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SENATE BILL 5439

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State of Washington

61st Legislature

2009 Regular Session

By Senators Haugen, Sheldon, Kauffman, Shin, Kline, McDermott, and Kohl-Welles

Read first time 01/22/09. Referred to Committee on Transportation.

1 AN ACT Relating to domestic partners under the Washington state  
2 patrol retirement system; amending RCW 43.43.120, 43.43.260, 43.43.270,  
3 43.43.271, 43.43.278, 43.43.280, and 43.43.295; and reenacting and  
4 amending RCW 43.43.285.

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

6 **Sec. 1.** RCW 43.43.120 and 2001 c 329 s 3 are each amended to read  
7 as follows:

8 As used in (~~the following sections~~) RCW 43.43.120 through  
9 43.43.320, unless a different meaning is plainly required by the  
10 context:

11 (1) "Retirement system" means the Washington state patrol  
12 retirement system.

13 (2) "Retirement fund" means the Washington state patrol retirement  
14 fund.

15 (3) "State treasurer" means the treasurer of the state of  
16 Washington.

17 (4) "Member" means any person included in the membership of the  
18 retirement fund.

1 (5) "Employee" means any commissioned employee of the Washington  
2 state patrol.

3 (6)(a) "Cadet," for a person who became a member of the retirement  
4 system after June 12, 1980, is a person who has passed the Washington  
5 state patrol's entry-level oral, written, physical performance, and  
6 background examinations and is, thereby, appointed by the chief as a  
7 candidate to be a commissioned officer of the Washington state patrol.

8 (b) "Cadet," for a person who became a member of the retirement  
9 system before June 12, 1980, is a trooper cadet, patrol cadet, or  
10 employee of like classification, employed for the express purpose of  
11 receiving the on-the-job training required for attendance at the state  
12 patrol academy and for becoming a commissioned trooper. "Like  
13 classification" includes: Radio operators or dispatchers; persons  
14 providing security for the governor or legislature; patrolmen; drivers'  
15 license examiners; weighmasters; vehicle safety inspectors; central  
16 wireless operators; and warehousemen.

17 (7) "Beneficiary" means any person in receipt of retirement  
18 allowance or any other benefit allowed by this chapter.

19 (8) "Regular interest" means interest compounded annually at such  
20 rates as may be determined by the director.

21 (9) "Retirement board" means the board provided for in this  
22 chapter.

23 (10) "Insurance commissioner" means the insurance commissioner of  
24 the state of Washington.

25 (11) "Lieutenant governor" means the lieutenant governor of the  
26 state of Washington.

27 (12) "Service" shall mean services rendered to the state of  
28 Washington or any political subdivisions thereof for which compensation  
29 has been paid. Full time employment for seventy or more hours in any  
30 given calendar month shall constitute one month of service. An  
31 employee who is reinstated in accordance with RCW 43.43.110 shall  
32 suffer no loss of service for the period reinstated subject to the  
33 contribution requirements of this chapter. Only months of service  
34 shall be counted in the computation of any retirement allowance or  
35 other benefit provided for herein. Years of service shall be  
36 determined by dividing the total number of months of service by twelve.  
37 Any fraction of a year of service as so determined shall be taken into  
38 account in the computation of such retirement allowance or benefit.

1 (13) "Prior service" shall mean all services rendered by a member  
2 to the state of Washington, or any of its political subdivisions prior  
3 to August 1, 1947, unless such service has been credited in another  
4 public retirement or pension system operating in the state of  
5 Washington.

6 (14) "Current service" shall mean all service as a member rendered  
7 on or after August 1, 1947.

8 (15)(a) "Average final salary," for members commissioned prior to  
9 January 1, 2003, shall mean the average monthly salary received by a  
10 member during the member's last two years of service or any consecutive  
11 two-year period of service, whichever is the greater, as an employee of  
12 the Washington state patrol; or if the member has less than two years  
13 of service, then the average monthly salary received by the member  
14 during the member's total years of service.

15 (b) "Average final salary," for members commissioned on or after  
16 January 1, 2003, shall mean the average monthly salary received by a  
17 member for the highest consecutive sixty service credit months; or if  
18 the member has less than sixty months of service, then the average  
19 monthly salary received by the member during the member's total months  
20 of service.

21 (16) "Actuarial equivalent" shall mean a benefit of equal value  
22 when computed upon the basis of such mortality table as may be adopted  
23 and such interest rate as may be determined by the director.

24 (17) Unless the context expressly indicates otherwise, words  
25 importing the masculine gender shall be extended to include the  
26 feminine gender and words importing the feminine gender shall be  
27 extended to include the masculine gender.

28 (18) "Director" means the director of the department of retirement  
29 systems.

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

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

34 (21) "Contributions" means the deduction from the compensation of  
35 each member in accordance with the contribution rates established under  
36 chapter 41.45 RCW.

37 (22) "Annual increase" means as of July 1, 1999, seventy-seven

1 cents per month per year of service which amount shall be increased  
2 each subsequent July 1st by three percent, rounded to the nearest cent.

3 (23)(a) "Salary," for members commissioned prior to July 1, 2001,  
4 shall exclude any overtime earnings related to RCW 47.46.040, or any  
5 voluntary overtime, earned on or after July 1, 2001.

6 (b) "Salary," for members commissioned on or after July 1, 2001,  
7 shall exclude any overtime earnings related to RCW 47.46.040 or any  
8 voluntary overtime, lump sum payments for deferred annual sick leave,  
9 unused accumulated vacation, unused accumulated annual leave, holiday  
10 pay, or any form of severance pay.

11 (24) "Plan 2" means the Washington state patrol retirement system  
12 plan 2, providing the benefits and funding provisions covering  
13 commissioned employees who first become members of the system on or  
14 after January 1, 2003.

15 (25) "Domestic partners" means two adults who meet the requirements  
16 for a valid state registered domestic partnership as defined by RCW  
17 26.60.020.

18 **Sec. 2.** RCW 43.43.260 and 2005 c 64 s 10 are each amended to read  
19 as follows:

20 Upon retirement from service as provided in RCW 43.43.250, a member  
21 shall be granted a retirement allowance which shall consist of:

22 (1) A prior service allowance which shall be equal to two percent  
23 of the member's average final salary multiplied by the number of years  
24 of prior service rendered by the member.

25 (2) A current service allowance which shall be equal to two percent  
26 of the member's average final salary multiplied by the number of years  
27 of service rendered while a member of the retirement system.

28 (3)(a) Any member commissioned prior to January 1, 2003, with  
29 twenty-five years service in the Washington state patrol may have the  
30 member's service in the uniformed services credited as a member whether  
31 or not the individual left the employ of the Washington state patrol to  
32 enter such uniformed services: PROVIDED, That in no instance shall  
33 military service in excess of five years be credited: AND PROVIDED  
34 FURTHER, That in each instance, a member must restore all withdrawn  
35 accumulated contributions, which restoration must be completed on the  
36 date of the member's retirement, or as provided under RCW 43.43.130,

1 whichever occurs first: AND PROVIDED FURTHER, That this section shall  
2 not apply to any individual, not a veteran within the meaning of RCW  
3 41.06.150.

4 (b) A member who leaves the Washington state patrol to enter the  
5 uniformed services of the United States shall be entitled to retirement  
6 system service credit for up to five years of military service. This  
7 subsection shall be administered in a manner consistent with the  
8 requirements of the federal uniformed services employment and  
9 reemployment rights act.

10 (i) The member qualifies for service credit under this subsection  
11 if:

12 (A) Within ninety days of the member's honorable discharge from the  
13 uniformed services of the United States, the member applies for  
14 reemployment with the employer who employed the member immediately  
15 prior to the member entering the uniformed services; and

16 (B) The member makes the employee contributions required under RCW  
17 41.45.0631 and 41.45.067 within five years of resumption of service or  
18 prior to retirement, whichever comes sooner; or

19 (C) Prior to retirement and not within ninety days of the member's  
20 honorable discharge or five years of resumption of service the member  
21 pays the amount required under RCW 41.50.165(2).

22 (ii) Upon receipt of member contributions under (b)(i)(B),  
23 (b)(iv)(C), and (b)(v)(C) of this subsection, the department shall  
24 establish the member's service credit and shall bill the employer for  
25 its contribution required under RCW 41.45.060 for the period of  
26 military service, plus interest as determined by the department.

27 (iii) The contributions required under (b)(i)(B), (b)(iv)(C), and  
28 (b)(v)(C) of this subsection shall be based on the compensation the  
29 member would have earned if not on leave, or if that cannot be  
30 estimated with reasonable certainty, the compensation reported for the  
31 member in the year prior to when the member went on military leave.

32 (iv) The surviving spouse or lawful domestic partner or eligible  
33 child or children of a member who left the employ of an employer to  
34 enter the uniformed services of the United States and died while  
35 serving in the uniformed services may, on behalf of the deceased  
36 member, apply for retirement system service credit under this  
37 subsection up to the date of the member's death in the uniformed

1 services. The department shall establish the deceased member's service  
2 credit if the surviving spouse or lawful domestic partner or eligible  
3 child or children:

4 (A) Provides to the director proof of the member's death while  
5 serving in the uniformed services;

6 (B) Provides to the director proof of the member's honorable  
7 service in the uniformed services prior to the date of death; and

8 (C) If the member was commissioned on or after January 1, 2003,  
9 pays the employee contributions required under chapter 41.45 RCW within  
10 five years of the date of death or prior to the distribution of any  
11 benefit, whichever comes first.

12 (v) A member who leaves the employ of an employer to enter the  
13 uniformed services of the United States and becomes totally  
14 incapacitated for continued employment by an employer while serving in  
15 the uniformed services is entitled to retirement system service credit  
16 under this subsection up to the date of discharge from the uniformed  
17 services if:

18 (A) The member obtains a determination from the director that he or  
19 she is totally incapacitated for continued employment due to conditions  
20 or events that occurred while serving in the uniformed services;

21 (B) The member provides to the director proof of honorable  
22 discharge from the uniformed services; and

23 (C) If the member was commissioned on or after January 1, 2003, the  
24 member pays the employee contributions required under chapter 41.45 RCW  
25 within five years of the director's determination of total disability  
26 or prior to the distribution of any benefit, whichever comes first.

27 (4) In no event shall the total retirement benefits from  
28 subsections (1), (2), and (3) of this section, of any member exceed  
29 seventy-five percent of the member's average final salary.

30 (5) Beginning July 1, 2001, and every year thereafter, the  
31 department shall determine the following information for each retired  
32 member or beneficiary whose retirement allowance has been in effect for  
33 at least one year:

34 (a) The original dollar amount of the retirement allowance;

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

37 (c) The index for the calendar year prior to the date of  
38 determination, to be known as "index B"; and

1 (d) The ratio obtained when index B is divided by index A.

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

5 (i) Produce a retirement allowance which is lower than the original  
6 retirement allowance;

7 (ii) Exceed three percent in the initial annual adjustment; or

8 (iii) Differ from the previous year's annual adjustment by more  
9 than three percent.

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

15 The provisions of this section shall apply to all members presently  
16 retired and to all members who shall retire in the future.

17 **Sec. 3.** RCW 43.43.270 and 2006 c 94 s 1 are each amended to read  
18 as follows:

19 For members commissioned prior to January 1, 2003:

20 (1) The normal form of retirement allowance shall be an allowance  
21 which shall continue as long as the member lives.

22 (2) If a member should die while in service the member's lawful  
23 spouse or lawful domestic partner shall be paid an allowance which  
24 shall be equal to fifty percent of the average final salary of the  
25 member. If the member should die after retirement the member's lawful  
26 spouse or lawful domestic partner shall be paid an allowance which  
27 shall be equal to the retirement allowance then payable to the member  
28 or fifty percent of the final average salary used in computing the  
29 member's retirement allowance, whichever is less. The allowance paid  
30 to the lawful spouse or lawful domestic partner shall continue as long  
31 as the spouse or domestic partner lives: PROVIDED, That if a surviving  
32 spouse or domestic partner who is receiving benefits under this  
33 subsection marries, or enters into a domestic partnership with, another  
34 member of this retirement system who subsequently predeceases such  
35 spouse or domestic partner, the spouse or domestic partner shall then  
36 be entitled to receive the higher of the two survivors' allowances for  
37 which eligibility requirements were met, but a surviving spouse or

1 domestic partner shall not receive more than one survivor's allowance  
2 from this system at the same time under this subsection. To be  
3 eligible for an allowance the lawful surviving spouse or lawful  
4 domestic partner of a retired member shall have been married to, or in  
5 a domestic partnership with, the member prior to the member's  
6 retirement and continuously thereafter until the date of the member's  
7 death or shall have been married to, or in a domestic partnership with,  
8 the retired member at least two years prior to the member's death. The  
9 allowance paid to the lawful spouse or lawful domestic partner may be  
10 divided with an ex spouse or ex domestic partner of the member by a  
11 dissolution order as defined in RCW 41.50.500(3) incident to a divorce  
12 occurring after July 1, 2002, or the termination of a domestic  
13 partnership under RCW 26.60.055 occurring after the effective date of  
14 this section. The dissolution order or termination order must  
15 specifically divide both the member's benefit and any spousal or  
16 domestic partner survivor benefit, and must fully comply with RCW  
17 41.50.670 and 41.50.700.

18 (3) If a member should die, either while in service or after  
19 retirement, the member's surviving unmarried children under the age of  
20 eighteen years shall be provided for in the following manner:

21 (a) If there is a surviving spouse or domestic partner, each child  
22 shall be entitled to a benefit equal to five percent of the final  
23 average salary of the member or retired member. The combined benefits  
24 to the surviving spouse or domestic partner and all children shall not  
25 exceed sixty percent of the final average salary of the member or  
26 retired member; and

27 (b) If there is no surviving spouse or domestic partner or the  
28 spouse or domestic partner should die, the child or children shall be  
29 entitled to a benefit equal to thirty percent of the final average  
30 salary of the member or retired member for one child and an additional  
31 ten percent for each additional child. The combined benefits to the  
32 children under this subsection shall not exceed sixty percent of the  
33 final average salary of the member or retired member. Payments under  
34 this subsection shall be prorated equally among the children, if more  
35 than one.

36 (4) If a member should die in the line of duty while employed by  
37 the Washington state patrol, the member's surviving children under the  
38 age of twenty years and eleven months if attending any high school,



1 college, university, or vocational or other educational institution  
2 accredited or approved by the state of Washington shall be provided for  
3 in the following manner:

4 (a) If there is a surviving spouse or domestic partner, each child  
5 shall be entitled to a benefit equal to five percent of the final  
6 average salary of the member. The combined benefits to the surviving  
7 spouse or domestic partner and all children shall not exceed sixty  
8 percent of the final average salary of the member;

9 (b) If there is no surviving spouse or domestic partner or the  
10 spouse or domestic partner should die, the unmarried child or children  
11 shall be entitled to receive a benefit equal to thirty percent of the  
12 final average salary of the member or retired member for one child and  
13 an additional ten percent for each additional child. The combined  
14 benefits to the children under this subsection shall not exceed sixty  
15 percent of the final average salary. Payments under this subsection  
16 shall be prorated equally among the children, if more than one; and

17 (c) If a beneficiary under this subsection reaches the age of  
18 twenty-one years during the middle of a term of enrollment the benefit  
19 shall continue until the end of that term.

20 (5)(a) The provisions of this section shall apply to members who  
21 have been retired on disability as provided in RCW 43.43.040 if the  
22 officer was a member of the Washington state patrol retirement system  
23 at the time of such disability retirement.

24 (b) For the purposes of this subsection, average final salary as  
25 used in subsection (2) of this section means:

26 (i) For members commissioned prior to January 1, 2003, the average  
27 monthly salary received by active members of the patrol of the rank at  
28 which the member became disabled, during the two years prior to the  
29 death of the disabled member; and

30 (ii) For members commissioned on or after January 1, 2003, the  
31 average monthly salary received by active members of the patrol of the  
32 rank at which the member became disabled, during the five years prior  
33 to the death of the disabled member.

34 (c) The changes to the definitions of average final salary for the  
35 survivors of disabled members in this subsection shall apply  
36 retroactively. The department shall correct future payments to  
37 eligible survivors of members disabled prior to June 7, 2006, and, as  
38 soon as administratively practicable, pay each survivor a lump sum

1 payment reflecting the difference, as determined by the director,  
2 between the survivor benefits previously received by the member, and  
3 those the member would have received under the definitions of average  
4 final salary created in chapter 94, Laws of 2006.

5 **Sec. 4.** RCW 43.43.271 and 2003 c 294 s 14 are each amended to read  
6 as follows:

7 (1) A member commissioned on or after January 1, 2003, upon  
8 retirement for service as prescribed in RCW 43.43.250 shall elect to  
9 have the retirement allowance paid pursuant to the following options,  
10 calculated so as to be actuarially equivalent to each other.

11 (a) Standard allowance. A member electing this option shall  
12 receive a retirement allowance payable throughout the member's life.  
13 However, if the retiree dies before the total of the retirement  
14 allowance paid to the retiree equals the amount of the retiree's  
15 accumulated contributions at the time of retirement, then the balance  
16 shall be paid to the member's estate, or such person or persons, trust,  
17 or organization as the retiree shall have nominated by written  
18 designation duly executed and filed with the department; or if there be  
19 no such designated person or persons still living at the time of the  
20 retiree's death, then to the surviving spouse or domestic partner; or  
21 if there be neither such designated person or persons still living at  
22 the time of death nor a surviving spouse or domestic partner, then to  
23 the retiree's legal representative.

24 (b) The department shall adopt rules that allow a member to select  
25 a retirement option that pays the member a reduced retirement allowance  
26 and upon death, such portion of the member's reduced retirement  
27 allowance as the department by rule designates shall be continued  
28 throughout the life of and paid to a designated person. Such person  
29 shall be nominated by the member by written designation duly executed  
30 and filed with the department at the time of retirement. The options  
31 adopted by the department shall include, but are not limited to, a  
32 joint and one hundred percent survivor option and a joint and fifty  
33 percent survivor option.

34 (2)(a) A member, if married or in a domestic partnership, must  
35 provide the written consent of his or her spouse or domestic partner to  
36 the option selected under this section, except as provided in (b) of  
37 this subsection. If a member is married or in a domestic partnership

1 and both the member and member's spouse or domestic partner do not give  
2 written consent to an option under this section, the department will  
3 pay the member a joint and fifty percent survivor benefit and record  
4 the member's spouse or domestic partner as the beneficiary. This  
5 benefit shall be calculated to be actuarially equivalent to the benefit  
6 options available under subsection (1) of this section unless  
7 (~~spousal~~) consent by the spouse or domestic partner is not required  
8 as provided in (b) of this subsection.

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

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

14 (ii) The (~~spousal~~) spouse or domestic partner consent provisions  
15 of (a) of this subsection do not apply.

16 (3) No later than January 1, 2003, the department shall adopt rules  
17 that allow a member additional actuarially equivalent survivor benefit  
18 options, and shall include, but are not limited to:

19 (a)(i) A retired member who retired without designating a survivor  
20 beneficiary shall have the opportunity to designate their spouse or  
21 domestic partner from a postretirement marriage or domestic partnership  
22 as a survivor during a one-year period beginning one year after the  
23 date of the postretirement marriage or domestic partnership provided  
24 the retirement allowance payable to the retiree is not subject to  
25 periodic payments pursuant to a property division obligation as  
26 provided for in RCW 41.50.670.

27 (ii) A member who entered into a postretirement marriage or  
28 domestic partnership prior to the effective date of the rules adopted  
29 pursuant to this subsection and satisfies the conditions of (a)(i) of  
30 this subsection shall have one year to designate their spouse or  
31 domestic partner as a survivor beneficiary following the adoption of  
32 the rules.

33 (b) A retired member who elected to receive a reduced retirement  
34 allowance under this section and designated a nonspouse or a  
35 nondomestic partner as survivor beneficiary shall have the opportunity  
36 to remove the survivor designation and have their future benefit  
37 adjusted.

1 (c) The department may make an additional charge, if necessary, to  
2 ensure that the benefits provided under this subsection remain  
3 actuarially equivalent.

4 (4) No later than July 1, 2003, the department shall adopt rules to  
5 permit:

6 (a) A court-approved property settlement incident to a court decree  
7 of dissolution made before retirement to provide that benefits payable  
8 to a member who has completed at least five years of service and the  
9 member's divorcing spouse or former domestic partner be divided into  
10 two separate benefits payable over the life of each spouse or domestic  
11 partner.

12 The member shall have available the benefit options of subsection  
13 (1) of this section upon retirement, and if remarried or in a domestic  
14 partnership at the time of retirement remains subject to the  
15 (~~spousal~~) spouse or domestic partner consent requirements of  
16 subsection (2) of this section. Any reductions of the member's benefit  
17 subsequent to the division into two separate benefits shall be made  
18 solely to the separate benefit of the member.

19 The nonmember ex spouse or former domestic partner shall be  
20 eligible to commence receiving their separate benefit upon reaching the  
21 ages provided in RCW 43.43.250(2) and after filing a written  
22 application with the department.

23 (b) A court-approved property settlement incident to a court decree  
24 of dissolution made after retirement may only divide the benefit into  
25 two separate benefits payable over the life of each spouse or domestic  
26 partner if the nonmember ex spouse or former domestic partner was  
27 selected as a survivor beneficiary at retirement.

28 The retired member may later choose the survivor benefit options  
29 available in subsection (3) of this section. Any actuarial reductions  
30 subsequent to the division into two separate benefits shall be made  
31 solely to the separate benefit of the member.

32 Both the retired member and the nonmember divorced spouse or former  
33 domestic partner shall be eligible to commence receiving their separate  
34 benefits upon filing a copy of the dissolution order with the  
35 department in accordance with RCW 41.50.670.

36 (c) The department may make an additional charge or adjustment if  
37 necessary to ensure that the separate benefits provided under this

1 subsection are actuarially equivalent to the benefits payable prior to  
2 the decree of dissolution.

3 **Sec. 5.** RCW 43.43.278 and 2001 c 329 s 9 are each amended to read  
4 as follows:

5 By July 1, 2000, the department of retirement systems shall adopt  
6 rules that allow a member to select an actuarially equivalent  
7 retirement option that pays the member a reduced retirement allowance  
8 and upon death shall be continued throughout the life of a lawful  
9 surviving spouse or lawful domestic partner. The continuing allowance  
10 to the lawful surviving spouse or lawful domestic partner shall be  
11 subject to the yearly increase provided by RCW 43.43.260(5). The  
12 allowance to the lawful surviving spouse or lawful domestic partner  
13 under this section, and the allowance for an eligible child or children  
14 under RCW 43.43.270, shall not be subject to the limit for combined  
15 benefits under RCW 43.43.270.

16 **Sec. 6.** RCW 43.43.280 and 1994 c 197 s 35 are each amended to read  
17 as follows:

18 (1) If a member dies before retirement, and has no surviving spouse  
19 or domestic partner or children under the age of eighteen years, all  
20 contributions made by the member, including any amount paid under RCW  
21 41.50.165(2), with interest as determined by the director, less any  
22 amount identified as owing to an obligee upon withdrawal of accumulated  
23 contributions pursuant to a court order filed under RCW 41.50.670,  
24 shall be paid to such person or persons as the member shall have  
25 nominated by written designation duly executed and filed with the  
26 department, or if there be no such designated person or persons, then  
27 to the member's legal representative.

28 (2) If a member should cease to be an employee before attaining age  
29 sixty for reasons other than the member's death, or retirement, the  
30 individual shall thereupon cease to be a member except as provided  
31 under RCW 43.43.130 (2) (~~and~~), (3), and (4) and, the individual may  
32 withdraw the member's contributions to the retirement fund, including  
33 any amount paid under RCW 41.50.165(2), with interest as determined by  
34 the director, by making application therefor to the department, except  
35 that: A member who ceases to be an employee after having completed at  
36 least five years of service shall remain a member during the period of

1 the member's absence from employment for the exclusive purpose only of  
2 receiving a retirement allowance to begin at attainment of age sixty,  
3 however such a member may upon written notice to the department elect  
4 to receive a reduced retirement allowance on or after age fifty-five  
5 which allowance shall be the actuarial equivalent of the sum necessary  
6 to pay regular retirement benefits as of age sixty: PROVIDED, That if  
7 such member should withdraw all or part of the member's accumulated  
8 contributions, the individual shall thereupon cease to be a member and  
9 this subsection shall not apply.

10 **Sec. 7.** RCW 43.43.285 and 2007 c 488 s 1 and 2007 c 487 s 9 are  
11 each reenacted and amended to read as follows:

12 (1) A one hundred fifty thousand dollar death benefit shall be paid  
13 to the member's estate, or such person or persons, trust or  
14 organization as the member shall have nominated by written designation  
15 duly executed and filed with the department. If there be no such  
16 designated person or persons still living at the time of the member's  
17 death, such member's death benefit shall be paid to the member's  
18 surviving spouse or domestic partner as if in fact such spouse or  
19 domestic partner had been nominated by written designation, or if there  
20 be no such surviving spouse or domestic partner, then to such member's  
21 legal representatives.

22 (2)(a) The benefit under this section shall be paid only where  
23 death occurs as a result of (i) injuries sustained in the course of  
24 employment; or (ii) an occupational disease or infection that arises  
25 naturally and proximately out of employment covered under this chapter.  
26 The determination of eligibility for the benefit shall be made  
27 consistent with Title 51 RCW by the department of labor and industries.  
28 The department of labor and industries shall notify the department of  
29 retirement systems by order under RCW 51.52.050.

30 (b) The retirement allowance paid to the spouse or domestic partner  
31 and dependent children of a member who is killed in the course of  
32 employment, as set forth in RCW 41.05.011(14), shall include  
33 reimbursement for any payments of premium rates to the Washington state  
34 health care authority under RCW 41.05.080.

35 **Sec. 8.** RCW 43.43.295 and 2004 c 171 s 1 are each amended to read  
36 as follows:

1 (1) For members commissioned on or after January 1, 2003, except as  
2 provided in RCW 11.07.010, if a member or a vested member who has not  
3 completed at least ten years of service dies, the amount of the  
4 accumulated contributions standing to such member's credit in the  
5 retirement system at the time of such member's death, less any amount  
6 identified as owing to an obligee upon withdrawal of accumulated  
7 contributions pursuant to a court order filed under RCW 41.50.670,  
8 shall be paid to the member's estate, or such person or persons, trust,  
9 or organization as the member shall have nominated by written  
10 designation duly executed and filed with the department. If there be  
11 no such designated person or persons still living at the time of the  
12 member's death, such member's accumulated contributions standing to  
13 such member's credit in the retirement system, less any amount  
14 identified as owing to an obligee upon withdrawal of accumulated  
15 contributions pursuant to a court order filed under RCW 41.50.670,  
16 shall be paid to the member's surviving spouse or domestic partner as  
17 if in fact such spouse or domestic partner had been nominated by  
18 written designation, or if there be no such surviving spouse or  
19 domestic partner, then to such member's legal representatives.

20 (2) If a member who is eligible for retirement or a member who has  
21 completed at least ten years of service dies, the surviving spouse or  
22 domestic partner or eligible child or children shall elect to receive  
23 either:

24 (a) A retirement allowance computed as provided for in RCW  
25 43.43.260, actuarially reduced, except under subsection (4) of this  
26 section, by the amount of any lump sum benefit identified as owing to  
27 an obligee upon withdrawal of accumulated contributions pursuant to a  
28 court order filed under RCW 41.50.670 and actuarially adjusted to  
29 reflect a joint and one hundred percent survivor option under RCW  
30 43.43.278 and if the member was not eligible for normal retirement at  
31 the date of death a further reduction from age fifty-five or when the  
32 member could have attained twenty-five years of service, whichever is  
33 less; if a surviving spouse or domestic partner who is receiving a  
34 retirement allowance dies leaving a child or children of the member  
35 under the age of majority, then such child or children shall continue  
36 to receive an allowance in an amount equal to that which was being  
37 received by the surviving spouse or domestic partner, share and share  
38 alike, until such child or children reach the age of majority; if there

1 is no surviving spouse or domestic partner eligible to receive an  
2 allowance at the time of the member's death, such member's child or  
3 children under the age of majority shall receive an allowance share and  
4 share alike calculated under this section making the assumption that  
5 the ages of the spouse or domestic partner and member were equal at the  
6 time of the member's death; or

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

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

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

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

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

29 (4) The retirement allowance of a member who is killed in the  
30 course of employment, as determined by the director of the department  
31 of labor and industries, is not subject to an actuarial reduction.

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