

Chapter 2.12 RCW
RETIREMENT OF JUDGES—RETIREMENT SYSTEM

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Judicial retirement system—1971 act: Chapter 2.10 RCW.

Retirement of judges: State Constitution Art. 4 s 3(a) (Amendment 25).

RCW 2.12.010 Retirement for service or age. Any judge of the supreme court, court of appeals, or superior court of the state of Washington who heretofore and/or hereafter shall have served as a judge of any such courts for eighteen years in the aggregate or who shall have served ten years in the aggregate and shall have attained the age of seventy years or more may, during or at the expiration of his or her term of office, in accordance with the provisions of this chapter, be retired and receive the retirement pay herein provided for. In computing such term of service, there shall be counted the time spent by such judge in active service in the armed forces of the United States of America, under leave of absence from his or her judicial duties as provided for under chapter 201, Laws of 1941: PROVIDED, HOWEVER, That in computing such credit for such service in the armed forces of the United States of America no allowance shall be made for service beyond the date of the expiration of the term for which such judge was elected. Any judge desiring to retire under the provisions of this section shall file with the director of retirement systems, a notice in duplicate in writing, verified by his or her

affidavit, fixing a date when he or she desires his or her retirement to commence, one copy of which the director shall forthwith file with the administrator for the courts. The notice shall state his or her name, the court or courts of which he or she has served as judge, the period of service thereon and the dates of such service. [2011 c 336 s 29; 1982 1st ex.s. c 52 s 2; 1973 c 106 s 4; 1971 c 30 s 1; 1943 c 221 s 1; 1937 c 229 s 1; Rem. Supp. 1943 s 11054-1.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1971 c 30: "The provisions of this 1971 amendatory act shall be construed in accordance with RCW 2.06.100 which provides for the retirement of judges of the court of appeals." [1971 c 30 s 7.]

Severability—1937 c 229: "If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional." [1937 c 229 s 10; RRS s 11054-10.] This applies to RCW 2.12.010, 2.12.020, 2.12.030, and 2.12.040 through 2.12.070.

RCW 2.12.012 Partial pension for less than eighteen years service—When authorized, amount. Any judge of the supreme court, court of appeals, or superior court of this state who shall leave judicial service at any time after having served as a judge of any of such courts for an aggregate of twelve years shall be eligible to a partial retirement pension in a percentage of the pension provided in this chapter as determined by the proportion his or her years of judicial service bears to eighteen and shall receive the same upon attainment of age seventy, or eighteen years after the commencement of such judicial service, whichever shall occur first. [2011 c 336 s 30; 1971 c 30 s 2; 1961 c 286 s 1.]

Construction—1971 c 30: See note following RCW 2.12.010.

RCW 2.12.015 Additional pension for more than eighteen years service—Amount. In the event any judge of the supreme court, court of appeals, or superior court of the state serves more than eighteen years in the aggregate as computed under RCW 2.12.010, he or she shall receive in addition to any other pension benefits to which he or she may be entitled under this chapter, an additional pension benefit based upon one-eighteenth of his or her salary for each year of full service after eighteen years, provided his or her total pension shall not exceed seventy-five percent of the monthly salary he or she was receiving as a judge at the time of his or her retirement. [2011 c 336 s 31; 1971 c 30 s 3; 1961 c 286 s 2.]

Construction—1971 c 30: See note following RCW 2.12.010.

RCW 2.12.020 Retirement for disability. (1) Any judge of the supreme court, court of appeals, or superior court of the state of

Washington, who heretofore and/or hereafter shall have served as a judge of any such courts for a period of ten years in the aggregate, and who shall believe he or she has become physically or otherwise permanently incapacitated for the full and efficient performance of the duties of his or her office, may file with the director of retirement systems an application in duplicate in writing, asking for retirement, which application shall be signed and verified by the affidavit of the applicant or by someone in his or her behalf and which shall set forth his or her name, the office then held, the court or courts of which he or she has served as judge, the period of service thereon, the dates of such service and the reasons why he or she believes himself or herself to be, or why they believe him or her to be incapacitated. Upon filing of such application the director shall forthwith transmit a copy thereof to the governor who shall appoint three physicians of skill and repute, duly licensed to practice their professions in the state of Washington, who shall, within fifteen days thereafter, for such compensation as may be fixed by the governor, to be paid out of the fund hereinafter created, examine said judge and report, in writing, to the governor their findings in the matter. If a majority of such physicians shall report that in their opinion said judge has become permanently incapacitated for the full and efficient performance of the duties of his or her office, and if the governor shall approve such report, he or she shall file the report, with his or her approval endorsed thereon, in the office of the director and a duplicate copy thereof with the administrator for the courts, and from the date of such filing the applicant shall be deemed to have retired from office and be entitled to the benefits of this chapter to the same extent as if he or she had retired under the provisions of RCW 2.12.010.

(2) The retirement for disability of a judge, who has served as a judge of the supreme court, court of appeals, or superior court of the state of Washington for a period of ten years in the aggregate, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered a retirement under subsection (1) of this section. [2011 c 336 s 32; 1982 1st ex.s. c 52 s 3; 1982 c 18 s 2; 1973 c 106 s 5; 1971 c 30 s 4; 1937 c 229 s 2; RRS s 11054-2.]

Reviser's note: House Joint Resolution No. 37, approved by the voters November 4, 1980, became Amendment 71 to the state Constitution.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1971 c 30: See note following RCW 2.12.010.

RCW 2.12.030 Amount and time of payment—Surviving spouse's benefit. Supreme court, court of appeals, or superior court judges of the state who retire from office under the provisions of this chapter other than as provided in RCW 2.12.012 shall be entitled to receive monthly during the period of their natural life, out of the fund hereinafter created, an amount equal to one-half of the monthly salary they were receiving as a judge at the time of their retirement, or at the end of the term immediately prior to their retirement if their

retirement is made after expiration of their term. The surviving spouse of any judge who shall have heretofore retired or may hereafter retire, or of a judge who was heretofore or may hereafter be eligible for retirement at the time of death, if the surviving spouse had been married to the judge for three years, if the surviving spouse had been married to the judge prior to retirement, shall be paid an amount equal to one-half of the retirement pay of the judge, as long as such surviving spouse remains unmarried. The retirement pay shall be paid monthly by the state treasurer on or before the tenth day of each month. The provisions of this section shall apply to the surviving spouse of any judge who dies while holding such office or dies after having retired under the provisions of this chapter and who at the time of death had served ten or more years in the aggregate as a judge of the supreme court, court of appeals, or superior court or any of such courts, or had served an aggregate of twelve years in the supreme court, court of appeals, or superior court if such pension rights are based upon RCW 2.12.012. [1973 1st ex.s. c 154 s 1; 1971 c 30 s 5; 1961 c 286 s 3; 1957 c 243 s 1; 1951 c 79 s 1; 1945 c 19 s 1; 1937 c 229 s 3; RRS s 11054-3.]

Severability—1973 1st ex.s. c 154: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 154 s 130.]

Construction—1971 c 30: See note following RCW 2.12.010.

RCW 2.12.035 Retirement pay of certain justices or judges retiring prior to December 1, 1968—Widow's benefits. The retirement pay or pension of any justice of the supreme or judge of any superior court of the state who was in office on August 6, 1965, and who retired prior to December 1, 1968, or who would have been eligible to retire at the time of death prior to December 1, 1968, shall be based, effective December 1, 1968, upon the annual salary which was being prescribed by the statute in effect for the office of justice of the supreme court or for the office of judge of the superior court, respectively, at the time of his or her retirement or at the end of the term immediately prior to his or her retirement if his or her retirement was made after expiration of his or her term or at the time of his or her death if he or she died prior to retirement. The widow's benefit for the widow of any such justice or judge as provided for in RCW 2.12.030 shall be based, effective December 1, 1968, upon such retirement pay. [2011 c 336 s 33; 1971 c 81 s 7; 1969 ex.s. c 202 s 1.]

RCW 2.12.037 Adjustment of pension of retired judges or widows or widowers. (1) "Index" for the purposes of this section, shall mean, for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959 equal one hundred) compiled by the Bureau of Labor Statistics, United States Department of Labor;

(2) Effective July 1, 1970, every pension computed and payable under the provisions of RCW 2.12.030 to any retired judge or to his or

her widow or widower which does not exceed four hundred fifty dollars per month shall be adjusted to that dollar amount which bears the ratio of its original dollar amount which is found to exist between the index for 1969 and the index for the calendar year prior to the effective retirement date of the person to whom, or on behalf of whom, such retirement allowance is being paid. [2012 c 117 s 1; 1970 ex.s. c 96 s 1.]

RCW 2.12.040 Service after retirement. If any retired judge shall accept an appointment or an election to a judicial office, he or she shall be entitled to receive the full salary pertaining thereto, and his or her retirement pay under this chapter shall be suspended during such term of office and his or her salary then received shall be subject to contribution to the judges' retirement fund as provided in this chapter. [2011 c 336 s 35; 1955 c 38 s 6; 1943 c 37 s 1; 1937 c 229 s 4; Rem. Supp. 1943 s 11054-4.]

RCW 2.12.045 Minimum monthly benefit—Post-retirement adjustment—Computation. (1) Notwithstanding any provision of law to the contrary, effective July 1, 1979, no person receiving a monthly benefit pursuant to this chapter shall receive a monthly benefit of less than ten dollars per month for each year of service creditable to the person whose service is the basis of the retirement allowance. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by ten dollars. Where the monthly benefit was adjusted at the time benefit payments to the beneficiary commenced, the minimum benefit provided in this section shall be adjusted in a manner consistent with that adjustment.

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the monthly benefit of each person who either is receiving benefits pursuant to RCW 2.12.020 or 2.12.030 as of December 31, 1978, or commenced receiving a monthly benefit under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 2.12.037 as of July 1, 1979, or July 1, 1980, for the affected persons. Such adjustment shall be calculated as follows:

(a) Monthly benefits to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those persons to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each person to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service. [1979 ex.s. c 96 s 4.]

RCW 2.12.046 Monthly benefit—Post-retirement adjustment—

Computation. Notwithstanding any provision of law to the contrary, effective July 1, 1983, the monthly benefit of each person who either is receiving benefits pursuant to RCW 2.12.020 or 2.12.030 as of December 31, 1982, or commenced receiving a monthly benefit under this chapter as of a date no later than July 1, 1978, shall be permanently increased by a post-retirement adjustment of \$.74 per month for each year of creditable service the judge established with the retirement system. Any fraction of a year of service shall be counted in the computation of the post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 2.12.037 as of July 1, 1983, or July 1, 1984, for the affected persons. [1983 1st ex.s. c 56 s 1.]

Effective date—1983 1st ex.s. c 56: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983." [1983 1st ex.s. c 56 s 7.]

RCW 2.12.048 Refund of certain contributions. If a judge who was a member of this system left the system before July 1, 1988, and neither the judge nor the judge's surviving spouse: (1) Was eligible at that time to receive a benefit under this chapter; or (2) has received an amount under a sundry claims appropriation from the state legislature intended as a refund of the judge's contributions paid under RCW 2.12.060; then the judge or the judge's surviving spouse may apply to the department for and receive a refund of such contributions. [1991 c 159 s 2.]

RCW 2.12.050 Judges' retirement fund—Created—Contents—

Custodian—Records. There is hereby created a fund in the state treasury to be known as "The Judges' Retirement Fund" which shall consist of the moneys appropriated from the general fund in the state treasury, as hereinafter provided; the deductions from salaries of judges, as hereinafter provided, all gifts, donations, bequests and devises made for the benefit of said fund, and the rents, issues and profits thereof, or proceeds of sales of assets thereof. The state treasurer shall be treasurer, ex officio, of this fund. The treasurer shall be custodian of the moneys in said judges' retirement fund. The department of retirement systems shall receive all moneys payable into said fund and make disbursements therefrom as provided in this chapter. The department shall keep written permanent records showing all receipts and disbursements of said fund. [1982 1st ex.s. c 52 s 4; 1977 c 75 s 1; 1977 c 18 s 1; 1967 c 28 s 1; 1959 c 192 s 1; 1937 c 229 s 5; RRS s 11054-5.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 2.12.060 Fund—Constitution—Salary deductions—Aid. For the purpose of providing moneys in said judges' retirement fund, concurrent monthly deductions from judges' salaries and portions

thereof payable from the state treasury and withdrawals from the general fund of the state treasury shall be made as follows: Six and one-half percent shall be deducted from the monthly salary of each justice of the supreme court, six and one-half percent shall be deducted from the monthly salary of each judge of the court of appeals, and six and one-half percent of the total salaries of each judge of the superior court shall be deducted from that portion of the salary of such justices or judges payable from the state treasury; and a sum equal to six and one-half percent of the combined salaries of the justices of the supreme court, the judges of the court of appeals, and the judges of the superior court shall be withdrawn from the general fund of the state treasury. In consideration of the contributions made by the judges and justices to the judges' retirement fund, the state hereby undertakes to guarantee the solvency of said fund and the legislature shall make biennial appropriations from the general fund of amounts sufficient to guarantee the making of retirement payments as herein provided for if the money in the judges' retirement fund shall become insufficient for that purpose, but such biennial appropriation may be conditioned that sums appropriated may not be expended unless the money in the judges' retirement fund shall become insufficient to meet the retirement payments. The deductions and withdrawals herein directed shall be made on or before the tenth day of each month and shall be based on the salaries of the next preceding calendar month. The administrator for the courts shall issue warrants payable to the treasurer to accomplish the deductions and withdrawals herein directed, and shall issue the monthly salary warrants of the judges and justices for the amount of salary payable from the state treasury after such deductions have been made. The treasurer shall cash the warrants made payable to him or her hereunder and place the proceeds thereof in the judges' retirement fund for disbursement as authorized in this chapter. [2011 c 336 s 36; 1973 c 106 s 6; 1973 c 37 s 1. Prior: 1971 c 81 s 8; 1971 c 30 s 6; 1957 c 243 s 2; 1951 c 79 s 2; 1945 c 19 s 2; 1937 c 229 s 6; Rem. Supp. 1945 s 11054-6.]

Construction—1971 c 30: See note following RCW 2.12.010.

Members' retirement contributions—Pick up by employer: RCW 41.04.445.

RCW 2.12.090 Benefits exempt from taxation and judicial process—Exceptions—Deductions for group insurance premiums. (1) Except as provided in subsections (2), (3), and (4) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions of this chapter and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever whether the same be in actual possession of the person or be deposited or loaned and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A

RCW, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems 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.

(3) Subsection (1) of this section shall not be deemed to 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.

(4) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section. [2012 c 159 s 18; 1991 c 365 s 19; 1989 c 360 s 23; 1987 c 326 s 18; 1982 1st ex.s. c 52 s 32.]

Severability—1991 c 365: See note following RCW 41.50.500.

Effective date—1987 c 326: See RCW 41.50.901.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 2.12.100 Transfer of membership from Washington public employees' retirement system to judges' retirement system—Authorized Procedure. Any member of the Washington public employees' retirement system who is eligible to participate in the judges' retirement system, may by written request filed with the director and custodian of the two systems respectively, transfer such membership to the judges' retirement system. Upon the receipt of such request, the director of the Washington public employees' retirement system shall transfer to the state treasurer (1) all employees' contributions and interest thereon belonging to such member in the employees' savings fund and all employers' contributions credited or attributed to such member in the benefit account fund and (2) a record of service credited to such member. One-half of such service but not in excess of twelve years shall be computed and credited to such member as though such service was performed as a member of the judges' retirement system. Upon such transfer being made the state treasurer shall deposit such moneys in the judges' retirement fund. In the event that any such member should terminate judicial service prior to his or her entitlement to retirement benefits under any of the provisions of chapter 2.12 RCW, he or she shall upon request therefor be repaid from the judges' retirement fund an amount equal to the amount of his or her employees' contributions to the Washington public employees' retirement system and interest plus interest thereon from the date of the transfer of such moneys: PROVIDED, HOWEVER, That this section shall not apply to any person who is retired as a judge as of February 20, 1970. [2011 c 336 s 37; 1970 ex.s. c 96 s 2.]

RCW 2.12.900 Construction—Gender. Whenever words importing the masculine gender are used in the provisions of this chapter they may be extended to females also as provided in RCW 1.12.050 and whenever

words importing the feminine gender are used in the provisions of this chapter they may be extended to males. [1971 c 30 s 8.]

RCW 2.12.901 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 s 7.]

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