit. The department of labor and industries shall notify the  
25 department of retirement systems by order under RCW 51.52.050.

26 (3) The department of labor and industries shall determine  
27 eligibility under subsection (2) of this section for the special  
28 death benefit for any beneficiaries who were denied the special death  
29 benefit for failing to meet the statute of limitations under Title 51  
30 RCW. If the department of labor and industries determines the  
31 beneficiary is eligible for the special death benefit the department

1 must provide the beneficiary an option to reelect their pension  
2 benefit under RCW 41.26.510(2) and if the member elects an ongoing  
3 pension benefit the department must pay the beneficiary retroactive  
4 to the date of the member's death.

5 (4)(a) Beginning July 1, 2010, and every year thereafter, the  
6 department shall determine the following information:

7 (i) The index for the 2008 calendar year, to be known as "index  
8 A;"

9 (ii) The index for the calendar year prior to the date of  
10 determination, to be known as "index B;" and

11 (iii) The ratio obtained when index B is divided by index A.

12 (b) The value of the ratio obtained shall be the annual  
13 adjustment to the original death benefit and shall be applied  
14 beginning every July 1st. In no event, however, shall the annual  
15 adjustment:

16 (i) Produce a benefit which is lower than two hundred fourteen  
17 thousand dollars;

18 (ii) Exceed three percent in the initial annual adjustment; or

19 (iii) Differ from the previous year's annual adjustment by more  
20 than three percent.

21 (c) For the purposes of this section, "index" means, for any  
22 calendar year, that year's average consumer price index — Seattle,  
23 Washington area for urban wage earners and clerical workers, all  
24 items, compiled by the bureau of labor statistics, United States  
25 department of labor.

## 26 Part II

### 27 Definition of Firefighter

28 **Sec. 201.** RCW 41.26.030 and 2021 c 12 s 2 are each amended to  
29 read as follows:

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

32 (1) "Accumulated contributions" means the employee's  
33 contributions made by a member, including any amount paid under RCW  
34 41.50.165(2), plus accrued interest credited thereon.

35 (2) "Actuarial reserve" means a method of financing a pension or  
36 retirement plan wherein reserves are accumulated as the liabilities  
37 for benefit payments are incurred in order that sufficient funds will

1 be available on the date of retirement of each member to pay the  
2 member's future benefits during the period of retirement.

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

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

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

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

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

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

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

39 (6) (a) "Child" or "children" means an unmarried person who is  
40 under the age of eighteen or mentally or physically disabled as

1 determined by the department, except a person who is disabled and in  
2 the full time care of a state institution, who is:

3 (i) A natural born child;

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

6 (iii) A posthumous child;

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

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

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

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

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

21 (9) "Disability board" for plan 1 members means either the county  
22 disability board or the city disability board established in RCW  
23 41.26.110.

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

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

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

34 (13) "Employee" means any law enforcement officer or firefighter  
35 as defined in subsections (17) and (19) of this section.

36 (14)(a) "Employer" for plan 1 members, means the legislative  
37 authority of any city, town, county, district, or regional fire  
38 protection service authority or the elected officials of any  
39 municipal corporation that employs any law enforcement officer and/or  
40 firefighter, any authorized association of such municipalities, and,

1 except for the purposes of RCW 41.26.150, any labor guild,  
2 association, or organization, which represents the firefighters or  
3 law enforcement officers of at least seven cities of over 20,000  
4 population and the membership of each local lodge or division of  
5 which is composed of at least sixty percent law enforcement officers  
6 or firefighters as defined in this chapter.

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

10 (i) The legislative authority of any city, town, county,  
11 district, public corporation, or regional fire protection service  
12 authority established under RCW 35.21.730 to provide emergency  
13 medical services as defined in RCW 18.73.030;

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

15 (iii) The governing body of any other general authority law  
16 enforcement agency;

17 (iv) A four-year institution of higher education having a fully  
18 operational fire department as of January 1, 1996; or

19 (v) The department of social and health services or the  
20 department of corrections when employing firefighters serving at a  
21 prison or civil commitment center on an island.

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

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

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

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

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

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

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

30 (iii) Any compensation forgone by a member employed by the state  
31 or a local government employer during the 2019-2021 and 2021-2023  
32 fiscal biennia as a result of reduced work hours, mandatory leave  
33 without pay, temporary layoffs, furloughs, reductions to current pay,  
34 or other similar measures resulting from the COVID-19 budgetary  
35 crisis, if the reduced compensation is an integral part of the  
36 employer's expenditure reduction efforts, as certified by the  
37 employer. Reductions to current pay shall not include elimination of  
38 previously agreed upon future salary increases.

39 (16) "Fire department" includes a fire station operated by the  
40 department of social and health services or the department of

1 corrections when employing firefighters serving a prison or civil  
2 commitment center on an island.

3 (17) "Firefighter" means:

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

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

10 (c) Supervisory firefighter personnel;

11 (d) Any full time executive secretary of an association of fire  
12 protection districts authorized under RCW 52.12.031. The provisions  
13 of this subsection (17) (d) shall not apply to plan 2 members;

14 (e) The executive secretary of a labor guild, association or  
15 organization (which is an employer under subsection (14) of this  
16 section), if such individual has five years previous membership in a  
17 retirement system established in chapter 41.16 or 41.18 RCW. The  
18 provisions of this subsection (17) (e) shall not apply to plan 2  
19 members;

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

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

28 (h) Any person who is employed on a full-time, fully compensated  
29 basis by an employer as an emergency medical technician that meets  
30 the requirements of RCW 18.71.200 or 18.73.030(~~((+12))~~) (13), and  
31 whose duties include providing emergency medical services as defined  
32 in RCW 18.73.030; and

33 (i) Personnel serving on a full-time, fully compensated basis as  
34 an employee of a fire department in positions that necessitate  
35 experience as a firefighter to perform the essential functions of  
36 those positions.

37 (18) "General authority law enforcement agency" means any agency,  
38 department, or division of a municipal corporation, political  
39 subdivision, or other unit of local government of this state, and any  
40 agency, department, or division of state government, having as its

1 primary function the detection and apprehension of persons committing  
2 infractions or violating the traffic or criminal laws in general, but  
3 not including the Washington state patrol. Such an agency,  
4 department, or division is distinguished from a limited authority law  
5 enforcement agency having as one of its functions the apprehension or  
6 detection of persons committing infractions or violating the traffic  
7 or criminal laws relating to limited subject areas, including but not  
8 limited to, the state departments of natural resources and social and  
9 health services, the state gambling commission, the state lottery  
10 commission, the state parks and recreation commission, the state  
11 utilities and transportation commission, the state liquor and  
12 cannabis board, and the state department of corrections. A general  
13 authority law enforcement agency under this chapter does not include  
14 a government contractor.

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

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

22 (b) Only those deputy sheriffs, including those serving under a  
23 different title pursuant to county charter, who have successfully  
24 completed a civil service examination for deputy sheriff or the  
25 equivalent position, where a different title is used, and those  
26 persons serving in unclassified positions authorized by RCW 41.14.070  
27 except a private secretary will be considered law enforcement  
28 officers;

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

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



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

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

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

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

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

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

22 (i) The fees of the following:

23 (A) A physician or surgeon licensed under the provisions of  
24 chapter 18.71 RCW;

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

27 (C) A chiropractor licensed under the provisions of chapter 18.25  
28 RCW.

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

32 (iii) The charges for the following medical services and  
33 supplies:

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

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

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

37 (D) Anesthesia and oxygen;

38 (E) Rental of iron lung and other durable medical and surgical  
39 equipment;

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

1 (G) Professional ambulance service when used to transport the  
2 member to or from a hospital when injured by an accident or stricken  
3 by a disease;

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

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

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

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

11 (L) An optometrist licensed under the provisions of chapter 18.53  
12 RCW.

13 (21) "Member" means any firefighter, law enforcement officer, or  
14 other person as would apply under subsection (17) or (19) of this  
15 section whose membership is transferred to the Washington law  
16 enforcement officers' and firefighters' retirement system on or after  
17 March 1, 1970, and every law enforcement officer and firefighter who  
18 is employed in that capacity on or after such date.

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

23 (23) "Plan 2" means the law enforcement officers' and  
24 firefighters' retirement system, plan 2 providing the benefits and  
25 funding provisions covering persons who first became members of the  
26 system on and after October 1, 1977.

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

29 (25) "Regular interest" means such rate as the director may  
30 determine.

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

36 (27) "Retirement fund" means the "Washington law enforcement  
37 officers' and firefighters' retirement system fund" as provided for  
38 herein.

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

1           (29) (a) "Service" for plan 1 members, means all periods of  
2 employment for an employer as a firefighter or law enforcement  
3 officer, for which compensation is paid, together with periods of  
4 suspension not exceeding thirty days in duration. For the purposes of  
5 this chapter service shall also include service in the armed forces  
6 of the United States as provided in RCW 41.26.190. Credit shall be  
7 allowed for all service credit months of service rendered by a member  
8 from and after the member's initial commencement of employment as a  
9 firefighter or law enforcement officer, during which the member  
10 worked for seventy or more hours, or was on disability leave or  
11 disability retirement. Only service credit months of service shall be  
12 counted in the computation of any retirement allowance or other  
13 benefit provided for in this chapter.

14           (i) For members retiring after May 21, 1971 who were employed  
15 under the coverage of a prior pension act before March 1, 1970,  
16 "service" shall also include (A) such military service not exceeding  
17 five years as was creditable to the member as of March 1, 1970, under  
18 the member's particular prior pension act, and (B) such other periods  
19 of service as were then creditable to a particular member under the  
20 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no  
21 event shall credit be allowed for any service rendered prior to March  
22 1, 1970, where the member at the time of rendition of such service  
23 was employed in a position covered by a prior pension act, unless  
24 such service, at the time credit is claimed therefor, is also  
25 creditable under the provisions of such prior act.

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

29           (iii) Reduction efforts such as furloughs, reduced work hours,  
30 mandatory leave without pay, temporary layoffs, or other similar  
31 situations as contemplated by subsection (15) (c) (iii) of this section  
32 do not result in a reduction in service credit that otherwise would  
33 have been earned for that month of work, and the member shall receive  
34 the full service credit for the hours that were scheduled to be  
35 worked before the reduction.

36           (b) (i) "Service" for plan 2 members, means periods of employment  
37 by a member for one or more employers for which basic salary is  
38 earned for ninety or more hours per calendar month which shall  
39 constitute a service credit month. Periods of employment by a member  
40 for one or more employers for which basic salary is earned for at

1 least seventy hours but less than ninety hours per calendar month  
2 shall constitute one-half service credit month. Periods of employment  
3 by a member for one or more employers for which basic salary is  
4 earned for less than seventy hours shall constitute a one-quarter  
5 service credit month.

6 (ii) Members of the retirement system who are elected or  
7 appointed to a state elective position may elect to continue to be  
8 members of this retirement system.

9 (iii) Service credit years of service shall be determined by  
10 dividing the total number of service credit months of service by  
11 twelve. Any fraction of a service credit year of service as so  
12 determined shall be taken into account in the computation of such  
13 retirement allowance or benefits.

14 (iv) If a member receives basic salary from two or more employers  
15 during any calendar month, the individual shall receive one service  
16 credit month's service credit during any calendar month in which  
17 multiple service for ninety or more hours is rendered; or one-half  
18 service credit month's service credit during any calendar month in  
19 which multiple service for at least seventy hours but less than  
20 ninety hours is rendered; or one-quarter service credit month during  
21 any calendar month in which multiple service for less than seventy  
22 hours is rendered.

23 (v) Reduction efforts such as furloughs, reduced work hours,  
24 mandatory leave without pay, temporary layoffs, or other similar  
25 situations as contemplated by subsection (15)(c)(iii) of this section  
26 do not result in a reduction in service credit that otherwise would  
27 have been earned for that month of work, and the member shall receive  
28 the full service credit for the hours that were scheduled to be  
29 worked before the reduction.

30 (30) "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 (31) "Service credit year" means an accumulation of months of  
34 service credit which is equal to one when divided by twelve.

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

37 (33) "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 (34) "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 **Sec. 202.** RCW 41.26.030 and 2023 c 77 s 1 are each amended to  
5 read as follows:

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

8 (1) "Accumulated contributions" means the employee's  
9 contributions made by a member, including any amount paid under RCW  
10 41.50.165(2), plus accrued interest credited thereon.

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

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

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

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

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

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

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

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

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

17 (i) A natural born child;

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

20 (iii) A posthumous child;

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

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

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

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

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

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

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

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

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

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

8 (13) "Employee" means any law enforcement officer or firefighter  
9 as defined in subsections (17) and (19) of this section.

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

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

24 (i) The legislative authority of any city, town, county,  
25 district, public corporation, or regional fire protection service  
26 authority established under RCW 35.21.730 to provide emergency  
27 medical services as defined in RCW 18.73.030;

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

29 (iii) The governing body of any other general authority law  
30 enforcement agency;

31 (iv) A four-year institution of higher education having a fully  
32 operational fire department as of January 1, 1996; or

33 (v) The department of social and health services or the  
34 department of corrections when employing firefighters serving at a  
35 prison or civil commitment center on an island.

36 (c) Except as otherwise specifically provided in this chapter,  
37 "employer" does not include a government contractor. For purposes of  
38 this subsection, a "government contractor" is any entity, including a  
39 partnership, limited liability company, for-profit or nonprofit  
40 corporation, or person, that provides services pursuant to a contract

1 with an "employer." The determination whether an employer-employee  
2 relationship has been established is not based on the relationship  
3 between a government contractor and an "employer," but is based  
4 solely on the relationship between a government contractor's employee  
5 and an "employer" under this chapter.

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

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

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

29 (i) Any compensation forgone by a member employed by a state  
30 agency or institution during the 2009-2011 fiscal biennium as a  
31 result of reduced work hours, mandatory or voluntary leave without  
32 pay, temporary reduction in pay implemented prior to December 11,  
33 2010, or temporary layoffs if the reduced compensation is an integral  
34 part of the employer's expenditure reduction efforts, as certified by  
35 the employer;

36 (ii) Any compensation forgone by a member employed by the state  
37 or a local government employer during the 2011-2013 fiscal biennium  
38 as a result of reduced work hours, mandatory leave without pay,  
39 temporary layoffs, or reductions to current pay if the reduced  
40 compensation is an integral part of the employer's expenditure



1 reduction efforts, as certified by the employer. Reductions to  
2 current pay shall not include elimination of previously agreed upon  
3 future salary increases; and

4 (iii) Any compensation forgone by a member employed by the state  
5 or a local government employer during the 2019-2021 and 2021-2023  
6 fiscal biennia as a result of reduced work hours, mandatory leave  
7 without pay, temporary layoffs, furloughs, reductions to current pay,  
8 or other similar measures resulting from the COVID-19 budgetary  
9 crisis, if the reduced compensation is an integral part of the  
10 employer's expenditure reduction efforts, as certified by the  
11 employer. Reductions to current pay shall not include elimination of  
12 previously agreed upon future salary increases.

13 (16) "Fire department" includes a fire station operated by the  
14 department of social and health services or the department of  
15 corrections when employing firefighters serving a prison or civil  
16 commitment center on an island.

17 (17) "Firefighter" means:

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

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

24 (c) Supervisory firefighter personnel;

25 (d) Any full time executive secretary of an association of fire  
26 protection districts authorized under RCW 52.12.031. The provisions  
27 of this subsection (17)(d) shall not apply to plan 2 members;

28 (e) The executive secretary of a labor guild, association or  
29 organization (which is an employer under subsection (14) of this  
30 section), if such individual has five years previous membership in a  
31 retirement system established in chapter 41.16 or 41.18 RCW. The  
32 provisions of this subsection (17)(e) shall not apply to plan 2  
33 members;

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

38 (g) Any person who on March 1, 1970, was employed on a full time,  
39 fully compensated basis by an employer, and who on May 21, 1971, was

1 making retirement contributions under the provisions of chapter 41.16  
2 or 41.18 RCW; (~~and~~)

3 (h) Any person who is employed on a full-time, fully compensated  
4 basis by an employer as an emergency medical technician that meets  
5 the requirements of RCW 18.71.200 or 18.73.030(13), and whose duties  
6 include providing emergency medical services as defined in RCW  
7 18.73.030; and

8 (i) Personnel serving on a full-time, fully compensated basis as  
9 an employee of a fire department in positions that necessitate  
10 experience as a firefighter to perform the essential functions of  
11 those positions.

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

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

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

38 (b) Only those deputy sheriffs, including those serving under a  
39 different title pursuant to county charter, who have successfully  
40 completed a civil service examination for deputy sheriff or the

1 equivalent position, where a different title is used, and those  
2 persons serving in unclassified positions authorized by RCW 41.14.070  
3 except a private secretary will be considered law enforcement  
4 officers;

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

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

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

25 (f) The term "law enforcement officer" also includes a person who  
26 is employed on or after January 1, 2024, on a full-time basis by the  
27 government of a federally recognized tribe within the state of  
28 Washington that meets the terms and conditions of RCW 41.26.565, is  
29 employed in a police department maintained by that tribe, and who is  
30 currently certified as a general authority peace officer under  
31 chapter 43.101 RCW.

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

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

37 (i) Board and room not to exceed semiprivate room rate unless  
38 private room is required by the attending physician due to the  
39 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 (21) "Member" means any firefighter, law enforcement officer, or  
38 other person as would apply under subsection (17) or (19) 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 (22) "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 (23) "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 (24) "Position" means the employment held at any particular time,  
12 which may or may not be the same as civil service rank.

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

15 (26) "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 (27) "Retirement fund" means the "Washington law enforcement  
21 officers' and firefighters' retirement system fund" as provided for  
22 herein.

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

25 (29)(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 (iii) Reduction efforts such as furloughs, reduced work hours,  
14 mandatory leave without pay, temporary layoffs, or other similar  
15 situations as contemplated by subsection (15)(c)(iii) of this section  
16 do not result in a reduction in service credit that otherwise would  
17 have been earned for that month of work, and the member shall receive  
18 the full service credit for the hours that were scheduled to be  
19 worked before the reduction.

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

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

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

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

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

7 (v) Reduction efforts such as furloughs, reduced work hours,  
8 mandatory leave without pay, temporary layoffs, or other similar  
9 situations as contemplated by subsection (15)(c)(iii) of this section  
10 do not result in a reduction in service credit that otherwise would  
11 have been earned for that month of work, and the member shall receive  
12 the full service credit for the hours that were scheduled to be  
13 worked before the reduction.

14 (30) "Service credit month" means a full service credit month or  
15 an accumulation of partial service credit months that are equal to  
16 one.

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

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

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

24 (34) "Surviving spouse" means the surviving widow or widower of a  
25 member. "Surviving spouse" shall not include the divorced spouse of a  
26 member except as provided in RCW 41.26.162.

27 NEW SECTION. **Sec. 203.** Section 201 of this act expires July 1,  
28 2025.

29 NEW SECTION. **Sec. 204.** Section 202 of this act takes effect  
30 July 1, 2025.

### 31 **Part III**

#### 32 **Pension Overpayment Responsibility**

33 **Sec. 301.** RCW 41.50.130 and 1997 c 254 s 15 are each amended to  
34 read as follows:

35 (1) The director may at any time correct errors appearing in the  
36 records of the retirement systems listed in RCW 41.50.030. Should any

1 error in such records result in any member, beneficiary, or other  
2 person or entity receiving more or less than he or she would have  
3 been entitled to had the records been correct, the director, subject  
4 to the conditions set forth in this section, shall adjust the payment  
5 in such a manner that the benefit to which such member, beneficiary,  
6 or other person or entity was correctly entitled shall be paid in  
7 accordance with the following:

8 (a) In the case of underpayments to a member or beneficiary, the  
9 retirement system shall correct all future payments from the point of  
10 error detection, and shall compute the additional payment due for the  
11 allowable prior period which shall be paid in a lump sum by the  
12 appropriate retirement system.

13 (b) In the case of overpayments to a retiree or other  
14 beneficiary, the retirement system shall adjust the payment so that  
15 the retiree or beneficiary receives the benefit to which he or she is  
16 correctly entitled. The retiree or beneficiary shall either repay the  
17 overpayment in a lump sum within ninety days of notification or, if  
18 he or she is entitled to a continuing benefit, elect to have that  
19 benefit actuarially reduced by an amount equal to the overpayment.  
20 The retiree or beneficiary is not responsible for repaying the  
21 overpayment if the employer is liable under RCW 41.50.139 or section  
22 302 of this act.

23 (c) In the case of overpayments to a person or entity other than  
24 a member or beneficiary, the overpayment shall constitute a debt from  
25 the person or entity to the department, recovery of which shall not  
26 be barred by laches or statute of limitations.

27 (2) Except in the case of actual fraud or overpayments under  
28 section 302 of this act, in the case of overpayments to a member or  
29 beneficiary, the benefits shall be adjusted to reflect only the  
30 amount of overpayments made within three years of discovery of the  
31 error, notwithstanding any provision to the contrary in chapter 4.16  
32 RCW.

33 (3) Except in the case of actual fraud, no monthly benefit shall  
34 be reduced by more than fifty percent of the member's or  
35 beneficiary's corrected benefit. Any overpayment not recovered due to  
36 the inability to actuarially reduce a member's benefit due to: (a)  
37 The provisions of this subsection; or (b) the fact that the retiree's  
38 monthly retirement allowance is less than the monthly payment  
39 required to effectuate an actuarial reduction, shall constitute a



1 claim against the estate of a member, beneficiary, or other person or  
2 entity in receipt of an overpayment.

3 (4) Except as provided in subsection (2) of this section,  
4 obligations of employers or members until paid to the department  
5 shall constitute a debt from the employer or member to the  
6 department, recovery of which shall not be barred by laches or  
7 statutes of limitation.

8 NEW SECTION. **Sec. 302.** A new section is added to chapter 41.26  
9 RCW to read as follows:

10 (1) If an overpayment for a law enforcement officers' and  
11 firefighters' retirement system plan 2 retiree was due to an employer  
12 erroneously reporting law enforcement officers' and firefighters'  
13 retirement system plan 2 member information to the department, and  
14 the erroneous reporting was not the result of the member's  
15 nondisclosure, fraud, misrepresentation, or other fault, the employer  
16 is liable for the resulting overpayment.

17 (2) Upon receipt of a billing from the department, the employer  
18 shall pay into the Washington law enforcement officers' and  
19 firefighters' system plan 2 retirement fund the amount of the  
20 overpayment plus interest as determined by the director. The  
21 employer's liability under this section shall not exceed the amount  
22 of overpayments plus interest received by the retiree within one year  
23 of the date of discovery, except in the case of fraud committed by  
24 the employer. In the case of fraud committed by the employer, the  
25 employer is liable for the entire overpayment plus interest.

26 NEW SECTION. **Sec. 303.** Sections 301 and 302 of this act take  
27 effect January 1, 2025.

28 **Part IV**  
29 **Disability Pension Benefits**

30 **Sec. 401.** RCW 41.26.470 and 2016 c 115 s 3 are each amended to  
31 read as follows:

32 (1) A member of the retirement system who becomes totally  
33 incapacitated for continued employment by an employer as determined  
34 by the director shall be eligible to receive an allowance under the  
35 provisions of RCW 41.26.410 through 41.26.550. Such member shall  
36 receive a monthly disability allowance computed as provided for in

1 RCW 41.26.420 and shall have such allowance actuarially reduced to  
2 reflect the difference in the number of years between age at  
3 disability and the attainment of age fifty-three, except under  
4 subsection (7) of this section.

5 (2) Any member who receives an allowance under the provisions of  
6 this section shall be subject to such comprehensive medical  
7 examinations as required by the department. If such medical  
8 examinations reveal that such a member has recovered from the  
9 incapacitating disability and the member is no longer entitled to  
10 benefits under Title 51 RCW, the retirement allowance shall be  
11 canceled and the member shall be restored to duty in the same civil  
12 service rank, if any, held by the member at the time of retirement  
13 or, if unable to perform the duties of the rank, then, at the  
14 member's request, in such other like or lesser rank as may be or  
15 become open and available, the duties of which the member is then  
16 able to perform. In no event shall a member previously drawing a  
17 disability allowance be returned or be restored to duty at a salary  
18 or rate of pay less than the current salary attached to the rank or  
19 position held by the member at the date of the retirement for  
20 disability. If the department determines that the member is able to  
21 return to service, the member is entitled to notice and a hearing.  
22 Both the notice and the hearing shall comply with the requirements of  
23 chapter 34.05 RCW, the administrative procedure act.

24 (3) Those members subject to this chapter who became disabled in  
25 the line of duty on or after July 23, 1989, and who receive benefits  
26 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW  
27 41.04.535 shall receive or continue to receive service credit subject  
28 to the following:

29 (a) No member may receive more than one month's service credit in  
30 a calendar month.

31 (b) No service credit under this section may be allowed after a  
32 member separates or is separated without leave of absence.

33 (c) Employer contributions shall be paid by the employer at the  
34 rate in effect for the period of the service credited.

35 (d) Employee contributions shall be collected by the employer and  
36 paid to the department at the rate in effect for the period of  
37 service credited.

38 (e) State contributions shall be as provided in RCW 41.45.060 and  
39 41.45.067.

1 (f) Contributions shall be based on the regular compensation  
2 which the member would have received had the disability not occurred.

3 (g) The service and compensation credit under this section shall  
4 be granted for a period not to exceed six consecutive months.

5 (h) Should the legislature revoke the service credit authorized  
6 under this section or repeal this section, no affected employee is  
7 entitled to receive the credit as a matter of contractual right.

8 (4) (a) If the recipient of a monthly retirement allowance under  
9 this section dies before the total of the retirement allowance paid  
10 to the recipient equals the amount of the accumulated contributions  
11 at the date of retirement, then the balance shall be paid to the  
12 member's estate, or such person or persons, trust, or organization as  
13 the recipient has nominated by written designation duly executed and  
14 filed with the director, or, if there is no such designated person or  
15 persons still living at the time of the recipient's death, then to  
16 the surviving spouse or domestic partner, or, if there is neither  
17 such designated person or persons still living at the time of his or  
18 her death nor a surviving spouse or domestic partner, then to his or  
19 her legal representative.

20 (b) If a recipient of a monthly retirement allowance under this  
21 section died before April 27, 1989, and before the total of the  
22 retirement allowance paid to the recipient equaled the amount of his  
23 or her accumulated contributions at the date of retirement, then the  
24 department shall pay the balance of the accumulated contributions to  
25 the member's surviving spouse or, if there is no surviving spouse,  
26 then in equal shares to the member's children. If there is no  
27 surviving spouse or children, the department shall retain the  
28 contributions.

29 (5) Should the disability retirement allowance of any disability  
30 beneficiary be canceled for any cause other than reentrance into  
31 service or retirement for service, he or she shall be paid the  
32 excess, if any, of the accumulated contributions at the time of  
33 retirement over all payments made on his or her behalf under this  
34 chapter.

35 (6) A member who becomes disabled in the line of duty, and who  
36 ceases to be an employee of an employer except by service or  
37 disability retirement, may request a refund of one hundred fifty  
38 percent of the member's accumulated contributions. Any accumulated  
39 contributions attributable to restorations made under RCW

1 41.50.165(2) shall be refunded at one hundred percent. A person in  
2 receipt of this benefit is a retiree.

3 (7) A member who becomes disabled in the line of duty shall be  
4 entitled to receive a minimum retirement allowance equal to ten  
5 percent of such member's final average salary. The member shall  
6 additionally receive a retirement allowance equal to two percent of  
7 such member's average final salary for each year of service beyond  
8 five.

9 (8) A member who became disabled in the line of duty before  
10 January 1, 2001, and is receiving an allowance under RCW 41.26.430 or  
11 subsection (1) of this section shall be entitled to receive a minimum  
12 retirement allowance equal to ten percent of such member's final  
13 average salary. The member shall additionally receive a retirement  
14 allowance equal to two percent of such member's average final salary  
15 for each year of service beyond five, and shall have the allowance  
16 actuarially reduced to reflect the difference in the number of years  
17 between age at disability and the attainment of age fifty-three. An  
18 additional benefit shall not result in a total monthly benefit  
19 greater than that provided in subsection (1) of this section.

20 (9) A member who is totally disabled in the line of duty is  
21 entitled to receive a retirement allowance equal to seventy percent  
22 of the member's final average salary. The allowance provided under  
23 this subsection shall be offset by:

24 (a) Temporary disability wage-replacement benefits or permanent  
25 total disability benefits provided to the member under Title 51 RCW;  
26 and

27 (b) Federal social security disability benefits, if any;  
28 so that such an allowance does not result in the member receiving  
29 combined benefits that exceed one hundred percent of the member's  
30 final average salary. However, the offsets shall not in any case  
31 reduce the allowance provided under this subsection below the  
32 member's accrued retirement allowance.

33 A member is considered totally disabled if he or she is unable to  
34 perform any substantial gainful activity due to a physical or mental  
35 condition that may be expected to result in death or that has lasted  
36 or is expected to last at least twelve months. Substantial gainful  
37 activity is defined as average earnings in excess of eight hundred  
38 sixty dollars a month in 2006 adjusted annually as determined by the  
39 director based on federal social security disability standards. The  
40 department may require a person in receipt of an allowance under this

1 subsection to provide any financial records that are necessary to  
2 determine continued eligibility for such an allowance. A person in  
3 receipt of an allowance under this subsection whose earnings exceed  
4 the threshold for substantial gainful activity shall have their  
5 benefit converted to a line-of-duty disability retirement allowance  
6 as provided in subsection (7) of this section.

7 Any person in receipt of an allowance under the provisions of  
8 this section is subject to comprehensive medical examinations as may  
9 be required by the department under subsection (2) of this section in  
10 order to determine continued eligibility for such an allowance.

11 (10)(a) In addition to the retirement allowance provided in  
12 subsection (9) of this section, the retirement allowance of a member  
13 who is totally disabled in the line of duty shall include  
14 reimbursement for any payments made by the member after June 10,  
15 2010, for premiums on employer-provided medical insurance, insurance  
16 authorized by the consolidated omnibus budget reconciliation act of  
17 1985 (COBRA), medicare part A (hospital insurance), and medicare part  
18 B (medical insurance). A member who is entitled to medicare must  
19 enroll and maintain enrollment in both medicare part A and medicare  
20 part B in order to remain eligible for the reimbursement provided in  
21 this subsection. The legislature reserves the right to amend or  
22 repeal the benefits provided in this subsection in the future and no  
23 member or beneficiary has a contractual right to receive any  
24 distribution not granted prior to that time.

25 (b) The retirement allowance of a member who is not eligible for  
26 reimbursement provided in (a) of this subsection shall include  
27 reimbursement for any payments made after June 30, 2013, for premiums  
28 on other medical insurance. However, in no instance shall the  
29 reimbursement exceed the amount reimbursed for premiums authorized by  
30 the consolidated omnibus budget reconciliation act of 1985 (COBRA).

31 (11) A member who has left the employ of an employer due to  
32 service in the national guard, military reserves, federal emergency  
33 management agency, or national disaster medical system of the United  
34 States department of health and human services and who becomes  
35 totally incapacitated for continued employment by an employer as  
36 determined by the director while performing service in response to a  
37 disaster, major emergency, special event, federal exercise, or  
38 official training on or after March 22, 2014, shall be eligible to  
39 receive an allowance under the provisions of RCW 41.26.410 through  
40 41.26.550. Such member shall receive a monthly disability allowance

1 computed as provided for in RCW 41.26.420 except such allowance is  
2 not subject to an actuarial reduction for early retirement as  
3 provided in RCW 41.26.430. The member's retirement allowance is  
4 computed under RCW 41.26.420, except that the member shall be  
5 entitled to a minimum retirement allowance equal to ten percent of  
6 such member's final average salary. The member shall additionally  
7 receive a retirement allowance equal to two percent of such member's  
8 average final salary for each year of service beyond five.

9 (12) A member who is in receipt of a nonduty disability benefit  
10 under subsection (1) of this section, for a disabling condition that  
11 was not considered an occupational disease by the department of labor  
12 and industries at the time the member retired but is now considered  
13 an occupational disease in accordance with the definition of  
14 posttraumatic stress disorder in RCW 51.08.165, may file a new  
15 application with the department for a determination of their  
16 eligibility for an in the line of duty disability retirement benefit  
17 under subsections (7) and (9) of this section with the current  
18 occupational disease eligibility applied to their application. If the  
19 department finds that the member is eligible for an in the line of  
20 duty disability retirement the benefit must be paid retroactive to  
21 the disabling condition being made eligible as an occupational  
22 disease under RCW 51.08.165.

## 23 **Part V**

### 24 **Civil Service Exemption for Management and Research Personnel**

25 **Sec. 501.** RCW 41.26.717 and 2018 c 272 s 2 are each amended to  
26 read as follows:

27 The law enforcement officers' and firefighters' plan 2 retirement  
28 board established in section 4, chapter 2, Laws of 2003 has the  
29 following duties and powers in addition to any other duties or powers  
30 authorized or required by law. The board:

31 (1) Shall hire an executive director, and shall fix the salary of  
32 the executive director subject to periodic review by the board and in  
33 consultation with the director of the office of financial management  
34 and shall provide notice to the chairs of the house of  
35 representatives and senate fiscal committees of changes;

36 (2) Shall employ a deputy director and research and policy  
37 analysts who shall be exempt from civil service under chapter 41.06  
38 RCW. Compensation levels for the deputy director and research and

1 policy analysts employed by the board shall be established and fixed  
2 by the board in consultation with the director of the office of  
3 financial management. When setting salaries for these positions, the  
4 board must consider comparable public sector positions using market-  
5 driven data. Once compensation levels are determined, the board shall  
6 provide notice to the chairs of the fiscal committees of the house of  
7 representatives and the senate of proposed changes to the  
8 compensation levels for the positions;

9 (3) Shall employ other staff as necessary to implement the  
10 purposes of chapter 2, Laws of 2003. Staff must be state employees  
11 under ((Title 41 RCW)) this title;

12 ((+3)) (4) Shall adopt an annual budget as provided in section  
13 5, chapter 2, Laws of 2003. Expenses of the board are paid from the  
14 expense fund created in RCW 41.26.732;

15 ((+4)) (5) May make, execute, and deliver contracts,  
16 conveyances, and other instruments necessary to exercise and  
17 discharge its powers and duties;

18 ((+5)) (6) May contract for all or part of the services  
19 necessary for the management and operation of the board with other  
20 state or nonstate entities authorized to do business in the state;  
21 and

22 ((+6)) (7) May contract with actuaries, auditors, and other  
23 consultants as necessary to carry out its responsibilities."

24 Correct the title.

EFFECT: Exempts the Deputy Director and research and policy analysts employed by the Law Enforcement Officers' and Firefighters' Retirement Board from civil service, and provides the Board with the authority to establish salaries for these positions in consultation with the Office of Financial Management. The Board must consider comparable public sector positions, and provide notice of changes in compensation to the chairs of the fiscal committees of the House of Representatives and the Senate.

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