

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6106

68th Legislature
2024 Regular Session

Passed by the Senate February 12,
2024

Yeas 48 Nays 0

President of the Senate

Passed by the House February 29, 2024

Yeas 93 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6106** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6106

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senate Ways & Means (originally sponsored by Senators Conway, Keiser, Robinson, Hunt, Dhingra, Frame, Holy, Kuderer, Lovick, Nobles, Valdez, and C. Wilson; by request of Department of Social and Health Services)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to including in the public safety employees'
2 retirement system specified workers at department of social and
3 health services institutional and residential sites that serve
4 civilly committed residents or serve patients under not guilty by
5 reason of insanity findings; amending RCW 41.37.010; adding a new
6 section to chapter 41.37 RCW; and providing an effective date.

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

8 **Sec. 1.** RCW 41.37.010 and 2023 c 199 s 3 are each amended to
9 read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

38 (7)(a) "Compensation earnable" for members, means salaries or
39 wages earned by a member during a payroll period for personal
40 services, including overtime payments, and shall include wages and

1 salaries deferred under provisions established pursuant to sections
2 403(b), 414(h), and 457 of the United States internal revenue code,
3 but shall exclude nonmoney maintenance compensation and lump sum or
4 other payments for deferred annual sick leave, unused accumulated
5 vacation, unused accumulated annual leave, or any form of severance
6 pay.

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

10 (i) Retroactive payments to an individual by an employer on
11 reinstatement of the employee in a position, or payments by an
12 employer to an individual in lieu of reinstatement, which are awarded
13 or granted as the equivalent of the salary or wage which the
14 individual would have earned during a payroll period shall be
15 considered compensation earnable to the extent provided in this
16 subsection, and the individual shall receive the equivalent service
17 credit;

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

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

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

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

32 (iv) Compensation that a member would have received but for a
33 disability occurring in the line of duty only as authorized by RCW
34 41.37.060;

35 (v) Compensation that a member receives due to participation in
36 the leave sharing program only as authorized by RCW 41.04.650 through
37 41.04.670; and

38 (vi) Compensation that a member receives for being in standby
39 status. For the purposes of this section, a member is in standby
40 status when not being paid for time actually worked and the employer

1 requires the member to be prepared to report immediately for work, if
2 the need arises, although the need may not arise.

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

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

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

8 (11) "Employee" or "employed" means a person who is providing
9 services for compensation to an employer, unless the person is free
10 from the employer's direction and control over the performance of
11 work. The department shall adopt rules and interpret this subsection
12 consistent with common law.

13 (12)(a) "Employer" means:

14 (i) The Washington state department of corrections;

15 (ii) The Washington state parks and recreation commission;

16 (iii) The Washington state gambling commission;

17 (iv) The Washington state patrol;

18 (v) The Washington state department of natural resources;

19 (vi) The Washington state liquor and cannabis board;

20 (vii) The Washington state department of veterans affairs;

21 (viii) The Washington state department of children, youth, and
22 families;

23 (ix) The Washington state department of social and health
24 services;

25 (x) Any county corrections department;

26 (xi) Any city corrections department not covered under chapter
27 41.28 RCW;

28 (xii) Any public corrections entity created under RCW 39.34.030
29 by counties, cities not covered under chapter 41.28 RCW, or both; and

30 (xiii) Any employer participating in the public employees'
31 retirement system in chapter 41.40 RCW, some or all of whose
32 employees' primary responsibility is to receive, process, transmit,
33 or dispatch 911 emergency and nonemergency calls for law enforcement,
34 fire, emergency medical, or other public safety services that is not
35 already covered by the provisions of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

32 (d) Whose primary responsibility is to provide nursing care to,
33 or to ensure the custody and safety of, offender, adult probationary,
34 or patient populations; and who is in a position that requires
35 completion of defensive tactics training or de-escalation training;
36 and who is employed by one of the following state institutions or
37 centers operated by the department of social and health services or
38 the department of children, youth, and families:

39 (i) Juvenile rehabilitation administration institutions, not
40 including community facilities;

1 (ii) Mental health hospitals;
2 (iii) Child study and treatment centers; or
3 (iv) Institutions or residential sites that serve developmentally
4 disabled patients or offenders, or perform competency restoration
5 services, or serve civilly committed residents, or serve patients
6 under not guilty by reason of insanity findings, except for state-
7 operated living alternatives facilities;

8 (e) Whose primary responsibility is to provide nursing care to
9 offender and patient populations in institutions and centers operated
10 by the following employers: A city or county corrections department
11 as set forth in subsection (12) of this section, a public corrections
12 entity as set forth in subsection (12) of this section, the
13 Washington state department of corrections, or the Washington state
14 department of veterans affairs;

15 (f) Whose primary responsibility is to receive, process,
16 transmit, or dispatch 911 emergency and nonemergency calls for law
17 enforcement, fire, emergency medical, or other public safety
18 services, or to supervise those employees; or

19 (g) Whose primary responsibility is to supervise members eligible
20 under this subsection.

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

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

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

27 (23) "Regular interest" means such rate as the director may
28 determine.

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

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

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

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

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

1 (29) "Service" means periods of employment by a member on or
2 after July 1, 2006, for one or more employers for which compensation
3 earnable is paid. Compensation earnable earned for ninety or more
4 hours in any calendar month shall constitute one service credit
5 month. Compensation earnable earned for at least seventy hours but
6 less than ninety hours in any calendar month shall constitute one-
7 half service credit month of service. Compensation earnable earned
8 for less than seventy hours in any calendar month shall constitute
9 one-quarter service credit month of service. Time spent in standby
10 status, whether compensated or not, is not service.

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

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

15 (b) A member shall receive a total of not more than twelve
16 service credit months of service for such calendar year. If an
17 individual is employed in an eligible position by one or more
18 employers the individual shall receive no more than one service
19 credit month during any calendar month in which multiple service for
20 ninety or more hours is rendered.

21 (c) Reduction efforts such as furloughs, reduced work hours,
22 mandatory leave without pay, temporary layoffs, or other similar
23 situations as contemplated by subsection (5)(b)(iii) of this section
24 do not result in a reduction in service credit that otherwise would
25 have been earned for that month of work, and the member shall receive
26 the full service credit for the hours that were scheduled to be
27 worked before the reduction.

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

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

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

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

37 (34) "State treasurer" means the treasurer of the state of
38 Washington.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.37

2 RCW to read as follows:

3 (1) An employee of an employer as defined in RCW 41.37.010 who
4 was a member of the public employees' retirement system plan 2 or
5 plan 3 before the effective date of this section, and on the
6 effective date of this section, meets the eligibility requirements as
7 set forth in RCW 41.37.010(19)(d)(iv) has the following options
8 during the election period defined in subsection (2) of this section:

9 (a) To remain in the public employees' retirement system in the
10 employee's current plan; or

11 (b) To become a member of the public safety employees' retirement
12 system plan 2 and be a dual member as provided in chapter 41.54 RCW.
13 Any service credit the employee accrued in the public employees'
14 retirement system service credit may not be transferred to the public
15 safety employees' retirement system.

16 (2) The "election period" is the period between the effective
17 date of this section and September 1, 2025.

18 (3) During the election period, employees who are employed by an
19 employer as defined in RCW 41.37.010 remain members of the public
20 employees' retirement system plan 2 or plan 3 until they
21 affirmatively elect to join the public safety employees' retirement
22 system. Members who elect to join the public safety employees'
23 retirement system as described in this section will have their
24 membership begin prospectively from the date of their election.

25 (4) If, after September 1, 2025, the member has not made an
26 election to join the public safety employees' retirement system, the
27 member will remain in the member's current plan in the public
28 employees' retirement system.

29 (5) An employee who was a member of the public employees'
30 retirement system plan 1 on or before June 1, 2019, and on or after
31 the effective date of this section, is employed by an employer as
32 defined in RCW 41.37.010 as an employee who meets the eligibility
33 requirements included in RCW 41.37.010(19)(d)(iv), shall remain a
34 member of the public employees' retirement system plan 1.

35 (6) All new employees hired on or after the effective date of
36 this section, who become employed by an employer as defined in RCW
37 41.37.010 as an employee who meets the eligibility requirements
38 included in RCW 41.37.010(19)(d)(iv), will become members of the
39 public safety employees' retirement system.

1 NEW SECTION. **Sec. 3.** This act takes effect June 1, 2025.

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