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**SUBSTITUTE HOUSE BILL 1269**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Silver, Spanel, Paris, May, P. Johnson, Fuhrman, Winsley, Hochstatter, Nealey, Wynne, Edmondson, Bowman, D. Sommers, Brumsickle, Betrozoff, Wood, Neher, Horn, Mielke, Miller, Ballard, Tate and McLean; by request of Joint Committee on Pension Policy).

Read first time February 21, 1991.

1 AN ACT Relating to public retirement; amending RCW 41.32.260,  
2 41.32.550, and 41.18.015; reenacting and amending RCW 41.40.120; adding  
3 new sections to chapter 41.32 RCW; adding a new section to chapter  
4 41.26 RCW; adding a new section to chapter 43.43 RCW; creating new  
5 sections; and declaring an emergency.

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

7 **Sec. 1.** RCW 41.32.260 and 1974 ex.s. c 199 s 2 are each amended to  
8 read as follows:

9 Any member whose public school service is interrupted by active  
10 service to the United States as a member of its military, naval or air  
11 service, or to the state of Washington, as a member of the legislature,  
12 may upon becoming reemployed in the public schools, receive credit for  
13 such service upon presenting satisfactory proof, and contributing to  
14 the annuity fund, either in a lump sum or installments, such amounts as  
15 shall be determined by the board of trustees: PROVIDED ((+1)), That

1 no such military service credit in excess of five years shall be  
2 established or reestablished after July 1, 1961, unless the service was  
3 actually rendered during time of war(~~(: PROVIDED FURTHER (2), That a~~  
4 ~~member of the retirement system who is a member of the state~~  
5 ~~legislature or a state official eligible for the combined pension and~~  
6 ~~annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter~~  
7 ~~amended shall have deductions taken from his salary in the amount of~~  
8 ~~seven and one-half percent of earnable compensation and that service~~  
9 ~~credit shall be established with the retirement system while such~~  
10 ~~deductions are reported to the retirement system, unless he has by~~  
11 ~~reason of his employment become a contributing member of another public~~  
12 ~~retirement system in the state of Washington: AND PROVIDED FURTHER~~  
13 ~~(3), That such elected official who has retired or otherwise terminated~~  
14 ~~his public school service may then elect to terminate his membership in~~  
15 ~~the retirement system and receive retirement benefits while continuing~~  
16 ~~to serve as an elected official: AND, PROVIDED FURTHER (4), That a~~  
17 ~~member of the retirement system who had previous service as an elected~~  
18 ~~or appointed official, for which he did not contribute to the~~  
19 ~~retirement system, may receive credit for such legislative service~~  
20 ~~unless he has received credit for that service in another state~~  
21 ~~retirement system, upon making contributions in such amounts as shall~~  
22 ~~be determined by the board of trustees)).~~

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW  
24 to read as follows:

25 A member of the retirement system who is a member of the state  
26 legislature or a state official eligible for the combined pension and  
27 annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter  
28 amended shall have deductions taken from his or her salary. Such  
29 deductions shall be in the amount of either (1) seven and one-half

1 percent if he or she was a member of the state legislature or an  
2 eligible state official between April 25, 1973, and May 6, 1974; or  
3 otherwise (2) six percent of earnable compensation. Service credit  
4 shall be established with the retirement system while such deductions  
5 are reported to the retirement system, unless he or she has by reason  
6 of his or her employment become a contributing member of another public  
7 retirement system in the state of Washington. Such elected official  
8 who has retired or otherwise terminated his or her public school  
9 service may then elect to terminate his or her membership in the  
10 retirement system and receive retirement benefits while continuing to  
11 serve as an elected official. A member of the retirement system who  
12 had previous service as an elected or appointed official, for which he  
13 or she did not contribute to the retirement system, may receive credit  
14 for such legislative service unless he or she has received credit for  
15 that service in another state retirement system, upon making  
16 contributions in such amounts as shall be determined by the board of  
17 trustees.

18 **Sec. 3.** RCW 41.32.550 and 1970 ex.s. c 35 s 4 are each amended to  
19 read as follows:

20 Should the (~~board~~) director determine from the report of the  
21 medical director that a member (~~in full-time service~~) employed under  
22 an annual contract with an employer has become permanently disabled for  
23 the performance of his or her duties or at any time while a member is  
24 receiving temporary disability benefits that a member's disability will  
25 be permanent, a member shall have the option of then receiving (1) all  
26 of his or her accumulated contributions in a lump sum payment and  
27 canceling his or her membership, or (2) of accepting a retirement  
28 allowance based on service or age, if eligible under RCW 41.32.480, or  
29 (3) if he or she had five or more years of Washington membership

1 service credit established with the retirement system, a retirement  
2 allowance because of disability: PROVIDED, That any member applying for  
3 a retirement allowance who is eligible for benefits on the basis of  
4 service or age shall receive a retirement allowance based on the  
5 provision of law governing retirement for service or age. If the  
6 member qualifies to receive a retirement allowance because of  
7 disability he or she shall be paid the maximum annuity which shall be  
8 the actuarial equivalent of his or her accumulated contributions at his  
9 or her age of retirement and a pension equal to the service pension to  
10 which he or she would be entitled under RCW 41.32.497 as now or  
11 hereafter amended. If the member dies before he or she has received in  
12 annuity payments the present value of his or her accumulated  
13 contributions at the time of his or her retirement, the unpaid balance  
14 shall be paid to his or her estate or to such persons as he or she  
15 shall have nominated by written designation executed and filed with the  
16 (~~board of trustees~~) department.

17 A member retired for disability may be required at any time to  
18 submit to reexamination. If medical findings reveal that the  
19 individual is no longer disabled for the performance of public school  
20 service, the retirement allowance granted because of disability may be  
21 terminated by action of the (~~board of trustees~~) director or upon  
22 written request of the member. In case of such termination, the  
23 individual shall be restored to full membership in the retirement  
24 system.

25 NEW SECTION. Sec. 4. A new section is added to chapter 41.32 RCW  
26 to read as follows:

27 Persons who were under an annual half-time contract with an  
28 employer anytime during the period of September 1, 1986, through August  
29 31, 1987, shall be eligible for benefits provided by RCW 41.32.550, as

1 amended by chapter ..., Laws of 1991 (this act), if during that period  
2 they were medically determined to be permanently disabled for the  
3 performance of their duty.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.26 RCW  
5 to read as follows:

6 If a member is called or recalled to active duty in the armed  
7 forces of the United States between August 2, 1990, and July 1, 1992,  
8 and dies in the line of that duty, such member's death, for the purpose  
9 of qualifying the member's beneficiary for benefit under RCW 41.26.160  
10 or 41.26.510, shall be presumed to have occurred on the date of the  
11 member's termination of service in the system.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.43 RCW  
13 to read as follows:

14 If a member is called or recalled to active duty in the armed  
15 forces of the United States between August 2, 1990, and July 1, 1992,  
16 and dies in the line of that duty, such member's death, for the purpose  
17 of qualifying the member's beneficiary for benefit under RCW 43.43.270,  
18 shall be presumed to have occurred on the date of the member's  
19 termination of service in the system.

20 **Sec. 7.** RCW 41.40.120 and 1990 c 274 s 10 and 1990 c 192 s 4 are  
21 each reenacted and amended to read as follows:

22 Membership in the retirement system shall consist of all regularly  
23 compensated employees and appointive and elective officials of  
24 employers, as defined in this chapter, with the following exceptions:

25 (1) Persons in ineligible positions;

26 (2) Employees of the legislature except the officers thereof  
27 elected by the members of the senate and the house and legislative

1 committees, unless membership of such employees be authorized by the  
2 said committee;

3 (3)(a) Persons holding elective offices or persons appointed  
4 directly by the governor: PROVIDED, That such persons shall have the  
5 option of applying for membership during such periods of employment:  
6 AND PROVIDED FURTHER, That any persons holding or who have held  
7 elective offices or persons appointed by the governor who are members  
8 in the retirement system and who have, prior to becoming such members,  
9 previously held an elective office, and did not at the start of such  
10 initial or successive terms of office exercise their option to become  
11 members, may apply for membership to be effective during such term or  
12 terms of office, and shall be allowed to establish the service credit  
13 applicable to such term or terms of office upon payment of the employee  
14 contributions therefor by the employee with interest as determined by  
15 the director and employer contributions therefor by the employer or  
16 employee with interest as determined by the director: AND PROVIDED  
17 FURTHER, That all contributions with interest submitted by the employee  
18 under this subsection shall be placed in the employee's individual  
19 account in the employee's savings fund and be treated as any other  
20 contribution made by the employee, with the exception that any  
21 contributions submitted by the employee in payment of the employer's  
22 obligation, together with the interest the director may apply to the  
23 employer's contribution, shall not be considered part of the member's  
24 annuity for any purpose except withdrawal of contributions;

25 (b) A member holding elective office (~~((in a town or city))~~) who has  
26 elected to apply for membership pursuant to (a) of this subsection and  
27 who later wishes to be eligible for a retirement allowance shall have  
28 the option of ending his or her membership in the retirement system.  
29 A member wishing to end his or her membership under this subsection  
30 must file, on a form supplied by the department, a statement indicating

1 that the member agrees to irrevocably abandon any claim for service for  
2 future periods served as an elected official (~~(of a town or city)~~). A  
3 member who receives (~~(more than ten thousand dollars per year in)~~)  
4 compensation for his or her elective service greater than the highest  
5 salary authorized at the time of his or her retirement under RCW  
6 43.03.013 is not eligible for the option provided by this subsection  
7 (~~((3)(b))~~);

8 (4) Employees holding membership in, or receiving pension benefits  
9 under, any retirement plan operated wholly or in part by an agency of  
10 the state or political subdivision thereof, or who are by reason of  
11 their current employment contributing to or otherwise establishing the  
12 right to receive benefits from any such retirement plan: PROVIDED,  
13 HOWEVER, In any case where the retirement system has in existence an  
14 agreement with another retirement system in connection with exchange of  
15 service credit or an agreement whereby members can retain service  
16 credit in more than one system, such an employee shall be allowed  
17 membership rights should the agreement so provide: AND PROVIDED  
18 FURTHER, That an employee shall be allowed membership if otherwise  
19 eligible while receiving survivor's benefits: AND PROVIDED FURTHER,  
20 That an employee shall not either before or after June 7, 1984, be  
21 excluded from membership or denied service credit pursuant to this  
22 subsection solely on account of: (a) Membership in the plan created  
23 under chapter 2.14 RCW; or (b) enrollment under the relief and  
24 compensation provisions or the pension provisions of the volunteer fire  
25 fighters' relief and pension fund under chapter 41.24 RCW;

26 (5) Patient and inmate help in state charitable, penal, and  
27 correctional institutions;

28 (6) "Members" of a state veterans' home or state soldiers' home;

1 (7) Persons employed by an institution of higher learning or  
2 community college, primarily as an incident to and in furtherance of  
3 their education or training, or the education or training of a spouse;

4 (8) Employees of an institution of higher learning or community  
5 college during the period of service necessary to establish eligibility  
6 for membership in the retirement plans operated by such institutions;

7 (9) Persons rendering professional services to an employer on a  
8 fee, retainer, or contract basis or when the income from these services  
9 is less than fifty percent of the gross income received from the  
10 person's practice of a profession;

11 (10) Persons appointed after April 1, 1963, by the liquor control  
12 board as agency vendors;

13 (11) Employees of a labor guild, association, or organization:  
14 PROVIDED, That elective officials and employees of a labor guild,  
15 association, or organization which qualifies as an employer within this  
16 chapter shall have the option of applying for membership;

17 (12) Plan I retirees employed in eligible positions on a temporary  
18 basis for a period not to exceed five months in a calendar year:  
19 PROVIDED, That if such employees are employed for more than five months  
20 in a calendar year in an eligible position they shall become members of  
21 the system prospectively;

22 (13) Persons employed by or appointed or elected as an official of  
23 a first class city that has its own retirement system: PROVIDED, That  
24 any member elected or appointed to an elective office on or after April  
25 1, 1971, shall have the option of continuing as a member of this system  
26 in lieu of becoming a member of the city system. A member who elects  
27 to continue as a member of this system shall pay the appropriate member  
28 contributions and the city shall pay the employer contributions at the  
29 rates prescribed by this chapter. The city shall also transfer to this  
30 system all of such member's accumulated contributions together with

1 such further amounts as necessary to equal all employee and employer  
2 contributions which would have been paid into this system on account of  
3 such service with the city and thereupon the member shall be granted  
4 credit for all such service. Any city that becomes an employer as  
5 defined in RCW 41.40.010(4) as the result of an individual's election  
6 under this subsection shall not be required to have all employees  
7 covered for retirement under the provisions of this chapter. Nothing  
8 in this subsection shall prohibit a city of the first class with its  
9 own retirement system from: (a) Transferring all of its current  
10 employees to the retirement system established under this chapter, or  
11 (b) allowing newly hired employees the option of continuing coverage  
12 under the retirement system established by this chapter.

13 Notwithstanding any other provision of this chapter, persons  
14 transferring from employment with a first class city of over four  
15 hundred thousand population that has its own retirement system to  
16 employment with the state department of agriculture may elect to remain  
17 within the retirement system of such city and the state shall pay the  
18 employer contributions for such persons at like rates as prescribed for  
19 employers of other members of such system;

20 (14) Employees who (a) are not citizens of the United States, (b)  
21 do not reside in the United States, and (c) perform duties outside of  
22 the United States;

23 (15) Employees who (a) are not citizens of the United States, (b)  
24 are not covered by chapter 41.48 RCW, (c) are not excluded from  
25 membership under this chapter or chapter 41.04 RCW, (d) are residents  
26 of this state, and (e) make an irrevocable election to be excluded from  
27 membership, in writing, which is submitted to the director within  
28 thirty days after employment in an eligible position;

29 (16) Employees who are citizens of the United States and who reside  
30 and perform duties for an employer outside of the United States:

1 PROVIDED, That unless otherwise excluded under this chapter or chapter  
2 41.04 RCW, the employee may apply for membership (a) within thirty days  
3 after employment in an eligible position and membership service credit  
4 shall be granted from the first day of membership service, and (b)  
5 after this thirty-day period, but membership service credit shall be  
6 granted only from the date of application;

7 (17) The city manager or chief administrative officer of a city or  
8 town who serves at the pleasure of an appointing authority: PROVIDED,  
9 That such persons shall have the option of applying for membership  
10 within thirty days from date of their appointment to such positions.  
11 Persons serving in such positions as of April 4, 1986, shall continue  
12 to be members in the retirement system unless they notify the director  
13 in writing prior to December 31, 1986, of their desire to withdraw from  
14 membership in the retirement system. A member who withdraws from  
15 membership in the system under this section shall receive a refund of  
16 the member's accumulated contributions.

17 **Sec. 8.** RCW 41.18.015 and 1961 c 255 s 11 are each amended to read  
18 as follows:

19 There is hereby created in each fire protection district which  
20 qualifies under this chapter, a firemen's pension board to consist of  
21 the following five members, the chairman of the fire commissioners for  
22 said district who shall be chairman of the board, the county auditor,  
23 county treasurer, and in addition, two regularly employed ((firemen))  
24 or retired fire fighters elected by secret ballot of the ((firemen))  
25 employed and retired fire fighters. Retired members who are subject to  
26 the jurisdiction of the pension board have both the right to elect and  
27 the right to be elected under this section. The first members to be  
28 elected by the ((firemen)) fire fighters shall be ((for a term of one  
29 and two years, respectively, and their successors shall be)) elected

1 annually for a two-year term. ((That)) The two ((firemen-so)) fire  
2 fighter elected members shall, in turn, select a third ((fireman))  
3 eligible member who shall serve in the event of an absence of one of  
4 the regularly elected ((firemen)) members. In case a vacancy occurs in  
5 the membership of the ((firemen)) fire fighter or retired members, the  
6 members ((of the fire department)) shall in the same manner elect a  
7 successor to serve ((his)) the unexpired term. The board may select  
8 and appoint a secretary who may, but need not be a member of the board.  
9 In case of absence or inability of the chairman to act, the board may  
10 select a chairman pro tempore who shall during such absence or  
11 inability perform the duties and exercise the powers of the chairman.  
12 A majority of the members of said board shall constitute a quorum and  
13 have power to transact business.

14 NEW SECTION. Sec. 9. If a law enforcement officers' and fire  
15 fighters' system member's prior service as a law enforcement officer or  
16 fire fighter under a prior pension system is not creditable due to the  
17 withdrawal of his or her contributions plus accrued interest thereon  
18 from a prior pension system, such member shall be credited with such  
19 prior service, as a law enforcement officer or fire fighter, by paying  
20 to the Washington law enforcement officers' and fire fighters'  
21 retirement system, on or before June 30, 1992, an amount which is equal  
22 to that which was withdrawn from the prior system by such member, as a  
23 law enforcement officer or fire fighter, together with interest as  
24 determined by the director.

25 NEW SECTION. Sec. 10. If a law enforcement officers' and fire  
26 fighters' system member's prior service as a law enforcement officer or  
27 fire fighter under a prior pension system is not creditable because,  
28 although employed in a position covered by a prior pension act, such

1 member had not yet become a member of the pension system governed by  
2 such act, such member shall be credited with such prior service as a  
3 law enforcement officer or fire fighter, by paying to the Washington  
4 law enforcement officers' and fire fighters' retirement system, on or  
5 before June 30, 1992, an amount which is equal to the employer's  
6 contributions which would have been required under the prior act when  
7 such service was rendered if the member had been a member of such  
8 system during such period, together with interest as determined by the  
9 director.

10       NEW SECTION.   **Sec. 11.**       This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of the  
12 state government and its existing public institutions, and shall take  
13 effect immediately.