Chapter 41.35 RCW
WASHINGTON SCHOOL EMPLOYEES' RETIREMENT SYSTEM

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PROVISIONS APPLICABLE TO PLAN 2 AND PLAN 3

RCW 41.35.005 Intent. The legislature recognizes that teachers and school district employees share the same educational work environment and academic calendar.

It is the intent of the legislature to achieve similar retirement benefits for all educational employees by transferring the membership of classified school employees in the public employees' retirement system plan 2 to the Washington school employees' retirement system plan 2. The transfer of membership to the Washington school employees' retirement system plan 2 is not intended to cause a diminution or expansion of benefits for affected members. It is enacted solely to

provide public employees working under the same conditions with the same options for retirement planning.

As members of the Washington school employees' retirement system plan 2, classified employees will have the same opportunity to transfer to the Washington school employees' retirement system plan 3 as their certificated coworkers. The ability to transfer to the Washington school employees' retirement system plan 3 offers members a new public retirement system that balances flexibility with stability; provides increased employee control of investments and responsible protection of the public's investment in employee benefits; and encourages the pursuit of public sector careers without creating barriers to other public or private sector employment. [1998 c 341 s 1.]

RCW 41.35.010 Definitions. 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" for plan 2 and plan 3 members 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 41.40.710(2).

(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 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 reductions; and

(ii) 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" for plan 2 and plan 3 members 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) "Classified employee" means an employee of a school district or an educational service district who is not eligible for membership in the teachers' retirement system established under chapter 41.32 RCW.

(8)(a) "Compensation earnable" for plan 2 and plan 3 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 plan 2 and plan 3 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 this (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 41.40.038;

(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.

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

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

(11) "Eligible position" means any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall

not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(12) "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.

(13) "Employer," for plan 2 and plan 3 members, means a school district, an educational service district, or tribal school that has chosen to participate in the retirement system and has satisfied the requirements of RCW 28A.715.010(7). 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.

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

(15) "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.

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

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

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

(19) "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.

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

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

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

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

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

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

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

(27) "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.

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

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

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

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

(32) "Service" for plan 2 and plan 3 members means periods of employment by a member in an eligible position or positions 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 except as provided in RCW 41.35.180. 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) For purposes of plan 2 and 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(i) Less than eleven days equals one-quarter service credit month;

(ii) Eleven or more days but less than twenty-two days equals one-half service credit month;

(iii) Twenty-two days equals one service credit month;

(iv) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month; and

(v) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(d) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (5)(b)(ii) 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.

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

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

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

(36) "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.

(37) "State treasurer" means the treasurer of the state of Washington.

(38) "Substitute employee" means a classified employee who is employed by an employer exclusively as a substitute for an absent employee. [2021 c 12 s 5; 2018 c 257 s 3; 2012 c 236 s 4. Prior: 2011 1st sp.s. c 5 s 3; 2003 c 157 s 1; 2001 c 180 s 3; 1998 c 341 s 2.]

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

Contingency—Conflict with federal law—2018 c 257: See note following RCW 28A.715.010.

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.

RCW 41.35.015 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 97.]

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.

RCW 41.35.020 System created—Administration. A retirement system is hereby created for the employees of school districts or educational service districts. 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 such rules shall be governed by the provisions of chapter 34.05 RCW. This retirement system shall be known as the Washington school employees' retirement system. [1998 c 341 s 3.]

RCW 41.35.030 Membership. Membership in the retirement system shall consist of all regularly compensated classified employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for 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;

(6) Substitute employees, except for the purposes of the purchase of service credit under RCW 41.35.033. Upon the return or termination of the absent employee a substitute employee is replacing, that

substitute employee shall no longer be ineligible under this subsection;

(7) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(8) 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;

(9) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only if payment is made for the noncredited membership service under RCW 41.50.165(2), otherwise service shall be from the date of application; and

(10) Employees who are removed from membership under RCW 41.35.683 or 41.35.423. [2005 c 131 s 9; 2003 c 157 s 2; 1998 c 341 s 4.]

Effective date—2005 c 131: See note following RCW 41.40.823.

RCW 41.35.033 Membership—Service credit—Substitute employees—Rules. (1) A substitute employee who works five or more months of seventy or more hours for which earnable compensation is paid in a school year may apply to the department to establish membership after the end of the school year during which the work was performed. The application must:

(a) Include a list of the employers the substitute employee has worked for;

(b) Include proof of hours worked and compensation earned; and

(c) Be made prior to retirement.

(2) Substitute employees who are members may apply to the department to receive service after the end of the last day of instruction of the school year during which the service was performed. The application must:

(a) Include a list of the employers the substitute employee has worked for;

(b) Include proof of hours worked and compensation earned; and

(c) Be made prior to retirement.

(3) If the department accepts the substitute employee's application for service credit, the substitute employee may obtain service credit by paying the required contribution to the retirement system. The employer must pay the required employer contribution upon notice from the department that the substitute employee has made contributions under this section.

(4) The department shall charge interest prospectively on employee contributions that are submitted under this section more than six months after the end of the school year, as defined in *RCW 28A.150.040, for which the substitute employee is seeking service

credit. The interest rate charged to the employee shall take into account interest lost on employer contributions delayed for more than six months after the end of the school year.

(5) Each employer shall quarterly notify each substitute employee it has employed during the school year of the number of hours worked by, and the compensation paid to, the substitute employee.

(6) If a substitute employee, as defined in RCW 41.35.010(38), applies to the department under this section for credit for earnable compensation earned from an employer, the substitute employee must make contributions for all periods of service for that employer.

(7) The department shall adopt rules implementing this section. [2003 c 157 s 3.]

***Reviser's note:** RCW 28A.150.040 was repealed by 2009 c 548 s 710, effective September 1, 2011.

RCW 41.35.035 Membership in system—Charter school employers and employees. This section designates charter schools established under chapter 28A.710 RCW as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code. [2016 c 241 s 134. Prior: 2013 c 2 s 304 (Initiative Measure No. 1240, approved November 6, 2012).]

Effective date—2016 c 241: See RCW 28A.710.901.

RCW 41.35.040 Nonelective position held for at least nine months—Deemed to be 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. [1998 c 341 s 5.]

RCW 41.35.060 Reduction of retirement allowance upon reemployment or if covered by a plan under RCW 28B.10.400—Reestablishment of membership. ***(Effective until June 30, 2029.)***

(1)(a) If a retiree enters employment with an employer 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) The benefit reduction provided in (a) 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, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, 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 March 23, 2022, and January 1, 2030, a retiree, including a retiree who has retired under the alternate early retirement provisions of RCW 41.35.420(3)(b) or 41.35.680(3)(b), who reenters employment more than one month after his or her accrual date, and who enters service in a school district in a nonadministrative position 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. The legislature reserves the right to amend or repeal this subsection (2)(b) in the future and no member or beneficiary has a contractual right to be employed for more than 867 hours in a calendar year without a reduction of his or her pension.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, 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 RCW 41.35.420 or 41.35.680. 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. [2025 c 284 s 4; 2023 c 410 s 6; 2022 c 110 s 4; 2011 1st sp.s. c 47 s 15; 2004 c 242 s 64; 2001 2nd sp.s. c 10 s 11; 1998 c 341 s 7.]

Effective date—2025 c 284: See note following RCW 41.32.570.

Intent—Effective date—2023 c 410: See notes following RCW 41.32.765.

Effective date—2022 c 110: See note following RCW 41.32.570.

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

Effective date—2004 c 242: See RCW 41.37.901.

Effective dates—2001 2nd sp.s. c 10: See note following RCW 41.40.037.

RCW 41.35.060 Reduction of retirement allowance upon reemployment or if covered by a plan under RCW 28B.10.400—Reestablishment of membership. ***(Effective June 30, 2029.)*** (1)(a) If a retiree enters employment with an employer 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) The benefit reduction provided in (a) 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, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030 or 41.26A.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 March 23, 2022, and January 1, 2030, a retiree, including a retiree who has retired under the alternate early retirement provisions of RCW 41.35.420(3)(b) or 41.35.680(3)(b), who reenters employment more than one month after his or her accrual date, and who enters service in a school district in a nonadministrative position 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. The legislature reserves the right to amend or repeal this subsection (2)(b) in the future and no member or beneficiary has a contractual right to be employed for more than 867 hours in a calendar year without a reduction of his or her pension.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, 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 RCW 41.35.420 or 41.35.680. 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. [2026 c 261 s 433; 2025 c 284 s 4; 2023 c 410 s 6; 2022 c 110 s 4; 2011 1st sp.s. c 47 s 15; 2004 c 242 s 64; 2001 2nd sp.s. c 10 s 11; 1998 c 341 s 7.]

Effective date—2026 c 261: See note following RCW 41.26A.505.

Effective date—2025 c 284: See note following RCW 41.32.570.

Intent—Effective date—2023 c 410: See notes following RCW 41.32.765.

Effective date—2022 c 110: See note following RCW 41.32.570.

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

Effective date—2004 c 242: See RCW 41.37.901.

Effective dates—2001 2nd sp.s. c 10: See note following RCW 41.40.037.

RCW 41.35.070 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. No service credit shall 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 s 3; 1998 c 341 s 8.]

RCW 41.35.080 Members agree to deductions. The deductions from the compensation of members, provided for in RCW 41.35.430, 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. [1998 c 341 s 9.]

RCW 41.35.090 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 September 1, 1990, 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 such employer for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls. [1998 c 341 s 10.]

RCW 41.35.100 Exemption from taxation and judicial process—Exceptions—Assignability—Deductions authorized. (1) Subject to subsections (2), (3), and (4) 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 the provisions of 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 of such retired employees have authorized such 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) an income withholding order issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (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.

(4) Subsection (1) of this section does not exempt any pension or other benefit received under this chapter from tax under Title 82A RCW. [2026 c 238 s 808; 2012 c 159 s 24; 1998 c 341 s 11.]

Findings—Intent—Effect of invalidation of 2026 c 238 s 201—Automatic expiration date and tax preference performance statement exemption—Necessity of act—Intent—Implementation by department of revenue—2026 c 238: See notes following RCW 82A.04.030.

RCW 41.35.110 Disability retirement—Criminal conduct. A member shall not receive a disability retirement benefit under RCW 41.35.440 or 41.35.690 if the disability is the result of criminal conduct by the member committed after April 21, 1997. [1998 c 341 s 12.]

RCW 41.35.115 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 such person or

persons, trust or organization as the member has nominated by written designation duly executed and filed with the department. If no such designated person or persons are 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 s 4; 2003 c 402 s 3.]

RCW 41.35.120 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 act, is guilty of a gross misdemeanor. [1998 c 341 s 13.]

RCW 41.35.130 Transfer of service credit from statewide city employees' retirement system. (1) Any person who was a member of the statewide city employees' retirement system governed by chapter 41.44 RCW and who was never reemployed by an employer as defined in RCW 41.40.010 and who is employed by an employer as defined in RCW 41.35.010, may, in a writing filed with the director, elect to:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service which was previously credited under chapter 41.44 RCW but which was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190. The service may be reestablished and transferred only upon payment by the member to the employees' savings fund of this retirement system of the amount withdrawn plus interest thereon from the date of withdrawal until the date of payment at a rate determined by the director. No additional payments are required for service credit described in this subsection if already established under this chapter; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW, upon payment in full by the member of the total employer's contribution to the benefit account fund of this retirement system that would have been made under this chapter when the initial service was rendered. The payment shall be based on the first month's compensation earnable as a member of the statewide city employees' retirement system and as defined in *RCW 41.44.030(13). However, a person who has established service credit under **RCW 41.40.010(13) (c) or (d) shall not establish additional credit under this subsection nor may anyone who establishes credit under this subsection establish any additional credit under **RCW 41.40.010(13) (c) or (d). No

additional payments are required for service credit described in this subsection if already established under this chapter.

(2) The written election must be filed and the payments must be completed in full within one year after employment by an employer.

(3) Upon receipt of the written election and payments required by subsection (1) of this section from any retiree described in subsection (1) of this section, the department shall recompute the retiree's allowance in accordance with this section and shall pay any additional benefit resulting from such recomputation retroactively to the date of retirement from the system governed by this chapter.

(4) Any person who was a member of the statewide city employees' retirement system under chapter 41.44 RCW and also became a member of the public employees' retirement system established under chapter 41.40 RCW or the Washington school employees' retirement system established under this chapter, and did not make the election under RCW 41.40.058 or subsection (1) of this section because he or she was not a member of the public employees' retirement system prior to July 27, 1987, or did not meet the time limitations of RCW 41.40.058 or subsection (2) of this section, may elect to do any of the following:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service that was previously credited under chapter 41.44 RCW but was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW.

To make the election or elections, the person must pay the amount required under RCW 41.50.165(2) prior to retirement from this retirement system. [1998 c 341 s 14.]

Reviser's note: *(1) RCW 41.44.030 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (13) to subsection (10).

**(2) RCW 41.40.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (13) to subsection (23).

RCW 41.35.140 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. [1998 c 341 s 15.]

RCW 41.35.150 Hearing prior to appeal required—Conduct of hearing. Following its receipt of a notice for hearing in accordance

with RCW 41.35.140, a hearing shall be held by the director or a duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be conducted and governed in all respects by the provisions of chapter 34.05 RCW. [1998 c 341 s 16.]

RCW 41.35.160 Judicial review in accordance with administrative procedure act. Judicial review of any final decision and order by the director is governed by the provisions of chapter 34.05 RCW. [1998 c 341 s 17.]

RCW 41.35.170 Appeal—No bond required. No bond of any kind shall 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. [1998 c 341 s 18.]

RCW 41.35.180 Service credit—Computation. (1) Except for any period prior to the member's employment in an eligible position, a plan 2 or plan 3 member who is employed by a school district or districts or an educational service district:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) Who earns earnable compensation in an eligible position during the period from September through August, except under (a) of this subsection, shall receive service credit according to one of the following methods, whichever provides the most service credit to the member:

(i) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period;

(ii) A member employed in an eligible position for at least five months of a six-month period between September through August of the following year who earns earnable compensation for six hundred thirty or more hours within the six-month period will receive a maximum of six service credit months for the school year, recorded as one service credit month for each month of the six-month period;

(iii) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(A) One service credit month for each month in which compensation is earned for ninety or more hours;

(B) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(C) One-quarter service credit month for each month in which compensation is earned for less than seventy hours.

(2) The department shall adopt rules implementing this section. [2008 c 204 s 2; 1998 c 341 s 19.]

RCW 41.35.1801 Prior service—One-half service credit. (1) By no later than December 31, 2010, the department shall recalculate service credit for periods of qualifying prior service by an eligible member, as provided for in this section.

(2) An eligible member is a member who is active in the retirement system and who earns service credit after June 10, 2010, and before September 1, 2010.

(3) A qualifying period of prior service is a school year prior to January 1, 1987, in which the member:

(a) Was employed in an eligible position by a school district or districts, educational service district, the *state school for the deaf, the state school for the blind, an institution of higher education, or a community college;

(b) Earned earnable compensation for at least six hundred thirty hours as determined by the department;

(c) Received less than six months of service credit; and

(d) Has not withdrawn service credit for the school year or has restored any withdrawn service credit for the school year.

(4) The department shall recalculate service credit for qualifying periods of prior service for an eligible member as follows:

(a) The member shall receive one-half service credit month for each month of the period from September through August of the following year if he or she earned earnable compensation during that period for at least six hundred thirty hours as determined by the department, and was employed nine months of that period; and

(b) A member's service credit shall not be reduced under this section for a qualifying period of prior service. [2010 c 103 s 1.]

***Reviser's note:** The "state school for the deaf" was abolished pursuant to 2009 c 381 s 11 and powers, duties, and functions were transferred to the Washington state center for childhood deafness and hearing loss. The "Washington state center for childhood deafness and hearing loss" was renamed the "Washington center for deaf and hard of hearing youth" by 2019 c 266 s 1.

RCW 41.35.183 Purchase of additional service credit—Costs—Rules. (1) A member eligible to retire under RCW 41.35.420 or 41.35.680 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 s 3.]

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

RCW 41.35.190 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. [1998 c 341 s 20.]

RCW 41.35.200 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. [1998 c 341 s 21.]

RCW 41.35.210 Postretirement cost of living. Beginning July 1, 1979, 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. [1998 c 341 s 22.]

RCW 41.35.220 Options for payment of retirement allowances—Court-approved property settlement. (1) Upon retirement for service as prescribed in RCW 41.35.420 or 41.35.680 or retirement for disability under RCW 41.35.440 or 41.35.690, 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 such member's life.

(i) For members of plan 2, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(ii) For members of plan 3, upon the death of the retired member, the member's benefits shall cease.

(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, such 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) No later than July 1, 2001, 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) No later than July 1, 2003, 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 of plan 2 who meets the length of service requirements of RCW 41.35.420, or a member of plan 3 who meets the length of service requirements of RCW 41.35.680(1), 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 ages provided in RCW 41.35.420(1) for members of plan 2, or RCW 41.35.680(1) for members of plan 3, 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 s 4; 2019 c 102 s 5; 2002 c 158 s 11; 2000 c 186 s 6; 1998 c 341 s 23.]

Effective date—2000 c 186 s 6: "Section 6 of this act takes effect September 1, 2000." [2000 c 186 s 10.]

RCW 41.35.230 Suspension of retirement allowance upon reemployment or if covered by a plan under RCW 28B.10.400—Exceptions—Reinstatement. ***(Effective until June 30, 2029.)*** (1) Except as provided in RCW 41.35.060, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.35.010, 41.40.010, 41.37.010, or 41.32.010, 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, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(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. [2011 1st sp.s. c 47 s 16; 2004 c 242 s 56; 1998 c 341 s 24.]

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

Effective date—2004 c 242: See RCW 41.37.901.

RCW 41.35.230 Suspension of retirement allowance upon reemployment or if covered by a plan under RCW 28B.10.400—Exceptions—Reinstatement. ***(Effective June 30, 2029.)*** (1) Except as provided in RCW 41.35.060, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.35.010, 41.40.010, 41.37.010, or 41.32.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030 or 41.26A.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(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. [2026 c 261 s 434; 2011 1st sp.s. c 47 s 16; 2004 c 242 s 56; 1998 c 341 s 24.]

Effective date—2026 c 261: See note following RCW 41.26A.505.

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

Effective date—2004 c 242: See RCW 41.37.901.

RCW 41.35.235 Purchase of life annuity benefit. (1) At the time of retirement, a plan 2 or plan 3 member may purchase an optional actuarially equivalent life annuity benefit from the school employees' retirement system combined plan 2 and 3 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 s 3.]

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

RCW 41.35.399 Provisions applicable to plan 2 and plan 3. RCW 41.35.005 through 41.35.230 apply to members of plan 2 and plan 3. [1998 c 341 s 25.]

PLAN 2

RCW 41.35.400 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. [1998 c 341 s 101.]

RCW 41.35.410 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 the provisions of 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 41.35.400 would be less than $250. This $250 threshold shall be increased annually as determined by the director. 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 the provisions of 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 the provisions of RCW 41.40.625 or 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 reretiring, 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 41.35.400 or an earned disability allowance under RCW 41.35.440 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. [2026 c 132 s 3; 1998 c 341 s 102.]

RCW 41.35.420 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 the provisions of RCW 41.35.400.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, 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-five.

(b)(i) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

(ii) Any member who retired on or after September 1, 2008, and chose the three percent per year reduction provided under (a) of this subsection shall have a retirement allowance recalculated under the reductions of (b)(i) of this subsection for benefit payments made on or after January 1, 2024.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [2023 c 410 s 7; 2012 1st sp.s. c 7 s 3; 2007 c 491 s 6; 2000 c 247 s 905; 1998 c 341 s 103.]

Intent—Effective date—2023 c 410: See notes following RCW 41.32.765.

Benefits not contractual right until September 1, 2008—2007 c 491: See note following RCW 41.32.765.

Severability—Conflict with federal requirements—2007 c 491: See notes following RCW 41.32.765.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

RCW 41.35.423 Member with terminal illness—Removal from system. (1) Upon application of the member, a member who is diagnosed with a terminal illness shall be removed from the system subject to the following conditions:

(a) That the medical adviser, after a medical examination of the member made by or under the direction of the medical adviser, has certified in writing that the member has a terminal illness with a life expectancy of five or fewer years; and

(b) That the director concurs in the recommendation of the medical adviser.

(2) Members removed from the system shall not make contributions and shall not accumulate additional service credit.

(3) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to this benefit not granted prior to that amendment or repeal. [2005 c 131 s 6.]

Effective date—2005 c 131: See note following RCW 41.40.823.

RCW 41.35.430 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 41.35.090.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. 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 such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends. [1998 c 341 s 104.]

RCW 41.35.440 Earned disability allowance—Disposition upon death of recipient. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.35.400 through 41.35.599. The member shall receive a monthly disability allowance computed as provided for in RCW 41.35.400 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.

Any member who receives an allowance under the provisions of 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.

(2) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals 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 as the recipient has nominated by written designation duly executed and filed with the director, or, 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. [1998 c 341 s 105.]

RCW 41.35.450 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.35.420, 41.35.440, or 41.35.460 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.35.420 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.35.420, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.35.440 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.35.460 shall accrue from the first day of the calendar month immediately following the member's death. [1998 c 341 s 106.]

RCW 41.35.460 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 such member's credit in the retirement system at the time of such 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 such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such 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 such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such 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 41.35.420, 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 41.35.220 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 41.35.420; 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 such 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 such 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, such member's child or children under the age of majority shall receive an allowance, share and share alike, calculated as herein provided 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 such 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 an actuarial reduction under RCW 41.35.420. The member's retirement allowance is computed under RCW 41.35.400. [2009 c 226 s 8; 2003 c 155 s 4; 1998 c 341 s 107.]

Applicability—2003 c 155: See note following RCW 41.32.520.

RCW 41.35.470 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 the provisions of RCW 41.35.400 through 41.35.599.

(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. Such credit may be obtained only if:

(a) The member makes both the plan 2 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 41.35.430 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 41.35.430 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 s 4; 2005 c 64 s 4; 1998 c 341 s 108.]

RCW 41.35.480 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 such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.35.420 if such member maintains the member's accumulated contributions intact. [1998 c 341 s 109.]

RCW 41.35.490 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 41.35.400 through 41.35.599. [1998 c 341 s 110.]

RCW 41.35.500 Reentry. (1) A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such 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 such 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. [1998 c 341 s 111.]

RCW 41.35.510 Transfer to plan 3—Irrevocable option. (1) Every plan 2 member employed by an employer in an eligible position has the option to make an irrevocable transfer to plan 3.

(2) All service credit in plan 2 shall be transferred to the defined benefit portion of plan 3.

(3) Any plan 2 member who wishes to transfer to plan 3 after February 28, 2001, may transfer during the month of January in any following year, provided that the member earns service credit for that month.

(4) The accumulated contributions in plan 2, less fifty percent of any contributions made pursuant to RCW 41.50.165(2) shall be transferred to the member's account in the defined contribution portion established in chapter 41.34 RCW, pursuant to procedures developed by the department and subject to RCW 41.34.090. Contributions made pursuant to RCW 41.50.165(2) that are not transferred to the member's account shall be transferred to the fund created in RCW 41.50.075(4), except that interest earned on all such contributions shall be transferred to the member's account.

(5) The legislature reserves the right to discontinue the right to transfer under this section.

(6) Anyone previously retired from plan 2 is prohibited from transferring to plan 3. [2002 c 26 s 7; 1998 c 341 s 114.]

RCW 41.35.599 Provisions applicable to plan 2. RCW 41.35.400 through 41.35.510 apply only to plan 2 members. [1998 c 341 s 112.]

PLAN 3

RCW 41.35.600 Provisions applicable to plan 3—Plan 3 elements. (1) RCW 41.35.600 through 41.35.720 apply only to plan 3 members.

(2) Plan 3 consists of two separate elements: (a) A defined benefit portion covered under this subchapter; and (b) a defined contribution portion covered under chapter 41.34 RCW.

(3) Unless otherwise specified, all references to "plan 3" in this subchapter refer to the defined benefit portion of plan 3. [1998 c 341 s 201.]

RCW 41.35.610 Choice of membership in plan 2 or plan 3. (1) All classified employees who first become employed by an employer in an eligible position on or after July 1, 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3 or plan 2 as follows:

(a) Becomes a member of plan 3 if first employed by an employer in an eligible position on or after July 1, 2007, but prior to July 1, 2020;

(b) Becomes a member of plan 2 if first employed by an employer in an eligible position on or after July 1, 2020.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to

the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account. [2019 c 313 s 2; 2007 c 491 s 7; 1998 c 341 s 202.]

Effective date—2007 c 491 ss 1, 3, and 7: See note following RCW 41.32.835.

Severability—Conflict with federal requirements—2007 c 491: See notes following RCW 41.32.765.

RCW 41.35.612 Right to waive benefit—Irrevocable choice. Any member receiving or having received a distribution under chapter 41.34 RCW may make an irrevocable choice to waive all rights to a benefit under RCW 41.35.620 by notifying the department in writing of their intention. [2003 c 349 s 2.]

Effective date—2003 c 349: See note following RCW 41.32.837.

RCW 41.35.620 Computation of retirement allowance. (1) A member of the retirement system shall receive a retirement allowance equal to one percent of such member's average final compensation for each service credit year.

(2) The retirement allowance payable under RCW 41.35.680 to a member who separates after having completed at least twenty service credit years shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date that the retirement allowance commences. [1998 c 341 s 203.]

RCW 41.35.630 Additional payment. (1) Anyone who requests to transfer under RCW 41.35.510 before March 1, 2001, and establishes service credit for January 2001, shall have their member account increased by one hundred thirty percent of:

(a) The member's public employees' retirement system plan 2 accumulated contributions as of January 1, 2000, less fifty percent of any payments made pursuant to RCW 41.50.165(2); or

(b) All amounts withdrawn after January 1, 2000, which are completely restored before March 1, 2001.

(2) If a member who requests to transfer dies before January 1, 2001, the additional payment provided by this section shall be paid to the member's estate, or the person or persons, trust, or organization the member nominated by written designation duly executed and filed with the department.

(3) The legislature reserves the right to modify or discontinue the right to an additional payment under this section for any plan 2 members who have not previously transferred to plan 3. [2000 c 230 s 1; 1998 c 341 s 204.]

Effective date—2000 c 230: "This act takes effect September 1, 2000." [2000 c 230 s 5.]

RCW 41.35.640 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.35.680, 41.35.690, or 41.35.710 is eligible to commence receiving a retirement allowance after having filed written application with the department.

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

(2) Retirement allowances payable to eligible members no longer in service, but qualifying for such an allowance pursuant to RCW 41.35.680 shall accrue from the first day of the calendar month immediately following such qualification.

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

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death. [2003 c 294 s 5; 1998 c 341 s 205.]

RCW 41.35.650 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.

(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 earnable compensation 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. Such credit may be obtained only if:

(a) The member makes the contribution on behalf of the employer, plus interest, as determined by the department; and

(b) The member makes the employee contribution, plus interest, as determined by the department, to the defined contribution portion.

The contributions required shall be based on the average of the member's earnable compensation 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 if 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. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

The department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.35.720 for the period of military service, plus interest as determined by the department. Service credit under this subsection may be obtained only if the member makes the employee contribution to the defined contribution portion as determined by the department, or 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 during a period of war may receive no more than five years of free retirement system service credit under this subsection.

The contributions required 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.

(a) 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 this subsection 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.

(b) 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 this subsection 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 s 5; 2005 c 64 s 5; 1998 c 341 s 206.]

RCW 41.35.660 Purchased service credit—Allocation. (1) Contributions on behalf of the employer paid by the employee to purchase plan 3 service credit shall be allocated to the defined benefit portion of plan 3 and shall not be refundable when paid to the fund described in RCW 41.50.075(4). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the statutory time limitations to purchase plan 3 service credit, it may be purchased under the provisions of RCW 41.50.165(2). One-half of the purchase payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

(2) No purchased plan 3 membership service will be credited until all payments required of the member are made, with interest. Upon receipt of all payments owed by the member, the department shall bill the employer for any contributions, plus interest, required to purchase membership service. [1998 c 341 s 207.]

RCW 41.35.670 Lump sum payments—Reentry. (1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary a lump sum payment in lieu of a monthly benefit if the initial monthly benefit would be less than one hundred dollars. The one hundred dollar limit shall be increased annually as determined by the director. The lump sum payment shall be the actuarial equivalent of the monthly benefit.

(2) Persons covered under the provisions of 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 retiring again, 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.

(3) Any member who receives a settlement under this section is deemed to be retired from this system. [1998 c 341 s 208.]

RCW 41.35.680 Retirement eligibility. (1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or

(c) Completed five service credit years by September 1, 2000, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.35.510;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, 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-five.

(b)(i) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

Retirement Age	Percent Reduction
55	20%
56	17%
57	14%
58	11%
59	8%
60	5%
61	2%
62	0%
63	0%
64	0%

(ii) Any member who retired on or after September 1, 2008, and chose the three percent per year reduction provided under (a) of this subsection shall have a retirement allowance recalculated under the reductions of (b)(i) of this subsection for benefit payments made on or after January 1, 2024.

(c) Members who first become employed by an employer in an eligible position on or after May 1, 2013, are not eligible for the alternate early retirement provisions of (a) or (b) of this subsection. Any member who first becomes employed by an employer in an eligible position on or after May 1, 2013, and has completed at least

thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by five percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [2023 c 410 s 8; 2012 1st sp.s. c 7 s 4; 2007 c 491 s 8; 2006 c 33 s 2; 2000 c 247 s 906; 1998 c 341 s 209.]

Intent—Effective date—2023 c 410: See notes following RCW 41.32.765.

Benefits not contractual right until September 1, 2008—2007 c 491: See note following RCW 41.32.765.

Severability—Conflict with federal requirements—2007 c 491: See notes following RCW 41.32.765.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

RCW 41.35.683 Member with terminal illness—Removal from system. (1) Upon application of the member, a member who is diagnosed with a terminal illness shall be removed from membership in the system subject to the following conditions:

(a) That the medical adviser, after a medical examination of the member made by or under the direction of the medical adviser, has certified in writing that the member has a terminal illness with a life expectancy of five or fewer years; and

(b) That the director concurs in the recommendation of the medical adviser.

(2) Members removed from the system shall not make contributions toward a defined contribution account as defined in chapter 41.34 RCW and shall not accumulate additional service credit.

(3) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to this benefit not granted prior to that amendment or repeal. [2005 c 131 s 3.]

Effective date—2005 c 131: See note following RCW 41.40.823.

RCW 41.35.690 Earned disability allowance—Disposition upon death of recipient. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department shall be eligible to receive an allowance under the provisions of plan 3. The member shall receive a monthly disability allowance computed as provided for in RCW 41.35.620 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.

Any member who receives an allowance under the provisions of 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.

(2) If the recipient of a monthly retirement allowance under this section dies, any further benefit payments shall be conditioned by the payment option selected by the retiree as provided in RCW 41.35.220. [1998 c 341 s 210.]

RCW 41.35.700 Restored, purchased service credit under plan 2—Transfer to plan 3. (1) Any member who elects to transfer to plan 3 and has eligible unrestored withdrawn contributions in plan 2, may restore such contributions under the provisions of RCW 41.35.500 with interest as determined by the department. The restored plan 2 service credit will be automatically transferred to plan 3. Restoration payments will be transferred to the member account in plan 3. If the member fails to meet the time limitations of RCW 41.35.500, they may restore such contributions under the provisions of RCW 41.50.165(2). The restored plan 2 service credit will be automatically transferred to plan 3. One-half of the restoration payments under RCW 41.50.165(2) plus interest shall be allocated to the member's account.

(2) Any member who elects to transfer to plan 3 may purchase plan 2 service credit under RCW 41.35.500. Purchased plan 2 service credit will be automatically transferred to plan 3. Contributions on behalf of the employer paid by the employee shall be allocated to the defined benefit portion of plan 3 and shall not be refundable when paid to the fund described in RCW 41.50.075(4). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the time limitations of RCW 41.35.500, they may subsequently restore such contributions under the provisions of RCW 41.50.165(2). Purchased plan 2 service credit will be automatically transferred to plan 3. One-half of the payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account. [2002 c 26 s 6; 1998 c 341 s 211.]

RCW 41.35.710 Death benefits. (1) If a member dies prior to retirement, the surviving spouse or eligible child or children shall receive a retirement allowance computed as provided in RCW 41.35.620 actuarially reduced to reflect a joint and one hundred percent survivor option and, except under subsection (2) of this section, if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.35.680.

If the surviving spouse who is receiving the retirement allowance dies leaving a child or children under the age of majority, then such 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 such 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, such member's child or children under the age of majority shall receive an allowance, share and share alike. The allowance shall be calculated with the assumption that the age of the spouse and member were equal at the time of the member's death.

(2) 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 an actuarial reduction under RCW 41.35.680. The member's retirement allowance is computed under RCW 41.35.620. [2009 c 226 s 9; 2003 c 155 s 5; 1998 c 341 s 212.]

Applicability—2003 c 155: See note following RCW 41.32.520.

RCW 41.35.720 Employer contribution rates. The required contribution rates to the retirement system for 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 41.35.090.

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 such increase shall be announced at least thirty days prior to the effective date of the change.

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. [1998 c 341 s 213.]

RCW 41.35.900 Benefits not contractual right until September 1, 2000. The benefits provided pursuant to chapter 341, Laws of 1998 are not provided to employees as a matter of contractual right prior to September 1, 2000. The legislature retains the right to alter or abolish these benefits at any time prior to September 1, 2000. [1998 c 341 s 713.]

Effective date—1998 c 341: See note following RCW 41.34.060.

RCW 41.35.901 Effective date—1998 c 341. Except for sections 303, 306 through 309, 404, 505, 507, 515, 701, 707, and 710 through 713 of this act, this act takes effect September 1, 2000. [1998 c 341 s 714.]