
SENATE BILL 5827

State of Washington 63rd Legislature 2013 Regular Session

By Senators Chase, Conway, Hasegawa, and Kline

Read first time 02/20/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to service credit for certain school employee
2 service workers; and amending RCW 41.35.010, 41.35.400, and 41.35.620.

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

4 **Sec. 1.** RCW 41.35.010 and 2012 c 236 s 4 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter,
7 unless the context clearly requires otherwise.

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

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

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

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

1 (5)(a) "Average final compensation" for plan 2 and plan 3 members
2 means the member's average compensation earnable of the highest
3 consecutive sixty months of service credit months prior to such
4 member's retirement, termination, or death. Periods constituting
5 authorized leaves of absence may not be used in the calculation of
6 average final compensation except under RCW 41.40.710(2).

7 (b) In calculating average final compensation under (a) of this
8 subsection, the department of retirement systems shall include any
9 compensation forgone by a member during the 2011-2013 fiscal biennium
10 as a result of reduced work hours, mandatory leave without pay,
11 temporary layoffs, or reductions to current pay if the reduced
12 compensation is an integral part of the employer's expenditure
13 reduction efforts, as certified by the employer. Reductions to current
14 pay shall not include elimination of previously agreed upon future
15 salary reductions.

16 (6) "Beneficiary" for plan 2 and plan 3 members means any person in
17 receipt of a retirement allowance or other benefit provided by this
18 chapter resulting from service rendered to an employer by another
19 person.

20 (7) "Classified employee" means an employee of a school district or
21 an educational service district who is not eligible for membership in
22 the teachers' retirement system established under chapter 41.32 RCW.

23 (8)(a) "Compensation earnable" for plan 2 and plan 3 members, means
24 salaries or wages earned by a member during a payroll period for
25 personal services, including overtime payments, and shall include wages
26 and salaries deferred under provisions established pursuant to sections
27 403(b), 414(h), and 457 of the United States internal revenue code, but
28 shall exclude nonmoney maintenance compensation and lump sum or other
29 payments for deferred annual sick leave, unused accumulated vacation,
30 unused accumulated annual leave, or any form of severance pay.

31 (b) "Compensation earnable" for plan 2 and plan 3 members also
32 includes the following actual or imputed payments, which are not paid
33 for personal services:

34 (i) Retroactive payments to an individual by an employer on
35 reinstatement of the employee in a position, or payments by an employer
36 to an individual in lieu of reinstatement, which are awarded or granted
37 as the equivalent of the salary or wage which the individual would have

1 earned during a payroll period shall be considered compensation
2 earnable to the extent provided in this subsection, and the individual
3 shall receive the equivalent service credit;

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

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

9 (B) Such member's actual compensation earnable received for
10 nonlegislative public employment and legislative service combined. Any
11 additional contributions to the retirement system required because
12 compensation earnable under (b)(ii)(A) of this subsection is greater
13 than compensation earnable under this (b)(ii)(B) of this subsection
14 shall be paid by the member for both member and employer contributions;

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

17 (iv) Compensation that a member would have received but for a
18 disability occurring in the line of duty only as authorized by RCW
19 41.40.038;

20 (v) Compensation that a member receives due to participation in the
21 leave sharing program only as authorized by RCW 41.04.650 through
22 41.04.670; and

23 (vi) Compensation that a member receives for being in standby
24 status. For the purposes of this section, a member is in standby
25 status when not being paid for time actually worked and the employer
26 requires the member to be prepared to report immediately for work, if
27 the need arises, although the need may not arise.

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

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

31 (11) "Eligible position" means any position that, as defined by the
32 employer, normally requires five or more months of service a year for
33 which regular compensation for at least seventy hours is earned by the
34 occupant thereof. For purposes of this chapter an employer shall not
35 define "position" in such a manner that an employee's monthly work for
36 that employer is divided into more than one position.

37 (12) "Employee" or "employed" means a person who is providing
38 services for compensation to an employer, unless the person is free

1 from the employer's direction and control over the performance of work.
2 The department shall adopt rules and interpret this subsection
3 consistent with common law.

4 (13) "Employer," for plan 2 and plan 3 members, means a school
5 district or an educational service district. Except as otherwise
6 specifically provided in this chapter, "employer" does not include a
7 government contractor. For purposes of this subsection, a "government
8 contractor" is any entity, including a partnership, limited liability
9 company, for-profit or nonprofit corporation, or person, that provides
10 services pursuant to a contract with an employer. The determination
11 whether an employer-employee relationship has been established is not
12 based on the relationship between a government contractor and an
13 employer, but is based solely on the relationship between a government
14 contractor's employee and an employer under this chapter.

15 (14) "Final compensation" means the annual rate of compensation
16 earnable by a member at the time of termination of employment.

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

21 (16) "Index A" means the index for the year prior to the
22 determination of a postretirement adjustment.

23 (17) "Index B" means the index for the year prior to index A.

24 (18) "Ineligible position" means any position which does not
25 conform with the requirements set forth in subsection (22) of this
26 section.

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

30 (20) "Member" means any employee included in the membership of the
31 retirement system, as provided for in RCW 41.35.030.

32 (21) "Member account" or "member's account" for purposes of plan 3
33 means the sum of the contributions and earnings on behalf of the member
34 in the defined contribution portion of plan 3.

35 (22) "Membership service" means all service rendered as a member.

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

1 (24) "Plan 2" means the Washington school employees' retirement
2 system plan 2 providing the benefits and funding provisions covering
3 persons who first became members of the public employees' retirement
4 system on and after October 1, 1977, and transferred to the Washington
5 school employees' retirement system under RCW 41.40.750.

6 (25) "Plan 3" means the Washington school employees' retirement
7 system plan 3 providing the benefits and funding provisions covering
8 persons who first became members of the system on and after September
9 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

10 (26) "Regular interest" means such rate as the director may
11 determine.

12 (27) "Retiree" means any person who has begun accruing a retirement
13 allowance or other benefit provided by this chapter resulting from
14 service rendered to an employer while a member.

15 (28) "Retirement" means withdrawal from active service with a
16 retirement allowance as provided by this chapter.

17 (29) "Retirement allowance" for plan 2 and plan 3 members means
18 monthly payments to a retiree or beneficiary as provided in this
19 chapter.

20 (30) "Retirement system" means the Washington school employees'
21 retirement system provided for in this chapter.

22 (31) "Separation from service" occurs when a person has terminated
23 all employment with an employer.

24 (32) "Service" for plan 2 and plan 3 members means periods of
25 employment by a member in an eligible position or positions for one or
26 more employers for which compensation earnable is paid. Compensation
27 earnable earned for ninety or more hours in any calendar month shall
28 constitute one service credit month except as provided in RCW
29 41.35.180. Compensation earnable earned for at least seventy hours but
30 less than ninety hours in any calendar month shall constitute one-half
31 service credit month of service. Compensation earnable earned for less
32 than seventy hours in any calendar month shall constitute one-quarter
33 service credit month of service. Time spent in standby status, whether
34 compensated or not, is not service.

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

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

1 (b) A member shall receive a total of not more than twelve service
2 credit months of service for such calendar year. If an individual is
3 employed in an eligible position by one or more employers the
4 individual shall receive no more than one service credit month during
5 any calendar month in which multiple service for ninety or more hours
6 is rendered.

7 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
8 28A.400.300 is equal to two service credit months. Use of less than
9 forty-five days of sick leave is creditable as allowed under this
10 subsection as follows:

- 11 (i) Less than eleven days equals one-quarter service credit month;
- 12 (ii) Eleven or more days but less than twenty-two days equals one-
13 half service credit month;
- 14 (iii) Twenty-two days equals one service credit month;
- 15 (iv) More than twenty-two days but less than thirty-three days
16 equals one and one-quarter service credit month; and
- 17 (v) Thirty-three or more days but less than forty-five days equals
18 one and one-half service credit month.

19 (33) "Service credit month" means a month or an accumulation of
20 months of service credit which is equal to one.

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

23 (35) "Service worker" means a classified employee who performs a
24 service for which there are no formal qualifications including
25 paraprofessionals and nonsupervisory personnel. "Service worker"
26 includes, but is not limited to, custodians, food service workers,
27 security personnel, warehouse workers, and delivery personnel.

28 (36) "State actuary" or "actuary" means the person appointed
29 pursuant to RCW 44.44.010(2).

30 ((+36+)) (37) "State elective position" means any position held by
31 any person elected or appointed to statewide office or elected or
32 appointed as a member of the legislature.

33 ((+37+)) (38) "State treasurer" means the treasurer of the state of
34 Washington.

35 ((+38+)) (39) "Substitute employee" means a classified employee who
36 is employed by an employer exclusively as a substitute for an absent
37 employee.

1 **Sec. 2.** RCW 41.35.400 and 1998 c 341 s 101 are each amended to
2 read as follows:

3 (1) A member of the retirement system shall receive a retirement
4 allowance equal to two percent of such member's average final
5 compensation for each service credit year of service.

6 (2) A member of the retirement system who is a service worker shall
7 receive a retirement allowance equal to two and one-tenth percent of
8 such member's average final compensation for each service credit year
9 of service.

10 **Sec. 3.** RCW 41.35.620 and 1998 c 341 s 203 are each amended to
11 read as follows:

12 (1)(a) A member of the retirement system shall receive a retirement
13 allowance equal to one percent of such member's average final
14 compensation for each service credit year.

15 (b) A member of the retirement system who is a service worker shall
16 receive a retirement allowance equal to one and five one-hundredths
17 percent of such member's average final compensation for each service
18 credit year.

19 (2) The retirement allowance payable under RCW 41.35.680 to a
20 member who separates after having completed at least twenty service
21 credit years shall be increased by twenty-five one-hundredths of one
22 percent, compounded for each month from the date of separation to the
23 date that the retirement allowance commences.

--- END ---