

**Chapter 41.37 RCW**  
**WASHINGTON PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM**

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**RCW 41.37.005 Intent. (Effective until June 1, 2024.)** It is the intent of the legislature to establish a separate public safety employees' retirement system for certain public employees whose jobs contain a high degree of physical risk to their own personal safety and who provide public protection of lives and property, but who are not eligible for membership in the law enforcement officers' and firefighters' retirement system. [2006 c 309 § 1; 2004 c 242 § 1.]

**Effective date—2006 c 309:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 29, 2006]." [2006 c 309 § 6.]

**RCW 41.37.005 Intent. (Effective June 1, 2024.)** It is the intent of the legislature to establish a separate public safety employees' retirement system for certain public employees whose jobs contain a high degree of physical or psychological risk to their own personal safety and who provide public protection of lives and property, but who are not eligible for membership in the law enforcement officers' and firefighters' retirement system. [2023 c 199 § 2; 2006 c 309 § 1; 2004 c 242 § 1.]

**Intent—Effective date—2023 c 199:** See notes following RCW 41.37.010.

**Effective date—2006 c 309:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 29, 2006]." [2006 c 309 § 6.]

**RCW 41.37.010 Definitions. (Effective until June 1, 2024.)** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

(5) (a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

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

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

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

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

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

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.060;

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

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

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

(9) "Director" means the director of the department.

(10) "Eligible position" means any permanent, full-time position included in subsection (19) of this section.

(11) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(12) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state department of natural resources, the Washington state liquor and cannabis board, the Washington state department of veterans affairs, the Washington state department of children, youth, and families, and the Washington state department of social and health services; any county corrections department; any city corrections department not covered under chapter 41.28 RCW; and any public corrections entity created under RCW 39.34.030 by counties, cities not covered under chapter 41.28 RCW, or both. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

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

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

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

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

(17) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (10) of this section.

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

(19) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer;

(d) Whose primary responsibility is to provide nursing care to, or to ensure the custody and safety of, offender, adult probationary, or patient populations; and who is in a position that requires completion of defensive tactics training or de-escalation training; and who is employed by one of the following state institutions or centers operated by the department of social and health services or the department of children, youth, and families:

(i) Juvenile rehabilitation administration institutions, not including community facilities;

(ii) Mental health hospitals;

(iii) Child study and treatment centers; or

(iv) Institutions or residential sites that serve developmentally disabled patients or offenders, or perform competency restoration services, except for state-operated living alternatives facilities;

(e) Whose primary responsibility is to provide nursing care to offender and patient populations in institutions and centers operated by the following employers: A city or county corrections department as set forth in subsection (12) of this section, a public corrections entity as set forth in subsection (12) of this section, the Washington state department of corrections, or the Washington state department of veterans affairs; or

(f) Whose primary responsibility is to supervise members eligible under this subsection.

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

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

(22) "Plan" means the Washington public safety employees' retirement system plan 2.

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

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

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

(26) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(27) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

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

(29) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

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

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

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

(c) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (5)(b)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

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

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

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

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "State treasurer" means the treasurer of the state of Washington. [2021 c 12 § 6; 2020 c 108 § 1; 2019 c 470 § 7; 2018 c 241 § 1; 2012 c 236 § 5. Prior: 2011 1st sp.s. c 5 § 4; 2011 c 68 § 1; prior: 2010 2nd sp.s. c 1 § 905; 2010 1st sp.s. c 32 § 8; prior: 2007 c 492 § 11; 2007 c 294 § 1; 2006 c 309 § 2; 2005 c 327 § 4; 2004 c 242 § 2.]

**Retroactive application—2021 c 12:** See note following RCW 41.26.030.

**Purpose—Application—2012 c 236:** See note following RCW 41.26.030.

**Effective date—2011 1st sp.s. c 5:** See note following RCW 41.26.030.

**Retroactive application—2011 c 68:** "This act applies retroactively to any public corrections entity existing on or after January 1, 2011." [2011 c 68 § 2.]

**Effective date—2010 2nd sp.s. c 1:** See note following RCW 38.52.105.

**Intent—Conflict with federal requirements—Effective date—2010 1st sp.s. c 32:** See notes following RCW 42.04.060.

**Effective date—2006 c 309:** See note following RCW 41.37.005.

**Effective date—2005 c 327 §§ 4-7:** "Sections 4 through 7 of this act take effect July 1, 2006." [2005 c 327 § 12.]

**RCW 41.37.010 Definitions. (Effective June 1, 2024.)** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

(5)(a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is

an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

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

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

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

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

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

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.060;

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

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer

requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

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

(9) "Director" means the director of the department.

(10) "Eligible position" means any permanent, full-time position included in subsection (19) of this section.

(11) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(12)(a) "Employer" means:

(i) The Washington state department of corrections;

(ii) The Washington state parks and recreation commission;

(iii) The Washington state gambling commission;

(iv) The Washington state patrol;

(v) The Washington state department of natural resources;

(vi) The Washington state liquor and cannabis board;

(vii) The Washington state department of veterans affairs;

(viii) The Washington state department of children, youth, and families;

(ix) The Washington state department of social and health services;

(x) Any county corrections department;

(xi) Any city corrections department not covered under chapter 41.28 RCW;

(xii) Any public corrections entity created under RCW 39.34.030 by counties, cities not covered under chapter 41.28 RCW, or both; and

(xiii) Any employer participating in the public employees' retirement system in chapter 41.40 RCW, some or all of whose employees' primary responsibility is to receive, process, transmit, or dispatch 911 emergency and nonemergency calls for law enforcement, fire, emergency medical, or other public safety services that is not already covered by the provisions of this subsection.

(b) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

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

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

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

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

(17) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (10) of this section.

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

(19) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer;

(d) Whose primary responsibility is to provide nursing care to, or to ensure the custody and safety of, offender, adult probationary, or patient populations; and who is in a position that requires completion of defensive tactics training or de-escalation training; and who is employed by one of the following state institutions or centers operated by the department of social and health services or the department of children, youth, and families:

(i) Juvenile rehabilitation administration institutions, not including community facilities;

(ii) Mental health hospitals;

(iii) Child study and treatment centers; or

(iv) Institutions or residential sites that serve developmentally disabled patients or offenders, or perform competency restoration services, except for state-operated living alternatives facilities;

(e) Whose primary responsibility is to provide nursing care to offender and patient populations in institutions and centers operated by the following employers: A city or county corrections department as set forth in subsection (12) of this section, a public corrections entity as set forth in subsection (12) of this section, the Washington state department of corrections, or the Washington state department of veterans affairs;

(f) Whose primary responsibility is to receive, process, transmit, or dispatch 911 emergency and nonemergency calls for law enforcement, fire, emergency medical, or other public safety services, or to supervise those employees; or

(g) Whose primary responsibility is to supervise members eligible under this subsection.

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

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

(22) "Plan" means the Washington public safety employees' retirement system plan 2.

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

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

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

(26) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(27) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

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

(29) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

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

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

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

(c) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (5)(b)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

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

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

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

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "State treasurer" means the treasurer of the state of Washington. [2023 c 199 § 3; 2021 c 12 § 6; 2020 c 108 § 1; 2019 c 470 § 7; 2018 c 241 § 1; 2012 c 236 § 5. Prior: 2011 1st sp.s. c 5 § 4; 2011 c 68 § 1; prior: 2010 2nd sp.s. c 1 § 905; 2010 1st sp.s. c 32 § 8; prior: 2007 c 492 § 11; 2007 c 294 § 1; 2006 c 309 § 2; 2005 c 327 § 4; 2004 c 242 § 2.]

**Intent—2023 c 199:** "(1) The legislature recognizes that the entities that employ public safety telecommunicators can be set up at many levels, including state, federal, and nonprofit.

(2) The legislature intends this act to apply only to:

(a) Newly hired public safety telecommunicators who would otherwise be eligible for the public employees' retirement system plan 2 or plan 3 if not for this act; and

(b) Existing public safety telecommunicators who are currently participating in the public employees' retirement system plan 2 or plan 3.

(3) This act is not intended to confer retirement system membership or benefits to any employees who are not already eligible for state retirement benefits, such as contract employees, nonprofit employees, and employees of first-class cities." [2023 c 199 § 1.]

**Effective date—2023 c 199:** "This act takes effect June 1, 2024." [2023 c 199 § 5.]

**Retroactive application—2021 c 12:** See note following RCW 41.26.030.

**Purpose—Application—2012 c 236:** See note following RCW 41.26.030.

**Effective date—2011 1st sp.s. c 5:** See note following RCW 41.26.030.

**Retroactive application—2011 c 68:** "This act applies retroactively to any public corrections entity existing on or after January 1, 2011." [2011 c 68 § 2.]

**Effective date—2010 2nd sp.s. c 1:** See note following RCW 38.52.105.

**Intent—Conflict with federal requirements—Effective date—2010 1st sp.s. c 32:** See notes following RCW 42.04.060.

**Effective date—2006 c 309:** See note following RCW 41.37.005.

**Effective date—2005 c 327 §§ 4-7:** "Sections 4 through 7 of this act take effect July 1, 2006." [2005 c 327 § 12.]

**RCW 41.37.015 System created—Administration.** A retirement system is hereby created for public safety employees of the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington \*state liquor control board, county corrections departments, and city corrections departments not covered under chapter 41.28 RCW. The administration and management of the retirement system, the responsibility for making effective the provisions of this chapter, and the authority to make all rules necessary therefor are hereby vested in the department. All rules shall be governed by chapter 34.05 RCW. This retirement system shall be known as the Washington public safety employees' retirement system. [2004 c 242 § 3.]

**\*Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

**RCW 41.37.020 Membership.** Membership in the retirement system shall consist of all regularly compensated public safety employees who

are members as defined in \*RCW 41.37.010(5), with the following exceptions:

(1) Persons in ineligible positions;

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

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file on a form supplied by the department a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (2)(b);

(3) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(4) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by employers to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

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

(6) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within

thirty days after employment in an eligible position. [2005 c 327 § 5; 2004 c 242 § 4.]

**\*Reviser's note:** RCW 41.37.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (5) to subsection (19).

**Effective date—2005 c 327 §§ 4-7:** See note following RCW 41.37.010.

**RCW 41.37.030 Nonelective position—Eligible position, when.**

Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter throughout such period, shall be deemed to have been in an eligible position during such period of employment. [2004 c 242 § 6.]

**RCW 41.37.050 Reduction of retirement allowance upon reemployment or if covered by a plan under RCW 28B.10.400—Reinstatement of membership.** (1)(a) If a retiree enters employment in an eligible position with an employer as defined in this chapter sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) If a retiree enters employment in an eligible position with an employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(c) The benefit reduction provided in (a) and (b) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) Between April 14, 2023, and July 1, 2026, a retiree who has satisfied the break in employment requirement of subsection (1) of this section, and who enters service in a nonadministrative position as a licensed nurse for a state agency, shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(3) If the retiree opts to reestablish membership under this chapter, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive

membership credit. Such a member shall have the right to again retire if eligible in accordance with this chapter. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy. [2023 c 99 § 1; 2011 1st sp.s. c 47 § 17; 2005 c 327 § 6; 2004 c 242 § 8.]

**Effective date—2023 c 99:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 14, 2023]." [2023 c 99 § 3.]

**Intent—Effective dates—2011 1st sp.s. c 47:** See notes following RCW 28B.10.400.

**Effective date—2005 c 327 §§ 4-7:** See note following RCW 41.37.010.

**RCW 41.37.060 Duty disability retirement recipients—Continued service credit.** Those members subject to this chapter who became disabled in the line of duty and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

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

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

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

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

(5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. Service credit shall not be granted until the employee contribution has been paid.

(6) The service and compensation credit shall not be granted for a period to exceed twenty-four consecutive months.

(7) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right. [2007 c 49 § 4; 2004 c 242 § 9.]

**RCW 41.37.070 Members agree to deductions.** The deductions from the compensation of members, provided for in RCW 41.37.220, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed

to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment, less the deductions, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for under this chapter. [2004 c 242 § 10.]

**RCW 41.37.080 Employer's contribution—Computation—Billing.** (1)

The director shall report to each employer the contribution rates required for the ensuing biennium or fiscal year, whichever is applicable.

(2) Beginning July 1, 2006, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established in chapter 41.45 RCW to the total compensation earnable of employer's members as shown on the current payrolls of the employer. Each employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill that employer for the employer's contribution together with the charges the director deems appropriate in accordance with RCW 41.50.120. This billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to the employer for payment of current biennial payrolls. [2004 c 242 § 11.]

**RCW 41.37.090 Exemption from taxation and judicial process—Exemptions—Assignability—Deductions authorized.** (1)

Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, whether the same be in actual possession of the person or be deposited or loaned and shall be unassignable.

(2) This section does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section also does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more retired employees have authorized the

deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section does not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to \*RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [2012 c 159 § 25; 2004 c 242 § 12.]

**\*Reviser's note:** RCW 26.23.060 was amended by 2021 c 35 § 15, changing "notice of payroll deduction" to "income withholding order."

**RCW 41.37.100 Disability retirement—Criminal conduct.** A member shall not receive a disability retirement benefit under RCW 41.37.230 if the disability is the result of criminal conduct by the member committed after July 1, 2006. [2004 c 242 § 13.]

**RCW 41.37.110 Death benefit—Course of employment—Occupational disease or infection.** (1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or the person or persons, trust, or organization the member has nominated by written designation duly executed and filed with the department. If the designated person or persons are not still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of (a) injuries sustained in the course of employment; or (b) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050. [2007 c 487 § 5; 2004 c 242 § 14.]

**RCW 41.37.120 False statements—Penalty.** Any person who knowingly makes any false statements, or falsifies or permits to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such an act, is guilty of a gross misdemeanor. [2004 c 242 § 15.]

**RCW 41.37.130 Hearing prior to appeal required—Notice.** Any person aggrieved by any decision of the department affecting his or her legal rights, duties, or privileges must, before he or she appeals to the courts, file with the director by mail or personally within sixty days from the day the decision was communicated to the person, a

notice for a hearing before the director's designee. The notice of hearing shall set forth in full detail the grounds upon which the person considers the decision unjust or unlawful and shall include every issue to be considered by the department, and it must contain a detailed statement of facts upon which the person relies in support of the appeal. These persons shall be deemed to have waived all objections or irregularities concerning the matter on which the appeal is taken, other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system. [2004 c 242 § 16.]

**RCW 41.37.135 Hearing prior to appeal required—Conduct of hearing.** Following its receipt of a notice for hearing in accordance with RCW 41.37.130, a hearing shall be held by the director or an authorized representative, in the county of the residence of the claimant at a time and place designated by the director. This hearing shall be conducted and governed in all respects by chapter 34.05 RCW. [2004 c 242 § 17.]

**RCW 41.37.140 Judicial review of final decision.** Judicial review of any final decision and order by the director is governed by chapter 34.05 RCW. [2004 c 242 § 18.]

**RCW 41.37.145 Appeal—No bond required.** A bond of any kind shall not be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the department affecting the claimant's right to retirement or disability benefits. [2004 c 242 § 19.]

**RCW 41.37.150 Effect of certain accumulated vacation leave on retirement benefits.** RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [2004 c 242 § 20.]

**RCW 41.37.155 Benefit calculation—Limitation.** (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [2004 c 242 § 21.]

**RCW 41.37.160 Postretirement cost-of-living.** Beginning July 1, 2006, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

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

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

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

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

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

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

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

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

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [2004 c 242 § 22.]

**RCW 41.37.170 Options for payment of retirement allowances—**

**Court-approved property settlement.** (1) Upon retirement for service as prescribed in RCW 41.37.210 or retirement for disability under RCW 41.37.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. If the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the retiree nominated by written designation duly executed and filed with the department; or if there is no designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there is neither a designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

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

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

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

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

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

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

(3) The department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

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

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

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

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

(4) The department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.37.210 and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.37.210(1) and after filing a written application with the department.

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

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions

subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(5) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (5) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only. [2020 c 161 § 5; 2019 c 102 § 6; 2004 c 242 § 23.]

**RCW 41.37.180 Suspension of retirement allowance upon reemployment—Exceptions—Reinstatement.** (1) Except as provided in RCW 41.37.050, a retiree shall not be eligible to receive the retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.37.010, or RCW 41.35.010, 41.40.010, or 41.32.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.37.020(2)(b) is not subject to this section if the retiree's only employment is as an elective official.

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

(3) The department shall adopt rules implementing this section. [2004 c 242 § 24.]

**RCW 41.37.190 Computation of retirement allowance.** A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each service credit year of service. [2004 c 242 § 25.]

**RCW 41.37.200 Lump sum retirement allowance—Reentry—Reinstatement of service.** (1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary, subject to subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.37.190 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of the monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

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

(3) Persons covered under subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to rereading, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations under subsection (3) of this section, reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.37.210 or an earned disability allowance under RCW 41.37.230 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [2004 c 242 § 26.]

**RCW 41.37.210 Retirement eligibility.** (1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to RCW 41.37.190.

(2) UNREDUCED RETIREMENT. Any member who has completed at least ten service credit years in the public safety employees' retirement system and has attained age sixty shall be eligible to retire and to receive a retirement allowance computed according to RCW 41.37.190.

(3) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-three shall be eligible to retire and to receive a retirement allowance computed according to RCW 41.37.190, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty. [2004 c 242 § 27.]

**RCW 41.37.220 Employer and member contribution rates.** The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the

amount of employer contributions to be deposited in the plan 2 fund from the total employer contributions collected under RCW 41.37.080.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except under this section. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

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

A member's contributions required by this section shall be deducted from the member's compensation earnable each payroll period. The member's contribution and the employer's contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends. [2004 c 242 § 28.]

**RCW 41.37.230 Disability allowance—Actuarial reduction—Total disability in the line of duty—Disposition upon death of recipient.**

(1)(a) A member of the retirement system with at least ten years of service in the public safety employees' retirement system who becomes totally incapacitated for continued employment as an employee by an employer, as determined by the department, shall be eligible to receive an allowance under RCW 41.37.190 through 41.37.290. The member shall receive a monthly disability allowance computed as provided for in RCW 41.37.190 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty, except under subsection (3) of this section.

(b) A member of the retirement system with less than ten years of service who becomes totally incapacitated for continued employment by an employer, as determined by the department, shall be eligible to receive an allowance under RCW 41.37.190 through 41.37.290. The member shall receive a monthly disability allowance computed as provided for in RCW 41.37.190 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

(2) Any member who receives an allowance under this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(3)(a) A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to 70 percent of the member's final average salary. The allowance provided under this section shall be offset by:

- (i) Temporary disability wage-replacement benefits or permanent total disability benefits provided to the member under Title 51 RCW; and
- (ii) Federal social security disability benefits, if any;

so that such an allowance does not result in the member receiving combined benefits that exceed 100 percent of the member's final average salary. However, the offsets shall not in any case reduce the allowance provided under this subsection below the member's accrued retirement allowance.

(b) A member is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least 12 months. Substantial gainful activity is defined as average earnings in excess of \$860 a month in 2006 adjusted annually as determined by the director based on federal social security disability standards. The department may require a person in receipt of an allowance under this subsection to provide any financial records that are necessary to determine continued eligibility for such an allowance. A person in receipt of an allowance under this subsection whose earnings exceed the threshold for substantial gainful activity shall have their benefit converted to a disability retirement allowance as provided in subsection (1) of this section.

(c) Any person in receipt of an allowance under the provisions of this section is subject to comprehensive medical examinations as may be required by the department under subsection (2) of this section in order to determine continued eligibility for such an allowance.

(4) If the recipient of a monthly allowance under this section dies before the total of the allowance payments equal the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the recipient has nominated by written designation duly executed and filed with the director. If there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative. [2022 c 22 § 1; 2004 c 242 § 29.]

**RCW 41.37.240 Application for and effective date of retirement allowances.** Any member or beneficiary eligible to receive a retirement allowance under RCW 41.37.210, 41.37.230, or 41.37.250 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under RCW 41.37.210 shall accrue from the first day of the calendar month immediately following the member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for an allowance pursuant to RCW 41.37.210, shall accrue from the first day of the calendar month immediately following the qualification.

(3) Disability allowances paid to disabled members under RCW 41.37.230 shall accrue from the first day of the calendar month immediately following the member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under RCW 41.37.250 shall accrue from the first day of the calendar month immediately following the member's death. [2004 c 242 § 30.]

**RCW 41.37.250 Death benefits.** (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to that member's credit in the retirement system at the time of the member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or the person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the member's accumulated contributions standing to the member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact that spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

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

(a) A retirement allowance computed as provided for in RCW 41.37.210, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.37.170 and, except under subsection (4) of this section, if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.37.210; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then the child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until the child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, the member's child or children under the age of majority shall receive an allowance, share and share alike, calculated under this section making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

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

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

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

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

(4) A member who is killed in the course of employment, as determined by the director of the department of labor and industries,

or a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to reduction under RCW 41.37.210. The member's retirement allowance is computed under RCW 41.37.190. [2009 c 226 § 10; 2005 c 327 § 7; 2004 c 242 § 31.]

**Effective date—2005 c 327 §§ 4-7:** See note following RCW 41.37.010.

**RCW 41.37.260 Leaves of absence, military service.** (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under RCW 41.37.190 through 41.37.290.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. This credit may be obtained only if:

(a) The member makes both the employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner; or

(b) If not within five years of resumption of service but prior to retirement, pay the amount required under RCW 41.50.165(2).

The contributions required under (a) of this subsection shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

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

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

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

(ii) The member makes the employee contributions required under RCW 41.37.220 within five years of resumption of service or prior to retirement, whichever comes sooner; or

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

(iv) Prior to retirement the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(b) Upon receipt of member contributions under (a)(ii), (d)(iii), or (e)(iii) of this subsection, or adequate proof under (a)(iv), (d)(iv), or (e)(iv) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.37.220 for the period of military service, plus interest as determined by the department.

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

(d) The surviving spouse or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States and died while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in the uniformed services. The department shall establish the deceased member's service credit if the surviving spouse or eligible child or children:

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

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

(iii) Pays the employee contributions required under chapter 41.45 RCW within five years of the date of death or prior to the distribution of any benefit, whichever comes first; or

(iv) Prior to the distribution of any benefit, provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. If the deceased member made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005, the surviving spouse or eligible child or children may, prior to the distribution of any benefit and on a form provided by the department, request a refund of the funds standing to the deceased member's credit for up to five years of such service, and this amount shall be paid to the surviving spouse or children. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

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

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

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

(iii) The member pays the employee contributions required under chapter 41.45 RCW within five years of the director's determination of total disability or prior to the distribution of any benefit, whichever comes first; or

(iv) Prior to retirement the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a period of war may receive no more than five years of free retirement system service credit under this subsection. [2009 c 205 § 3; 2005 c 64 § 11; 2004 c 242 § 32.]

**Effective date—2005 c 64 § 11:** "Section 11 of this act takes effect July 1, 2006." [2005 c 64 § 12.]

**RCW 41.37.265 Purchase of additional service credit—Costs—**

**Rules.** (1) A member eligible to retire under RCW 41.37.210 may, at the time of filing a written application for retirement with the department, apply to the department to make a one-time purchase of up to five years of additional service credit.

(2) To purchase additional service credit under this section, a member shall pay the actuarial equivalent value of the resulting increase in the member's benefit.

(3) Subject to rules adopted by the department, a member purchasing additional service credit under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(4) Additional service credit purchased under this section is not membership service and shall be used exclusively to provide the member

with a monthly annuity that is paid in addition to the member's retirement allowance. [2006 c 214 § 4.]

**Effective date—2006 c 214:** See note following RCW 41.40.034.

**RCW 41.37.270 Vested membership.** A member who separates or has separated after having completed at least five years of service may remain a member during the period of the member's absence from service for the exclusive purpose only of receiving a retirement allowance under RCW 41.37.210 if the member maintains the member's accumulated contributions intact. [2004 c 242 § 33.]

**RCW 41.37.280 Refund of contributions.** A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.37.190 through 41.37.290. [2004 c 242 § 34.]

**RCW 41.37.290 Reentry.** (1) A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

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

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid. [2004 c 242 § 35.]

**RCW 41.37.295 Purchase of life annuity benefit.** (1) At the time of retirement, a plan 2 member may purchase an optional actuarially equivalent life annuity benefit from the public safety employees' retirement system plan 2 fund established in RCW 41.50.075. A minimum payment of five thousand dollars is required.

(2) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service.

The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) For the purposes of this subsection (2), "eligible retirement plan" means a tax qualified plan offered by a governmental employer.

(3) The legislature reserves the right to amend or repeal this section in the future. [2019 c 189 § 2.]

**Effective date—2019 c 189:** See note following RCW 41.40.131.

**RCW 41.37.300 Election to transfer public employees' retirement system service credit—Eligibility—Retroactive to July 1, 2006.** (1)

An employee [All employees] may elect to have their public employees' retirement system service credit transferred to the public safety employees' retirement system if:

(a) They worked under a written employment contract prior to January 1, 2017, that defined full-time as less than one hundred sixty hours per month;

(b) Other than the full-time requirement under RCW 41.37.010(19), [they] have met all membership requirements for the public safety employees' retirement system under RCW 41.37.010(19);

(c) Their employer incorrectly reported the employee's service in the public safety employees' retirement system instead of the public employees' retirement system; and

(d) All contributions required for past periods of service established under this subsection are paid to the department, as follows:

(i) A member who elects to transfer service credit under this subsection shall pay, for the applicable period of service, the difference between the contributions the employee paid to the public employees' retirement system and the contributions that would have been paid by the employee had the employee been a member of the public safety employees' retirement system.

(ii) Employer contributions shall be paid by the employer and calculated by the department equal to the difference between the contributions the employer paid to the public employees' retirement system and the contributions that would have been paid by the employer had the employee been a member of the public safety employees' retirement system.

(2) This section applies retroactively to July 1, 2006.

(3) All employees who elect to have their public employees' retirement system service credit transferred to the public safety employees' retirement system under this section shall continue to have their service credit reported in the public safety employees' retirement system so long as:

(a) They remain with their current employer in an otherwise public safety employees' retirement system eligible position; and

(b) [They] Continue to work under a written employment contract that defines full-time as less than one hundred sixty hours per month, but at least one hundred forty hours per month. [2017 c 143 § 2.]

**Intent—2017 c 143:** "Since the establishment of the public safety employees' retirement system in 2006, some employees have been

reported by employers as members of that retirement system even though they did not work what is normally considered full-time for the purposes of determining plan membership under RCW 41.37.010(19) due to written employment agreements that defined full-time differently. As a result, some employees who believed they were in the public safety employees' retirement system have been, or will be, moved into the public employees' retirement system that has different plan provisions and, generally, a later retirement date. The legislature intends that section 2 of this act only applies to those employees who believed they were in the public safety employees' retirement system and have been, or will be, moved into the public employees' retirement system, as described in this section." [2017 c 143 § 1.]

**RCW 41.37.301 Election to transfer public employees' retirement system service credit—Certain employees providing nursing care.** (1)

An employee of an employer as defined in RCW 41.37.010(12) who was a member of the public employees' retirement system plan 2 or plan 3 before January 1, 2019, and on January 1, 2019, meets the eligibility requirements as set forth in RCW 41.37.010(19) has the following options during the election period defined in subsection (2) of this section:

(a) Remain in the public employees' retirement system; or

(b) Become a member of the public safety employees' retirement system plan 2 and be a dual member as provided in chapter 41.54 RCW, and public employees' retirement system service credit may not be transferred to the public safety employees' retirement system.

(2) The "election period" is the period between January 1, 2019, and March 1, 2019.

(3) During the election period, employees who are employed by an employer as defined in RCW 41.37.010(12) remain members of the public employees' retirement system plan 2 or plan 3 until they elect to join the public safety employees' retirement system. Members who elect to join the public safety employees' retirement system as described in this section will have their membership begin prospectively from the date of their election.

(4) If after March 1, 2019, the member has not made an election to join the public safety employees' retirement system, he or she will remain in the public employees' retirement system plan 2 or plan 3.

(5) An employee who was a member of the public employees' retirement system plan 1 on or before January 1, 2019, and on or after January 1, 2019, is employed by an employer as defined in RCW 41.37.010(12) as an employee who meets the eligibility requirements included in RCW 41.37.010(19), shall remain a member of the public employees' retirement system plan 1.

(6) All new employees hired on or after January 1, 2019, who become employed by an employer as defined in RCW 41.37.010(12) as an employee who meets the eligibility requirements included in RCW 41.37.010(19) will become members of the public safety employees' retirement system. [2018 c 241 § 2.]

**RCW 41.37.305 Public safety telecommunicators—Transfer from public employees' retirement system—Election period. (Effective June 1, 2024.)** (1) An employee of an employer as defined in RCW 41.37.010 who was a member of the public employees' retirement system plan 2 or

plan 3 before June 1, 2024, and on June 1, 2024, meets the eligibility requirements as set forth in RCW 41.37.010(19)(f) has the following options during the election period defined in subsection (2) of this section:

(a) To remain in the public employees' retirement system in their current plan; or

(b) To become a member of the public safety employees' retirement system plan 2 and be a dual member as provided in chapter 41.54 RCW. Any service credit the employee accrued in the public employees' retirement system service credit may not be transferred to the public safety employees' retirement system.

(2) The "election period" is the period between January 1, 2024, and March 1, 2024.

(3) During the election period, employees who are employed by an employer as defined in RCW 41.37.010 remain members of the public employees' retirement system plan 2 or plan 3 until they affirmatively elect to join the public safety employees' retirement system. Members who elect to join the public safety employees' retirement system as described in this section will have their membership begin prospectively from the date of their election.

(4) If, after September 1, 2024, the member has not made an election to join the public safety employees' retirement system, he or she will remain in his or her current plan in the public employees' retirement system.

(5) An employee who was a member of the public employees' retirement system plan 1 on or before June 1, 2019, and on or after June 1, 2024, is employed by an employer as defined in RCW 41.37.010 as an employee who meets the eligibility requirements included in RCW 41.37.010(19)(f), shall remain a member of the public employees' retirement system plan 1.

(6) All new employees hired on or after June 1, 2024, who become employed by an employer as defined in RCW 41.37.010 as an employee who meets the eligibility requirements included in RCW 41.37.010(19)(f) will become members of the public safety employees' retirement system. [2023 c 199 § 4.]

**Intent—Effective date—2023 c 199:** See notes following RCW 41.37.010.

**RCW 41.37.900 Benefits not contractual right until July 1, 2006.** The benefits provided pursuant to chapter 242, Laws of 2004 are not provided to employees as a matter of contractual right prior to July 1, 2006. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 2006. [2004 c 242 § 66.]

**RCW 41.37.901 Effective date—2004 c 242.** This act takes effect July 1, 2006. [2004 c 242 § 65.]

**RCW 41.37.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.** For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or

individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 98.]

**Effective dates—2009 c 521 §§ 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192:** See note following RCW 2.10.900.