
ENGROSSED SUBSTITUTE SENATE BILL 5424

State of Washington

68th Legislature

2023 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Lovick, Holy, Dhingra, Frame, Keiser, Kuderer, Shewmake, Stanford, Valdez, Warnick, and Wellman)

READ FIRST TIME 02/01/23.

1 AN ACT Relating to flexible work for general and limited
2 authority Washington peace officers; amending RCW 41.26.030 and
3 41.26.030; reenacting and amending RCW 10.93.020; adding a new
4 section to chapter 49.28 RCW; providing an effective date; and
5 providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.28
8 RCW to read as follows:

9 (1) Every general authority and limited authority Washington law
10 enforcement agency may adopt a flexible work policy. The policy may
11 allow for general authority and limited authority Washington peace
12 officers to work at less than full time when feasible, such as
13 supplementing work during peak hours with part-time officers. The
14 flexible work policy may include alternative shift and work schedules
15 that fit the needs of the law enforcement agency.

16 (2) The flexible work policy adopted in subsection (1) of this
17 section may require an officer have a certain number of years of
18 experience as a full-time officer or have additional training for the
19 officer to work part time or be eligible for any other types of
20 flexible work.

1 (3) The flexible work policy adopted in subsection (1) of this
2 section may not cause the layoff or otherwise displace any full-time
3 officer.

4 (4) This section does not alter any existing collective
5 bargaining unit, the provisions of any existing collective bargaining
6 agreement, or the duty of a law enforcement agency to meet their duty
7 to bargain under chapter 41.56 or 41.80 RCW. Full-time and part-time
8 officers working for the same law enforcement agency who are covered
9 by a collective bargaining agreement must be in the same bargaining
10 unit.

11 (5) This section does not alter any laws or workplace policies
12 relating to restrictions on secondary employment for general
13 authority and limited authority Washington peace officers.

14 (6) For the purposes of this section, the definitions in this
15 subsection apply.

16 (a) "General authority and limited authority Washington law
17 enforcement agency" has the same meaning as "general authority
18 Washington law enforcement agency" and "limited authority Washington
19 law enforcement agency" as defined in RCW 10.93.020 (3) and (5),
20 respectively.

21 (b) "General authority and limited authority Washington peace
22 officers" has the same meaning as "general authority Washington peace
23 officer" and "limited authority Washington peace officer" as defined
24 in RCW 10.93.020 (4) and (6), respectively.

25 **Sec. 2.** RCW 10.93.020 and 2021 c 318 s 307 are each reenacted
26 and amended to read as follows:

27 As used in this chapter, the following terms have the meanings
28 indicated unless the context clearly requires otherwise.

29 (1) "Agency with primary territorial jurisdiction" means a city
30 or town police agency which has responsibility for police activity
31 within its boundaries; or a county police or sheriff's department
32 which has responsibility with regard to police activity in the
33 unincorporated areas within the county boundaries; or a statutorily
34 authorized port district police agency or four-year state college or
35 university police agency which has responsibility for police activity
36 within the statutorily authorized enforcement boundaries of the port
37 district, state college, or university.

38 (2) "Federal peace officer" means any employee or agent of the
39 United States government who has the authority to carry firearms and

1 make warrantless arrests and whose duties involve the enforcement of
2 criminal laws of the United States.

3 (3) "General authority Washington law enforcement agency" means
4 any agency, department, or division of a municipal corporation,
5 political subdivision, or other unit of local government of this
6 state, and any agency, department, or division of state government,
7 having as its primary function the detection and apprehension of
8 persons committing infractions or violating the traffic or criminal
9 laws in general, as distinguished from a limited authority Washington
10 law enforcement agency, and any other unit of government expressly
11 designated by statute as a general authority Washington law
12 enforcement agency. The Washington state patrol and the department of
13 fish and wildlife are general authority Washington law enforcement
14 agencies.

15 (4) "General authority Washington peace officer" means any
16 (~~full-time,~~) fully compensated and elected, appointed, or employed
17 officer of a general authority Washington law enforcement agency who
18 is commissioned to enforce the criminal laws of the state of
19 Washington generally.

20 (5) "Limited authority Washington law enforcement agency" means
21 any agency, political subdivision, or unit of local government of
22 this state, and any agency, department, or division of state
23 government, having as one of its functions the apprehension or
24 detection of persons committing infractions or violating the traffic
25 or criminal laws relating to limited subject areas, including but not
26 limited to, the state departments of natural resources and social and
27 health services, the state gambling commission, the state lottery
28 commission, the state parks and recreation commission, the state
29 utilities and transportation commission, the state liquor and
30 cannabis board, the office of the insurance commissioner, the state
31 department of corrections, and the office of independent
32 investigations.

33 (6) "Limited authority Washington peace officer" means any
34 (~~full-time,~~) fully compensated officer of a limited authority
35 Washington law enforcement agency empowered by that agency to detect
36 or apprehend violators of the laws in some or all of the limited
37 subject areas for which that agency is responsible. A limited
38 authority Washington peace officer may be a specially commissioned
39 Washington peace officer if otherwise qualified for such status under
40 this chapter.

1 (7) "Mutual law enforcement assistance" includes, but is not
2 limited to, one or more law enforcement agencies aiding or assisting
3 one or more other such agencies through loans or exchanges of
4 personnel or of material resources, for law enforcement purposes.

5 (8) "Primary commissioning agency" means (a) the employing agency
6 in the case of a general authority Washington peace officer, a
7 limited authority Washington peace officer, a tribal peace officer
8 from a federally recognized tribe, or a federal peace officer, and
9 (b) the commissioning agency in the case of a specially commissioned
10 Washington peace officer (i) who is performing functions within the
11 course and scope of the special commission and (ii) who is not also a
12 general authority Washington peace officer, a limited authority
13 Washington peace officer, a tribal peace officer from a federally
14 recognized tribe, or a federal peace officer.

15 (9) "Primary function of an agency" means that function to which
16 greater than fifty percent of the agency's resources are allocated.

17 (10) "Specially commissioned Washington peace officer," for the
18 purposes of this chapter, means any officer, whether part-time or
19 full-time, compensated or not, commissioned by a general authority
20 Washington law enforcement agency to enforce some or all of the
21 criminal laws of the state of Washington, who does not qualify under
22 this chapter as a general authority Washington peace officer for that
23 commissioning agency, specifically including reserve peace officers,
24 and specially commissioned full-time, fully compensated peace
25 officers duly commissioned by the states of Oregon or Idaho or any
26 such peace officer commissioned by a unit of local government of
27 Oregon or Idaho. A reserve peace officer is an individual who is an
28 officer of a Washington law enforcement agency who does not serve
29 such agency on a full-time basis but who, when called by the agency
30 into active service, is fully commissioned on the same basis as full-
31 time peace officers to enforce the criminal laws of the state.

32 **Sec. 3.** RCW 41.26.030 and 2021 c 12 s 2 are each amended to read
33 as follows:

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

36 (1) "Accumulated contributions" means the employee's
37 contributions made by a member, including any amount paid under RCW
38 41.50.165(2), plus accrued interest credited thereon.

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

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

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

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

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

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

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

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

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

8 (i) A natural born child;

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

11 (iii) A posthumous child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (iii) The governing body of any other general authority law
21 enforcement agency;

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

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

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

37 (15) (a) "Final average salary" for plan 1 members, means (i) for
38 a member holding the same position or rank for a minimum of twelve
39 months preceding the date of retirement, the basic salary attached to
40 such same position or rank at time of retirement; (ii) for any other

1 member, including a civil service member who has not served a minimum
2 of twelve months in the same position or rank preceding the date of
3 retirement, the average of the greatest basic salaries payable to
4 such member during any consecutive twenty-four month period within
5 such member's last ten years of service for which service credit is
6 allowed, computed by dividing the total basic salaries payable to
7 such member during the selected twenty-four month period by twenty-
8 four; (iii) in the case of disability of any member, the basic salary
9 payable to such member at the time of disability retirement; (iv) in
10 the case of a member who hereafter vests pursuant to RCW 41.26.090,
11 the basic salary payable to such member at the time of vesting.

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

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

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

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

35 (iii) Any compensation forgone by a member employed by the state
36 or a local government employer during the 2019-2021 and 2021-2023
37 fiscal biennia as a result of reduced work hours, mandatory leave
38 without pay, temporary layoffs, furloughs, reductions to current pay,
39 or other similar measures resulting from the COVID-19 budgetary
40 crisis, if the reduced compensation is an integral part of the

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

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

8 (17) "Firefighter" means:

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

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

15 (c) Supervisory firefighter personnel;

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

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

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

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

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

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

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

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

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

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

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

36 (d) The term "law enforcement officer" also includes the
37 executive secretary of a labor guild, association or organization
38 (which is an employer under subsection (14) of this section) if that
39 individual has five years previous membership in the retirement

1 system established in chapter 41.20 RCW. The provisions of this
2 subsection (19)(d) shall not apply to plan 2 members; (~~and~~)

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

11 (f) Beginning July 1, 2024, the term "law enforcement officer"
12 also includes any person who is commissioned and employed by an
13 employer on a fully compensated basis to enforce the criminal laws of
14 the state of Washington generally, on a less than full-time basis,
15 with the qualifications in (a) through (e) of this subsection.

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

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

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

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

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

29 (i) The fees of the following:

30 (A) A physician or surgeon licensed under the provisions of
31 chapter 18.71 RCW;

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

34 (C) A chiropractor licensed under the provisions of chapter 18.25
35 RCW.

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

39 (iii) The charges for the following medical services and
40 supplies:

- 1 (A) Drugs and medicines upon a physician's prescription;
2 (B) Diagnostic X-ray and laboratory examinations;
3 (C) X-ray, radium, and radioactive isotopes therapy;
4 (D) Anesthesia and oxygen;
5 (E) Rental of iron lung and other durable medical and surgical
6 equipment;
7 (F) Artificial limbs and eyes, and casts, splints, and trusses;
8 (G) Professional ambulance service when used to transport the
9 member to or from a hospital when injured by an accident or stricken
10 by a disease;
11 (H) Dental charges incurred by a member who sustains an
12 accidental injury to his or her teeth and who commences treatment by
13 a legally licensed dentist within ninety days after the accident;
14 (I) Nursing home confinement or hospital extended care facility;
15 (J) Physical therapy by a registered physical therapist;
16 (K) Blood transfusions, including the cost of blood and blood
17 plasma not replaced by voluntary donors;
18 (L) An optometrist licensed under the provisions of chapter 18.53
19 RCW.

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

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

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

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

36 (25) "Regular interest" means such rate as the director may
37 determine.

38 (26) "Retiree" for persons who establish membership in the
39 retirement system on or after October 1, 1977, means any member in
40 receipt of a retirement allowance or other benefit provided by this

1 chapter resulting from service rendered to an employer by such
2 member.

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

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

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

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

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

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

1 the full service credit for the hours that were scheduled to be
2 worked before the reduction.

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

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

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

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

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

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

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

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

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

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

11 **Sec. 4.** RCW 41.26.030 and 2023 c 77 s 1 are each amended to read
12 as follows:

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

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

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

23 (3) "Actuarial valuation" means a mathematical determination of
24 the financial condition of a retirement plan. It includes the
25 computation of the present monetary value of benefits payable to
26 present members, and the present monetary value of future employer
27 and employee contributions, giving effect to mortality among active
28 and retired members and also to the rates of disability, retirement,
29 withdrawal from service, salary and interest earned on investments.

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

35 (b) "Basic salary" for plan 2 members, means salaries or wages
36 earned by a member during a payroll period for personal services,
37 including overtime payments, and shall include wages and salaries
38 deferred under provisions established pursuant to sections 403(b),
39 414(h), and 457 of the United States Internal Revenue Code, but shall

1 exclude lump sum payments for deferred annual sick leave, unused
2 accumulated vacation, unused accumulated annual leave, or any form of
3 severance pay. In any year in which a member serves in the
4 legislature the member shall have the option of having such member's
5 basic salary be the greater of:

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

8 (ii) Such member's actual basic salary received for
9 nonlegislative public employment and legislative service combined.
10 Any additional contributions to the retirement system required
11 because basic salary under (b)(i) of this subsection is greater than
12 basic salary under (b)(ii) of this subsection shall be paid by the
13 member for both member and employer contributions.

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

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

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

24 (i) A natural born child;

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

27 (iii) A posthumous child;

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

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

32 (b) A person shall also be deemed to be a child up to and
33 including the age of twenty years and eleven months while attending
34 any high school, college, or vocational or other educational
35 institution accredited, licensed, or approved by the state, in which
36 it is located, including the summer vacation months and all other
37 normal and regular vacation periods at the particular educational
38 institution after which the child returns to school.

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

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

2 (9) "Disability board" for plan 1 members means either the county
3 disability board or the city disability board established in RCW
4 41.26.110.

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

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

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

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

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

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

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

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

36 (iii) The governing body of any other general authority law
37 enforcement agency;

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

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

4 (c) Except as otherwise specifically provided in this chapter,
5 "employer" does not include a government contractor. For purposes of
6 this subsection, a "government contractor" is any entity, including a
7 partnership, limited liability company, for-profit or nonprofit
8 corporation, or person, that provides services pursuant to a contract
9 with an "employer." The determination whether an employer-employee
10 relationship has been established is not based on the relationship
11 between a government contractor and an "employer," but is based
12 solely on the relationship between a government contractor's employee
13 and an "employer" under this chapter.

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

29 (b) "Final average salary" for plan 2 members, means the monthly
30 average of the member's basic salary for the highest consecutive
31 sixty service credit months of service prior to such member's
32 retirement, termination, or death. Periods constituting authorized
33 unpaid leaves of absence may not be used in the calculation of final
34 average salary.

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

37 (i) Any compensation forgone by a member employed by a state
38 agency or institution during the 2009-2011 fiscal biennium as a
39 result of reduced work hours, mandatory or voluntary leave without
40 pay, temporary reduction in pay implemented prior to December 11,

1 2010, or temporary layoffs if the reduced compensation is an integral
2 part of the employer's expenditure reduction efforts, as certified by
3 the employer;

4 (ii) Any compensation forgone by a member employed by the state
5 or a local government employer during the 2011-2013 fiscal biennium
6 as a result of reduced work hours, mandatory leave without pay,
7 temporary layoffs, or reductions to current pay if the reduced
8 compensation is an integral part of the employer's expenditure
9 reduction efforts, as certified by the employer. Reductions to
10 current pay shall not include elimination of previously agreed upon
11 future salary increases; and

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

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

25 (17) "Firefighter" means:

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

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

32 (c) Supervisory firefighter personnel;

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

36 (e) The executive secretary of a labor guild, association or
37 organization (which is an employer under subsection (14) of this
38 section), if such individual has five years previous membership in a
39 retirement system established in chapter 41.16 or 41.18 RCW. The

1 provisions of this subsection (17)(e) shall not apply to plan 2
2 members;

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

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

11 (h) Any person who is employed on a full-time, fully compensated
12 basis by an employer as an emergency medical technician that meets
13 the requirements of RCW 18.71.200 or 18.73.030(13), and whose duties
14 include providing emergency medical services as defined in RCW
15 18.73.030.

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

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

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

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

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

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

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

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

38 (g) Beginning July 1, 2024, the term "law enforcement officer"
39 also includes any person who is commissioned and employed by an
40 employer on a fully compensated basis to enforce the criminal laws of

1 the state of Washington generally, on a less than full-time basis,
2 with the qualifications in (a) through (e) of this subsection.

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

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

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

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

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

16 (i) The fees of the following:

17 (A) A physician or surgeon licensed under the provisions of
18 chapter 18.71 RCW;

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

21 (C) A chiropractor licensed under the provisions of chapter 18.25
22 RCW.

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

26 (iii) The charges for the following medical services and
27 supplies:

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

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

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

31 (D) Anesthesia and oxygen;

32 (E) Rental of iron lung and other durable medical and surgical
33 equipment;

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

35 (G) Professional ambulance service when used to transport the
36 member to or from a hospital when injured by an accident or stricken
37 by a disease;

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

1 (I) Nursing home confinement or hospital extended care facility;
2 (J) Physical therapy by a registered physical therapist;
3 (K) Blood transfusions, including the cost of blood and blood
4 plasma not replaced by voluntary donors;
5 (L) An optometrist licensed under the provisions of chapter 18.53
6 RCW.

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

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

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

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

23 (25) "Regular interest" means such rate as the director may
24 determine.

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

30 (27) "Retirement fund" means the "Washington law enforcement
31 officers' and firefighters' retirement system fund" as provided for
32 herein.

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

35 (29)(a) "Service" for plan 1 members, means all periods of
36 employment for an employer as a firefighter or law enforcement
37 officer, for which compensation is paid, together with periods of
38 suspension not exceeding thirty days in duration. For the purposes of
39 this chapter service shall also include service in the armed forces
40 of the United States as provided in RCW 41.26.190. Credit shall be

1 allowed for all service credit months of service rendered by a member
2 from and after the member's initial commencement of employment as a
3 firefighter or law enforcement officer, during which the member
4 worked for seventy or more hours, or was on disability leave or
5 disability retirement. Only service credit months of service shall be
6 counted in the computation of any retirement allowance or other
7 benefit provided for in this chapter.

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

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

23 (iii) 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 (b)(i) "Service" for plan 2 members, means periods of employment
31 by a member for one or more employers for which basic salary is
32 earned for ninety or more hours per calendar month which shall
33 constitute a service credit month. Periods of employment by a member
34 for one or more employers for which basic salary is earned for at
35 least seventy hours but less than ninety hours per calendar month
36 shall constitute one-half service credit month. Periods of employment
37 by a member for one or more employers for which basic salary is
38 earned for less than seventy hours shall constitute a one-quarter
39 service credit month.

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

4 (iii) Service credit years of service shall be determined by
5 dividing the total number of service credit months of service by
6 twelve. Any fraction of a service credit year of service as so
7 determined shall be taken into account in the computation of such
8 retirement allowance or benefits.

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

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

25 (30) "Service credit month" means a full service credit month or
26 an accumulation of partial service credit months that are equal to
27 one.

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

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

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

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

38 NEW SECTION. **Sec. 5.** Section 3 of this act expires July 1,
39 2025.

1 NEW SECTION. **Sec. 6.** Section 4 of this act takes effect July 1,
2 2025.

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