
SUBSTITUTE SENATE BILL 5174

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Pridemore and Schoesler; by request of Select Committee on Pension Policy)

READ FIRST TIME 02/01/07.

1 AN ACT Relating to corrections in the public retirement systems;
2 amending RCW 41.04.410, 41.04.440, 41.04.445, 41.04.450, 41.05.320,
3 41.24.400, 41.26.080, 41.26.195, 41.31A.020, 41.37.010, and 41.45.203;
4 reenacting and amending RCW 6.15.020; and creating a new section.

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

6 **Sec. 1.** RCW 6.15.020 and 1999 c 81 s 1 and 1999 c 42 s 603 are
7 each reenacted and amended to read as follows:

8 (1) It is the policy of the state of Washington to ensure the well-
9 being of its citizens by protecting retirement income to which they are
10 or may become entitled. For that purpose generally and pursuant to the
11 authority granted to the state of Washington under 11 U.S.C. Sec.
12 522(b)(2), the exemptions in this section relating to retirement
13 benefits are provided.

14 (2) Unless otherwise provided by federal law, any money received by
15 any citizen of the state of Washington as a pension from the government
16 of the United States, whether the same be in the actual possession of
17 such person or be deposited or loaned, shall be exempt from execution,
18 attachment, garnishment, or seizure by or under any legal process
19 whatever, and when a debtor dies, or absconds, and leaves his or her

1 family any money exempted by this subsection, the same shall be exempt
2 to the family as provided in this subsection. This subsection shall
3 not apply to child support collection actions issued under chapter
4 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

5 (3) The right of a person to a pension, annuity, or retirement
6 allowance or disability allowance, or death benefits, or any optional
7 benefit, or any other right accrued or accruing to any citizen of the
8 state of Washington under any employee benefit plan, and any fund
9 created by such a plan or arrangement, shall be exempt from execution,
10 attachment, garnishment, or seizure by or under any legal process
11 whatever. This subsection shall not apply to child support collection
12 actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise
13 permitted by federal law. This subsection shall permit benefits under
14 any such plan or arrangement to be payable to a spouse, former spouse,
15 child, or other dependent of a participant in such plan to the extent
16 expressly provided for in a qualified domestic relations order that
17 meets the requirements for such orders under the plan, or, in the case
18 of benefits payable under a plan described in sections 403(b) or 408 of
19 the internal revenue code of 1986, as amended, or section 409 of such
20 code as in effect before January 1, 1984, to the extent provided in any
21 order issued by a court of competent jurisdiction that provides for
22 maintenance or support. This subsection shall not prohibit actions
23 against an employee benefit plan, or fund for valid obligations
24 incurred by the plan or fund for the benefit of the plan or fund.

25 (4) For the purposes of this section, the term "employee benefit
26 plan" means any plan or arrangement that is described in RCW 49.64.020,
27 including any Keogh plan, whether funded by a trust or by an annuity
28 contract, and in sections 401(a) or 403(a) of the internal revenue code
29 of 1986, as amended; or that is a tax-sheltered annuity described in
30 section 403(b) of such code or an individual retirement account
31 described in section 408 of such code; or a Roth individual retirement
32 account described in section 408A of such code; or a medical savings
33 account described in section 220 of such code; or an education
34 individual retirement account described in section 530 of such code; or
35 a retirement bond described in section 409 of such code as in effect
36 before January 1, 1984. The term "employee benefit plan" also means
37 any rights accruing on account of money paid currently or in advance
38 for purchase of tuition units under the advanced college tuition

1 payment program in chapter 28B.95 RCW. The term "employee benefit
2 plan" shall not include any employee benefit plan that is established
3 or maintained for its employees by the government of the United States,
4 by the state of Washington under chapter 2.10, 2.12, 41.26, 41.32,
5 41.34, 41.35, 41.37, 41.40, or 43.43 RCW or RCW 41.50.770, or by any
6 agency or instrumentality of the government of the United States.

7 (5) An employee benefit plan shall be deemed to be a spendthrift
8 trust, regardless of the source of funds, the relationship between the
9 trustee or custodian of the plan and the beneficiary, or the ability of
10 the debtor to withdraw or borrow or otherwise become entitled to
11 benefits from the plan before retirement. This subsection shall not
12 apply to child support collection actions issued under chapter 26.18,
13 26.23, or 74.20A RCW, if otherwise permitted by federal law. This
14 subsection shall permit benefits under any such plan or arrangement to
15 be payable to a spouse, former spouse, child, or other dependent of a
16 participant in such plan to the extent expressly provided for in a
17 qualified domestic relations order that meets the requirements for such
18 orders under the plan, or, in the case of benefits payable under a plan
19 described in sections 403(b) or 408 of the internal revenue code of
20 1986, as amended, or section 409 of such code as in effect before
21 January 1, 1984, to the extent provided in any order issued by a court
22 of competent jurisdiction that provides for maintenance or support.

23 (6) Unless contrary to applicable federal law, nothing contained in
24 subsection (3), (4), or (5) of this section shall be construed as a
25 termination or limitation of a spouse's community property interest in
26 an individual retirement account held in the name of or on account of
27 the other spouse, the account holder spouse. At the death of the
28 nonaccount holder spouse, the nonaccount holder spouse may transfer or
29 distribute the community property interest of the nonaccount holder
30 spouse in the account holder spouse's individual retirement account to
31 the nonaccount holder spouse's estate, testamentary trust, inter vivos
32 trust, or other successor or successors pursuant to the last will of
33 the nonaccount holder spouse or the law of intestate succession, and
34 that distributee may, but shall not be required to, obtain an order of
35 a court of competent jurisdiction, including a nonjudicial dispute
36 resolution agreement (~~entered into pursuant to RCW 11.96.170~~) or
37 other order entered under chapter 11.96A RCW, to confirm the
38 distribution. For purposes of subsection (3) of this section, the

1 distributee of the nonaccount holder spouse's community property
2 interest in an individual retirement account shall be considered a
3 person entitled to the full protection of subsection (3) of this
4 section. The nonaccount holder spouse's consent to a beneficiary
5 designation by the account holder spouse with respect to an individual
6 retirement account shall not, absent clear and convincing evidence to
7 the contrary, be deemed a release, gift, relinquishment, termination,
8 limitation, or transfer of the nonaccount holder spouse's community
9 property interest in an individual retirement account. For purposes of
10 this subsection, the term "nonaccount holder spouse" means the spouse
11 of the person in whose name the individual retirement account is
12 maintained. The term "individual retirement account" includes an
13 individual retirement account and an individual retirement annuity both
14 as described in section 408 of the internal revenue code of 1986, as
15 amended, a Roth individual retirement account as described in section
16 408A of the internal revenue code of 1986, as amended, and an
17 individual retirement bond as described in section 409 of the internal
18 revenue code as in effect before January 1, 1984. As used in this
19 subsection, an order of a court of competent jurisdiction includes an
20 agreement, as that term is used under RCW 11.96A.220.

21 **Sec. 2.** RCW 41.04.410 and 1984 c 184 s 24 are each amended to read
22 as follows:

23 If a consolidated employer is a participating member in the public
24 employees' retirement system under chapter 41.40 RCW prior to the
25 consolidation or in the public safety employees' retirement system
26 under chapter 41.37 RCW prior to the consolidation:

27 (1) All existing employees of the consolidated employer who are
28 active members of the public employees' or public safety employees'
29 retirement system immediately prior to the consolidation shall continue
30 to be members of that retirement system while employed by the
31 consolidated employer.

32 (2) All existing employees of the consolidated employer who are
33 active members of a first class city retirement system under chapter
34 41.28 RCW immediately prior to the consolidation shall cease to be
35 members of that system at the time of the consolidation and, if
36 eligible, shall immediately become members of the public employees' or
37 public safety employees' retirement system. However, any such active

1 member may, by a writing filed with the consolidated employer within
2 thirty days after the consolidation or within thirty days after March
3 15, 1984, whichever is later, irrevocably elect instead to continue to
4 be a member of the first class city retirement system, thereby forever
5 waiving any rights under the public employees' or public safety
6 employees' retirement system based upon employment with the
7 consolidated employer.

8 (3) Only prospective periods of qualifying service under the public
9 employees' or public safety employees' retirement system may be
10 established under this section.

11 **Sec. 3.** RCW 41.04.440 and 2000 c 247 s 1101 are each amended to
12 read as follows:

13 (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the
14 members of the retirement systems created in chapters 2.10, 2.12,
15 41.26, 41.32, 41.35, 41.37, 41.40, 41.34, and 43.43 RCW to enjoy the
16 tax deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227,
17 Laws of 1984 does not alter in any manner the provisions of RCW
18 41.45.060, 41.45.061, and 41.45.067 which require that the member
19 contribution rates shall be set so as to provide fifty percent of the
20 cost of the respective retirement plans.

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

24 **Sec. 4.** RCW 41.04.445 and 2000 c 247 s 1102 are each amended to
25 read as follows:

26 (1) This section applies to all members who are:

27 (a) Judges under the retirement system established under chapter
28 2.10, 2.12, or 2.14 RCW;

29 (b) Employees of the state under the retirement system established
30 by chapter 41.32, 41.37, 41.40, or 43.43 RCW;

31 (c) Employees of school districts under the retirement system
32 established by chapter 41.32 or 41.40 RCW, except for substitute
33 teachers as defined by RCW 41.32.010;

34 (d) Employees of educational service districts under the retirement
35 system established by chapter 41.32 or 41.40 RCW; or

1 (e) Employees of community college districts under the retirement
2 system established by chapter 41.32 or 41.40 RCW.

3 (2) Only for compensation earned after the effective date of the
4 implementation of this section and as provided by section 414(h) of the
5 federal internal revenue code, the employer of all the members
6 specified in subsection (1) of this section shall pick up only those
7 member contributions as required under:

8 (a) RCW 2.10.090(1);

9 (b) RCW 2.12.060;

10 (c) RCW 2.14.090;

11 (d) RCW 41.32.263;

12 (e) RCW 41.32.350;

13 (f) RCW 41.40.330 (1) and (3);

14 (g) RCW 41.45.061 and 41.45.067;

15 (h) RCW 41.34.070;

16 (i) RCW 43.43.300; and

17 (j) RCW 41.34.040.

18 (3) Only for the purposes of federal income taxation, the gross
19 income of the member shall be reduced by the amount of the contribution
20 to the respective retirement system picked up by the employer.

21 (4) All member contributions to the respective retirement system
22 picked up by the employer as provided by this section, plus the accrued
23 interest earned thereon, shall be paid to the member upon the
24 withdrawal of funds or lump-sum payment of accumulated contributions as
25 provided under the provisions of the retirement systems.

26 (5) At least forty-five days prior to implementing this section,
27 the employer shall provide:

28 (a) A complete explanation of the effects of this section to all
29 members; and

30 (b) Notification of such implementation to the director of the
31 department of retirement systems.

32 **Sec. 5.** RCW 41.04.450 and 2003 c 294 s 1 are each amended to read
33 as follows:

34 (1) Employers of those members under chapters 41.26, 41.34, 41.35,
35 41.37, and 41.40 RCW who are not specified in RCW 41.04.445 may choose
36 to implement the employer pick up of all member contributions without
37 exception under RCW 41.26.080(1)(a), 41.26.450, 41.40.330(1),

1 41.45.060, 41.45.061, and 41.45.067 and chapter 41.34 RCW. If the
2 employer does so choose, the employer and members shall be subject to
3 the conditions and limitations of RCW 41.04.445 (3), (4), and (5) and
4 RCW 41.04.455.

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

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

12 (1) Elected officials and all permanent employees of the state are
13 eligible to participate in the benefits contribution plan and
14 contribute amount(s) by agreement with the authority. The authority
15 may adopt rules to permit participation in the plan by temporary
16 employees of the state.

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

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

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

30 (c) Once an eligible person elects to participate and the amount of
31 gross salary that he or she shall contribute and the benefit for which
32 the funds are to be used during the plan year is determined, the
33 agreement shall be irrevocable and may not be amended during the plan
34 year except as provided in (d) of this subsection. Prior to making an
35 election to participate in the (~~benefit[s]~~) benefits contribution
36 plan, the eligible person shall be informed in writing of all the

1 benefits and contributions that will occur as a result of such
2 election.

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

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

13 (5) Any contribution under the benefits contribution plan shall
14 continue to be included as reportable compensation for the purpose of
15 computing the state retirement and pension benefits earned by the
16 employee pursuant to chapters 41.26, 41.32, 41.35, 41.37, 41.40, and
17 43.43 RCW.

18 **Sec. 7.** RCW 41.24.400 and 1999 c 148 s 31 are each amended to read
19 as follows:

20 (1) Except as provided in subsection (2) of this section, any
21 municipality may make provision by appropriate legislation and payment
22 of fees required by RCW 41.24.030(1) solely for the purpose of enabling
23 any reserve officer to enroll under the retirement pension provisions
24 of this chapter or fees required under RCW 41.24.030(1) to pay for the
25 costs of extending the relief provisions of this chapter to its reserve
26 officers.

27 (2) A reserve officer is not eligible to receive a benefit under
28 the retirement provisions of this chapter for service under chapter
29 41.26, 41.32, 41.35, 41.37, or 41.40 RCW.

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

34 (4) Except as provided under RCW 41.24.450, a reserve officer is
35 not eligible to receive a benefit under the relief provisions of this
36 chapter.

1 **Sec. 8.** RCW 41.26.080 and 2000 2nd sp.s. c 1 s 907 are each
2 amended to read as follows:

3 (1) Except as set forth under subsection (2) of this section, the
4 total liability of the plan 1 system shall be funded as follows:

5 (a) Every plan 1 member shall have deducted from each payroll a sum
6 equal to six percent of his or her basic salary for each pay period.

7 (b) Every employer shall contribute monthly a sum equal to six
8 percent of the basic salary of each plan 1 employee who is a member of
9 this retirement system. The employer shall transmit the employee and
10 employer contributions with a copy of the payroll to the retirement
11 system monthly.

12 (c) The remaining liabilities of the plan 1 system shall be funded
13 as provided in chapter 41.45 RCW.

14 (d) Every member shall be deemed to consent and agree to the
15 contribution made and provided for herein, and shall receipt in full
16 for his or her salary or compensation. Payment less said contributions
17 shall be a complete discharge of all claims and demands whatsoever for
18 the services rendered by such person during the period covered by such
19 payments, except his or her claim to the benefits to which he or she
20 may be entitled under the provisions of this chapter.

21 (2) No employer or member contribution is required after June 30,
22 2000, unless the most recent valuation study for law enforcement
23 officers' and fire fighters' retirement system plan 1 indicates the
24 plan has unfunded liabilities. The legislature clarifies the enactment
25 of section 907, chapter 1, Laws of 2000 2nd sp. sess. and affirms the
26 suspension of employer and member contributions to plan 1 of the law
27 enforcement officers' and fire fighters' retirement system, effective
28 June 30, 2000, as provided in this subsection. The legislature intends
29 this 2007 amendment of this subsection to be curative, remedial, and
30 retrospectively applicable to June 30, 2000.

31 **Sec. 9.** RCW 41.26.195 and 2003 c 294 s 2 are each amended to read
32 as follows:

33 Any member of the teachers' retirement system plans 1, 2, or 3, the
34 public employees' retirement system plans 1, 2, or 3, the public safety
35 employees' retirement system plan 2, the school employees' retirement
36 system plans 2 or 3, or the Washington state patrol retirement system
37 plans 1 or 2 who has previously established service credit in the law

1 enforcement officers' and fire fighters' retirement system plan 1 may
2 make an irrevocable election to have such service transferred to their
3 current retirement system and plan subject to the following conditions:

4 (1) If the individual is employed by an employer in an eligible
5 position, as of July 1, 1997, the election to transfer service must be
6 filed in writing with the department no later than July 1, 1998. If
7 the individual is not employed by an employer in an eligible position,
8 as of July 1, 1997, the election to transfer service must be filed in
9 writing with the department no later than one year from the date they
10 are employed by an employer in an eligible position.

11 (2) An individual transferring service under this section forfeits
12 the rights to all benefits as a member of the law enforcement officers'
13 and fire fighters' retirement system plan 1 and will be permanently
14 excluded from membership.

15 (3) Any individual choosing to transfer service under this section
16 will have transferred to their current retirement system and plan: (a)
17 All the individual's accumulated contributions; (b) an amount
18 sufficient to ensure that the employer contribution rate in the
19 individual's current system and plan will not increase due to the
20 transfer; and (c) all applicable months of service, as defined in RCW
21 41.26.030(14)(a).

22 (4) If an individual has withdrawn contributions from the law
23 enforcement officers' and fire fighters' retirement system plan 1, the
24 individual may restore the contributions, together with interest as
25 determined by the director, and recover the service represented by the
26 contributions for the sole purpose of transferring service under this
27 section. The contributions must be restored before the transfer can
28 occur and the restoration must be completed within the time limitations
29 specified in subsection (1) of this section.

30 (5) Any service transferred under this section does not apply to
31 the eligibility requirements for military service credit as defined in
32 RCW 41.40.170(3) or 43.43.260(3).

33 (6) If an individual does not meet the time limitations of
34 subsection (1) of this section, the individual may elect to restore any
35 withdrawn contributions and transfer service under this section by
36 paying the amount required under subsection (3)(b) of this section less
37 any employee contributions transferred.

1 **Sec. 10.** RCW 41.31A.020 and 2003 c 294 s 4 are each amended to
2 read as follows:

3 (1) On January 1, 2004, and on January 1st of even-numbered years
4 thereafter, the member account of a person meeting the requirements of
5 this section shall be credited by the extraordinary investment gain
6 amount.

7 (2) The following persons shall be eligible for the benefit
8 provided in subsection (1) of this section:

9 (a) Any member of the teachers' retirement system plan 3, the
10 Washington school employees' retirement system plan 3, or the public
11 employees' retirement system plan 3 who earned service credit during
12 the twelve-month period from September 1st to August 31st immediately
13 preceding the distribution and had a balance of at least one thousand
14 dollars in their member account on August 31st of the year immediately
15 preceding the distribution; or

16 (b) Any person in receipt of a benefit pursuant to RCW 41.32.875,
17 41.35.680, or 41.40.820; or

18 (c) Any person who is a retiree pursuant to RCW 41.34.020(8) and
19 who:

20 (i) Completed ten service credit years; or

21 (ii) Completed five service credit years, including twelve service
22 months after attaining age (~~(fifty-four)~~) forty-four; or

23 (d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and
24 who has completed five service credit years by July 1, 1996, under plan
25 2 and who transferred to plan 3 under RCW 41.32.817; or

26 (e) Any classified employee who is a retiree pursuant to RCW
27 41.34.020(8) and who has completed five service credit years by
28 September 1, 2000, and who transferred to plan 3 under RCW 41.35.510;
29 or

30 (f) Any public employee who is a retiree pursuant to RCW
31 41.34.020(8) and who has completed five service credit years by March
32 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

33 (g) Any person who had a balance of at least one thousand dollars
34 in their member account on August 31st of the year immediately
35 preceding the distribution and who:

36 (i) Completed ten service credit years; or

37 (ii) Completed five service credit years, including twelve service
38 months after attaining age (~~(fifty-four)~~) forty-four; or

1 (h) Any teacher who had a balance of at least one thousand dollars
2 in their member account on August 31st of the year immediately
3 preceding the distribution and who has completed five service credit
4 years by July 1, 1996, under plan 2 and who transferred to plan 3 under
5 RCW 41.32.817; or

6 (i) Any classified employee who had a balance of at least one
7 thousand dollars in their member account on August 31st of the year
8 immediately preceding the distribution and who has completed five
9 service credit years by September 1, 2000, and who transferred to plan
10 3 under RCW 41.35.510; or

11 (j) Any public employee who had a balance of at least one thousand
12 dollars in their member account on August 31st of the year immediately
13 preceding the distribution and who has completed five service credit
14 years by March 1, 2002, and who transferred to plan 3 under RCW
15 41.40.795.

16 (3) The extraordinary investment gain amount shall be calculated as
17 follows:

18 (a) One-half of the sum of the value of the net assets held in
19 trust for pension benefits in the teachers' retirement system combined
20 plan 2 and 3 fund, the Washington school employees' retirement system
21 combined plan 2 and 3 fund, and the public employees' retirement system
22 combined plan 2 and 3 fund at the close of the previous state fiscal
23 year not including the amount attributable to member accounts;

24 (b) Multiplied by the amount which the compound average of
25 investment returns on those assets over the previous four state fiscal
26 years exceeds ten percent;

27 (c) Multiplied by the proportion of:

28 (i) The sum of the service credit on August 31st of the previous
29 year of all persons eligible for the benefit provided in subsection (1)
30 of this section; to

31 (ii) The sum of the service credit on August 31st of the previous
32 year of:

33 (A) All persons eligible for the benefit provided in subsection (1)
34 of this section;

35 (B) Any person who earned service credit in the teachers'
36 retirement system plan 2, the Washington school employees' retirement
37 system plan 2, or the public employees' retirement system plan 2 during

1 the twelve-month period from September 1st to August 31st immediately
2 preceding the distribution;

3 (C) Any person in receipt of a benefit pursuant to RCW 41.32.765,
4 41.35.420, or 41.40.630; and

5 (D) Any person with five or more years of service in the teachers'
6 retirement system plan 2, the Washington school employees' retirement
7 system plan 2, or the public employees' retirement system plan 2;

8 (d) Divided proportionally among persons eligible for the benefit
9 provided in subsection (1) of this section on the basis of their
10 service credit total on August 31st of the previous year.

11 (4) The legislature reserves the right to amend or repeal this
12 section in the future and no member or beneficiary has a contractual
13 right to receive this distribution not granted prior to that time.

14 **Sec. 11.** RCW 41.37.010 and 2006 c 309 s 2 are each amended to read
15 as follows:

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

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

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

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

24 (4) "Employer" means the Washington state department of
25 corrections, the Washington state parks and recreation commission, the
26 Washington state gambling commission, the Washington state patrol, and
27 the Washington state liquor control board; any county corrections
28 department; any city corrections department not covered under chapter
29 41.28 RCW; or other employers employing statewide elective officials.

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

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

36 (b) Whose primary responsibility is to ensure the custody and

1 security of incarcerated or probationary individuals as a corrections
2 officer, probation officer, or jailer;

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

5 (d) Whose primary responsibility is to supervise members eligible
6 under this subsection.

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

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

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

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

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

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

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

37 (iv) Compensation that a member would have received but for a

1 disability occurring in the line of duty only as authorized by RCW
2 ((41.37.070)) 41.37.060;

3 (v) Compensation that a member receives due to participation in the
4 leave sharing program only as authorized by RCW 41.04.650 through
5 41.04.670; and

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

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

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

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

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

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

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

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

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

1 (12) "Regular interest" means such rate as the director may
2 determine.

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

7 (14) "Average final compensation" means the member's average
8 compensation earnable of the highest consecutive sixty months of
9 service credit months prior to such member's retirement, termination,
10 or death. Periods constituting authorized leaves of absence may not be
11 used in the calculation of average final compensation except under RCW
12 41.37.290.

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

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

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

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

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

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

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

33 (22) "Eligible position" means any permanent, full-time(~~(, fully~~
34 ~~compensated)~~) position included in subsection (5) of this section.

35 (23) "Ineligible position" means any position which does not
36 conform with the requirements set forth in subsection (22) of this
37 section.

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

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

7 (26) "Director" means the director of the department.

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

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

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

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

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

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

22 (33) "Adjustment ratio" means the value of index A divided by index
23 B.

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

26 **Sec. 12.** RCW 41.45.203 and 2006 c 189 s 18 are each amended to
27 read as follows:

28 (1) The required employer contribution rate in support of teachers'
29 retirement system members employed as supreme court justices, court of
30 appeals judges, and superior court judges who elect to participate
31 under RCW 41.32.584(1), or who are newly elected or appointed after
32 January 1, 2007, shall equal the teachers' retirement system employer
33 contribution rate established under this chapter.

34 (2) The required contribution rate for members of the teachers'
35 retirement system plan 1 employed as supreme court justices, court of
36 appeals judges, and superior court judges who elect to participate
37 under RCW 41.32.584(1), or who are newly elected or appointed after

1 January 1, 2007, shall be the deductions established under RCW
2 41.50.235 plus (~~six and twenty six~~) three and seventy-six one-
3 hundredths percent of pay.

4 NEW SECTION. **Sec. 13.** Section 10 of this act is null and void, if
5 legislation is enacted during 2007 repealing RCW 41.31A.020.

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