
HOUSE BILL 1481

State of Washington

68th Legislature

2023 Regular Session

By Representatives Cortes, Stearns, Chopp, Chapman, Peterson, Jacobsen, Ramel, Orwall, Ormsby, Reeves, Senn, Leavitt, Ortiz-Self, Taylor, Bergquist, and Pollet

Read first time 01/20/23. Referred to Committee on Appropriations.

1 AN ACT Relating to permitting general authority peace officers
2 certificated by the criminal justice training commission and employed
3 on a full-time basis by the government of a federally recognized
4 tribe to participate in the law enforcement officers' and
5 firefighters' retirement system plan 2; amending RCW 41.26.030 and
6 41.26.450; adding new sections to chapter 41.26 RCW; and providing an
7 effective date.

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

9 **Sec. 1.** RCW 41.26.030 and 2021 c 12 s 2 are each amended to read
10 as follows:

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

13 (1) "Accumulated contributions" means the employee's
14 contributions made by a member, including any amount paid under RCW
15 41.50.165(2), plus accrued interest credited thereon.

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

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

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

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

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

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

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

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

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

1 (i) A natural born child;
2 (ii) A stepchild where that relationship was in existence prior
3 to the date benefits are payable under this chapter;
4 (iii) A posthumous child;
5 (iv) A child legally adopted or made a legal ward of a member
6 prior to the date benefits are payable under this chapter; or
7 (v) An illegitimate child legitimized prior to the date any
8 benefits are payable under this chapter.

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

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

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

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

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

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

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

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

34 (14)(a) "Employer" for plan 1 members, means the legislative
35 authority of any city, town, county, district, or regional fire
36 protection service authority or the elected officials of any
37 municipal corporation that employs any law enforcement officer and/or
38 firefighter, any authorized association of such municipalities, and,
39 except for the purposes of RCW 41.26.150, any labor guild,
40 association, or organization, which represents the firefighters or

1 law enforcement officers of at least seven cities of over 20,000
2 population and the membership of each local lodge or division of
3 which is composed of at least sixty percent law enforcement officers
4 or firefighters as defined in this chapter.

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

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

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

13 (iii) The governing body of any other general authority law
14 enforcement agency;

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

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

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

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

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

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

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

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

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

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

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

1 (17) "Firefighter" means:

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

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

8 (c) Supervisory firefighter personnel;

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

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

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

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

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

31 (18) "General authority law enforcement agency" means any agency,
32 department, or division of a municipal corporation, political
33 subdivision, or other unit of local government of this state, the
34 government of a federally recognized tribe, and any agency,
35 department, or division of state government, having as its primary
36 function the detection and apprehension of persons committing
37 infractions or violating the traffic or criminal laws in general, but
38 not including the Washington state patrol. Such an agency,
39 department, or division is distinguished from a limited authority law
40 enforcement agency having as one of its functions the apprehension or

1 detection of persons committing infractions or violating the traffic
2 or criminal laws relating to limited subject areas, including but not
3 limited to, the state departments of natural resources and social and
4 health services, the state gambling commission, the state lottery
5 commission, the state parks and recreation commission, the state
6 utilities and transportation commission, the state liquor and
7 cannabis board, and the state department of corrections. A general
8 authority law enforcement agency under this chapter does not include
9 a government contractor.

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

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

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

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

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

36 (e) The term "law enforcement officer" also includes a person
37 employed on or after January 1, 1993, as a public safety officer or
38 director of public safety, so long as the job duties substantially
39 involve only either police or fire duties, or both, and no other
40 duties in a city or town with a population of less than ten thousand.

1 The provisions of this subsection (19)(e) shall not apply to any
2 public safety officer or director of public safety who is receiving a
3 retirement allowance under this chapter as of May 12, 1993; and

4 (f) The term "law enforcement officer" also includes a person who
5 is employed on or after January 1, 2024, on a full-time basis by the
6 government of a federally recognized tribe within the state of
7 Washington that meets the terms and conditions of section 2 of this
8 act, is employed in a police department maintained by that tribe, and
9 who is currently certified as a general authority peace officer under
10 chapter 43.101 RCW.

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

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

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

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

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

24 (i) The fees of the following:

25 (A) A physician or surgeon licensed under the provisions of
26 chapter 18.71 RCW;

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

29 (C) A chiropractor licensed under the provisions of chapter 18.25
30 RCW.

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

34 (iii) The charges for the following medical services and
35 supplies:

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

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

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

39 (D) Anesthesia and oxygen;

1 (E) Rental of iron lung and other durable medical and surgical
2 equipment;

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

4 (G) Professional ambulance service when used to transport the
5 member to or from a hospital when injured by an accident or stricken
6 by a disease;

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

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

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

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

14 (L) An optometrist licensed under the provisions of chapter 18.53
15 RCW.

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

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

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

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

32 (25) "Regular interest" means such rate as the director may
33 determine.

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

1 (27) "Retirement fund" means the "Washington law enforcement
2 officers' and firefighters' retirement system fund" as provided for
3 herein.

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

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

19 (i) For members retiring after May 21, 1971 who were employed
20 under the coverage of a prior pension act before March 1, 1970,
21 "service" shall also include (A) such military service not exceeding
22 five years as was creditable to the member as of March 1, 1970, under
23 the member's particular prior pension act, and (B) such other periods
24 of service as were then creditable to a particular member under the
25 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
26 event shall credit be allowed for any service rendered prior to March
27 1, 1970, where the member at the time of rendition of such service
28 was employed in a position covered by a prior pension act, unless
29 such service, at the time credit is claimed therefor, is also
30 creditable under the provisions of such prior act.

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

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

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

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

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

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

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

35 (30) "Service credit month" means a full service credit month or
36 an accumulation of partial service credit months that are equal to
37 one.

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

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

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

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

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.26
10 RCW to read as follows:

11 (1) The governor is authorized to enter into state-tribal
12 compacts for the participation of tribal general authority peace
13 officers meeting the terms and conditions of this section in the law
14 enforcement officers' and firefighters' retirement system plan 2.

15 (2) The governor shall establish an application and approval
16 process, procedures, and timelines for the negotiation, approval or
17 disapproval, and execution of state-tribal law enforcement officers'
18 and firefighters' retirement system plan 2 compacts.

19 (3) The process may be initiated by submission, to the governor,
20 of a resolution by the governing body of a federally recognized tribe
21 in the state of Washington.

22 (4) The resolution must be accompanied by an application that
23 indicates the police department whose employees will be offered
24 participation in the law enforcement officers' and firefighters'
25 retirement system plan 2, and that demonstrates that the police
26 department will be operated solely as a governmental entity and
27 compliant with all applicable state and federal laws, the rules
28 adopted thereunder, and the terms and conditions set forth in the
29 application.

30 (5) Within 90 days of receipt of a resolution and application
31 under this section, the governor must convene a government-to-
32 government meeting for the purpose of considering the resolution and
33 application and initiating negotiations.

34 (6) State-tribal law enforcement officers' and firefighters'
35 retirement system plan 2 participation compacts must include
36 provisions regarding:

37 (a) Acknowledgment by the tribe that it affirmatively chooses to
38 participate in the law enforcement officers' and firefighters'

1 retirement system for tribal law enforcement officers meeting the
2 criteria of this section;

3 (b) Evidence that the person or persons who sign the compact on
4 behalf of a tribe have authority under tribal law to bind the tribe
5 to all provisions in the compact, including any waiver of sovereign
6 immunity;

7 (c) If the tribe chooses to participate in the law enforcement
8 officers' and firefighters' retirement system:

9 (i) Agreement by the tribe that it meets the definition of an
10 employer as defined in this chapter;

11 (ii) Agreement by the tribe to adhere to all reporting,
12 contribution, and auditing requirements as defined in this chapter,
13 and all rules adopted under authority of RCW 41.50.050(5), including
14 RCW 41.26.062; and

15 (iii) Agreement by the tribe that, at the request of the criminal
16 justice training commission, the tribe will make available any
17 records the tribe has provided to the department of retirement
18 systems as required under the reporting, contribution, and auditing
19 requirements defined in this chapter or chapter 41.50 RCW, and rules
20 implementing those chapters;

21 (d) Agreement by the tribe to a limited waiver of sovereign
22 immunity and consent to the jurisdiction of the Washington state
23 courts for the purpose of enforcing the reporting, contribution, and
24 auditing requirements defined in this chapter and all rules adopted
25 under authority of RCW 41.50.050(5), including RCW 41.26.062;

26 (e) Agreement by the tribe to dissolution procedures memorialized
27 in the state-tribal compact so that all parties are aware of their
28 expectations and duties if the compact terminates or the tribal law
29 enforcement agency chooses to no longer participate in the state
30 retirement systems at a future date, specifically including
31 withdrawal liability and examples of the scale of withdrawal
32 liability for an employer with a tribal law enforcement agency
33 similar in size to the tribe memorializing the compact;

34 (f) Acknowledgment by the tribe that it has been advised that
35 choosing to no longer participate in the retirement systems may
36 result in federal tax implications for the governing body and its
37 employees that are outside the control of the state of Washington,
38 the department of retirement systems, and that the tribe has been
39 encouraged to seek counsel before agreeing to any dissolution
40 procedures in the compact; and

1 (g) Acknowledgment by both parties that the pension system
2 participation portions of the state-tribal compact are null and void
3 if the federal internal revenue service issues guidance stating that
4 any portion of those sections are in conflict with the plan
5 qualification requirements for governmental plans in section 401(a)
6 of the internal revenue code, and the conflict cannot be resolved
7 through administrative action, statutory change, or amendment to the
8 state-tribal compact.

9 (7) For tribes that opt out of pension system participation, such
10 tribal law enforcement employees shall have no right to earn
11 additional service credit in the plan.

12 **Sec. 3.** RCW 41.26.450 and 2021 c 334 s 965 are each amended to
13 read as follows:

14 (1) Port districts established under Title 53 RCW (~~and~~),
15 institutions of higher education as defined in RCW 28B.10.016, and
16 tribal governments participating through a state-tribal compact as
17 defined in section 2 of this act shall contribute both the employer
18 and state shares of the cost of the retirement system for any of
19 their employees who are law enforcement officers.

20 (2) Institutions of higher education shall contribute both the
21 employer and the state shares of the cost of the retirement system
22 for any of their employees who are firefighters.

23 (3) During fiscal years 2018 and 2019 and during the 2019-2021
24 and 2021-2023 fiscal biennia:

25 When an employer charges a fee or recovers costs for work
26 performed by a plan member where:

27 (a) The member receives compensation that is includable as basic
28 salary under RCW 41.26.030(4)(b); and

29 (b) The service is provided, whether directly or indirectly, to
30 an entity that is not an "employer" under RCW 41.26.030(14)(b);
31 the employer shall contribute both the employer and state shares of
32 the cost of the retirement system contributions for that
33 compensation. Nothing in this subsection prevents an employer from
34 recovering the cost of the contribution from the entity receiving
35 services from the member.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.26
37 RCW to read as follows:

1 (1) A member who is employed as a law enforcement officer with
2 the police department of the government of a federally recognized
3 tribe on July 1, 2025, may establish credit for such service rendered
4 prior to July 1, 2025, unless service is either already credited for
5 those periods, or a member was in receipt of retirement benefits from
6 any retirement system listed in RCW 41.50.030. Upon receipt of a
7 written request, the department of retirement systems must notify the
8 member of the cost to establish credit for all or part of such
9 service. Service credit may only be established for periods prior to
10 July 1, 2025, if that service meets the requirements of RCW
11 41.26.030.

12 (2) Before July 1, 2026, a member may elect to establish credit
13 in plan 2 under this section. Such election must be filed in writing
14 with the department of retirement systems by June 30, 2026. The
15 elected period must be in monthly increments beginning with the
16 oldest service.

17 (a) To establish service under this section, the member must pay
18 the actuarial value of the resulting increase in their benefit in a
19 manner defined by the department: (i) No later than five years from
20 the effective date of the election made under this section; and (ii)
21 prior to retirement.

22 (b) Upon full payment of employee contributions for the elected
23 period of service the department of retirement systems must credit
24 the member with the service.

25 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2025.

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