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**SENATE BILL 5538**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Cleveland, Dhingra, and C. Wilson

Read first time 01/23/23. Referred to Committee on Ways & Means.

1 AN ACT Relating to postretirement employment in nursing positions  
2 for a state agency; amending RCW 41.37.050 and 41.40.037; and  
3 declaring an emergency.

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

5 **Sec. 1.** RCW 41.37.050 and 2011 1st sp.s. c 47 s 17 are each  
6 amended to read as follows:

7 (1)(a) If a retiree enters employment in an eligible position  
8 with an employer as defined in this chapter sooner than one calendar  
9 month after his or her accrual date, the retiree's monthly retirement  
10 allowance will be reduced by five and one-half percent for every  
11 eight hours worked during that month. This reduction will be applied  
12 each month until the retiree remains absent from employment with an  
13 employer for one full calendar month.

14 (b) If a retiree enters employment in an eligible position with  
15 an employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner  
16 than one calendar month after his or her accrual date, the retiree's  
17 monthly retirement allowance will be reduced by five and one-half  
18 percent for every eight hours worked during that month. This  
19 reduction will be applied each month until the retiree remains absent  
20 from employment with an employer for one full calendar month.

1 (c) The benefit reduction provided in (a) and (b) of this  
2 subsection will accrue for a maximum of one hundred sixty hours per  
3 month. Any benefit reduction over one hundred percent will be applied  
4 to the benefit the retiree is eligible to receive in subsequent  
5 months.

6 (2)(a) A retiree who has satisfied the break in employment  
7 requirement of subsection (1) of this section may work up to eight  
8 hundred sixty-seven hours per calendar year in an eligible position  
9 as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a law  
10 enforcement officer or firefighter as defined in RCW 41.26.030, or in  
11 a position covered by annuity and retirement income plans offered by  
12 institutions of higher education pursuant to RCW 28B.10.400, without  
13 suspension of his or her benefit.

14 (b) Between the effective date of this section and July 1, 2026,  
15 a retiree who has satisfied the break in employment requirement of  
16 subsection (1) of this section, and who enters service in a nursing  
17 position for a state agency, shall continue to receive pension  
18 payments while engaged in such service, until the retiree has  
19 rendered service for more than 1,040 hours in a calendar year.

20 (3) If the retiree opts to reestablish membership under this  
21 chapter, he or she terminates his or her retirement status and  
22 becomes a member. Retirement benefits shall not accrue during the  
23 period of membership and the individual shall make contributions and  
24 receive membership credit. Such a member shall have the right to  
25 again retire if eligible in accordance with this chapter. However, if  
26 the right to retire is exercised to become effective before the  
27 member has rendered two uninterrupted years of service, the  
28 retirement formula and survivor options the member had at the time of  
29 the member's previous retirement shall be reinstated.

30 (4) The department shall collect and provide the state actuary  
31 with information relevant to the use of this section for the select  
32 committee on pension policy.

33 **Sec. 2.** RCW 41.40.037 and 2022 c 110 s 5 are each amended to  
34 read as follows:

35 (1)(a) If a retiree enters employment with an employer sooner  
36 than one calendar month after his or her accrual date, the retiree's  
37 monthly retirement allowance will be reduced by five and one-half  
38 percent for every eight hours worked during that month. This

1 reduction will be applied each month until the retiree remains absent  
2 from employment with an employer for one full calendar month.

3 (b) The benefit reduction provided in (a) of this subsection will  
4 accrue for a maximum of one hundred sixty hours per month. Any  
5 benefit reduction over one hundred percent will be applied to the  
6 benefit the retiree is eligible to receive in subsequent months.

7 (2)(a) A retiree from plan 1, plan 2, or plan 3 who has satisfied  
8 the break in employment requirement of subsection (1) of this section  
9 may work up to eight hundred sixty-seven hours per calendar year in  
10 an eligible position, as defined in RCW 41.32.010, 41.35.010,  
11 41.37.010, or 41.40.010, or as a firefighter or law enforcement  
12 officer, as defined in RCW 41.26.030, or in a position covered by  
13 annuity and retirement income plans offered by institutions of higher  
14 education pursuant to RCW 28B.10.400, without suspension of his or  
15 her benefit.

16 (b) Between March 23, 2022, and July 1, 2025, a retiree,  
17 including a retiree who has retired under the alternate early  
18 retirement provisions of RCW 41.40.630(3)(b) or 41.40.820(3)(b), who  
19 reenters employment more than 100 days after his or her accrual date,  
20 and who enters service in a school district in a nonadministrative  
21 position shall continue to receive pension payments while engaged in  
22 such service, until the retiree has rendered service for more than  
23 1,040 hours in a calendar year.

24 (c) Between the effective date of this section and July 1, 2026,  
25 a retiree, including a retiree who has retired under the alternate  
26 early retirement provisions of RCW 41.40.630(3)(b) or  
27 41.40.820(3)(b), and who enters service in a nursing position for a  
28 state agency, shall continue to receive pension payments while  
29 engaged in such service, until the retiree has rendered service for  
30 more than 1,040 hours in a calendar year.

31 (3) If the retiree opts to reestablish membership under RCW  
32 41.40.023(12), he or she terminates his or her retirement status and  
33 becomes a member. Retirement benefits shall not accrue during the  
34 period of membership and the individual shall make contributions and  
35 receive membership credit. Such a member shall have the right to  
36 again retire if eligible in accordance with RCW 41.40.180. However,  
37 if the right to retire is exercised to become effective before the  
38 member has rendered two uninterrupted years of service, the  
39 retirement formula and survivor options the member had at the time of  
40 the member's previous retirement shall be reinstated.

1           (4) The department shall collect and provide the state actuary  
2 with information relevant to the use of this section for the select  
3 committee on pension policy.

4           (5) The legislature reserves the right to amend or repeal this  
5 section in the future and no member or beneficiary has a contractual  
6 right to be employed for more than five months in a calendar year  
7 without a reduction of his or her pension.

8           NEW SECTION.   **Sec. 3.** This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of  
10 the state government and its existing public institutions, and takes  
11 effect immediately.

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