
HOUSE BILL 1671

State of Washington 55th Legislature 1997 Regular Session

By Representatives Pennington and O'Brien

Read first time 02/04/97. Referred to Committee on Appropriations.

1 AN ACT Relating to retirement of plan II law enforcement officers;
2 amending RCW 41.26.010, 41.26.020, 41.26.040, 41.26.045, 41.26.046,
3 41.26.047, 41.26.450, 41.26.500, 2.10.155, 26.09.138, 35.20.270,
4 36.28A.010, 41.04.205, 41.04.270, 41.04.350, 41.04.400, 41.04.440,
5 41.04.450, 41.05.320, 41.18.210, 41.20.170, 41.24.400, 41.32.800,
6 41.32.860, 41.40.059, 41.40.690, 41.45.010, 41.45.020, 41.45.050,
7 41.45.060, 41.45.070, 41.50.055, 41.50.075, 41.50.110, 41.50.150,
8 41.50.500, 41.50.670, 41.50.790, 41.54.010, 41.54.040, 41.56.030,
9 41.56.465, and 72.72.060; reenacting and amending RCW 41.26.030,
10 41.40.010, and 46.52.130; adding a new chapter to Title 41 RCW; and
11 prescribing penalties.

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

13 NEW SECTION. **Sec. 1.** This chapter shall be known and cited as the
14 "Washington law enforcement officers' plan II retirement system act."

15 NEW SECTION. **Sec. 2.** (1) The purpose of this chapter is to
16 provide for an actuarial reserve system for the payment of death,
17 disability, and retirement benefits to law enforcement officers, and to
18 beneficiaries of such employees, thereby enabling such employees to

1 provide for themselves and their dependents in case of disability or
2 death, and effecting a system of retirement from active duty.

3 (2) It is the intent of the legislature that all members of the
4 Washington law enforcement officers' and fire fighters' retirement
5 system, plan II, as it existed prior to the effective date of this act,
6 and all law enforcement officers employed on or after the effective
7 date of this act who would have qualified to join that retirement
8 system are members of the retirement system under this chapter.

9 NEW SECTION. **Sec. 3.** As used in this chapter, unless a different
10 meaning is plainly required by the context:

11 (1) "Retirement system" means the "Washington law enforcement
12 officers' plan II retirement system."

13 (2) "Employer" means the following entities to the extent that the
14 entity employs any law enforcement officer:

15 (a) The legislative authority of any city, town, county, or
16 district;

17 (b) The elected officials of any municipal corporation; or

18 (c) The governing body of any other general authority law
19 enforcement agency.

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

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

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

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

1 (d) "Law enforcement officer" also means a person employed on or
2 after January 1, 1993, as a public safety officer or director of public
3 safety, so long as the job duties substantially involve only either
4 police or fire duties, or both, and no other duties in a city or town
5 with a population of less than ten thousand. The provisions of this
6 subsection (3)(d) shall not apply to any public safety officer or
7 director of public safety who is receiving a retirement allowance under
8 this chapter or chapter 41.26 RCW as of May 12, 1993.

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

11 (5) "Surviving spouse" means the surviving widow or widower of a
12 member. "Surviving spouse" shall not include the divorced spouse of a
13 member.

14 (6)(a) "Child" or "children" means an unmarried person who is under
15 the age of eighteen or mentally or physically handicapped as determined
16 by the department, except a handicapped person in the full-time care of
17 a state institution, who is:

18 (i) A natural born child;

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

21 (iii) A posthumous child;

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

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

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

33 (7) "Member" means any law enforcement officer or other person
34 under subsection (3) of this section whose membership is transferred
35 from the Washington law enforcement officers' and fire fighters'
36 retirement system plan II, as it existed prior to the effective date of
37 this act, and every law enforcement officer who is employed in that
38 capacity on or after the effective date of this act.

1 (8) "Retirement fund" means the "Washington law enforcement
2 officers' plan II retirement system fund" as provided for in this
3 chapter.

4 (9) "Employee" means any law enforcement officer as defined in
5 subsection (3) of this section.

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

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

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

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

25 (b) Such member's actual basic salary received for nonlegislative
26 public employment and legislative service combined. Any additional
27 contributions to the retirement system required because basic salary
28 under (a) of this subsection is greater than basic salary under this
29 subsection (12)(b) shall be paid by the member for both member and
30 employer contributions.

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

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

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

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

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

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

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

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

35 (18) "Regular interest" means such rate as the director may
36 determine.

37 (19) "Retiree" for persons who established membership under chapter
38 41.26 RCW or this chapter means any member in receipt of a retirement

1 allowance or other benefit provided by chapter 41.26 RCW or this
2 chapter resulting from service rendered to an employer by such member.

3 (20) "Director" means the director of the department.

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

6 (22) "State elective position" means any position held by any
7 person elected or appointed to state-wide office or elected or
8 appointed as a member of the legislature.

9 (23) "Plan II" means the law enforcement officers' and fire
10 fighters' retirement system, plan II, as it existed prior to the
11 effective date of this act, providing the benefits and funding
12 provisions covering persons who first became members of the system on
13 and after October 1, 1977, and until the effective date of this act;
14 and the law enforcement officers' plan II retirement system created
15 under this chapter.

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

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

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

36 NEW SECTION. **Sec. 4.** "Minimum medical and health standards" means
37 minimum medical and health standards adopted by the department under
38 this chapter.

1 NEW SECTION. **Sec. 5.** The Washington law enforcement officers'
2 plan II retirement system is hereby created for law enforcement
3 officers.

4 (1) Except for members of the Washington law enforcement officers'
5 and fire fighters' retirement system, plan I, as that system existed
6 prior to the effective date of this act, all law enforcement officers
7 employed as such on or after March 1, 1970, on a full-time fully
8 compensated basis in this state shall be members of the retirement
9 system established by this chapter with respect to all periods of
10 service as such, to the exclusion of any pension system existing under
11 any prior act.

12 (2) Except for members of the Washington law enforcement officers'
13 and fire fighters' retirement system, plan I, as that system existed
14 prior to the effective date of this act, any employee serving as a law
15 enforcement officer or fire fighter on March 1, 1970, who is then
16 making retirement contributions under any prior act shall have his or
17 her membership transferred to the system established by this chapter as
18 of such date. Upon retirement for service or for disability, or death,
19 of any such employee, his or her retirement benefits earned under this
20 chapter shall be computed and paid. In addition, his or her benefits
21 under the prior retirement act to which he or she was making
22 contributions at the time of this transfer shall be computed as if he
23 or she had not transferred. For the purpose of such computations, the
24 employee's creditability of service and eligibility for service or
25 disability retirement and survivor and all other benefits shall
26 continue to be as provided in such prior retirement act, as if transfer
27 of membership had not occurred. The excess, if any, of the benefits so
28 computed, giving full value to survivor benefits, over the benefits
29 payable under this chapter shall be paid whether or not the employee
30 has made application under the prior act. If the employee's prior
31 retirement system was the Washington public employees' retirement
32 system, payment of such excess shall be made by that system; if the
33 employee's prior retirement system was the state-wide city employees'
34 retirement system, payment of such excess shall be made by the employer
35 which was the member's employer when his or her transfer of membership
36 occurred: PROVIDED, That any death in line of duty lump sum benefit
37 payment shall continue to be the obligation of that system as provided
38 in RCW 41.44.210; in the case of all other prior retirement systems,

1 payment of such excess shall be made by the employer which was the
2 member's employer when his or her transfer of membership occurred.

3 (3) All funds held by any firemen's or policemen's relief and
4 pension fund shall remain in that fund for the purpose of paying the
5 obligations of the fund. The municipality shall continue to levy the
6 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be
7 used for the purpose of paying the benefits provided in chapters 41.16
8 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to
9 be paid from whatever financial sources the city has been using for
10 this purpose.

11 (4) All rights and benefits of members of the Washington law
12 enforcement officers' and fire fighters' retirement system, plan II, as
13 it existed prior to the effective date of this act are preserved. Many
14 dates used in chapter 41.26 RCW to establish benefits, rights, and
15 membership eligibility are retained in this chapter, although the dates
16 have passed, to protect transferring members.

17 NEW SECTION. **Sec. 6.** (1) Notwithstanding any other provision of
18 law after February 19, 1974, no law enforcement officer, may become
19 eligible for coverage in the pension system established by this
20 chapter, until the individual has met and has been certified as having
21 met minimum medical and health standards: PROVIDED, That an elected
22 sheriff or an appointed chief of police, shall not be required to meet
23 the age standard: PROVIDED FURTHER, That in cities and towns having
24 not more than two law enforcement officers and if one or both do not
25 meet the minimum medical and health standards as required by this
26 chapter, then such person or persons may join any other pension system
27 that the city has available for its other employees: AND PROVIDED
28 FURTHER, That for one year after February 19, 1974, any such medical or
29 health standard now existing or hereinafter adopted, insofar as it
30 establishes a maximum age beyond which an applicant is to be deemed
31 ineligible for coverage, shall be waived as to any applicant for
32 employment or reemployment who is otherwise eligible except for his or
33 her age, who has been a member of any one or more of the retirement
34 systems created by chapter 41.20 RCW and who has restored all
35 contributions which he or she has previously withdrawn from any such
36 system or systems.

37 (2) This section shall not apply to persons who initially establish
38 membership in the retirement system on or after July 1, 1979.

1 NEW SECTION. **Sec. 7.** The director shall adopt the same minimum
2 medical and health standards for membership coverage into the
3 Washington law enforcement officers' plan II retirement system act as
4 existed under chapter 41.26 RCW on the effective date of this act. The
5 standards when adopted shall be published and distributed to each
6 employer, and each employer shall adopt certification procedures and
7 such other procedures as are required to insure that no law enforcement
8 officer receives membership coverage unless and until he or she has
9 actually met minimum medical and health standards: PROVIDED, That an
10 elected sheriff or an appointed chief of police or director of public
11 safety shall not be required to meet the age standard. The director
12 may amend the minimum medical and health standards as experience
13 indicates, even if the standards as so amended are lower or less rigid
14 than those as existed under chapter 41.26 RCW on the effective date of
15 this act. The cost of the medical examination contemplated by this
16 section is to be paid by the employer.

17 NEW SECTION. **Sec. 8.** Nothing in sections 4, 6, and 7 of this act
18 shall apply to any law enforcement officers who were employed as such
19 on or before August 1, 1971, as long as they continue in such
20 employment; nor to promotional appointments after becoming a member in
21 the police department of any employer nor to the reemployment of a law
22 enforcement officer by the same or a different employer within six
23 months after the termination of his or her employment, nor to the
24 reinstatement of a law enforcement officer who has been on military or
25 disability leave, disability retirement status, or leave of absence
26 status. Nothing in this chapter prevents any employer from adopting
27 higher medical and health standards than those which are adopted by the
28 director.

29 NEW SECTION. **Sec. 9.** (1) A one hundred fifty thousand dollar
30 death benefit shall be paid to the member's estate, or such person or
31 persons, trust or organization as the member shall have nominated by
32 written designation duly executed and filed with the department. If
33 there be no such designated person or persons still living at the time
34 of the member's death, such member's death benefit shall be paid to the
35 member's surviving spouse as if in fact such spouse had been nominated
36 by written designation, or if there be no such surviving spouse, then
37 to such member's legal representatives.

1 (2) The benefit under this section shall be paid only where death
2 occurs as a result of injuries sustained in the course of employment.
3 The determination of eligibility for the benefit shall be made
4 consistent with Title 51 RCW by the department of labor and industries.
5 The department of labor and industries shall notify the department of
6 retirement systems by order under RCW 51.52.050.

7 NEW SECTION. **Sec. 10.** (1) Subject to subsections (2) and (3) of
8 this section, the right of a person to a retirement allowance,
9 disability allowance, or death benefit, to the return of accumulated
10 contributions, the retirement, disability or death allowance itself,
11 any optional benefit, any other right accrued or accruing to any person
12 under the provisions of this chapter, and the moneys in the fund
13 created under this chapter, are hereby exempt from any state, county,
14 municipal, or other local tax and shall not be subject to execution,
15 garnishment, attachment, the operation of bankruptcy or insolvency
16 laws, or any other process of law whatsoever, and shall be
17 unassignable.

18 (2) On the written request of any person eligible to receive
19 benefits under this section, the department may deduct from such
20 payments the premiums for life, health, or other insurance. The
21 request on behalf of any child or children shall be made by the legal
22 guardian of such child or children. The department may provide for
23 such persons one or more plans of group insurance, through contracts
24 with regularly constituted insurance carriers or health care service
25 contractors.

26 (3) Subsection (1) of this section shall not prohibit the
27 department from complying with (a) a wage assignment order for child
28 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
29 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
30 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
31 benefits assignment order issued by the department, (e) a court order
32 directing the department of retirement systems to pay benefits directly
33 to an obligee under a dissolution order as defined in RCW 41.50.500(3)
34 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any
35 administrative or court order expressly authorized by federal law.

36 NEW SECTION. **Sec. 11.** No bond of any kind shall be required of a
37 claimant appealing to the superior court, the court of appeals, or the

1 supreme court from a decision of the director affecting such claimant's
2 right to retirement or disability benefits.

3 NEW SECTION. **Sec. 12.** (1) The annual compensation taken into
4 account in calculating retiree benefits under this system shall not
5 exceed the limits imposed by section 401(a)(17) of the federal internal
6 revenue code for qualified trusts.

7 (2) The department shall adopt rules as necessary to implement this
8 section.

9 NEW SECTION. **Sec. 13.** Any employer, member or beneficiary who
10 shall knowingly make false statements or shall falsify or permit to be
11 falsified any record or records of the retirement system in an attempt
12 to defraud the retirement system, shall be guilty of a felony.

13 NEW SECTION. **Sec. 14.** Except as provided in section 26 of this
14 act, a member of the retirement system shall receive a retirement
15 allowance equal to two percent of such member's final average salary
16 for each year of service.

17 NEW SECTION. **Sec. 15.** (1) On or after June 10, 1982, the director
18 may pay a beneficiary, subject to the provisions of subsection (5) of
19 this section, a lump sum payment in lieu of a monthly benefit if the
20 initial monthly benefit computed in accordance with section 14 of this
21 act would be less than fifty dollars. The lump sum payment shall be
22 the greater of the actuarial equivalent of such monthly benefits or an
23 amount equal to the individual's accumulated contributions plus accrued
24 interest.

25 (2) A beneficiary, subject to the provisions of subsection (5) of
26 this section, who is receiving a regular monthly benefit of less than
27 fifty dollars may request, in writing, to convert from a monthly
28 benefit to a lump sum payment. If the director approves the
29 conversion, the calculation of the actuarial equivalent of the total
30 estimated regular benefit will be computed based on the beneficiary's
31 age at the time the benefit initially accrued. The lump sum payment
32 will be reduced to reflect any payments received on or after the
33 initial benefit accrual date.

34 (3) Persons covered under the provisions of subsection (1) of this
35 section may upon returning to member status reinstate all previous

1 service by depositing the lump sum payment received, with interest as
2 computed by the director, within two years of returning to service or
3 prior to re-retiring, whichever comes first. In computing the amount
4 due, the director shall exclude the accumulated value of the normal
5 payments the member would have received while in beneficiary status if
6 the lump sum payment had not occurred.

7 (4) If a member fails to meet the time limitations set forth under
8 subsection (3) of this section, the member may reinstate all previous
9 service under RCW 41.50.165(2) prior to retirement. The sum deposited
10 shall exclude the accumulated value of the normal payments the member
11 would have received while in beneficiary status if the lump sum payment
12 had not occurred.

13 (5) Only persons entitled to or receiving a service retirement
14 allowance under section 14 of this act or an earned disability
15 allowance under section 20 of this act qualify for participation under
16 this section.

17 (6) It is the intent of the legislature that any member who
18 receives a settlement under this section shall be deemed to be retired
19 from this system.

20 NEW SECTION. Sec. 16. (1) NORMAL RETIREMENT. Any member with at
21 least five service credit years of service who has attained at least
22 age fifty-five shall be eligible to retire and to receive a retirement
23 allowance computed according to section 14 of this act.

24 (2) EARLY RETIREMENT. Any member who has completed at least twenty
25 service credit years of service and has attained age fifty shall be
26 eligible to retire and to receive a retirement allowance computed
27 according to section 14 of this act, except that a member retiring
28 pursuant to this subsection shall have the retirement allowance
29 actuarially reduced to reflect the difference in the number of years
30 between age at retirement and the attainment of age fifty-five.

31 NEW SECTION. Sec. 17. Beginning July 1, 1979, and every year
32 thereafter, the department shall determine the following information
33 for each retired member or beneficiary whose retirement allowance has
34 been in effect for at least one year:

35 (1) The original dollar amount of the retirement allowance;

36 (2) The index for the calendar year prior to the effective date of
37 the retirement allowance, to be known as "index A";

1 (3) The index for the calendar year prior to the date of
2 determination, to be known as "index B"; and

3 (4) The ratio obtained when index B is divided by index A.

4 The value of the ratio obtained shall be the annual adjustment to
5 the original retirement allowance and shall be applied beginning with
6 the July payment. In no event, however, shall the annual adjustment:

7 (a) Produce a retirement allowance which is lower than the original
8 retirement allowance;

9 (b) Exceed three percent in the initial annual adjustment; or

10 (c) Differ from the previous year's annual adjustment by more than
11 three percent.

12 For the purposes of this section, "index" means, for any calendar
13 year, that year's average consumer price index--Seattle, Washington
14 area for urban wage earners and clerical workers, all items, compiled
15 by the bureau of labor statistics, United States department of labor.

16 NEW SECTION. Sec. 18. (1) The required contribution rates to this
17 plan II retirement system for members, employers, and the state of
18 Washington shall be established by the director from time to time as
19 may be necessary upon the advice of the state actuary. The state
20 actuary shall use the aggregate actuarial cost method to calculate
21 contribution rates.

22 (2) Except as provided in subsection (3) of this section, the
23 member, the employer and the state shall each contribute the following
24 shares of the cost of the retirement system:

25	Member	50%
26	Employer	30%
27	State	20%

28 (3) Port districts established under Title 53 RCW and institutions
29 of higher education as defined in RCW 28B.10.016 shall contribute both
30 the employer and state shares of the cost of the retirement system for
31 any of their employees who are law enforcement officers.

32 (4) Effective January 1, 1987, however, no member or employer
33 contributions are required for any calendar month in which the member
34 is not granted service credit.

35 (5) Any adjustments in contribution rates required from time to
36 time for future costs shall likewise be shared proportionally by the
37 members, employers, and the state.

1 (6) Any increase in the contribution rate required as the result of
2 a failure of the state or of an employer to make any contribution
3 required by this section shall be borne in full by the state or by that
4 employer not making the contribution.

5 (7) The director shall notify all employers of any pending
6 adjustment in the required contribution rate and such increase shall be
7 announced at least thirty days prior to the effective date of the
8 change.

9 (8) Members' contributions required by this section shall be
10 deducted from the members basic salary each payroll period. The
11 members contribution and the employers contribution shall be remitted
12 directly to the department within fifteen days following the end of the
13 calendar month during which the payroll period ends. The state's
14 contribution required by this section shall be transferred to the plan
15 II fund from the total contributions transferred by the state treasurer
16 under RCW 41.45.060 and 41.45.070.

17 NEW SECTION. **Sec. 19.** (1) Upon retirement for service as
18 prescribed in section 16 of this act or disability retirement under
19 section 20 of this act, a member shall elect to have the retirement
20 allowance paid pursuant to the following options, calculated so as to
21 be actuarially equivalent to each other.

22 (a) Standard allowance. A member electing this option shall
23 receive a retirement allowance payable throughout such member's life.
24 However, if the retiree dies before the total of the retirement
25 allowance paid to such retiree equals the amount of such retiree's
26 accumulated contributions at the time of retirement, then the balance
27 shall be paid to the member's estate, or such person or persons, trust,
28 or organization as the retiree shall have nominated by written
29 designation duly executed and filed with the department; or if there be
30 no such designated person or persons still living at the time of the
31 retiree's death, then to the surviving spouse; or if there be neither
32 such designated person or persons still living at the time of death nor
33 a surviving spouse, then to the retiree's legal representative.

34 (b) The department shall adopt rules that allow a member to select
35 a retirement option that pays the member a reduced retirement allowance
36 and upon death, such portion of the member's reduced retirement
37 allowance as the department by rule designates shall be continued
38 throughout the life of and paid to a designated person. Such person

1 shall be nominated by the member by written designation duly executed
2 and filed with the department at the time of retirement. The options
3 adopted by the department shall include, but are not limited to, a
4 joint and one hundred percent survivor option and a joint and fifty
5 percent survivor option.

6 (2)(a) A member, if married, must provide the written consent of
7 his or her spouse to the option selected under this section, except as
8 provided in (b) of this subsection. If a member is married and both
9 the member and member's spouse do not give written consent to an option
10 under this section, the department will pay the member a joint and
11 fifty percent survivor benefit and record the member's spouse as the
12 beneficiary. Such benefit shall be calculated to be actuarially
13 equivalent to the benefit options available under subsection (1) of
14 this section unless spousal consent is not required as provided in (b)
15 of this subsection.

16 (b) If a copy of a dissolution order designating a survivor
17 beneficiary under RCW 41.50.790 has been filed with the department at
18 least thirty days prior to a member's retirement:

19 (i) The department shall honor the designation as if made by the
20 member under subsection (1) of this section; and

21 (ii) The spousal consent provisions of (a) of this subsection do
22 not apply.

23 NEW SECTION. **Sec. 20.** (1) A member of the retirement system who
24 becomes totally incapacitated for continued employment by an employer
25 as determined by the director shall be eligible to receive an allowance
26 under the provisions of sections 14 through 28 of this act. Such
27 member shall receive a monthly disability allowance computed as
28 provided for in section 14 of this act and shall have such allowance
29 actuarially reduced to reflect the difference in the number of years
30 between age at disability and the attainment of age fifty-five.

31 (2) Any member who receives an allowance under the provisions of
32 this section shall be subject to such comprehensive medical
33 examinations as required by the department. If such medical
34 examinations reveal that such a member has recovered from the
35 incapacitating disability and the member is no longer entitled to
36 benefits under Title 51 RCW, the retirement allowance shall be canceled
37 and the member shall be restored to duty in the same civil service
38 rank, if any, held by the member at the time of retirement or, if

1 unable to perform the duties of the rank, then, at the member's
2 request, in such other like or lesser rank as may be or become open and
3 available, the duties of which the member is then able to perform. In
4 no event shall a member previously drawing a disability allowance be
5 returned or be restored to duty at a salary or rate of pay less than
6 the current salary attached to the rank or position held by the member
7 at the date of the retirement for disability. If the department
8 determines that the member is able to return to service, the member is
9 entitled to notice and a hearing. Both the notice and the hearing
10 shall comply with the requirements of chapter 34.05 RCW.

11 (3) Those members subject to this chapter who became disabled in
12 the line of duty on or after July 23, 1989, and who receive benefits
13 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW
14 41.04.535 shall receive or continue to receive service credit subject
15 to the following:

16 (a) No member may receive more than one month's service credit in
17 a calendar month.

18 (b) No service credit under this section may be allowed after a
19 member separates or is separated without leave of absence.

20 (c) Employer contributions shall be paid by the employer at the
21 rate in effect for the period of the service credited.

22 (d) Employee contributions shall be collected by the employer and
23 paid to the department at the rate in effect for the period of service
24 credited.

25 (e) State contributions shall be as provided in RCW 41.26.450.

26 (f) Contributions shall be based on the regular compensation which
27 the member would have received had the disability not occurred.

28 (g) The service and compensation credit under this section shall be
29 granted for a period not to exceed six consecutive months.

30 (h) Should the legislature revoke the service credit authorized
31 under this section or repeal this section, no affected employee is
32 entitled to receive the credit as a matter of contractual right.

33 (4)(a) If the recipient of a monthly retirement allowance under
34 this section dies before the total of the retirement allowance paid to
35 the recipient equals the amount of the accumulated contributions at the
36 date of retirement, then the balance shall be paid to the member's
37 estate, or such person or persons, trust, or organization as the
38 recipient has nominated by written designation duly executed and filed
39 with the director, or, if there is no such designated person or persons

1 still living at the time of the recipient's death, then to the
2 surviving spouse, or, if there is neither such designated person or
3 persons still living at the time of his or her death nor a surviving
4 spouse, then to his or her legal representative.

5 (b) If a recipient of a monthly retirement allowance under this
6 section died before April 27, 1989, and before the total of the
7 retirement allowance paid to the recipient equaled the amount of his or
8 her accumulated contributions at the date of retirement, then the
9 department shall pay the balance of the accumulated contributions to
10 the member's surviving spouse or, if there is no surviving spouse, then
11 in equal shares to the member's children. If there is no surviving
12 spouse or children, the department shall retain the contributions.

13 NEW SECTION. **Sec. 21.** Notwithstanding any other provision of law,
14 members shall be eligible for industrial insurance as provided by Title
15 51 RCW and shall be included in the payroll of the employer for such
16 purpose.

17 NEW SECTION. **Sec. 22.** Any member or beneficiary eligible to
18 receive a retirement allowance under the provisions of section 16, 20,
19 or 24 of this act shall be eligible to commence receiving a retirement
20 allowance after having filed written application with the department.

21 (1) Retirement allowances paid to members under section 16 of this
22 act shall accrue from the first day of the calendar month immediately
23 following such member's separation from employment.

24 (2) Retirement allowances paid to vested members no longer in
25 service, but qualifying for such an allowance pursuant to section 16 of
26 this act, shall accrue from the first day of the calendar month
27 immediately following such qualification.

28 (3) Disability allowances paid to disabled members under section 20
29 of this act shall accrue from the first day of the calendar month
30 immediately following such member's separation from employment for
31 disability.

32 (4) Retirement allowances paid as death benefits under section 24
33 of this act shall accrue from the first day of the calendar month
34 immediately following the member's death.

35 NEW SECTION. **Sec. 23.** (1) No retiree under this chapter shall be
36 eligible to receive such retiree's monthly retirement allowance if he

1 or she is employed in an eligible position as defined in RCW 41.40.010
2 or 41.32.010, or as a law enforcement officer as defined in section 3
3 of this act. If a retiree's benefits have been suspended under this
4 section, his or her benefits shall be reinstated when the retiree
5 terminates the employment that caused his or her benefits to be
6 suspended. Upon reinstatement, the retiree's benefits shall be
7 actuarially recomputed pursuant to the rules adopted by the department.

8 (2) The department shall adopt rules implementing this section.

9 NEW SECTION. **Sec. 24.** (1) Except as provided in RCW 11.07.010, if
10 a member or a vested member who has not completed at least ten years of
11 service dies, the amount of the accumulated contributions standing to
12 such member's credit in the retirement system at the time of such
13 member's death, less any amount identified as owing to an obligee upon
14 withdrawal of accumulated contributions pursuant to a court order filed
15 under RCW 41.50.670, shall be paid to the member's estate, or such
16 person or persons, trust, or organization as the member shall have
17 nominated by written designation duly executed and filed with the
18 department. If there be no such designated person or persons still
19 living at the time of the member's death, such member's accumulated
20 contributions standing to such member's credit in the retirement
21 system, less any amount identified as owing to an obligee upon
22 withdrawal of accumulated contributions pursuant to a court order filed
23 under RCW 41.50.670, shall be paid to the member's surviving spouse as
24 if in fact such spouse had been nominated by written designation, or if
25 there be no such surviving spouse, then to such member's legal
26 representatives.

27 (2) If a member who is eligible for retirement or a member who has
28 completed at least ten years of service dies, the surviving spouse or
29 eligible child or children shall elect to receive either:

30 (a) A retirement allowance computed as provided for in section
31 16(1) of this act, actuarially reduced by the amount of any lump sum
32 benefit identified as owing to an obligee upon withdrawal of
33 accumulated contributions pursuant to a court order filed under RCW
34 41.50.670 and actuarially adjusted to reflect a joint and one hundred
35 percent survivor option under section 19 of this act and if the member
36 was not eligible for normal retirement at the date of death a further
37 reduction as described in section 16(2) of this act; if a surviving
38 spouse who is receiving a retirement allowance dies leaving a child or

1 children of the member under the age of majority, then such child or
2 children shall continue to receive an allowance in an amount equal to
3 that which was being received by the surviving spouse, share and share
4 alike, until such child or children reach the age of majority; if there
5 is no surviving spouse eligible to receive an allowance at the time of
6 the member's death, such member's child or children under the age of
7 majority shall receive an allowance share and share alike calculated as
8 herein provided making the assumption that the ages of the spouse and
9 member were equal at the time of the member's death; or

10 (b)(i) The member's accumulated contributions, less any amount
11 identified as owing to an obligee upon withdrawal of accumulated
12 contributions pursuant to a court order filed under RCW 41.50.670; or

13 (ii) If the member dies on or after July 25, 1993, one hundred
14 fifty percent of the member's accumulated contributions, less any
15 amount identified as owing to an obligee upon withdrawal of accumulated
16 contributions pursuant to a court order filed under RCW 41.50.670. Any
17 accumulated contributions attributable to restorations made under RCW
18 41.50.165(2) shall be refunded at one hundred percent.

19 (3) If a member who is eligible for retirement or a member who has
20 completed at least ten years of service dies after October 1, 1977, and
21 is not survived by a spouse or an eligible child, then the accumulated
22 contributions standing to the member's credit, less any amount
23 identified as owing to an obligee upon withdrawal of accumulated
24 contributions pursuant to a court order filed under RCW 41.50.670,
25 shall be paid:

26 (a) To an estate, a person or persons, trust, or organization as
27 the member shall have nominated by written designation duly executed
28 and filed with the department; or

29 (b) If there is no such designated person or persons still living
30 at the time of the member's death, then to the member's legal
31 representatives.

32 NEW SECTION. **Sec. 25.** (1) A member who is on a paid leave of
33 absence authorized by a member's employer shall continue to receive
34 service credit as provided for under sections 14 through 28 of this
35 act.

36 (2) A member who receives compensation from an employer while on an
37 authorized leave of absence to serve as an elected official of a labor
38 organization, and whose employer is reimbursed by the labor

1 organization for the compensation paid to the member during the period
2 of absence, may also be considered to be on a paid leave of absence.
3 This subsection shall only apply if the member's leave of absence is
4 authorized by a collective bargaining agreement that provides that the
5 member retains seniority rights with the employer during the period of
6 leave. The basic salary reported for a member who establishes service
7 credit under this subsection may not be greater than the salary paid to
8 the highest paid job class covered by the collective bargaining
9 agreement.

10 (3) Except as specified in subsection (6) of this section, a member
11 shall be eligible to receive a maximum of two years service credit
12 during a member's entire working career for those periods when a member
13 is on an unpaid leave of absence authorized by an employer. Such
14 credit may be obtained only if the member makes the employer, member,
15 and state contributions plus interest as determined by the department
16 for the period of the authorized leave of absence within five years of
17 resumption of service or prior to retirement whichever comes sooner.

18 (4) If a member fails to meet the time limitations of subsection
19 (3) of this section, the member may receive a maximum of two years of
20 service credit during a member's working career for those periods when
21 a member is on unpaid leave of absence authorized by an employer. This
22 may be done by paying the amount required under RCW 41.50.165(2) prior
23 to retirement.

24 (5) For the purpose of subsection (3) of this section the
25 contribution shall not include the contribution for the unfunded
26 supplemental present value as required by section 18 of this act. The
27 contributions required shall be based on the average of the member's
28 basic salary at both the time the authorized leave of absence was
29 granted and the time the member resumed employment.

30 (6) A member who leaves the employ of an employer to enter the
31 armed forces of the United States shall be entitled to retirement
32 system service credit for up to five years of military service. This
33 subsection shall be administered in a manner consistent with the
34 requirements of the federal uniformed services employment and
35 reemployment rights act.

36 (a) The member qualifies for service credit under this subsection
37 if:

38 (i) Within ninety days of the member's honorable discharge from the
39 United States armed forces, the member applies for reemployment with

1 the employer who employed the member immediately prior to the member
2 entering the United States armed forces; and

3 (ii) The member makes the employee contributions required under
4 section 18 of this act within five years of resumption of service or
5 prior to retirement, whichever comes sooner; or

6 (iii) Prior to retirement and not within ninety days of the
7 member's honorable discharge or five years of resumption of service the
8 member pays the amount required under RCW 41.50.165(2).

9 (b) Upon receipt of member contributions under (a)(ii) of this
10 subsection, the department shall establish the member's service credit
11 and shall bill the employer and the state for their respective
12 contributions required under section 18 of this act for the period of
13 military service, plus interest as determined by the department.

14 (c) The contributions required under (a)(ii) of this subsection
15 shall be based on the compensation the member would have earned if not
16 on leave, or if that cannot be estimated with reasonable certainty, the
17 compensation reported for the member in the year prior to when the
18 member went on military leave.

19 (7) A member receiving benefits under Title 51 RCW who is not
20 receiving benefits under this chapter shall be deemed to be on unpaid,
21 authorized leave of absence.

22 NEW SECTION. Sec. 26. (1) A member who separates or has separated
23 after having completed at least five years of service may remain a
24 member during the period of such member's absence from service for the
25 exclusive purpose only of receiving a retirement allowance under the
26 provisions of section 16 of this act if such member maintains the
27 member's accumulated contributions intact.

28 (2) The retirement allowance payable under the provisions of
29 section 16 of this act to a member who separates after having completed
30 at least twenty years of service, and remains a member during the
31 period of his or her absence from service by maintaining his or her
32 accumulated contributions intact, shall be increased by twenty-five
33 one-hundredths of one percent, compounded for each month from the date
34 of separation to the date the retirement allowance commences as
35 provided in section 22 of this act.

36 NEW SECTION. Sec. 27. (1)(a) A member who has completed less than
37 ten years of service, who ceases to be an employee of an employer

1 except by service or disability retirement, may request a refund of the
2 member's accumulated contributions.

3 (b) A member who has completed ten or more years of service, who
4 ceases to be an employee of an employer except by service or disability
5 retirement, may request a refund of one hundred fifty percent of the
6 member's accumulated contributions. Any accumulated contributions
7 attributable to restorations made under RCW 41.50.165(2) shall be
8 refunded at one hundred percent.

9 (2) The refund shall be made within ninety days following the
10 receipt of the request and notification of termination through the
11 contribution reporting system by the employer; except that in the case
12 of death, an initial payment shall be made within thirty days of
13 receipt of request for such payment and notification of termination
14 through the contribution reporting system by the employer. A member
15 who files a request for refund and subsequently enters into employment
16 with another employer prior to the refund being made shall not be
17 eligible for a refund. The refund of accumulated contributions shall
18 terminate all rights to benefits under sections 14 through 28 of this
19 act.

20 NEW SECTION. **Sec. 28.** (1) A member, who had left service and
21 withdrawn the member's funds under section 27 of this act, shall
22 receive service credit for such prior service if the member restores
23 all withdrawn funds together with interest since the time of withdrawal
24 as determined by the department.

25 The restoration of such funds must be completed within five years
26 of the resumption of service or prior to retirement, whichever occurs
27 first.

28 (2) If a member fails to meet the time limitations of subsection
29 (1) of this section, the member may receive service credit destroyed by
30 the withdrawn contributions if the amount required under RCW
31 41.50.165(2) is paid.

32 **Sec. 29.** RCW 41.26.010 and 1969 ex.s. c 209 s 1 are each amended
33 to read as follows:

34 This chapter shall be known and cited as the "Washington Law
35 Enforcement Officers' Plan I and Fire Fighters' Retirement System Act".

1 **Sec. 30.** RCW 41.26.020 and 1969 ex.s. c 209 s 2 are each amended
2 to read as follows:

3 The purpose of this chapter is to provide for an actuarial reserve
4 system for the payment of death, disability, and retirement benefits to
5 law enforcement officers, under plan I, and fire fighters, and to
6 beneficiaries of such employees, thereby enabling such employees to
7 provide for themselves and their dependents in case of disability or
8 death, and effecting a system of retirement from active duty.

9 **Sec. 31.** RCW 41.26.030 and 1996 c 178 s 11 and 1996 c 38 s 2 are
10 each reenacted and amended to read as follows:

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

13 (1) "Retirement system" means the "Washington law enforcement
14 officers' plan I and fire fighters' retirement system" provided herein.

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

25 (b) "Employer" for plan II members, means the following entities to
26 the extent that the entity employs any (~~law enforcement officer~~
27 ~~and/or~~) fire fighter:

28 (i) The legislative authority of any city, town, county, or
29 district;

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

31 (iii) The governing body of any other general authority law
32 enforcement agency; or

33 (iv) A four-year institution of higher education having a fully
34 operational fire department as of January 1, 1996.

35 (3) "Law enforcement officer" beginning January 1, 1994, means any
36 person who is commissioned and employed by an employer on a full time,
37 fully compensated basis to enforce the criminal laws of the state of
38 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 be
3 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 persons
8 serving in unclassified positions authorized by RCW 41.14.070 except a
9 private secretary will be considered law enforcement officers;

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

16 (d) The term "law enforcement officer" also includes the executive
17 secretary of a labor guild, association or organization (which is an
18 employer under RCW 41.26.030(2)) if that individual has five years
19 previous membership in the retirement system established in chapter
20 41.20 RCW. (~~The provisions of this subsection (3)(d) shall not apply~~
21 ~~to plan II members)); and~~

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

30 (4) "Fire fighter" means:

31 (a) Any person who is serving on a full time, fully compensated
32 basis as a member of a fire department of an employer and who is
33 serving in a position which requires passing a civil service
34 examination for fire fighter, and who is actively employed as such;

35 (b) Anyone who is actively employed as a full time fire fighter
36 where the fire department does not have a civil service examination;

37 (c) Supervisory fire fighter personnel;

1 (d) Any full time executive secretary of an association of fire
2 protection districts authorized under RCW 52.12.031. The provisions of
3 this subsection (4)(d) shall not apply to plan II members;

4 (e) The executive secretary of a labor guild, association or
5 organization (which is an employer under RCW 41.26.030(2) as now or
6 hereafter amended), if such individual has five years previous
7 membership in a retirement system established in chapter 41.16 or 41.18
8 RCW. The provisions of this subsection (4)(e) shall not apply to plan
9 II members;

10 (f) Any person who is serving on a full time, fully compensated
11 basis for an employer, as a fire dispatcher, in a department in which,
12 on March 1, 1970, a dispatcher was required to have passed a civil
13 service examination for fire fighter; and

14 (g) Any person who on March 1, 1970, was employed on a full time,
15 fully compensated basis by an employer, and who on May 21, 1971, was
16 making retirement contributions under the provisions of chapter 41.16
17 or 41.18 RCW.

18 (5) "Department" means the department of retirement systems created
19 in chapter 41.50 RCW.

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

23 (7)(a) "Child" or "children" means an unmarried person who is under
24 the age of eighteen or mentally or physically handicapped as determined
25 by the department, except a handicapped person in the full time care of
26 a state institution, who is:

27 (i) A natural born child;

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

30 (iii) A posthumous child;

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

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

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

1 vacation periods at the particular educational institution after which
2 the child returns to school.

3 (8) "Member" means any fire fighter, law enforcement officer under
4 plan I, or other person as would apply under subsections (3) or (4) of
5 this section whose membership is transferred to the Washington law
6 enforcement officers' plan I and fire fighters' retirement system on or
7 after March 1, 1970, and every law enforcement officer and fire fighter
8 who is employed in that capacity on or after such date.

9 (9) "Retirement fund" means the "Washington law enforcement
10 officers' plan I and fire fighters' retirement system fund" as provided
11 for herein.

12 (10) "Employee" means any law enforcement officer under plan I or
13 fire fighter as defined in subsections (3) and (4) of this section.

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

17 (b) "Beneficiary" for plan II 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 (12)(a) "Final average salary" for plan I members, means (i) for a
21 member holding the same position or rank for a minimum of twelve months
22 preceding the date of retirement, the basic salary attached to such
23 same position or rank at time of retirement; (ii) for any other member,
24 including a civil service member who has not served a minimum of twelve
25 months in the same position or rank preceding the date of retirement,
26 the average of the greatest basic salaries payable to such member
27 during any consecutive twenty-four month period within such member's
28 last ten years of service for which service credit is allowed, computed
29 by dividing the total basic salaries payable to such member during the
30 selected twenty-four month period by twenty-four; (iii) in the case of
31 disability of any member, the basic salary payable to such member at
32 the time of disability retirement; (iv) in the case of a member who
33 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
34 such member at the time of vesting.

35 (b) "Final average salary" for plan II members, means the monthly
36 average of the member's basic salary for the highest consecutive sixty
37 service credit months of service prior to such member's retirement,
38 termination, or death. Periods constituting authorized unpaid leaves
39 of absence may not be used in the calculation of final average salary.

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

6 (b) "Basic salary" for plan II members, means salaries or wages
7 earned by a member during a payroll period for personal services,
8 including overtime payments, and shall include wages and salaries
9 deferred under provisions established pursuant to sections 403(b),
10 414(h), and 457 of the United States Internal Revenue Code, but shall
11 exclude lump sum payments for deferred annual sick leave, unused
12 accumulated vacation, unused accumulated annual leave, or any form of
13 severance pay. In any year in which a member serves in the legislature
14 the member shall have the option of having such member's basic salary
15 be the greater of:

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

18 (ii) Such member's actual basic salary received for nonlegislative
19 public employment and legislative service combined. Any additional
20 contributions to the retirement system required because basic salary
21 under (b)(i) of this subsection is greater than basic salary under
22 (b)(ii) of this subsection shall be paid by the member for both member
23 and employer contributions.

24 (14)(a) "Service" for plan I members, means all periods of
25 employment for an employer as a fire fighter or law enforcement
26 officer, for which compensation is paid, together with periods of
27 suspension not exceeding thirty days in duration. For the purposes of
28 this chapter service shall also include service in the armed forces of
29 the United States as provided in RCW 41.26.190. Credit shall be
30 allowed for all service credit months of service rendered by a member
31 from and after the member's initial commencement of employment as a
32 fire fighter or law enforcement officer, during which the member worked
33 for seventy or more hours, or was on disability leave or disability
34 retirement. Only service credit months of service shall be counted in
35 the computation of any retirement allowance or other benefit provided
36 for in this chapter.

37 (i) For members retiring after May 21, 1971 who were employed under
38 the coverage of a prior pension act before March 1, 1970, "service"
39 shall also include (A) such military service not exceeding five years

1 as was creditable to the member as of March 1, 1970, under the member's
2 particular prior pension act, and (B) such other periods of service as
3 were then creditable to a particular member under the provisions of RCW
4 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
5 be allowed for any service rendered prior to March 1, 1970, where the
6 member at the time of rendition of such service was employed in a
7 position covered by a prior pension act, unless such service, at the
8 time credit is claimed therefor, is also creditable under the
9 provisions of such prior act.

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

13 (b) "Service" for plan II members, means periods of employment by
14 a member for one or more employers for which basic salary is earned for
15 ninety or more hours per calendar month which shall constitute a
16 service credit month. Periods of employment by a member for one or
17 more employers for which basic salary is earned for at least seventy
18 hours but less than ninety hours per calendar month shall constitute
19 one-half service credit month. Periods of employment by a member for
20 one or more employers for which basic salary is earned for less than
21 seventy hours shall constitute a one-quarter service credit month.

22 Members of the retirement system who are elected or appointed to a
23 state elective position may elect to continue to be members of this
24 retirement system.

25 Service credit years of service shall be determined by dividing the
26 total number of service credit months of service by twelve. Any
27 fraction of a service credit year of service as so determined shall be
28 taken into account in the computation of such retirement allowance or
29 benefits.

30 If a member receives basic salary from two or more employers during
31 any calendar month, the individual shall receive one service credit
32 month's service credit during any calendar month in which multiple
33 service for ninety or more hours is rendered; or one-half service
34 credit month's service credit during any calendar month in which
35 multiple service for at least seventy hours but less than ninety hours
36 is rendered; or one-quarter service credit month during any calendar
37 month in which multiple service for less than seventy hours is
38 rendered.

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

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

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

16 (18) "Disability board" for plan I members means either the county
17 disability board or the city disability board established in RCW
18 41.26.110.

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

24 (20) "Disability retirement" for plan I members, means the period
25 following termination of a member's disability leave, during which the
26 member is in receipt of a disability retirement allowance.

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

29 (22) "Medical services" for plan I members, shall include the
30 following as minimum services to be provided. Reasonable charges for
31 these services shall be paid in accordance with RCW 41.26.150.

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

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

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

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

4 (i) The fees of the following:

5 (A) A physician or surgeon licensed under the provisions of chapter
6 18.71 RCW;

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

9 (C) A chiropractor licensed under the provisions of chapter 18.25
10 RCW.

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

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

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

16 (B) Diagnostic x-ray and laboratory examinations;

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

18 (D) Anesthesia and oxygen;

19 (E) Rental of iron lung and other durable medical and surgical
20 equipment;

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

22 (G) Professional ambulance service when used to transport the
23 member to or from a hospital when injured by an accident or stricken by
24 a disease;

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

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

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

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

32 (L) An optometrist licensed under the provisions of chapter 18.53
33 RCW.

34 (23) "Regular interest" means such rate as the director may
35 determine.

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

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

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

4 (27) "State elective position" means any position held by any
5 person elected or appointed to state-wide office or elected or
6 appointed as a member of the legislature.

7 (28) "Plan I" means the law enforcement officers' and fire
8 fighters' retirement system, plan I providing the benefits and funding
9 provisions covering persons who first became members of the system
10 prior to October 1, 1977.

11 (29) "Plan II" means the (~~law enforcement officers' and~~) fire
12 fighters' retirement system, plan II providing the benefits and funding
13 provisions covering persons who first became members of the system on
14 and after October 1, 1977.

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

17 (31) "Service credit month" means a full service credit month or an
18 accumulation of partial service credit months that are equal to one.

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

36 **Sec. 32.** RCW 41.26.040 and 1991 c 35 s 15 are each amended to read
37 as follows:

1 The Washington law enforcement officers' plan I and fire fighters'
2 retirement system is hereby created for fire fighters and law
3 enforcement officers.

4 (1) Notwithstanding RCW 41.26.030(8), all fire fighters and law
5 enforcement officers employed as such on or after March 1, 1970, on a
6 full time fully compensated basis in this state shall be members of the
7 retirement system established by this chapter with respect to all
8 periods of service as such, to the exclusion of any pension system
9 existing under any prior act.

10 (2) Any employee serving as a law enforcement officer or fire
11 fighter on March 1, 1970, who is then making retirement contributions
12 under any prior act shall have his or her membership transferred to the
13 system established by this chapter as of such date. Upon retirement
14 for service or for disability, or death, of any such employee, his or
15 her retirement benefits earned under this chapter shall be computed and
16 paid. In addition, his or her benefits under the prior retirement act
17 to which he or she was making contributions at the time of this
18 transfer shall be computed as if he or she had not transferred. For
19 the purpose of such computations, the employee's creditability of
20 service and eligibility for service or disability retirement and
21 survivor and all other benefits shall continue to be as provided in
22 such prior retirement act, as if transfer of membership had not
23 occurred. The excess, if any, of the benefits so computed, giving full
24 value to survivor benefits, over the benefits payable under this
25 chapter shall be paid whether or not the employee has made application
26 under the prior act. If the employee's prior retirement system was the
27 Washington public employees' retirement system, payment of such excess
28 shall be made by that system; if the employee's prior retirement system
29 was the state-wide city employees' retirement system, payment of such
30 excess shall be made by the employer which was the member's employer
31 when his or her transfer of membership occurred: PROVIDED, That any
32 death in line of duty lump sum benefit payment shall continue to be the
33 obligation of that system as provided in RCW 41.44.210; in the case of
34 all other prior retirement systems, payment of such excess shall be
35 made by the employer which was the member's employer when his or her
36 transfer of membership occurred.

37 (3) All funds held by any firemen's or policemen's relief and
38 pension fund shall remain in that fund for the purpose of paying the
39 obligations of the fund. The municipality shall continue to levy the

1 dollar rate as provided in RCW 41.16.060, and this dollar rate shall be
2 used for the purpose of paying the benefits provided in chapters 41.16
3 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to
4 be paid from whatever financial sources the city has been using for
5 this purpose.

6 **Sec. 33.** RCW 41.26.045 and 1979 ex.s. c 249 s 3 are each amended
7 to read as follows:

8 (1) Notwithstanding any other provision of law after February 19,
9 1974 no law enforcement officer or fire fighter, may become eligible
10 for coverage in the pension system established by this chapter, until
11 the individual has met and has been certified as having met minimum
12 medical and health standards: PROVIDED, That an elected sheriff or an
13 appointed chief of police or fire chief, shall not be required to meet
14 the age standard: PROVIDED FURTHER, That in cities and towns having
15 not more than two law enforcement officers and/or not more than two
16 fire fighters and if one or more of such persons do not meet the
17 minimum medical and health standards as required by the provisions of
18 this chapter, then such person or persons may join any other pension
19 system that the city has available for its other employees: AND
20 PROVIDED FURTHER, That for one year after February 19, 1974 any such
21 medical or health standard now existing or hereinafter adopted, insofar
22 as it establishes a maximum age beyond which an applicant is to be
23 deemed ineligible for coverage, shall be waived as to any applicant for
24 employment or reemployment who is otherwise eligible except for his or
25 her age, who has been a member of any one or more of the retirement
26 systems created by chapter 41.20 (~~of the Revised Code of Washington~~)
27 RCW and who has restored all contributions which he or she has
28 previously withdrawn from any such system or systems.

29 (2) This section shall not apply to persons who initially establish
30 membership in the retirement system on or after July 1, 1979.

31 **Sec. 34.** RCW 41.26.046 and 1987 c 418 s 2 are each amended to read
32 as follows:

33 By July 31, 1971, the (~~retirement board~~) director shall adopt
34 minimum medical and health standards for membership coverage into the
35 Washington law enforcement officers' plan I and fire fighters'
36 retirement system act. In adopting such standards the (~~retirement~~
37 ~~board~~) director shall consider existing standards recommended by the

1 international association of chiefs of police and the international
2 association of fire fighters, and shall adopt equal or higher
3 standards, together with appropriate standards and procedures to insure
4 uniform compliance with this chapter. The standards when adopted shall
5 be published and distributed to each employer, and each employer shall
6 adopt certification procedures and such other procedures as are
7 required to insure that no law enforcement officer or fire fighter
8 receives membership coverage unless and until he or she has actually
9 met minimum medical and health standards: PROVIDED, That an elected
10 sheriff or an appointed chief of police, fire chief, or director of
11 public safety shall not be required to meet the age standard. The
12 (~~retirement board~~) director may amend the minimum medical and health
13 standards as experience indicates, even if the standards as so amended
14 are lower or less rigid than those recommended by the international
15 associations mentioned above. The cost of the medical examination
16 contemplated by this section is to be paid by the employer.

17 **Sec. 35.** RCW 41.26.047 and 1972 ex.s. c 131 s 3 are each amended
18 to read as follows:

19 Nothing in RCW 41.26.035, 41.26.045 and 41.26.046 shall apply to
20 any fire fighters or law enforcement officers who are employed as such
21 on or before August 1, 1971, as long as they continue in such
22 employment; nor to promotional appointments after becoming a member in
23 the police or fire department of any employer nor to the reemployment
24 of a law enforcement officer or fire fighter by the same or a different
25 employer within six months after the termination of his or her
26 employment, nor to the reinstatement of a law enforcement officer or
27 fire fighter who has been on military or disability leave, disability
28 retirement status, or leave of absence status. Nothing in this chapter
29 shall be deemed to prevent any employer from adopting higher medical
30 and health standards than those which are adopted by the (~~retirement~~
31 ~~board~~) director.

32 **Sec. 36.** RCW 41.26.450 and 1996 c 38 s 3 are each amended to read
33 as follows:

34 (1) The required contribution rates to the plan II system for
35 members, employers, and the state of Washington shall be established by
36 the director from time to time as may be necessary upon the advice of

1 the state actuary. The state actuary shall use the aggregate actuarial
2 cost method to calculate contribution rates.

3 (2) Except as provided in subsection (3) of this section, the
4 member, the employer and the state shall each contribute the following
5 shares of the cost of the retirement system:

6 Member	50%
7 Employer	30%
8 State	20%

9 (3) (~~Port districts established under Title 53 RCW and~~
10 ~~institutions of higher education as defined in RCW 28B.10.016 shall~~
11 ~~contribute both the employer and state shares of the cost of the~~
12 ~~retirement system for any of their employees who are law enforcement~~
13 ~~officers.)) Institutions of higher education shall contribute both the
14 employer and the state shares of the cost of the retirement system for
15 any of their employees who are fire fighters.~~

16 (4) Effective January 1, 1987, however, no member or employer
17 contributions are required for any calendar month in which the member
18 is not granted service credit.

19 (5) Any adjustments in contribution rates required from time to
20 time for future costs shall likewise be shared proportionally by the
21 members, employers, and the state.

22 (6) Any increase in the contribution rate required as the result of
23 a failure of the state or of an employer to make any contribution
24 required by this section shall be borne in full by the state or by that
25 employer not making the contribution.

26 (7) The director shall notify all employers of any pending
27 adjustment in the required contribution rate and such increase shall be
28 announced at least thirty days prior to the effective date of the
29 change.

30 (8) Members' contributions required by this section shall be
31 deducted from the members basic salary each payroll period. The
32 members contribution and the employers contribution shall be remitted
33 directly to the department within fifteen days following the end of the
34 calendar month during which the payroll period ends. The state's
35 contribution required by this section shall be transferred to the plan
36 II fund from the total contributions transferred by the state treasurer
37 under RCW 41.45.060 and 41.45.070.

1 **Sec. 37.** RCW 41.26.500 and 1990 c 274 s 12 are each amended to
2 read as follows:

3 (1) No retiree under the provisions of plan II shall be eligible to
4 receive such retiree's monthly retirement allowance if he or she is
5 employed in an eligible position as defined in RCW 41.40.010 or
6 41.32.010, or as a (~~law enforcement officer or~~) fire fighter as
7 defined in RCW 41.26.030. If a retiree's benefits have been suspended
8 under this section, his or her benefits shall be reinstated when the
9 retiree terminates the employment that caused his or her benefits to be
10 suspended. Upon reinstatement, the retiree's benefits shall be
11 actuarially recomputed pursuant to the rules adopted by the department.

12 (2) The department shall adopt rules implementing this section.

13 **Sec. 38.** RCW 2.10.155 and 1990 c 274 s 14 are each amended to read
14 as follows:

15 (1) No judge shall be eligible to receive the judge's monthly
16 service or disability retirement allowance if the retired judge is
17 employed:

18 (a) For more than eight hundred ten hours in a calendar year as a
19 pro tempore judge; or

20 (b) In an eligible position as defined in RCW 41.40.010 or
21 41.32.010, or as a law enforcement officer or fire fighter as defined
22 in RCW 41.26.030 or section 3 of this act.

23 (2) Subsection (1) of this section notwithstanding, a previously
24 elected judge of the superior court who retired before June 7, 1990,
25 leaving a pending case in which the judge had made discretionary
26 rulings may hear the pending case as a judge pro tempore without having
27 his or her retirement allowance suspended.

28 (3) If a retired judge's benefits have been suspended under this
29 section, his or her benefits shall be reinstated when the retiree
30 terminates the employment that caused his or her benefits to be
31 suspended. Upon reinstatement, the retired judge's benefits shall be
32 actuarially recomputed pursuant to the rules adopted by the department.

33 (4) The department shall adopt rules implementing this section.

34 **Sec. 39.** RCW 26.09.138 and 1991 c 365 s 24 are each amended to
35 read as follows:

36 (1) Any obligee of a court order or decree establishing a spousal
37 maintenance obligation may seek a mandatory benefits assignment order

1 under chapter 41.50 RCW if any spousal maintenance payment is more than
2 fifteen days past due and the total of such past due payments is equal
3 to or greater than one hundred dollars, or if the obligor requests a
4 withdrawal of accumulated contributions from the department of
5 retirement systems.

6 (2) Any court order or decree establishing a spousal maintenance
7 obligation may state that, if any spousal maintenance payment is more
8 than fifteen days past due and the total of such past due payments is
9 equal to or greater than one hundred dollars, or if the obligor
10 requests a withdrawal of accumulated contributions from the department
11 of retirement systems, the obligee may seek a mandatory benefits
12 assignment order under chapter 41.50 RCW without prior notice to the
13 obligor. Any such court order or decree may also, or in the
14 alternative, contain a provision that would allow the department to
15 make a direct payment of all or part of a withdrawal of accumulated
16 contributions pursuant to RCW 41.50.550(3). Failure to include this
17 provision does not affect the validity of the court order or decree
18 establishing the spousal maintenance, nor does such failure affect the
19 general applicability of RCW 41.50.500 through 41.50.650 to such
20 obligations.

21 (3) The remedies in RCW 41.50.530 through 41.50.630 are the
22 exclusive provisions of law enforceable against the department of
23 retirement systems in connection with any action for enforcement of a
24 spousal maintenance obligation ordered pursuant to a divorce,
25 dissolution, or legal separation, and no other remedy ordered by a
26 court under this chapter shall be enforceable against the department of
27 retirement systems for collection of spousal maintenance.

28 (4)(a) Nothing in this section regarding mandatory assignment of
29 benefits to enforce a spousal maintenance obligation shall abridge the
30 right of an ex spouse to receive direct payment of retirement benefits
31 payable pursuant to: (i) A court decree of dissolution or legal
32 separation; or (ii) any court order or court-approved property
33 settlement agreement; or (iii) incident to any court decree of
34 dissolution or legal separation, if such dissolution orders fully
35 comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW
36 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, ~~((41.26.180))~~
37 41.26.053, section 10 of this act, 41.32.052, 41.40.052, or 43.43.310
38 as those statutes existed before July 1, 1987, and as those statutes
39 exist on and after July 28, 1991.

1 (b) Persons whose dissolution orders as defined in RCW 41.50.500(3)
2 were entered between July 1, 1987, and July 28, 1991, shall be entitled
3 to receive direct payments of retirement benefits to satisfy court-
4 ordered property divisions if the dissolution orders filed with the
5 department comply or are amended to comply with RCW 41.50.670 through
6 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, (~~41.26.180~~)
7 41.26.053, section 10 of this act, 41.32.052, 41.40.052, or 43.43.310.

8 **Sec. 40.** RCW 35.20.270 and 1992 c 99 s 1 are each amended to read
9 as follows:

10 (1) The position of warrant officer is hereby created and shall be
11 maintained by the city within the city police department. The number
12 and qualifications of warrant officers shall be fixed by ordinance, and
13 their compensation shall be paid by the city.

14 (2) Warrant officers shall be vested only with the special
15 authority to make arrests authorized by warrants and other arrests as
16 are authorized by ordinance.

17 (3) All criminal and civil process issuing out of courts created
18 under this title shall be directed to the chief of police of the city
19 served by the court and/or to the sheriff of the county in which the
20 court is held and/or the warrant officers and be by them executed
21 according to law in any county of this state.

22 (4) No process of courts created under this title shall be executed
23 outside the corporate limits of the city served by the court unless the
24 person authorized by the process first contacts the applicable law
25 enforcement agency in whose jurisdiction the process is to be served.

26 (5) Upon a defendant being arrested in another city or county the
27 cost of arresting or serving process thereon shall be borne by the
28 court issuing the process including the cost of returning the defendant
29 from any county of the state to the city.

30 (6) Warrant officers shall not be entitled to death, disability, or
31 retirement benefits pursuant to chapter 41.26 RCW or chapter ... RCW
32 (sections 1 through 28 of this act) on the basis of service as a
33 warrant officer as described in this section.

34 **Sec. 41.** RCW 36.28A.010 and 1975 1st ex.s. c 172 s 1 are each
35 amended to read as follows:

36 The Washington association of sheriffs and police chiefs is hereby
37 declared to be a combination of units of local government: PROVIDED,

1 That such association shall not be considered an "employer" within the
2 meaning of RCW 41.26.030(2), section 3(2) of this act, or 41.40.010(4):
3 PROVIDED FURTHER, That no compensation received as an employee of the
4 association shall be considered salary for purposes of the provisions
5 of any retirement system created pursuant to the general laws of this
6 state: PROVIDED FURTHER, That such association shall not qualify for
7 inclusion under the unallocated two mills of the property tax of any
8 political subdivision: PROVIDED FURTHER, That the association shall
9 not have the authority to assess any excess levy or bond measure.

10 **Sec. 42.** RCW 41.04.205 and 1995 1st sp.s. c 6 s 8 are each amended
11 to read as follows:

12 (1) Notwithstanding the provisions of RCW 41.04.180, the employees,
13 with their dependents, of any county, municipality, or other political
14 subdivision of this state shall be eligible to participate in any
15 insurance or self-insurance program for employees administered under
16 chapter 41.05 RCW if the legislative authority of any such county,
17 municipality, or other political subdivisions of this state determines,
18 subject to collective bargaining under applicable statutes, a transfer
19 to an insurance or self-insurance program administered under chapter
20 41.05 RCW should be made. In the event of a special district employee
21 transfer pursuant to this section, members of the governing authority
22 shall be eligible to be included in such transfer if such members are
23 authorized by law as of June 25, 1976 to participate in the insurance
24 program being transferred from and subject to payment by such members
25 of all costs of insurance for members.

26 (2) When the legislative authority of a county, municipality, or
27 other political subdivision determines to so transfer, the state health
28 care authority shall:

29 (a) Establish the conditions for participation; and

30 (b) Have the sole right to reject the application.

31 Approval of the application by the state health care authority
32 shall effect a transfer of the employees involved to the insurance,
33 self-insurance, or health care program applied for.

34 (3) Any application of this section to members of the law
35 enforcement officers' plan I and fire fighters' retirement system under
36 chapter 41.26 RCW or the law enforcement officers' plan II retirement
37 system under chapter ... RCW (sections 1 through 28 of this act) is
38 subject to chapter 41.56 RCW.

1 (4) School districts may voluntarily transfer, except that all
2 eligible employees in a bargaining unit of a school district may
3 transfer only as a unit and all nonrepresented employees in a district
4 may transfer only as a unit.

5 **Sec. 43.** RCW 41.04.270 and 1988 c 195 s 5 are each amended to read
6 as follows:

7 (1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26, ...
8 (sections 1 through 28 of this act), 41.28, 41.32, 41.40, or 43.43 RCW
9 to the contrary, on and after March 19, 1976, any member or former
10 member who (a) receives a retirement allowance earned by said former
11 member as deferred compensation from any public retirement system
12 authorized by the general laws of this state, or (b) is eligible to
13 receive a retirement allowance from any public retirement system listed
14 in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary
15 of a disability allowance from any public retirement system listed in
16 RCW 41.50.030 shall be estopped from becoming a member of or accruing
17 any contractual rights whatsoever in any other public retirement system
18 listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection
19 shall not apply to persons who have accumulated less than fifteen years
20 service credit in any such system.

21 (2) Nothing in this section is intended to apply to any retirement
22 system except those listed in RCW 41.50.030 and the city employee
23 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)
24 of this section does not apply to a dual member as defined in RCW
25 41.54.010.

26 **Sec. 44.** RCW 41.04.350 and 1979 ex.s. c 159 s 1 are each amended
27 to read as follows:

28 (1) Notwithstanding any other provisions of law, no employee of the
29 state of Washington or any of its political subdivisions or any
30 institution supported in total or in part by the state or any of its
31 political subdivisions, other than employees covered by chapters 41.26,
32 ... (sections 1 through 28 of this act), and 43.43 RCW, shall be
33 compelled to retire solely on the basis of age prior to attaining
34 seventy years of age.

35 (2) All compulsory retirement provisions relating to public
36 employees, other than employees covered by chapters 41.26, ...
37 (sections 1 through 28 of this act), and 43.43 RCW, may be waived for

1 individuals attaining seventy years of age by the individual's
2 employer.

3 **Sec. 45.** RCW 41.04.400 and 1984 c 184 s 22 are each amended to
4 read as follows:

5 It is the purpose of RCW 41.04.405 through 41.04.430 to govern the
6 retirement rights of persons whose employment status is altered when:
7 (1) Two or more units of local government of this state, at least one
8 of which is a first class city with its own retirement system, enter
9 into an agreement for the consolidated performance of a governmental
10 service, activity, or undertaking; (2) the service, activity, or
11 undertaking is to be performed either by one of the participating
12 local governmental units or by a newly established separate legal
13 entity; and (3) the employees of the participating local governmental
14 units are not all members of the same Washington public retirement
15 system.

16 RCW 41.04.405 through 41.04.430 are not intended to and do not
17 govern retirement rights of any members of the retirement systems
18 established by chapter 41.16, 41.18, 41.20, (~~(or)~~) 41.26, ... (sections
19 1 through 28 of this act) RCW, or of employees described in RCW
20 35.58.265, 35.58.390, or 70.08.070. To the extent there is any
21 conflict between RCW 41.04.405 through 41.04.430 and RCW 41.04.110, the
22 provisions of RCW 41.04.405 through 41.04.430 shall govern.

23 **Sec. 46.** RCW 41.04.440 and 1995 c 239 s 322 are each amended to
24 read as follows:

25 (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the
26 members of the retirement systems created in chapters 2.10, 2.12,
27 41.26, ... (sections 1 through 28 of this act), 41.32, 41.40, 41.34,
28 and 43.43 RCW to enjoy the tax deferral benefits allowed under 26
29 U.S.C. 414(h). Chapter 227, Laws of 1984 does not alter in any manner
30 the provisions of RCW 41.26.450 and 41.40.650 which require that the
31 member contribution rates shall be set so as to provide fifty percent
32 of the cost of the respective retirement plans.

33 (2) Should the legislature revoke any benefit allowed under 26
34 U.S.C. 414(h), no affected employee shall be entitled thereafter to
35 receive such benefit as a matter of contractual right.

1 **Sec. 47.** RCW 41.04.450 and 1995 c 239 s 324 are each amended to
2 read as follows:

3 (1) Employers of those members under chapters 41.26, ... (sections
4 1 through 28 of this act), 41.40, and 41.34 RCW who are not specified
5 in RCW 41.04.445 may choose to implement the employer pick up of all
6 member contributions without exception under RCW 41.26.080(1),
7 41.26.450, section 18 of this act, 41.40.330(1), 41.40.650, and chapter
8 41.34 RCW. If the employer does so choose, the employer and members
9 shall be subject to the conditions and limitations of RCW 41.04.445
10 (3), (4), and (5) and RCW 41.04.455.

11 (2) An employer exercising the option under this section may later
12 choose to withdraw from and/or reestablish the employer pick up of
13 member contributions only once in a calendar year following forty-five
14 days prior notice to the director of the department of retirement
15 systems.

16 **Sec. 48.** RCW 41.05.320 and 1995 1st sp.s. c 6 s 13 are each
17 amended to read as follows:

18 (1) Elected officials and all permanent employees of the state are
19 eligible to participate in the benefits contribution plan and
20 contribute amount(s) by agreement with the authority. The authority
21 may adopt rules to permit participation in the plan by temporary
22 employees of the state.

23 (2) Persons eligible under subsection (1) of this section may enter
24 into benefits contribution agreements with the state.

25 (3)(a) In the initial year of the medical flexible spending
26 arrangement or cafeteria plan, if authorized, an eligible person may
27 become a participant after the adoption of the plan and before its
28 effective date by agreeing to have a portion of his or her gross salary
29 contributed and deposited into a health care and other benefits account
30 to be used for reimbursement of expenses covered by the plan.

31 (b) After the initial year of the medical flexible spending
32 arrangement or cafeteria plan, if authorized, an eligible person may
33 become a participant for a full plan year, with annual benefit
34 selection for each new plan year made before the beginning of the plan
35 year, as determined by the authority, or upon becoming eligible.

36 (c) Once an eligible person elects to participate and the amount of
37 gross salary that he or she shall contribute and the benefit for which
38 the funds are to be used during the plan year is determined, the

1 agreement shall be irrevocable and may not be amended during the plan
2 year except as provided in (d) of this subsection. Prior to making an
3 election to participate in the (~~(benefit[s])~~) benefits contribution
4 plan, the eligible person shall be informed in writing of all the
5 benefits and contributions that will occur as a result of such
6 election.

7 (d) The authority shall provide in the benefits contribution plan
8 that a participant may enroll, terminate, or change his or her election
9 after the plan year has begun if there is a significant change in a
10 participant's status, as provided by 26 U.S.C. Sec. 125 and the
11 regulations adopted under that section and defined by the authority.

12 (4) The authority shall establish as part of the benefits
13 contribution plan the procedures for and effect of withdrawal from the
14 plan by reason of retirement, death, leave of absence, or termination
15 of employment. To the extent possible under federal law, the authority
16 shall protect participants from forfeiture of rights under the plan.

17 (5) Any contribution under the benefits contribution plan shall
18 continue to be included as reportable compensation for the purpose of
19 computing the state retirement and pension benefits earned by the
20 employee pursuant to chapters 41.26, ... (sections 1 through 28 of this
21 act), 41.32, 41.40, and 43.43 RCW.

22 **Sec. 49.** RCW 41.18.210 and 1974 ex.s. c 148 s 1 are each amended
23 to read as follows:

24 Any former employee of a department of a city of the first class,
25 who (1) was a member of the employees' retirement system of such city,
26 and (2) is now employed within the fire department of such city, may
27 transfer his or her former membership credit from the city employees'
28 retirement system to the fireman's pension system created by chapters
29 41.16 and 41.18 RCW by filing a written request with the board of
30 administration and the municipal fireman's pension board, respectively.

31 Upon the receipt of such request, the transfer of membership to the
32 city's fireman's pension system shall be made, together with a transfer
33 of all accumulated contributions credited to such member. The board of
34 administration shall transmit to the municipal fireman's pension board
35 a record of service credited to such member which shall be computed and
36 credited to such member as a part of his or her period of employment in
37 the city's fireman's pension system. For the purpose of the transfer
38 contemplated by this section, those affected individuals who have

1 formerly withdrawn funds from the city employees' retirement system
2 shall be allowed to restore contributions withdrawn from that
3 retirement system directly to the fireman's pension system and receive
4 credit in the fireman's pension system for their former membership
5 service in the prior system.

6 Any employee so transferring shall have all the rights, benefits,
7 and privileges that he or she would have been entitled to had he or she
8 been a member of the city's fireman's pension system from the beginning
9 of his or her employment with the city.

10 No person so transferring shall thereafter be entitled to any other
11 public pension, except that provided by chapter 41.26 or ... (sections
12 1 through 28 of this act) RCW or social security, which is based upon
13 such service with the city.

14 The right of any employee to file a written request for transfer of
15 membership as set forth in this section shall expire December 31, 1974.

16 **Sec. 50.** RCW 41.20.170 and 1973 c 143 s 2 are each amended to read
17 as follows:

18 Any former employee of a department of a city of the first class
19 who (1) was a member of the employees' retirement system of such city,
20 and (2) is now employed within the police department of such city, may
21 transfer his or her membership from the city employees' retirement
22 system to the city's police relief and pension fund system by filing a
23 written request with the board of administration and the board of
24 trustees, respectively, of the two systems.

25 Upon the receipt of such request, the transfer of membership to the
26 city's police relief and pension fund system shall be made, together
27 with a transfer of all accumulated contributions credited to such
28 member. The board of administration of the city's employees'
29 retirement system shall transmit to the board of trustees of the city's
30 police relief and pension fund system a record of service credited to
31 such member which shall be computed and credited to such member as a
32 part of his or her period of employment in the city's police relief and
33 pension fund system. For the purpose of the transfer contemplated by
34 this section, the affected individuals shall be allowed to restore
35 withdrawn contributions to the city employees' retirement system and
36 reinstate their membership service records.

37 Any employee so transferring shall have all the rights, benefits
38 and privileges that he or she would have been entitled to had he or she

1 been a member of the city's police relief and pension fund system from
2 the beginning of his or her employment with the city.

3 No person so transferring shall thereafter be entitled to any other
4 public pension, except that provided by chapter 41.26 or ... (sections
5 1 through 28 of this act) RCW or social security, which is based upon
6 service with the city.

7 The right of any employee to file a written request for transfer of
8 membership as set forth herein shall expire December 31, 1973.

9 **Sec. 51.** RCW 41.24.400 and 1995 c 11 s 2 are each amended to read
10 as follows:

11 (1) Except as provided in subsection (2) of this section, any
12 municipality may make provision by appropriate legislation and payment
13 of fees required by RCW 41.24.030(1)(d) solely for the purpose of
14 enabling any reserve officer to enroll under the retirement provisions
15 of this chapter.

16 (2) A reserve officer is not eligible to receive a benefit under
17 the retirement provisions of this chapter for service under chapter
18 41.26, ... (sections 1 through 28 of this act), 41.32, or 41.40 RCW.

19 (3) Every municipality shall make provisions for the collection and
20 payment of the fees required under this chapter, and shall continue to
21 make provisions for all reserve officers who come under this chapter as
22 long as they continue to be employed as reserve officers.

23 (4) A reserve officer is not eligible to receive a benefit under
24 the relief and compensation provisions of this chapter.

25 **Sec. 52.** RCW 41.32.800 and 1990 c 274 s 13 are each amended to
26 read as follows:

27 (1) No retiree under the provisions of plan II shall be eligible to
28 receive such retiree's monthly retirement allowance if he or she is
29 employed in an eligible position as defined in RCW 41.40.010 or
30 41.32.010, or as a law enforcement officer or fire fighter as defined
31 in RCW 41.26.030 or section 3 of this act.

32 If a retiree's benefits have been suspended under this section, his
33 or her benefits shall be reinstated when the retiree terminates the
34 employment that caused his or her benefits to be suspended. Upon
35 reinstatement, the retiree's benefits shall be actuarially recomputed
36 pursuant to the rules adopted by the department.

37 (2) The department shall adopt rules implementing this section.

1 **Sec. 53.** RCW 41.32.860 and 1995 c 239 s 110 are each amended to
2 read as follows:

3 (1) No retiree shall be eligible to receive such retiree's monthly
4 retirement allowance if he or she is employed in an eligible position
5 as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement
6 officer or fire fighter as defined in RCW 41.26.030 or section 3 of
7 this act, except that a plan III retiree may work in eligible positions
8 on a temporary basis for up to five months per calendar year.

9 (2) If a retiree's benefits have been suspended under this section,
10 his or her benefits shall be reinstated when the retiree terminates the
11 employment that caused the suspension of benefits. Upon reinstatement,
12 the retiree's benefits shall be actuarially recomputed pursuant to the
13 rules adopted by the department.

14 **Sec. 54.** RCW 41.40.010 and 1995 c 345 s 10, 1995 c 286 s 1, and
15 1995 c 244 s 3 are each reenacted and amended to read as follows:

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

18 (1) "Retirement system" means the public employees' retirement
19 system provided for in this chapter.

20 (2) "Department" means the department of retirement systems created
21 in chapter 41.50 RCW.

22 (3) "State treasurer" means the treasurer of the state of
23 Washington.

24 (4)(a) "Employer" for plan I members, means every branch,
25 department, agency, commission, board, and office of the state, any
26 political subdivision or association of political subdivisions of the
27 state admitted into the retirement system, and legal entities
28 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
29 term shall also include any labor guild, association, or organization
30 the membership of a local lodge or division of which is comprised of at
31 least forty percent employees of an employer (other than such labor
32 guild, association, or organization) within this chapter. The term may
33 also include any city of the first class that has its own retirement
34 system.

35 (b) "Employer" for plan II members, means every branch, department,
36 agency, commission, board, and office of the state, and any political
37 subdivision and municipal corporation of the state admitted into the

1 retirement system, including public agencies created pursuant to RCW
2 35.63.070, 36.70.060, and 39.34.030.

3 (5) "Member" means any employee included in the membership of the
4 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 or
5 section 6 of this act does not prohibit a person otherwise eligible for
6 membership in the retirement system from establishing such membership
7 effective when he or she first entered an eligible position.

8 (6) "Original member" of this retirement system means:

9 (a) Any person who became a member of the system prior to April 1,
10 1949;

11 (b) Any person who becomes a member through the admission of an
12 employer into the retirement system on and after April 1, 1949, and
13 prior to April 1, 1951;

14 (c) Any person who first becomes a member by securing employment
15 with an employer prior to April 1, 1951, provided the member has
16 rendered at least one or more years of service to any employer prior to
17 October 1, 1947;

18 (d) Any person who first becomes a member through the admission of
19 an employer into the retirement system on or after April 1, 1951,
20 provided, such person has been in the regular employ of the employer
21 for at least six months of the twelve-month period preceding the said
22 admission date;

23 (e) Any member who has restored all contributions that may have
24 been withdrawn as provided by RCW 41.40.150 and who on the effective
25 date of the individual's retirement becomes entitled to be credited
26 with ten years or more of membership service except that the provisions
27 relating to the minimum amount of retirement allowance for the member
28 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
29 apply to the member;

30 (f) Any member who has been a contributor under the system for two
31 or more years and who has restored all contributions that may have been
32 withdrawn as provided by RCW 41.40.150 and who on the effective date of
33 the individual's retirement has rendered five or more years of service
34 for the state or any political subdivision prior to the time of the
35 admission of the employer into the system; except that the provisions
36 relating to the minimum amount of retirement allowance for the member
37 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
38 apply to the member.

1 (7) "New member" means a person who becomes a member on or after
2 April 1, 1949, except as otherwise provided in this section.

3 (8)(a) "Compensation earnable" for plan I members, means salaries
4 or wages earned during a payroll period for personal services and where
5 the compensation is not all paid in money, maintenance compensation
6 shall be included upon the basis of the schedules established by the
7 member's employer.

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

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

18 (B) If a leave of absence is taken by an individual for the purpose
19 of serving in the state legislature, the salary which would have been
20 received for the position from which the leave of absence was taken,
21 shall be considered as compensation earnable if the employee's
22 contribution is paid by the employee and the employer's contribution is
23 paid by the employer or employee;

24 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
25 72.09.240;

26 (D) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.40.038;

29 (E) Compensation that a member receives due to participation in the
30 leave sharing program only as authorized by RCW 41.04.650 through
31 41.04.670; and

32 (F) Compensation that a member receives for being in standby
33 status. For the purposes of this section, a member is in standby
34 status when not being paid for time actually worked and the employer
35 requires the member to be prepared to report immediately for work, if
36 the need arises, although the need may not arise. Standby compensation
37 is regular salary for the purposes of RCW 41.50.150(2).

38 (ii) "Compensation earnable" does not include:

1 (A) Remuneration for unused sick leave authorized under RCW
2 41.04.340, 28A.400.210, or 28A.310.490;

3 (B) Remuneration for unused annual leave in excess of thirty days
4 as authorized by RCW 43.01.044 and 43.01.041.

5 (b) "Compensation earnable" for plan II members, means salaries or
6 wages earned by a member during a payroll period for personal services,
7 including overtime payments, and shall include wages and salaries
8 deferred under provisions established pursuant to sections 403(b),
9 414(h), and 457 of the United States Internal Revenue Code, but shall
10 exclude nonmoney maintenance compensation and lump sum or other
11 payments for deferred annual sick leave, unused accumulated vacation,
12 unused accumulated annual leave, or any form of severance pay.

13 "Compensation earnable" for plan II members also includes the
14 following actual or imputed payments, which are not paid for personal
15 services:

16 (i) Retroactive payments to an individual by an employer on
17 reinstatement of the employee in a position, or payments by an employer
18 to an individual in lieu of reinstatement in a position which are
19 awarded or granted as the equivalent of the salary or wage which the
20 individual would have earned during a payroll period shall be
21 considered compensation earnable to the extent provided above, and the
22 individual shall receive the equivalent service credit;

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

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

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

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

37 (iv) Compensation that a member would have received but for a
38 disability occurring in the line of duty only as authorized by RCW
39 41.40.038;

1 (v) Compensation that a member receives due to participation in the
2 leave sharing program only as authorized by RCW 41.04.650 through
3 41.04.670; and

4 (vi) Compensation that a member receives for being in standby
5 status. For the purposes of this section, a member is in standby
6 status when not being paid for time actually worked and the employer
7 requires the member to be prepared to report immediately for work, if
8 the need arises, although the need may not arise. Standby compensation
9 is regular salary for the purposes of RCW 41.50.150(2).

10 (9)(a) "Service" for plan I members, except as provided in RCW
11 41.40.088, means periods of employment in an eligible position or
12 positions for one or more employers rendered to any employer for which
13 compensation is paid, and includes time spent in office as an elected
14 or appointed official of an employer. Compensation earnable earned in
15 full time work for seventy hours or more in any given calendar month
16 shall constitute one service credit month except as provided in RCW
17 41.40.088. Compensation earnable earned for less than seventy hours in
18 any calendar month shall constitute one-quarter service credit month of
19 service except as provided in RCW 41.40.088. Only service credit
20 months and one-quarter service credit months shall be counted in the
21 computation of any retirement allowance or other benefit provided for
22 in this chapter. Any fraction of a year of service shall be taken into
23 account in the computation of such retirement allowance or benefits.
24 Time spent in standby status, whether compensated or not, is not
25 service.

26 (i) Service by a state employee officially assigned by the state on
27 a temporary basis to assist another public agency, shall be considered
28 as service as a state employee: PROVIDED, That service to any other
29 public agency shall not be considered service as a state employee if
30 such service has been used to establish benefits in any other public
31 retirement system.

32 (ii) An individual shall receive no more than a total of twelve
33 service credit months of service during any calendar year. If an
34 individual is employed in an eligible position by one or more employers
35 the individual shall receive no more than one service credit month
36 during any calendar month in which multiple service for seventy or more
37 hours is rendered.

38 (iii) A school district employee may count up to forty-five days of
39 sick leave as creditable service solely for the purpose of determining

1 eligibility to retire under RCW 41.40.180 as authorized by RCW
2 28A.400.300. For purposes of plan I "forty-five days" as used in RCW
3 28A.400.300 is equal to two service credit months. Use of less than
4 forty-five days of sick leave is creditable as allowed under this
5 subsection as follows:

6 (A) Less than twenty-two days equals one-quarter service credit
7 month;

8 (B) Twenty-two days equals one service credit month;

9 (C) More than twenty-two days but less than forty-five days equals
10 one and one-quarter service credit month.

11 (b) "Service" for plan II members, means periods of employment by
12 a member in an eligible position or positions for one or more employers
13 for which compensation earnable is paid. Compensation earnable earned
14 for ninety or more hours in any calendar month shall constitute one
15 service credit month except as provided in RCW 41.40.088. Compensation
16 earnable earned for at least seventy hours but less than ninety hours
17 in any calendar month shall constitute one-half service credit month of
18 service. Compensation earnable earned for less than seventy hours in
19 any calendar month shall constitute one-quarter service credit month of
20 service. Time spent in standby status, whether compensated or not, is
21 not service.

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

24 (i) Service in any state elective position shall be deemed to be
25 full time service, except that persons serving in state elective
26 positions who are members of the teachers' retirement system or law
27 enforcement officers' and fire fighters' retirement system at the time
28 of election or appointment to such position may elect to continue
29 membership in the teachers' retirement system or law enforcement
30 officers' and fire fighters' retirement system.

31 (ii) A member shall receive a total of not more than twelve service
32 credit months of service for such calendar year. If an individual is
33 employed in an eligible position by one or more employers the
34 individual shall receive no more than one service credit month during
35 any calendar month in which multiple service for ninety or more hours
36 is rendered.

37 (iii) Up to forty-five days of sick leave may be creditable as
38 service solely for the purpose of determining eligibility to retire
39 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of

1 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
2 service credit months. Use of less than forty-five days of sick leave
3 is creditable as allowed under this subsection as follows:

4 (A) Less than eleven days equals one-quarter service credit month;

5 (B) Eleven or more days but less than twenty-two days equals one-
6 half service credit month;

7 (C) Twenty-two days equals one service credit month;

8 (D) More than twenty-two days but less than thirty-three days
9 equals one and one-quarter service credit month;

10 (E) Thirty-three or more days but less than forty-five days equals
11 one and one-half service credit month.

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

14 (11) "Service credit month" means a month or an accumulation of
15 months of service credit which is equal to one.

16 (12) "Prior service" means all service of an original member
17 rendered to any employer prior to October 1, 1947.

18 (13) "Membership service" means:

19 (a) All service rendered, as a member, after October 1, 1947;

20 (b) All service after October 1, 1947, to any employer prior to the
21 time of its admission into the retirement system for which member and
22 employer contributions, plus interest as required by RCW 41.50.125,
23 have been paid under RCW 41.40.056 or 41.40.057;

24 (c) Service not to exceed six consecutive months of probationary
25 service rendered after April 1, 1949, and prior to becoming a member,
26 in the case of any member, upon payment in full by such member of the
27 total amount of the employer's contribution to the retirement fund
28 which would have been required under the law in effect when such
29 probationary service was rendered if the member had been a member
30 during such period, except that the amount of the employer's
31 contribution shall be calculated by the director based on the first
32 month's compensation earnable as a member;

33 (d) Service not to exceed six consecutive months of probationary
34 service, rendered after October 1, 1947, and before April 1, 1949, and
35 prior to becoming a member, in the case of any member, upon payment in
36 full by such member of five percent of such member's salary during said
37 period of probationary service, except that the amount of the
38 employer's contribution shall be calculated by the director based on
39 the first month's compensation earnable as a member.

1 (14)(a) "Beneficiary" for plan I members, means any person in
2 receipt of a retirement allowance, pension or other benefit provided by
3 this chapter.

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

7 (15) "Regular interest" means such rate as the director may
8 determine.

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

13 (17)(a) "Average final compensation" for plan I members, means the
14 annual average of the greatest compensation earnable by a member during
15 any consecutive two year period of service credit months for which
16 service credit is allowed; or if the member has less than two years of
17 service credit months then the annual average compensation earnable
18 during the total years of service for which service credit is allowed.

19 (b) "Average final compensation" for plan II members, means the
20 member's average compensation earnable of the highest consecutive sixty
21 months of service credit months prior to such member's retirement,
22 termination, or death. Periods constituting authorized leaves of
23 absence may not be used in the calculation of average final
24 compensation except under RCW 41.40.710(2).

25 (18) "Final compensation" means the annual rate of compensation
26 earnable by a member at the time of termination of employment.

27 (19) "Annuity" means payments for life derived from accumulated
28 contributions of a member. All annuities shall be paid in monthly
29 installments.

30 (20) "Pension" means payments for life derived from contributions
31 made by the employer. All pensions shall be paid in monthly
32 installments.

33 (21) "Retirement allowance" means the sum of the annuity and the
34 pension.

35 (22) "Employee" means any person who may become eligible for
36 membership under this chapter, as set forth in RCW 41.40.023.

37 (23) "Actuarial equivalent" means a benefit of equal value when
38 computed upon the basis of such mortality and other tables as may be
39 adopted by the director.

1 (24) "Retirement" means withdrawal from active service with a
2 retirement allowance as provided by this chapter.

3 (25) "Eligible position" means:

4 (a) Any position that, as defined by the employer, normally
5 requires five or more months of service a year for which regular
6 compensation for at least seventy hours is earned by the occupant
7 thereof. For purposes of this chapter an employer shall not define
8 "position" in such a manner that an employee's monthly work for that
9 employer is divided into more than one position;

10 (b) Any position occupied by an elected official or person
11 appointed directly by the governor for which compensation is paid.

12 (26) "Ineligible position" means any position which does not
13 conform with the requirements set forth in subsection (25) of this
14 section.

15 (27) "Leave of absence" means the period of time a member is
16 authorized by the employer to be absent from service without being
17 separated from membership.

18 (28) "Totally incapacitated for duty" means total inability to
19 perform the duties of a member's employment or office or any other work
20 for which the member is qualified by training or experience.

21 (29) "Retiree" means any person in receipt of a retirement
22 allowance or other benefit provided by this chapter resulting from
23 service rendered to an employer while a member. A person is in receipt
24 of a retirement allowance as defined in subsection (21) of this section
25 or other benefit as provided by this chapter when the department mails,
26 causes to be mailed, or otherwise transmits the retirement allowance
27 warrant.

28 (30) "Director" means the director of the department.

29 (31) "State elective position" means any position held by any
30 person elected or appointed to state-wide office or elected or
31 appointed as a member of the legislature.

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

34 (33) "Plan I" means the public employees' retirement system, plan
35 I providing the benefits and funding provisions covering persons who
36 first became members of the system prior to October 1, 1977.

37 (34) "Plan II" means the public employees' retirement system, plan
38 II providing the benefits and funding provisions covering persons who
39 first became members of the system on and after October 1, 1977.

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

5 (36) "Index A" means the index for the year prior to the
6 determination of a postretirement adjustment.

7 (37) "Index B" means the index for the year prior to index A.

8 (38) "Index year" means the earliest calendar year in which the
9 index is more than sixty percent of index A.

10 (39) "Adjustment ratio" means the value of index A divided by index
11 B.

12 (40) "Annual increase" means, initially, fifty-nine cents per month
13 per year of service which amount shall be increased each July 1st by
14 three percent, rounded to the nearest cent.

15 **Sec. 55.** RCW 41.40.059 and 1992 c 157 s 3 are each amended to read
16 as follows:

17 Any active member of this retirement system who has previously
18 established ten or more years' service credit in the city of Seattle's
19 police relief and pension fund system, who withdrew his or her
20 contributions from Seattle's police relief and pension fund system
21 prior to July 1, 1961, and who has never been a member of the law
22 enforcement officers' and fire fighters' pension system created in
23 chapter 41.26 or ... (sections 1 through 28 of this act) RCW, may
24 receive credit in this retirement system for such service, subject to
25 the terms and conditions specified in RCW 41.40.061.

26 **Sec. 56.** RCW 41.40.690 and 1990 c 274 s 11 are each amended to
27 read as follows:

28 (1) No retiree under the provisions of plan II shall be eligible to
29 receive such retiree's monthly retirement allowance if he or she is
30 employed in an eligible position as defined in RCW 41.40.010 or
31 41.32.010, or as a law enforcement officer or fire fighter as defined
32 in RCW 41.26.030 or section 3 of this act, except that:

33 (a) A retiree who ends his or her membership in the retirement
34 system pursuant to RCW 41.40.023(3)(b) is not subject to this section
35 if the retiree's only employment is as an elective official of a city
36 or town; and

1 (b) A plan II retiree may work in eligible positions on a temporary
2 basis for up to five months in a calendar year.

3 (2) If a retiree's benefits have been suspended under this section,
4 his or her benefits shall be reinstated when the retiree terminates the
5 employment that caused his or her benefits to be suspended. Upon
6 reinstatement, the retiree's benefits shall be actuarially recomputed
7 pursuant to the rules adopted by the department.

8 (3) The department shall adopt rules implementing this section.

9 **Sec. 57.** RCW 41.45.010 and 1995 c 239 s 305 are each amended to
10 read as follows:

11 It is the intent of the legislature to provide a dependable and
12 systematic process for funding the benefits provided to members and
13 retirees of the public employees' retirement system, chapter 41.40 RCW;
14 the teachers' retirement system, chapter 41.32 RCW; the law enforcement
15 officers' and fire fighters' retirement system, chapter 41.26 RCW; the
16 law enforcement officers' plan II retirement system, chapter ...
17 (sections 1 through 28 of this act) RCW; and the Washington state
18 patrol retirement system, chapter 43.43 RCW.

19 The funding process established by this chapter is intended to
20 achieve the following goals:

21 (1) To continue to fully fund the public employees' retirement
22 system plan II, the teachers' retirement system plans II and III,
23 (~~and~~) the law enforcement officers' and fire fighters' retirement
24 system plan II as amended by sections 29 through 37, chapter ..., Laws
25 of 1997 (sections 29 through 37 of this act), and the law enforcement
26 officers' plan II retirement system, chapter ... (sections 1 through 28
27 of this act) RCW as provided by law;

28 (2) To fully amortize the total costs of the public employees'
29 retirement system plan I, the teachers' retirement system plan I, and
30 the law enforcement officers' and fire fighters' retirement system plan
31 I not later than June 30, 2024;

32 (3) To establish predictable long-term employer contribution rates
33 which will remain a relatively constant proportion of the future state
34 budgets; and

35 (4) To fund, to the extent feasible, benefit increases for plan I
36 members and all benefits for plan II and III members over the working
37 lives of those members so that the cost of those benefits are paid by
38 the taxpayers who receive the benefit of those members' service.

1 **Sec. 58.** RCW 41.45.020 and 1995 c 239 s 306 are each amended to
2 read as follows:

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

5 (1) "Council" means the economic and revenue forecast council
6 created in RCW 82.33.010.

7 (2) "Department" means the department of retirement systems.

8 (3) "Law enforcement officers' and fire fighters' retirement system
9 plan I" and "law enforcement officers' and fire fighters' retirement
10 system plan II" mean the benefits and funding provisions under chapter
11 41.26 RCW as amended by sections 29 through 37, chapter ..., Laws of
12 1997 (sections 29 through 37 of this act).

13 (4) "Public employees' retirement system plan I" and "public
14 employees' retirement system plan II" mean the benefits and funding
15 provisions under chapter 41.40 RCW.

16 (5) "Teachers' retirement system plan I," "teachers' retirement
17 system plan II," and "teachers' retirement system plan III" mean the
18 benefits and funding provisions under chapter 41.32 RCW.

19 (6) "Washington state patrol retirement system" means the
20 retirement benefits provided under chapter 43.43 RCW.

21 (7) "Unfunded liability" means the unfunded actuarial accrued
22 liability of a retirement system.

23 (8) "Actuary" or "state actuary" means the state actuary employed
24 under chapter 44.44 RCW.

25 (9) "State retirement systems" means the retirement systems listed
26 in RCW 41.50.030.

27 (10) "Law enforcement officers' plan II retirement system" means
28 the benefit and funding provisions under chapter ... RCW (sections 1
29 through 28 of this act).

30 **Sec. 59.** RCW 41.45.050 and 1995 c 239 s 308 are each amended to
31 read as follows:

32 (1) Employers of members of the public employees' retirement
33 system, the teachers' retirement system, and the Washington state
34 patrol retirement system shall make contributions to those systems
35 based on the rates established in RCW 41.45.060 and 41.45.070.

36 (2) The state shall make contributions to the law enforcement
37 officers' plan I and fire fighters' retirement system and the law
38 enforcement officers' plan II retirement system based on the rates

1 established in RCW 41.45.060 and 41.45.070. The state treasurer shall
2 transfer the required contributions each month on the basis of salary
3 data provided by the department.

4 (3) The department shall bill employers, and the state shall make
5 contributions to the law enforcement officers' and fire fighters'
6 retirement system and the law enforcement officers' plan II retirement
7 system, using the combined rates established in RCW 41.45.060 and
8 41.45.070 regardless of the level of pension funding provided in the
9 biennial budget. Any member of an affected retirement system may, by
10 mandamus or other appropriate proceeding, require the transfer and
11 payment of funds as directed in this section.

12 (4) The contributions received for the public employees' retirement
13 system shall be allocated between the public employees' retirement
14 system plan I fund and public employees' retirement system plan II fund
15 as follows: The contributions necessary to fully fund the public
16 employees' retirement system plan II employer contribution required by
17 RCW 41.40.650 shall first be deposited in the public employees'
18 retirement system plan II fund. All remaining public employees'
19 retirement system employer contributions shall be deposited in the
20 public employees' retirement system plan I fund.

21 (5) The contributions received for the teachers' retirement system
22 shall be allocated between the plan I fund and the combined plan II and
23 plan III fund as follows: The contributions necessary to fully fund
24 the combined plan II and plan III employer contribution shall first be
25 deposited in the combined plan II and plan III fund. All remaining
26 teachers' retirement system employer contributions shall be deposited
27 in the plan I fund.

28 (6) The contributions received under RCW 41.26.450 for the law
29 enforcement officers' and fire fighters' retirement system and under
30 the law enforcement officers' plan II retirement system shall be
31 allocated between the law enforcement officers' and fire fighters'
32 retirement system plan I ~~((and))~~, the ~~((law enforcement officers' and))~~
33 fire fighters' retirement system plan II, and the law enforcement
34 officers' plan II fund as follows: The contributions necessary to
35 fully fund the ~~((law enforcement officers' and))~~ fire fighters'
36 retirement system plan II and the law enforcement officers' plan II
37 employer contributions shall be first deposited in the ~~((law~~
38 ~~enforcement officers' and))~~ fire fighters' retirement system plan II
39 fund and the law enforcement officers' plan II fund, as necessary. All

1 remaining law enforcement officers' plan I and fire fighters'
2 retirement system employer contributions shall be deposited in the law
3 enforcement officers' and fire fighters' retirement system plan I fund.

4 **Sec. 60.** RCW 41.45.060 and 1995 c 239 s 309 are each amended to
5 read as follows:

6 (1) The state actuary shall provide actuarial valuation results
7 based on the assumptions adopted under RCW 41.45.030.

8 (2) Not later than September 30, 1996, and every two years
9 thereafter, consistent with the assumptions adopted under RCW
10 41.45.030, the council shall adopt both: (a) A basic state
11 contribution rate for the law enforcement officers' plan I and fire
12 fighters' retirement system and the law enforcement officers' plan II
13 retirement system; and (b) basic employer contribution rates for the
14 public employees' retirement system plan I, the teachers' retirement
15 system plan I, and the Washington state patrol retirement system to be
16 used in the ensuing biennial period.

17 (3) The employer and state contribution rates adopted by the
18 council shall be the level percentages of pay that are needed:

19 (a) To fully amortize the total costs of the public employees'
20 retirement system plan I, the teachers' retirement system plan I, the
21 law enforcement officers' and fire fighters' retirement system plan I,
22 and the unfunded liability of the Washington state patrol retirement
23 system not later than June 30, 2024; and

24 (b) To also continue to fully fund the public employees' retirement
25 system plan II, the teachers' retirement system plans II and III,
26 ((and)) the ((~~law enforcement officers' and~~)) fire fighters' retirement
27 system plan II, and the law enforcement officers' plan II retirement
28 system in accordance with RCW 41.40.650, 41.26.450, section 18 of this
29 act, and this section.

30 (4) The aggregate actuarial cost method shall be used to calculate
31 a combined plan II and III employer contribution rate.

32 (5) The council shall immediately notify the directors of the
33 office of financial management and department of retirement systems of
34 the state and employer contribution rates adopted.

35 (6) The director of the department of retirement systems shall
36 collect those rates adopted by the council.

1 **Sec. 61.** RCW 41.45.070 and 1995 c 239 s 310 are each amended to
2 read as follows:

3 (1) In addition to the basic employer contribution rate established
4 in RCW 41.45.060, the department shall also charge employers of public
5 employees' retirement system, teachers' retirement system, or
6 Washington state patrol retirement system members an additional
7 supplemental rate to pay for the cost of additional benefits, if any,
8 granted to members of those systems. The supplemental contribution
9 rates required by this section shall be calculated by the state actuary
10 and shall be charged regardless of language to the contrary contained
11 in the statute which authorizes additional benefits.

12 (2) In addition to the basic state contribution rate established in
13 RCW 41.45.060 for the law enforcement officers' plan I and fire
14 fighters' retirement system and the law enforcement officers' plan II
15 retirement system the department shall also establish a supplemental
16 rate to pay for the cost of additional benefits, if any, granted to
17 members of the law enforcement officers' plan I and fire fighters'
18 retirement system and the law enforcement officers' plan II retirement
19 system. This supplemental rate shall be calculated by the state
20 actuary and the state treasurer shall transfer the additional required
21 contributions regardless of language to the contrary contained in the
22 statute which authorizes the additional benefits.

23 (3) The supplemental rate charged under this section to fund
24 benefit increases provided to active members of the public employees'
25 retirement system plan I, the teachers' retirement system plan I, the
26 law enforcement officers' and fire fighters' retirement system plan I,
27 and Washington state patrol retirement system, shall be calculated as
28 the level percentage of all members' pay needed to fund the cost of the
29 benefit not later than June 30, 2024.

30 (4) The supplemental rate charged under this section to fund
31 benefit increases provided to active and retired members of the public
32 employees' retirement system plan II, the teachers' retirement system
33 plan II and plan III, ~~((or)) the ((law enforcement officers' and))~~ fire
34 fighters' retirement system plan II, or the law enforcement officers'
35 plan II retirement system, shall be calculated as the level percentage
36 of all members' pay needed to fund the cost of the benefit, as
37 calculated under RCW 41.40.650, ~~((41.32.775, or))~~ 41.26.450, or section
38 18 of this act, respectively.

1 (5) The supplemental rate charged under this section to fund
2 postretirement adjustments which are provided on a nonautomatic basis
3 to current retirees shall be calculated as the percentage of pay needed
4 to fund the adjustments as they are paid to the retirees. The
5 supplemental rate charged under this section to fund automatic
6 postretirement adjustments for active or retired members of the public
7 employees' retirement system plan I and the teachers' retirement system
8 plan I shall be calculated as the level percentage of pay needed to
9 fund the cost of the automatic adjustments not later than June 30,
10 2024.

11 **Sec. 62.** RCW 41.50.055 and 1991 c 35 s 16 are each amended to read
12 as follows:

13 The administration of the Washington law enforcement officers' plan
14 I and fire fighters' retirement system (~~(is)~~) and the Washington law
15 enforcement officers' plan II retirement system are hereby vested in
16 the director of retirement systems, and the director shall:

17 (1) Keep in convenient form such data as shall be deemed necessary
18 for actuarial evaluation purposes;

19 (2) As of March 1, 1970, and at least every two years thereafter,
20 through the state actuary, make an actuarial valuation as to the
21 mortality and service experience of the beneficiaries under this
22 chapter and the various accounts created for the purpose of showing the
23 financial status of the retirement fund;

24 (3) Adopt for the Washington law enforcement officers' plan I and
25 fire fighters' retirement system and the Washington law enforcement
26 officers' plan II retirement system the mortality tables and such other
27 tables as shall be deemed necessary;

28 (4) Keep a record of all its proceedings, which shall be open to
29 inspection by the public;

30 (5) From time to time adopt such rules (~~(and regulations)~~) not
31 inconsistent with chapter 41.26 or ... (sections 1 through 28 of this
32 act) RCW, for the administration of the provisions of this chapter, for
33 the administration of the fund created by this chapter and the several
34 accounts thereof, and for the transaction of the business of the
35 system;

36 (6) Prepare and publish annually a financial statement showing the
37 condition of the Washington law enforcement officers' and fire
38 fighters' fund and the Washington law enforcement officers' plan II

1 fund and the various accounts thereof, and setting forth such other
2 facts, recommendations and data as may be of use in the advancement of
3 knowledge concerning the Washington law enforcement officers' and fire
4 fighters' retirement system and the Washington law enforcement
5 officers' plan II retirement system, and furnish a copy thereof to each
6 employer, and to such members as may request copies thereof;

7 (7) Perform such other functions as are required for the execution
8 of the provisions of chapters 41.26 and ... (sections 1 through 28 of
9 this act) RCW;

10 (8) Fix the amount of interest to be credited at a rate which shall
11 be based upon the net annual earnings of the Washington law enforcement
12 officers' and fire fighters' fund and the Washington law enforcement
13 officers' plan II fund for the preceding twelve-month period and from
14 time to time make any necessary changes in such rate;

15 (9) Pay from the department of retirement systems expense fund the
16 expenses incurred in administration of the Washington law enforcement
17 officers' and fire fighters' retirement system and the Washington law
18 enforcement officers' plan II retirement system from those funds
19 appropriated for that purpose;

20 (10) Perform any other duties prescribed elsewhere in chapters
21 41.26 and ... (sections 1 through 28 of this act) RCW;

22 (11) Issue decisions relating to appeals initiated pursuant to RCW
23 41.16.145 and 41.18.104 as now or hereafter amended and shall be
24 authorized to order increased benefits pursuant to RCW 41.16.145 and
25 41.18.104 as now or hereafter amended.

26 **Sec. 63.** RCW 41.50.075 and 1996 c 39 s 16 are each amended to read
27 as follows:

28 (1) ~~((Two))~~ Three funds are hereby created and established in the
29 state treasury to be known as the Washington law enforcement officers'
30 and fire fighters' system plan I retirement fund, ~~((and))~~ the
31 Washington ~~((law enforcement officers' and))~~ fire fighters' system plan
32 II retirement fund, and the Washington law enforcement officers' plan
33 II retirement fund which shall consist of all moneys paid into them in
34 accordance with the provisions of this chapter and chapters 41.26 and
35 ... (sections 1 through 28 of this act) RCW, whether such moneys take
36 the form of cash, securities, or other assets. The plan I fund shall
37 consist of all moneys paid to finance the benefits provided to members
38 of the law enforcement officers' and fire fighters' retirement system

1 plan I, ((and)) the fire fighters' system plan II fund shall consist of
2 all moneys paid to finance the benefits provided to members of the
3 ((~~law enforcement officers' and~~)) fire fighters' retirement system plan
4 II, and the law enforcement officers' plan II retirement fund shall
5 consist of all moneys paid to finance the benefits provided to members
6 of the law enforcement officers' plan II retirement system.

7 (2) All of the assets of the Washington state teachers' retirement
8 system shall be credited according to the purposes for which they are
9 held, to two funds to be maintained in the state treasury, namely, the
10 teachers' retirement system plan I fund and the teachers' retirement
11 system combined plan II and III fund. The plan I fund shall consist of
12 all moneys paid to finance the benefits provided to members of the
13 Washington state teachers' retirement system plan I, and the combined
14 plan II and III fund shall consist of all moneys paid to finance the
15 benefits provided to members of the Washington state teachers'
16 retirement system plan II and III.

17 (3) There is hereby established in the state treasury two separate
18 funds, namely the public employees' retirement system plan I fund and
19 the public employees' retirement system plan II fund. The plan I fund
20 shall consist of all moneys paid to finance the benefits provided to
21 members of the public employees' retirement system plan I, and the plan
22 II fund shall consist of all moneys paid to finance the benefits
23 provided to members of the public employees' retirement system plan II.

24 **Sec. 64.** RCW 41.50.110 and 1996 c 39 s 17 are each amended to read
25 as follows:

26 (1) Except as provided by RCW 41.50.255 and subsection (6) of this
27 section, all expenses of the administration of the department and the
28 expenses of administration of the retirement systems created in
29 chapters 2.10, 2.12, 41.26, ... (sections 1 through 28 of this act),
30 41.32, 41.40, 41.34, and 43.43 RCW shall be paid from the department of
31 retirement systems expense fund.

32 (2) In order to reimburse the department of retirement systems
33 expense fund on an equitable basis the department shall ascertain and
34 report to each employer, as defined in RCW 41.26.030, section 3 of this
35 act, 41.32.010, or 41.40.010, the sum necessary to defray its
36 proportional share of the entire expense of the administration of the
37 retirement system that the employer participates in during the ensuing
38 biennium or fiscal year whichever may be required. Such sum is to be

1 computed in an amount directly proportional to the estimated entire
2 expense of the administration as the ratio of monthly salaries of the
3 employer's members bears to the total salaries of all members in the
4 entire system. It shall then be the duty of all such employers to
5 include in their budgets or otherwise provide the amounts so required.

6 (3) The department shall compute and bill each employer, as defined
7 in RCW 41.26.030, section 3 of this act, 41.32.010, or 41.40.010, at
8 the end of each month for the amount due for that month to the
9 department of retirement systems expense fund and the same shall be
10 paid as are its other obligations. Such computation as to each
11 employer shall be made on a percentage rate of salary established by
12 the department. However, the department may at its discretion
13 establish a system of billing based upon calendar year quarters in
14 which event the said billing shall be at the end of each such quarter.

15 (4) The director may adjust the expense fund contribution rate for
16 each system at any time when necessary to reflect unanticipated costs
17 or savings in administering the department.

18 (5) An employer who fails to submit timely and accurate reports to
19 the department may be assessed an additional fee related to the
20 increased costs incurred by the department in processing the deficient
21 reports. Fees paid under this subsection shall be deposited in the
22 retirement system expense fund.

23 (a) Every six months the department shall determine the amount of
24 an employer's fee by reviewing the timeliness and accuracy of the
25 reports submitted by the employer in the preceding six months. If
26 those reports were not both timely and accurate the department may
27 prospectively assess an additional fee under this subsection.

28 (b) An additional fee assessed by the department under this
29 subsection shall not exceed fifty percent of the standard fee.

30 (c) The department shall adopt rules implementing this section.

31 (6) Expenses other than those under RCW 41.34.060(2) shall be paid
32 pursuant to subsection (1) of this section.

33 **Sec. 65.** RCW 41.50.150 and 1995 c 244 s 1 are each amended to read
34 as follows:

35 (1) The employer of any employee whose retirement benefits are
36 based in part on excess compensation, as defined in this section,
37 shall, upon receipt of a billing from the department, pay into the
38 appropriate retirement system the present value at the time of the

1 employee's retirement of the total estimated cost of all present and
2 future benefits from the retirement system attributable to the excess
3 compensation. The state actuary shall determine the estimated cost
4 using the same method and procedure as is used in preparing fiscal note
5 costs for the legislature. However, the director may in the director's
6 discretion decline to bill the employer if the amount due is less than
7 fifty dollars. Accounts unsettled within thirty days of the receipt of
8 the billing shall be assessed an interest penalty of one percent of the
9 amount due for each month or fraction thereof beyond the original
10 thirty-day period.

11 (2) "Excess compensation," as used in this section, includes any
12 payment that was used in the calculation of the employee's retirement
13 allowance, except regular salary and overtime compensated at up to
14 twice the regular rate of pay. Excess compensation includes but is not
15 limited to:

16 (a) A cash out of unused annual leave in excess of two hundred
17 forty hours of such leave. "Cash out" for purposes of this subsection
18 means any payment in lieu of an accrual of annual leave or any payment
19 added to salary or wages, concurrent with a reduction of annual leave;

20 (b) A cash out of any other form of leave;

21 (c) A payment for, or in lieu of, any personal expense or
22 transportation allowance;

23 (d) The portion of any payment, including overtime payments, that
24 exceeds twice the regular rate of pay; and

25 (e) Any other termination or severance payment.

26 (3) This section applies to the retirement systems listed in RCW
27 41.50.030 and to retirements occurring on or after March 15, 1984.
28 Nothing in this section is intended to amend or determine the meaning
29 of any definition in chapter 2.10, 2.12, 41.26, ... (sections 1 through
30 28 of this act), 41.32, 41.40, or 43.43 RCW or to determine in any
31 manner what payments are includable in the calculation of a retirement
32 allowance under such chapters.

33 (4) An employer is not relieved of liability under this section
34 because of the death of any person either before or after the billing
35 from the department.

36 **Sec. 66.** RCW 41.50.500 and 1991 c 365 s 1 are each amended to read
37 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout RCW 41.50.500 through 41.50.650,
3 41.50.670 through 41.50.720, and 26.09.138.

4 (1) "Benefits" means periodic retirement payments or a withdrawal
5 of accumulated contributions.

6 (2) "Disposable benefits" means that part of the benefits of an
7 individual remaining after the deduction from those benefits of any
8 amount required by law to be withheld. The term "required by law to be
9 withheld" does not include any deduction elective to the member.

10 (3) "Dissolution order" means any judgment, decree, or order of
11 spousal maintenance, property division, or court-approved property
12 settlement incident to a decree of divorce, dissolution, invalidity, or
13 legal separation issued by the superior court of the state of
14 Washington or a judgment, decree, or other order of spousal support
15 issued by a court of competent jurisdiction in another state or
16 country, that has been registered or otherwise made enforceable in this
17 state.

18 (4) "Mandatory benefits assignment order" means an order issued to
19 the department of retirement systems pursuant to RCW 41.50.570 to
20 withhold and deliver benefits payable to an obligor under chapter 2.10,
21 2.12, 41.26, ... (sections 1 through 28 of this act), 41.32, 41.40, or
22 43.43 RCW.

23 (5) "Obligee" means an ex spouse or spouse to whom a duty of
24 spousal maintenance or property division obligation is owed.

25 (6) "Obligor" means the spouse or ex spouse owing a duty of spousal
26 maintenance or a property division obligation.

27 (7) "Periodic retirement payments" means periodic payments of
28 retirement allowances, including but not limited to service retirement
29 allowances, disability retirement allowances, and survivors'
30 allowances. The term does not include a withdrawal of accumulated
31 contributions.

32 (8) "Property division obligation" means any outstanding court-
33 ordered property division or court-approved property settlement
34 obligation incident to a decree of divorce, dissolution, or legal
35 separation.

36 (9) "Standard allowance" means a benefit payment option selected
37 under RCW 2.10.146(1)(a), section 19(1)(a) of this act,
38 41.26.460(1)(a), 41.32.785(1)(a), 41.40.188(1)(a), or 41.40.660(1),
39 that ceases upon the death of the retiree. Standard allowance also

1 means the benefit allowance provided under RCW 2.10.110, 2.10.130,
2 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW. Standard
3 allowance also means the maximum retirement allowance available under
4 RCW 41.32.530(1) following member withdrawal of accumulated
5 contributions, if any.

6 (10) "Withdrawal of accumulated contributions" means a lump sum
7 payment to a retirement system member of all or a part of the member's
8 accumulated contributions, including accrued interest, at the request
9 of the member including any lump sum amount paid upon the death of the
10 member.

11 **Sec. 67.** RCW 41.50.670 and 1996 c 39 s 18 are each amended to read
12 as follows:

13 (1) Nothing in this chapter regarding mandatory assignment of
14 benefits to enforce a spousal maintenance obligation shall abridge the
15 right of an obligee to direct payments of retirement benefits to
16 satisfy a property division obligation ordered pursuant to a court
17 decree of dissolution or legal separation or any court order or court-
18 approved property settlement agreement incident to any court decree of
19 dissolution or legal separation as provided in RCW 2.10.180, 2.12.090,
20 41.04.310, 41.04.320, 41.04.330, 41.26.053, section 10 of this act,
21 41.32.052, 41.34.070(3), 41.40.052, 43.43.310, or 26.09.138, as those
22 statutes existed before July 1, 1987, and as those statutes exist on
23 and after July 28, 1991. The department shall pay benefits under this
24 chapter in a lump sum or as a portion of periodic retirement payments
25 as expressly provided by the dissolution order. A dissolution order
26 may not order the department to pay a periodic retirement payment or
27 lump sum unless that payment is specifically authorized under the
28 provisions of chapter 2.10, 2.12, 41.26, ... (sections 1 through 28 of
29 this act), 41.32, 41.34, 41.40, or 43.43 RCW, as applicable.

30 (2) The department shall pay directly to an obligee the amount of
31 periodic retirement payments or lump sum payment, as appropriate,
32 specified in the dissolution order if the dissolution order filed with
33 the department pursuant to subsection (1) of this section includes a
34 provision that states in the following form:

35 If (the obligor) receives periodic retirement payments
36 as defined in RCW 41.50.500, the department of retirement systems shall
37 pay to (the obligee) dollars from such payments
38 or . . . percent of such payments. If the obligor's debt is expressed

1 as a percentage of his or her periodic retirement payment and the
2 obligee does not have a survivorship interest in the obligor's benefit,
3 the amount received by the obligee shall be the percentage of the
4 periodic retirement payment that the obligor would have received had he
5 or she selected a standard allowance.

6 If (the obligor) requests or has requested a withdrawal
7 of accumulated contributions as defined in RCW 41.50.500, or becomes
8 eligible for a lump sum death benefit, the department of retirement
9 systems shall pay to (the obligee) dollars plus
10 interest at the rate paid by the department of retirement systems on
11 member contributions. Such interest to accrue from the date of this
12 order's entry with the court of record.

13 (3) This section does not require a member to select a standard
14 allowance upon retirement nor does it require the department to
15 recalculate the amount of a retiree's periodic retirement payment based
16 on a change in survivor option.

17 (4) A court order under this section may not order the department
18 to pay more than seventy-five percent of an obligor's periodic
19 retirement payment to an obligee.

20 (5) Persons whose court decrees were entered between July 1, 1987,
21 and July 28, 1991, shall also be entitled to receive direct payments of
22 retirement benefits to satisfy court-ordered property divisions if the
23 dissolution orders comply or are modified to comply with this section
24 and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180,
25 2.12.090, 41.26.053, section 10 of this act, 41.32.052, 41.34.070,
26 41.40.052, 43.43.310, and 26.09.138.

27 (6) The obligee must file a copy of the dissolution order with the
28 department within ninety days of that order's entry with the court of
29 record.

30 (7) A division of benefits pursuant to a dissolution order under
31 this section shall be based upon the obligor's gross benefit prior to
32 any deductions. If the department is required to withhold a portion of
33 the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of
34 that amount plus the amount owed to the obligee exceeds the total
35 benefit, the department shall satisfy the withholding requirements
36 under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee.
37 The provisions of this subsection do not apply to amounts withheld
38 pursuant to 26 U.S.C. Sec. 3402(i).

1 **Sec. 68.** RCW 41.50.790 and 1996 c 175 s 1 are each amended to read
2 as follows:

3 (1) The department shall designate an obligee as a survivor
4 beneficiary of a member under RCW 2.10.146, 41.26.460, section 19 of
5 this act, 41.32.530, 41.32.785, 41.40.188, or 41.40.660 if the
6 department has been served by registered or certified mail with a
7 dissolution order as defined in RCW 41.50.500 at least thirty days
8 prior to the member's retirement. The department's duty to comply with
9 the dissolution order arises only if the order contains a provision
10 that states in substantially the following form:

11 When (the obligor) applies for retirement the
12 department shall designate (the obligee) as
13 survivor beneficiary with a survivor benefit.

14 The survivor benefit designated in the dissolution order must be
15 consistent with the survivor benefit options authorized by statute or
16 administrative rule.

17 (2) The obligee's entitlement to a survivor benefit pursuant to a
18 dissolution order filed with the department in compliance with
19 subsection (1) of this section shall cease upon the death of the
20 obligee.

21 (3)(a) A subsequent dissolution order may order the department to
22 divide a survivor benefit between a survivor beneficiary and an
23 alternate payee. In order to divide a survivor benefit between more
24 than one payee, the dissolution order must:

25 (i) Be ordered by a court of competent jurisdiction following
26 notice to the survivor beneficiary;

27 (ii) Contain a provision that complies with subsection (1) of this
28 section designating the survivor beneficiary;

29 (iii) Contain a provision clearly identifying the alternate payee
30 or payees; and

31 (iv) Specify the proportional division of the benefit between the
32 survivor beneficiary and the alternate payee or payees.

33 (b) The department will calculate actuarial adjustment for the
34 court-ordered survivor benefit based upon the life of the survivor
35 beneficiary.

36 (c) If the survivor beneficiary dies, the department shall
37 terminate the benefit. If the alternate payee predeceases the survivor

1 beneficiary, all entitlement of the alternate payee to a benefit ceases
2 and the entire benefit will revert to the survivor beneficiary.

3 (d) For purposes of this section, "survivor beneficiary" means:

4 (i) The obligee designated in the provision of dissolution filed in
5 compliance with subsection (1) of this section; or

6 (ii) In the event of more than one dissolution order, the obligee
7 named in the first decree of dissolution received by the department.

8 (e) For purposes of this section, "alternate payee" means a person,
9 other than the survivor beneficiary, who is granted a percentage of a
10 survivor benefit pursuant to a dissolution order.

11 (4) The department shall under no circumstances be held liable for
12 not designating an obligee as a survivor beneficiary under subsection
13 (1) of this section if the dissolution order or amendment thereto is
14 not served on the department by registered or certified mail at least
15 thirty days prior to the member's retirement.

16 (5) If a dissolution order directing designation of a survivor
17 beneficiary has been previously filed with the department in compliance
18 with this section, no additional obligation shall arise on the part of
19 the department upon filing of a subsequent dissolution order unless the
20 subsequent dissolution order:

21 (a) Specifically amends or supersedes the dissolution order already
22 on file with the department; and

23 (b) Is filed with the department by registered or certified mail at
24 least thirty days prior to the member's retirement.

25 (6) The department shall designate a court-ordered survivor
26 beneficiary pursuant to a dissolution order filed with the department
27 before June 6, 1996, only if the order:

28 (a) Specifically directs the member or department to make such
29 selection;

30 (b) Specifies the survivor option to be selected; and

31 (c) The member retires after June 6, 1996.

32 **Sec. 69.** RCW 41.54.010 and 1993 c 517 s 8 are each amended to read
33 as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Base salary" means salaries or wages earned by a member of a
37 system during a payroll period for personal services and includes wages
38 and salaries deferred under provisions of the United States internal

1 revenue code, but shall exclude overtime payments, nonmoney maintenance
2 compensation, and lump sum payments for deferred annual sick leave,
3 unused accumulated vacation, unused accumulated annual leave, any form
4 of severance pay, any bonus for voluntary retirement, any other form of
5 leave, or any similar lump sum payment.

6 (2) "Department" means the department of retirement systems.

7 (3) "Director" means the director of the department of retirement
8 systems.

9 (4) "Dual member" means a person who (a) is or becomes a member of
10 a system on or after July 1, 1988, (b) has been a member of one or more
11 other systems, and (c) has never been retired for service from a
12 retirement system and is not receiving a disability retirement or
13 disability leave benefit from any retirement system listed in RCW
14 41.50.030 or subsection (6) of this section.

15 (5) "Service" means the same as it may be defined in each
16 respective system. For the purposes of RCW 41.54.030, military service
17 granted under RCW 41.40.170(3) or 43.43.260 may only be based on
18 service accrued under chapter 41.40 or 43.43 RCW, respectively.

19 (6) "System" means the retirement systems established under
20 chapters ... (sections 1 through 28 of this act), 41.32, 41.40, 41.44,
21 and 43.43 RCW; plan II of the system established under chapter 41.26
22 RCW; and the city employee retirement systems for Seattle, Tacoma, and
23 Spokane. The inclusion of an individual first class city system is
24 subject to the procedure set forth in RCW 41.54.061.

25 **Sec. 70.** RCW 41.54.040 and 1996 c 55 s 5 are each amended to read
26 as follows:

27 (1) The allowances calculated under RCW 41.54.030, 41.54.032, and
28 41.54.034 shall be paid separately by each respective current and prior
29 system. Any deductions from such separate payments shall be according
30 to the provisions of the respective systems.

31 (2) Postretirement adjustments, if any, shall be applied by the
32 respective systems based on the payments made under subsection (1) of
33 this section.

34 (3) The department shall adopt rules under chapter 34.05 RCW to
35 ensure that where a dual member has service in a system established
36 under chapter ... (sections 1 through 28 of this act), 41.32, 41.40,
37 41.44, or 43.43 RCW; service in plan II of the system established under
38 chapter 41.26 RCW; and service under the city employee retirement

1 system for Seattle, Tacoma, or Spokane, the additional cost incurred as
2 a result of the dual member receiving a benefit under this chapter
3 shall be borne by the retirement system incurring the additional cost.

4 **Sec. 71.** RCW 41.56.030 and 1995 c 273 s 1 are each amended to read
5 as follows:

6 As used in this chapter:

7 (1) "Public employer" means any officer, board, commission,
8 council, or other person or body acting on behalf of any public body
9 governed by this chapter, or any subdivision of such public body. For
10 the purposes of this section, the public employer of district court or
11 superior court employees for wage-related matters is the respective
12 county legislative authority, or person or body acting on behalf of the
13 legislative authority, and the public employer for nonwage-related
14 matters is the judge or judge's designee of the respective district
15 court or superior court.

16 (2) "Public employee" means any employee of a public employer
17 except any person (a) elected by popular vote, or (b) appointed to
18 office pursuant to statute, ordinance or resolution for a specified
19 term of office by the executive head or body of the public employer, or
20 (c) whose duties as deputy, administrative assistant or secretary
21 necessarily imply a confidential relationship to the executive head or
22 body of the applicable bargaining unit, or any person elected by
23 popular vote or appointed to office pursuant to statute, ordinance or
24 resolution for a specified term of office by the executive head or body
25 of the public employer, or (d) who is a personal assistant to a
26 district court judge, superior court judge, or court commissioner. For
27 the purpose of (d) of this subsection, no more than one assistant for
28 each judge or commissioner may be excluded from a bargaining unit.

29 (3) "Bargaining representative" means any lawful organization which
30 has as one of its primary purposes the representation of employees in
31 their employment relations with employers.

32 (4) "Collective bargaining" means the performance of the mutual
33 obligations of the public employer and the exclusive bargaining
34 representative to meet at reasonable times, to confer and negotiate in
35 good faith, and to execute a written agreement with respect to
36 grievance procedures and collective negotiations on personnel matters,
37 including wages, hours and working conditions, which may be peculiar to
38 an appropriate bargaining unit of such public employer, except that by

1 such obligation neither party shall be compelled to agree to a proposal
2 or be required to make a concession unless otherwise provided in this
3 chapter. In the case of the Washington state patrol, "collective
4 bargaining" shall not include wages and wage-related matters.

5 (5) "Commission" means the public employment relations commission.

6 (6) "Executive director" means the executive director of the
7 commission.

8 (7) "Uniformed personnel" means: (a)(i) Until July 1, 1997, law
9 enforcement officers as defined in RCW 41.26.030 employed by the
10 governing body of any city or town with a population of seven thousand
11 five hundred or more and law enforcement officers employed by the
12 governing body of any county with a population of thirty-five thousand
13 or more; (ii) beginning on July 1, 1997, law enforcement officers as
14 defined in RCW 41.26.030 employed by the governing body of any city or
15 town with a population of two thousand five hundred or more and law
16 enforcement officers employed by the governing body of any county with
17 a population of ten thousand or more; (iii) beginning on the effective
18 date of this act, law enforcement officers as defined in section 3 of
19 this act employed by the governing body of any city or town with a
20 population of two thousand five hundred or more and law enforcement
21 officers employed by the governing body of any county with a population
22 of ten thousand or more; (b) correctional employees who are uniformed
23 and nonuniformed, commissioned and noncommissioned security personnel
24 employed in a jail as defined in RCW 70.48.020(5), by a county with a
25 population of seventy thousand or more, and who are trained for and
26 charged with the responsibility of controlling and maintaining custody
27 of inmates in the jail and safeguarding inmates from other inmates; (c)
28 general authority Washington peace officers as defined in RCW 10.93.020
29 employed by a port district in a county with a population of one
30 million or more; (d) security forces established under RCW 43.52.520;
31 (e) fire fighters as that term is defined in RCW 41.26.030; (f)
32 employees of a port district in a county with a population of one
33 million or more whose duties include crash fire rescue or other fire
34 fighting duties; (g) employees of fire departments of public employers
35 who dispatch exclusively either fire or emergency medical services, or
36 both; or (h) employees in the several classes of advanced life support
37 technicians, as defined in RCW 18.71.200, who are employed by a public
38 employer.

1 (8) "Institution of higher education" means the University of
2 Washington, Washington State University, Central Washington University,
3 Eastern Washington University, Western Washington University, The
4 Evergreen State College, and the various state community colleges.

5 **Sec. 72.** RCW 41.56.465 and 1995 c 273 s 2 are each amended to read
6 as follows:

7 (1) In making its determination, the panel shall be mindful of the
8 legislative purpose enumerated in RCW 41.56.430 and, as additional
9 standards or guidelines to aid it in reaching a decision, it shall take
10 into consideration the following factors:

11 (a) The constitutional and statutory authority of the employer;

12 (b) Stipulations of the parties;

13 (c)(i) For employees listed in RCW 41.56.030(7)(a) through (d),
14 comparison of the wages, hours, and conditions of employment of
15 personnel involved in the proceedings with the wages, hours, and
16 conditions of employment of like personnel of like employers of similar
17 size on the west coast of the United States;

18 (ii) For employees listed in RCW 41.56.030(7)(e) through (h),
19 comparison of the wages, hours, and conditions of employment of
20 personnel involved in the proceedings with the wages, hours, and
21 conditions of employment of like personnel of public fire departments
22 of similar size on the west coast of the United States. However, when
23 an adequate number of comparable employers exists within the state of
24 Washington, other west coast employers may not be considered;

25 (d) The average consumer prices for goods and services, commonly
26 known as the cost of living;

27 (e) Changes in any of the circumstances under (a) through (d) of
28 this subsection during the pendency of the proceedings; and

29 (f) Such other factors, not confined to the factors under (a)
30 through (e) of this subsection, that are normally or traditionally
31 taken into consideration in the determination of wages, hours, and
32 conditions of employment. For those employees listed in RCW
33 41.56.030(7)(a) who are employed by the governing body of a city or
34 town with a population of less than fifteen thousand, or a county with
35 a population of less than seventy thousand, consideration must also be
36 given to regional differences in the cost of living.

37 (2) Subsection (1)(c) of this section may not be construed to
38 authorize the panel to require the employer to pay, directly or

1 indirectly, the increased employee contributions resulting from chapter
2 502, Laws of 1993 or chapter 517, Laws of 1993 as required under
3 chapter 41.26 or ... (sections 1 through 28 of this act) RCW.

4 **Sec. 73.** RCW 46.52.130 and 1996 c 307 s 4 and 1996 c 183 s 2 are
5 each reenacted and amended to read as follows:

6 A certified abstract of the driving record shall be furnished only
7 to the individual named in the abstract, an employer or prospective
8 employer or an agent acting on behalf of an employer or prospective
9 employer, the insurance carrier that has insurance in effect covering
10 the employer or a prospective employer, the insurance carrier that has
11 insurance in effect covering the named individual, the insurance
12 carrier to which the named individual has applied, an alcohol/drug
13 assessment or treatment agency approved by the department of social and
14 health services, to which the named individual has applied or been
15 assigned for evaluation or treatment, or city and county prosecuting
16 attorneys. City attorneys and county prosecuting attorneys may provide
17 the driving record to alcohol/drug assessment or treatment agencies
18 approved by the department of social and health services to which the
19 named individual has applied or been assigned for evaluation or
20 treatment. The director, upon proper request, shall furnish a
21 certified abstract covering the period of not more than the last three
22 years to insurance companies. Upon proper request, the director shall
23 furnish a certified abstract covering a period of not more than the
24 last five years to state approved alcohol/drug assessment or treatment
25 agencies, except that the certified abstract shall also include records
26 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a
27 period of not more than the last ten years. Upon proper request, a
28 certified abstract of the full driving record maintained by the
29 department shall be furnished to a city or county prosecuting attorney,
30 to the individual named in the abstract or to an employer or
31 prospective employer or an agent acting on behalf of an employer or
32 prospective employer of the named individual. The abstract, whenever
33 possible, shall include an enumeration of motor vehicle accidents in
34 which the person was driving; the total number of vehicles involved;
35 whether the vehicles were legally parked or moving; whether the
36 vehicles were occupied at the time of the accident; any reported
37 convictions, forfeitures of bail, or findings that an infraction was
38 committed based upon a violation of any motor vehicle law; and the

1 status of the person's driving privilege in this state. The
2 enumeration shall include any reports of failure to appear in response
3 to a traffic citation or failure to respond to a notice of infraction
4 served upon the named individual by an arresting officer. Certified
5 abstracts furnished to prosecutors and alcohol/drug assessment or
6 treatment agencies shall also indicate whether a recorded violation is
7 an alcohol-related offense as defined in RCW 46.01.260(2) that was
8 originally charged as one of the alcohol-related offenses designated in
9 RCW ((46.01.260(2)(a)(i))) 46.01.260(2)(b)(i).

10 The abstract provided to the insurance company shall exclude any
11 information, except that related to the commission of misdemeanors or
12 felonies by the individual, pertaining to law enforcement officers or
13 fire fighters as defined in RCW 41.26.030 or section 3 of this act, or
14 any officer of the Washington state patrol, while driving official
15 vehicles in the performance of occupational duty. The abstract
16 provided to the insurance company shall include convictions for RCW
17 46.61.525 (1) and (2) except that the abstract shall report them only
18 as negligent driving without reference to whether they are for first or
19 second degree negligent driving. The abstract provided to the
20 insurance company shall exclude any deferred prosecution under RCW
21 10.05.060, except that if a person is removed from a deferred
22 prosecution under RCW 10.05.090, the abstract shall show the deferred
23 prosecution as well as the removal.

24 The director shall collect for each abstract the sum of four
25 dollars and fifty cents which shall be deposited in the highway safety
26 fund.

27 Any insurance company or its agent receiving the certified abstract
28 shall use it exclusively for its own underwriting purposes and shall
29 not divulge any of the information contained in it to a third party.
30 No policy of insurance may be canceled, nonrenewed, denied, or have the
31 rate increased on the basis of such information unless the policyholder
32 was determined to be at fault. No insurance company or its agent for
33 underwriting purposes relating to the operation of commercial motor
34 vehicles may use any information contained in the abstract relative to
35 any person's operation of motor vehicles while not engaged in such
36 employment, nor may any insurance company or its agent for underwriting
37 purposes relating to the operation of noncommercial motor vehicles use
38 any information contained in the abstract relative to any person's
39 operation of commercial motor vehicles.

1 Any employer or prospective employer or an agent acting on behalf
2 of an employer or prospective employer receiving the certified abstract
3 shall use it exclusively for his or her own purpose to determine
4 whether the licensee should be permitted to operate a commercial
5 vehicle or school bus upon the public highways of this state and shall
6 not divulge any information contained in it to a third party.

7 Any alcohol/drug assessment or treatment agency approved by the
8 department of social and health services receiving the certified
9 abstract shall use it exclusively for the purpose of assisting its
10 employees in making a determination as to what level of treatment, if
11 any, is appropriate. The agency, or any of its employees, shall not
12 divulge any information contained in the abstract to a third party.

13 Release of a certified abstract of the driving record of an
14 employee or prospective employee requires a statement signed by: (1)
15 The employee or prospective employee that authorizes the release of the
16 record, and (2) the employer attesting that the information is
17 necessary to determine whether the licensee should be employed to
18 operate a commercial vehicle or school bus upon the public highways of
19 this state. If the employer or prospective employer authorizes an
20 agent to obtain this information on their behalf, this must be noted in
21 the statement.

22 Any violation of this section is a gross misdemeanor.

23 **Sec. 74.** RCW 72.72.060 and 1983 c 279 s 5 are each amended to read
24 as follows:

25 The state shall reimburse cities and counties for their costs
26 incurred under chapter 41.26 or ... (sections 1 through 28 of this act)
27 RCW if the costs are the direct result of physical injuries sustained
28 in the implementation of a contingency plan adopted under RCW 72.02.150
29 and if reimbursement is not precluded by the following provisions: If
30 the secretary of corrections identifies in the contingency plan the
31 prison walls or other perimeter of the secured area, then reimbursement
32 will not be made unless the injuries occur within the walls or other
33 perimeter of the secured area. If the secretary of corrections does
34 not identify prison walls or other perimeter of the secured area, then
35 reimbursement shall not be made unless the injuries result from
36 providing assistance, requested by the secretary of corrections or the
37 secretary's designee, which is beyond the description of the assistance
38 contained in the contingency plan. In no case shall reimbursement be

1 made when the injuries result from conduct which either is not
2 requested by the secretary of corrections or the secretary's designee,
3 or is in violation of orders by superiors of the local law enforcement
4 agency.

5 NEW SECTION. **Sec. 75.** Sections 1 through 28 of this act
6 constitute a new chapter in Title 41 RCW.

7 NEW SECTION. **Sec. 76.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

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