
SUBSTITUTE SENATE BILL 5916

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Bailey, Baumgartner, Hill, Holmquist Newbry, Ericksen, Schoesler, Hewitt, and Mullet)

READ FIRST TIME 04/24/13.

1 AN ACT Relating to administration of public retirement plans;
2 amending RCW 41.50.150 and 41.26.200; adding a new section to chapter
3 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new
4 section to chapter 41.80 RCW; adding a new section to chapter 43.19
5 RCW; creating new sections; and providing an effective date.

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

7 **Sec. 1.** RCW 41.50.150 and 2004 c 242 s 47 are each amended to read
8 as follows:

9 (1) The employer of any employee whose retirement benefits are
10 based in part on excess compensation, as defined in this section,
11 shall, upon receipt of a billing from the department, pay into the
12 appropriate retirement system the present value at the time of the
13 employee's retirement of the total estimated cost of all present and
14 future benefits from the retirement system attributable to the excess
15 compensation. The state actuary shall determine the estimated cost
16 using the same method and procedure as is used in preparing fiscal note
17 costs for the legislature. However, the director may in the director's
18 discretion decline to bill the employer if the amount due is less than
19 fifty dollars. Accounts unsettled within thirty days of the receipt of

1 the billing shall be assessed an interest penalty of one percent of the
2 amount due for each month or fraction thereof beyond the original
3 thirty-day period.

4 (2) "Excess compensation," as used in this section, includes the
5 following payments, if used in the calculation of the employee's
6 retirement allowance:

7 (a) A cash out of unused annual leave in excess of two hundred
8 forty hours of such leave. "Cash out" for purposes of this subsection
9 means:

10 (i) Any payment in lieu of an accrual of annual leave; or

11 (ii) Any payment added to salary or wages, concurrent with a
12 reduction of annual leave;

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

14 (c) A payment for, or in lieu of, any personal expense or
15 transportation allowance to the extent that payment qualifies as
16 reportable compensation in the member's retirement system;

17 (d) The portion of any payment, including overtime payments, that
18 exceeds twice the regular daily or hourly rate of pay; (~~and~~)

19 (e) The portion of total reportable compensation in the salary
20 averaging period used in the calculation of the employee's retirement
21 allowance that, due to reportable compensation from overtime, bonuses,
22 cash outs of any form of leave, or lump sum payments, exceeds one
23 hundred twenty-five percent of the employee's total reportable
24 compensation in the immediately preceding service creditable time
25 period of equivalent length; and

26 (f) Any termination or severance payment.

27 (3) This section applies to the retirement systems listed in RCW
28 41.50.030 and to retirements occurring on or after March 15, 1984.
29 Nothing in this section is intended to amend or determine the meaning
30 of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35,
31 41.37, or 43.43 RCW or to determine in any manner what payments are
32 includable in the calculation of a retirement allowance under such
33 chapters.

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

37 (5) The change in the definition of "excess compensation" made in

1 this 2013 act shall be effective for all retirements occurring after
2 June 30, 2011.

3 NEW SECTION. **Sec. 2.** Beginning no later than September 1, 2013,
4 the department shall review compensation increases reported for all
5 persons who retired from the law enforcement officers and firefighters
6 retirement system plan 1 since July 1, 2010. The department shall
7 conduct an on-site audit of the employer compensation records in all
8 cases where the base salary reported for an individual increased by
9 more than ten percent in the final two years prior to retirement.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.56 RCW
11 to read as follows:

12 No collective bargaining agreement covering state, higher education
13 institution, or local government employees entered into pursuant to
14 this chapter after the effective date of this act may include a
15 provision that bases employee eligibility for voluntary overtime on
16 seniority or eligibility for retirement.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.59 RCW
18 to read as follows:

19 No collective bargaining agreement covering educational employees
20 entered into pursuant to this chapter after the effective date of this
21 act may include a provision that bases employee eligibility for
22 voluntary overtime on seniority or eligibility for retirement.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.80 RCW
24 to read as follows:

25 No collective bargaining agreement covering state or higher
26 education institution employees entered into pursuant to this chapter
27 after the effective date of this act may include a provision that bases
28 employee eligibility for voluntary overtime on seniority or eligibility
29 for retirement.

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.19 RCW
31 to read as follows:

32 (1) The local government self-insurance program of the department
33 of enterprise services shall support employers of law enforcement

1 officers' and firefighters' retirement system plan 1 retirees to
2 develop a voluntarily risk pool to share the noninsured retiree medical
3 costs of long-term care and major medical services.

4 (2) The department shall provide assistance to a work group
5 composed of city, county, and fire district representatives to
6 establish a local government risk pool for law enforcement officers'
7 and firefighters' retirement system plan 1 retiree medical services,
8 including requirements for:

9 (a) Employer participation and withdrawal from the risk pool;

10 (b) Medical services to be reimbursed by the risk pool; and

11 (c) Employer premiums for the risk pool, which shall be the sole
12 source of funding for claims and administration.

13 (3) Upon request the office of the state actuary may provide
14 actuarial support for the work group review and analysis.

15 NEW SECTION. **Sec. 7.** If statutory changes are needed to implement
16 the work group's proposed requirements for a local government risk pool
17 developed pursuant to section 6 of this act, the local government self-
18 insurance program shall submit a report and proposed legislation to the
19 fiscal committees of the legislature no later than December 1, 2013.

20 **Sec. 8.** RCW 41.26.200 and 1981 c 294 s 5 are each amended to read
21 as follows:

22 Any person feeling aggrieved by any order or determination of a
23 disability board denying disability leave or disability retirement, or
24 canceling a previously granted disability retirement allowance, shall
25 have the right to appeal the order or determination to the director.

26 Any member or employer feeling aggrieved by any order or determination
27 of a disability board granting or denying coverage for any service or
28 item requested as a medical service shall have the right to appeal the
29 order or determination to the director. The director shall have no

30 jurisdiction to entertain the appeal unless a notice of appeal is filed
31 with the director within thirty days following the rendition of the
32 order by the applicable disability board. A copy of the notice of
33 appeal shall be served upon the director and the applicable disability
34 board and, within ninety days thereof, the disability board shall
35 certify its decision and order which shall include findings of fact and
36 conclusions of law, together with a transcript of all proceedings in

1 connection therewith, to the director for review. Upon review of the
2 record, the director may affirm the order of the disability board or
3 may remand the case for such further proceedings as he or she may
4 direct, in accordance with such rules of procedure as the director
5 shall promulgate. The director shall review appeals involving coverage
6 of medical services using standards recommended by the health care
7 authority medical director appointed pursuant to RCW 41.05.015.

8 NEW SECTION. **Sec. 9.** Section 8 of this act takes effect March 1,
9 2014.

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