
HOUSE BILL 2167

State of Washington

68th Legislature

2024 Regular Session

By Representative Paul

1 AN ACT Relating to retirement benefit eligibility for law
2 enforcement officers' and firefighters' retirement system plan
3 retirees that separate from service and choose to work in eligible
4 positions on a part-time basis; amending RCW 41.26.030, 41.26.030,
5 and 41.26.500; providing an effective date; and providing an
6 expiration date.

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

8 **Sec. 1.** RCW 41.26.030 and 2021 c 12 s 2 are each amended to read
9 as follows:

10 As used in this chapter, unless a different meaning is plainly
11 required by the context:

12 (1) "Accumulated contributions" means the employee's
13 contributions made by a member, including any amount paid under RCW
14 41.50.165(2), plus accrued interest credited thereon.

15 (2) "Actuarial reserve" means a method of financing a pension or
16 retirement plan wherein reserves are accumulated as the liabilities
17 for benefit payments are incurred in order that sufficient funds will
18 be available on the date of retirement of each member to pay the
19 member's future benefits during the period of retirement.

20 (3) "Actuarial valuation" means a mathematical determination of
21 the financial condition of a retirement plan. It includes the

1 computation of the present monetary value of benefits payable to
2 present members, and the present monetary value of future employer
3 and employee contributions, giving effect to mortality among active
4 and retired members and also to the rates of disability, retirement,
5 withdrawal from service, salary and interest earned on investments.

6 (4) (a) "Basic salary" for plan 1 members, means the basic monthly
7 rate of salary or wages, including longevity pay but not including
8 overtime earnings or special salary or wages, upon which pension or
9 retirement benefits will be computed and upon which employer
10 contributions and salary deductions will be based.

11 (b) "Basic salary" for plan 2 members, means salaries or wages
12 earned by a member during a payroll period for personal services,
13 including overtime payments, and shall include wages and salaries
14 deferred under provisions established pursuant to sections 403(b),
15 414(h), and 457 of the United States Internal Revenue Code, but shall
16 exclude lump sum payments for deferred annual sick leave, unused
17 accumulated vacation, unused accumulated annual leave, or any form of
18 severance pay. In any year in which a member serves in the
19 legislature the member shall have the option of having such member's
20 basic salary be the greater of:

21 (i) The basic salary the member would have received had such
22 member not served in the legislature; or

23 (ii) Such member's actual basic salary received for
24 nonlegislative public employment and legislative service combined.
25 Any additional contributions to the retirement system required
26 because basic salary under (b) (i) of this subsection is greater than
27 basic salary under (b) (ii) of this subsection shall be paid by the
28 member for both member and employer contributions.

29 (5) (a) "Beneficiary" for plan 1 members, means any person in
30 receipt of a retirement allowance, disability allowance, death
31 benefit, or any other benefit described herein.

32 (b) "Beneficiary" for plan 2 members, means any person in receipt
33 of a retirement allowance or other benefit provided by this chapter
34 resulting from service rendered to an employer by another person.

35 (6) (a) "Child" or "children" means an unmarried person who is
36 under the age of eighteen or mentally or physically disabled as
37 determined by the department, except a person who is disabled and in
38 the full time care of a state institution, who is:

39 (i) A natural born child;

1 (ii) A stepchild where that relationship was in existence prior
2 to the date benefits are payable under this chapter;

3 (iii) A posthumous child;

4 (iv) A child legally adopted or made a legal ward of a member
5 prior to the date benefits are payable under this chapter; or

6 (v) An illegitimate child legitimized prior to the date any
7 benefits are payable under this chapter.

8 (b) A person shall also be deemed to be a child up to and
9 including the age of twenty years and eleven months while attending
10 any high school, college, or vocational or other educational
11 institution accredited, licensed, or approved by the state, in which
12 it is located, including the summer vacation months and all other
13 normal and regular vacation periods at the particular educational
14 institution after which the child returns to school.

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

17 (8) "Director" means the director of the department.

18 (9) "Disability board" for plan 1 members means either the county
19 disability board or the city disability board established in RCW
20 41.26.110.

21 (10) "Disability leave" means the period of six months or any
22 portion thereof during which a member is on leave at an allowance
23 equal to the member's full salary prior to the commencement of
24 disability retirement. The definition contained in this subsection
25 shall apply only to plan 1 members.

26 (11) "Disability retirement" for plan 1 members, means the period
27 following termination of a member's disability leave, during which
28 the member is in receipt of a disability retirement allowance.

29 (12) "Domestic partners" means two adults who have registered as
30 domestic partners under RCW 26.60.020.

31 (13) "Employee" means any law enforcement officer or firefighter
32 as defined in subsections (17) and (19) of this section.

33 (14)(a) "Employer" for plan 1 members, means the legislative
34 authority of any city, town, county, district, or regional fire
35 protection service authority or the elected officials of any
36 municipal corporation that employs any law enforcement officer and/or
37 firefighter, any authorized association of such municipalities, and,
38 except for the purposes of RCW 41.26.150, any labor guild,
39 association, or organization, which represents the firefighters or
40 law enforcement officers of at least seven cities of over 20,000

1 population and the membership of each local lodge or division of
2 which is composed of at least sixty percent law enforcement officers
3 or firefighters as defined in this chapter.

4 (b) "Employer" for plan 2 members, means the following entities
5 to the extent that the entity employs any law enforcement officer
6 and/or firefighter:

7 (i) The legislative authority of any city, town, county,
8 district, public corporation, or regional fire protection service
9 authority established under RCW 35.21.730 to provide emergency
10 medical services as defined in RCW 18.73.030;

11 (ii) The elected officials of any municipal corporation;

12 (iii) The governing body of any other general authority law
13 enforcement agency;

14 (iv) A four-year institution of higher education having a fully
15 operational fire department as of January 1, 1996; or

16 (v) The department of social and health services or the
17 department of corrections when employing firefighters serving at a
18 prison or civil commitment center on an island.

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

29 (15)(a) "Final average salary" for plan 1 members, means (i) for
30 a member holding the same position or rank for a minimum of twelve
31 months preceding the date of retirement, the basic salary attached to
32 such same position or rank at time of retirement; (ii) for any other
33 member, including a civil service member who has not served a minimum
34 of twelve months in the same position or rank preceding the date of
35 retirement, the average of the greatest basic salaries payable to
36 such member during any consecutive twenty-four month period within
37 such member's last ten years of service for which service credit is
38 allowed, computed by dividing the total basic salaries payable to
39 such member during the selected twenty-four month period by twenty-
40 four; (iii) in the case of disability of any member, the basic salary

1 payable to such member at the time of disability retirement; (iv) in
2 the case of a member who hereafter vests pursuant to RCW 41.26.090,
3 the basic salary payable to such member at the time of vesting.

4 (b) "Final average salary" for plan 2 members, means the monthly
5 average of the member's basic salary for the highest consecutive
6 sixty service credit months of service prior to such member's
7 retirement, termination, or death. Periods constituting authorized
8 unpaid leaves of absence may not be used in the calculation of final
9 average salary.

10 (c) In calculating final average salary under (a) or (b) of this
11 subsection, the department of retirement systems shall include:

12 (i) Any compensation forgone by a member employed by a state
13 agency or institution during the 2009-2011 fiscal biennium as a
14 result of reduced work hours, mandatory or voluntary leave without
15 pay, temporary reduction in pay implemented prior to December 11,
16 2010, or temporary layoffs if the reduced compensation is an integral
17 part of the employer's expenditure reduction efforts, as certified by
18 the employer;

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

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

36 (16) "Fire department" includes a fire station operated by the
37 department of social and health services or the department of
38 corrections when employing firefighters serving a prison or civil
39 commitment center on an island.

40 (17) "Firefighter" means:

1 (a) Any person who is serving on a full time, fully compensated
2 basis as a member of a fire department of an employer and who is
3 serving in a position which requires passing a civil service
4 examination for firefighter, and who is actively employed as such;

5 (b) Anyone who is actively employed as a full time firefighter
6 where the fire department does not have a civil service examination;

7 (c) Supervisory firefighter personnel;

8 (d) Any full time executive secretary of an association of fire
9 protection districts authorized under RCW 52.12.031. The provisions
10 of this subsection (17)(d) shall not apply to plan 2 members;

11 (e) The executive secretary of a labor guild, association or
12 organization (which is an employer under subsection (14) of this
13 section), if such individual has five years previous membership in a
14 retirement system established in chapter 41.16 or 41.18 RCW. The
15 provisions of this subsection (17)(e) shall not apply to plan 2
16 members;

17 (f) Any person who is serving on a full time, fully compensated
18 basis for an employer, as a fire dispatcher, in a department in
19 which, on March 1, 1970, a dispatcher was required to have passed a
20 civil service examination for firefighter;

21 (g) Any person who on March 1, 1970, was employed on a full time,
22 fully compensated basis by an employer, and who on May 21, 1971, was
23 making retirement contributions under the provisions of chapter 41.16
24 or 41.18 RCW; and

25 (h) Any person who is employed on a full-time, fully compensated
26 basis by an employer as an emergency medical technician that meets
27 the requirements of RCW 18.71.200 or 18.73.030(~~((12))~~) (13), and
28 whose duties include providing emergency medical services as defined
29 in RCW 18.73.030.

30 (18) "General authority law enforcement agency" means any agency,
31 department, or division of a municipal corporation, political
32 subdivision, or other unit of local government of this state, and any
33 agency, department, or division of state government, having as its
34 primary function the detection and apprehension of persons committing
35 infractions or violating the traffic or criminal laws in general, but
36 not including the Washington state patrol. Such an agency,
37 department, or division is distinguished from a limited authority law
38 enforcement agency having as one of its functions the apprehension or
39 detection of persons committing infractions or violating the traffic
40 or criminal laws relating to limited subject areas, including but not

1 limited to, the state departments of natural resources and social and
2 health services, the state gambling commission, the state lottery
3 commission, the state parks and recreation commission, the state
4 utilities and transportation commission, the state liquor and
5 cannabis board, and the state department of corrections. A general
6 authority law enforcement agency under this chapter does not include
7 a government contractor.

8 (19) "Law enforcement officer" beginning January 1, 1994, means
9 any person who is commissioned and employed by an employer on a full
10 time, fully compensated basis to enforce the criminal laws of the
11 state of Washington generally, with the following qualifications:

12 (a) No person who is serving in a position that is basically
13 clerical or secretarial in nature, and who is not commissioned shall
14 be considered a law enforcement officer;

15 (b) Only those deputy sheriffs, including those serving under a
16 different title pursuant to county charter, who have successfully
17 completed a civil service examination for deputy sheriff or the
18 equivalent position, where a different title is used, and those
19 persons serving in unclassified positions authorized by RCW 41.14.070
20 except a private secretary will be considered law enforcement
21 officers;

22 (c) Only such full time commissioned law enforcement personnel as
23 have been appointed to offices, positions, or ranks in the police
24 department which have been specifically created or otherwise
25 expressly provided for and designated by city charter provision or by
26 ordinance enacted by the legislative body of the city shall be
27 considered city police officers;

28 (d) The term "law enforcement officer" also includes the
29 executive secretary of a labor guild, association or organization
30 (which is an employer under subsection (14) of this section) if that
31 individual has five years previous membership in the retirement
32 system established in chapter 41.20 RCW. The provisions of this
33 subsection (19)(d) shall not apply to plan 2 members; and

34 (e) The term "law enforcement officer" also includes a person
35 employed on or after January 1, 1993, as a public safety officer or
36 director of public safety, so long as the job duties substantially
37 involve only either police or fire duties, or both, and no other
38 duties in a city or town with a population of less than ten thousand.
39 The provisions of this subsection (19)(e) shall not apply to any

1 public safety officer or director of public safety who is receiving a
2 retirement allowance under this chapter as of May 12, 1993.

3 (20) "Medical services" for plan 1 members, shall include the
4 following as minimum services to be provided. Reasonable charges for
5 these services shall be paid in accordance with RCW 41.26.150.

6 (a) Hospital expenses: These are the charges made by a hospital,
7 in its own behalf, for

8 (i) Board and room not to exceed semiprivate room rate unless
9 private room is required by the attending physician due to the
10 condition of the patient.

11 (ii) Necessary hospital services, other than board and room,
12 furnished by the hospital.

13 (b) Other medical expenses: The following charges are considered
14 "other medical expenses," provided that they have not been considered
15 as "hospital expenses".

16 (i) The fees of the following:

17 (A) A physician or surgeon licensed under the provisions of
18 chapter 18.71 RCW;

19 (B) An osteopathic physician and surgeon licensed under the
20 provisions of chapter 18.57 RCW;

21 (C) A chiropractor licensed under the provisions of chapter 18.25
22 RCW.

23 (ii) The charges of a registered graduate nurse other than a
24 nurse who ordinarily resides in the member's home, or is a member of
25 the family of either the member or the member's spouse.

26 (iii) The charges for the following medical services and
27 supplies:

28 (A) Drugs and medicines upon a physician's prescription;

29 (B) Diagnostic X-ray and laboratory examinations;

30 (C) X-ray, radium, and radioactive isotopes therapy;

31 (D) Anesthesia and oxygen;

32 (E) Rental of iron lung and other durable medical and surgical
33 equipment;

34 (F) Artificial limbs and eyes, and casts, splints, and trusses;

35 (G) Professional ambulance service when used to transport the
36 member to or from a hospital when injured by an accident or stricken
37 by a disease;

38 (H) Dental charges incurred by a member who sustains an
39 accidental injury to his or her teeth and who commences treatment by
40 a legally licensed dentist within ninety days after the accident;

- 1 (I) Nursing home confinement or hospital extended care facility;
2 (J) Physical therapy by a registered physical therapist;
3 (K) Blood transfusions, including the cost of blood and blood
4 plasma not replaced by voluntary donors;
5 (L) An optometrist licensed under the provisions of chapter 18.53
6 RCW.

7 (21) "Member" means any firefighter, law enforcement officer, or
8 other person as would apply under subsection (17) or (19) of this
9 section whose membership is transferred to the Washington law
10 enforcement officers' and firefighters' retirement system on or after
11 March 1, 1970, and every law enforcement officer and firefighter who
12 is employed in that capacity on or after such date.

13 (22) "Plan 1" means the law enforcement officers' and
14 firefighters' retirement system, plan 1 providing the benefits and
15 funding provisions covering persons who first became members of the
16 system prior to October 1, 1977.

17 (23) "Plan 2" means the law enforcement officers' and
18 firefighters' retirement system, plan 2 providing the benefits and
19 funding provisions covering persons who first became members of the
20 system on and after October 1, 1977.

21 (24) "Position" means the employment held at any particular time,
22 which may or may not be the same as civil service rank.

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

25 (26) "Retiree" for persons who establish membership in the
26 retirement system on or after October 1, 1977, means any member in
27 receipt of a retirement allowance or other benefit provided by this
28 chapter resulting from service rendered to an employer by such
29 member.

30 (27) "Retirement fund" means the "Washington law enforcement
31 officers' and firefighters' retirement system fund" as provided for
32 herein.

33 (28) "Retirement system" means the "Washington law enforcement
34 officers' and firefighters' retirement system" provided herein.

35 (29) "Separation from service" occurs when a person has
36 terminated all employment with an employer. Separation from service
37 or employment does not occur, and if claimed by an employer or
38 employee may be a violation of RCW 41.26.062, when an employee and
39 employer have a written or oral agreement to resume employment with
40 the same employer following termination. Mere expressions or

1 inquiries about postretirement employment by an employer or employee
2 that do not constitute a commitment to reemploy the employee after
3 retirement are not an agreement under this subsection.

4 (30)(a) "Service" for plan 1 members, means all periods of
5 employment for an employer as a firefighter or law enforcement
6 officer, for which compensation is paid, together with periods of
7 suspension not exceeding thirty days in duration. For the purposes of
8 this chapter service shall also include service in the armed forces
9 of the United States as provided in RCW 41.26.190. Credit shall be
10 allowed for all service credit months of service rendered by a member
11 from and after the member's initial commencement of employment as a
12 firefighter or law enforcement officer, during which the member
13 worked for seventy or more hours, or was on disability leave or
14 disability retirement. Only service credit months of service shall be
15 counted in the computation of any retirement allowance or other
16 benefit provided for in this chapter.

17 (i) For members retiring after May 21, 1971 who were employed
18 under the coverage of a prior pension act before March 1, 1970,
19 "service" shall also include (A) such military service not exceeding
20 five years as was creditable to the member as of March 1, 1970, under
21 the member's particular prior pension act, and (B) such other periods
22 of service as were then creditable to a particular member under the
23 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
24 event shall credit be allowed for any service rendered prior to March
25 1, 1970, where the member at the time of rendition of such service
26 was employed in a position covered by a prior pension act, unless
27 such service, at the time credit is claimed therefor, is also
28 creditable under the provisions of such prior act.

29 (ii) A member who is employed by two employers at the same time
30 shall only be credited with service to one such employer for any
31 month during which the member rendered such dual service.

32 (iii) Reduction efforts such as furloughs, reduced work hours,
33 mandatory leave without pay, temporary layoffs, or other similar
34 situations as contemplated by subsection (15)(c)(iii) of this section
35 do not result in a reduction in service credit that otherwise would
36 have been earned for that month of work, and the member shall receive
37 the full service credit for the hours that were scheduled to be
38 worked before the reduction.

39 (b)(i) "Service" for plan 2 members, means periods of employment
40 by a member for one or more employers for which basic salary is

1 earned for ninety or more hours per calendar month which shall
2 constitute a service credit month. Periods of employment by a member
3 for one or more employers for which basic salary is earned for at
4 least seventy hours but less than ninety hours per calendar month
5 shall constitute one-half service credit month. Periods of employment
6 by a member for one or more employers for which basic salary is
7 earned for less than seventy hours shall constitute a one-quarter
8 service credit month.

9 (ii) Members of the retirement system who are elected or
10 appointed to a state elective position may elect to continue to be
11 members of this retirement system.

12 (iii) Service credit years of service shall be determined by
13 dividing the total number of service credit months of service by
14 twelve. Any fraction of a service credit year of service as so
15 determined shall be taken into account in the computation of such
16 retirement allowance or benefits.

17 (iv) If a member receives basic salary from two or more employers
18 during any calendar month, the individual shall receive one service
19 credit month's service credit during any calendar month in which
20 multiple service for ninety or more hours is rendered; or one-half
21 service credit month's service credit during any calendar month in
22 which multiple service for at least seventy hours but less than
23 ninety hours is rendered; or one-quarter service credit month during
24 any calendar month in which multiple service for less than seventy
25 hours is rendered.

26 (v) Reduction efforts such as furloughs, reduced work hours,
27 mandatory leave without pay, temporary layoffs, or other similar
28 situations as contemplated by subsection (15)(c)(iii) of this section
29 do not result in a reduction in service credit that otherwise would
30 have been earned for that month of work, and the member shall receive
31 the full service credit for the hours that were scheduled to be
32 worked before the reduction.

33 ~~((+30))~~ (31) "Service credit month" means a full service credit
34 month or an accumulation of partial service credit months that are
35 equal to one.

36 ~~((+31))~~ (32) "Service credit year" means an accumulation of
37 months of service credit which is equal to one when divided by
38 twelve.

39 ~~((+32))~~ (33) "State actuary" or "actuary" means the person
40 appointed pursuant to RCW 44.44.010(2).

1 (~~(33)~~) (34) "State elective position" means any position held
2 by any person elected or appointed to statewide office or elected or
3 appointed as a member of the legislature.

4 (~~(34)~~) (35) "Surviving spouse" means the surviving widow or
5 widower of a member. "Surviving spouse" shall not include the
6 divorced spouse of a member except as provided in RCW 41.26.162.

7 **Sec. 2.** RCW 41.26.030 and 2023 c 77 s 1 are each amended to read
8 as follows:

9 As used in this chapter, unless a different meaning is plainly
10 required by the context:

11 (1) "Accumulated contributions" means the employee's
12 contributions made by a member, including any amount paid under RCW
13 41.50.165(2), plus accrued interest credited thereon.

14 (2) "Actuarial reserve" means a method of financing a pension or
15 retirement plan wherein reserves are accumulated as the liabilities
16 for benefit payments are incurred in order that sufficient funds will
17 be available on the date of retirement of each member to pay the
18 member's future benefits during the period of retirement.

19 (3) "Actuarial valuation" means a mathematical determination of
20 the financial condition of a retirement plan. It includes the
21 computation of the present monetary value of benefits payable to
22 present members, and the present monetary value of future employer
23 and employee contributions, giving effect to mortality among active
24 and retired members and also to the rates of disability, retirement,
25 withdrawal from service, salary and interest earned on investments.

26 (4)(a) "Basic salary" for plan 1 members, means the basic monthly
27 rate of salary or wages, including longevity pay but not including
28 overtime earnings or special salary or wages, upon which pension or
29 retirement benefits will be computed and upon which employer
30 contributions and salary deductions will be based.

31 (b) "Basic salary" for plan 2 members, means salaries or wages
32 earned by a member during a payroll period for personal services,
33 including overtime payments, and shall include wages and salaries
34 deferred under provisions established pursuant to sections 403(b),
35 414(h), and 457 of the United States Internal Revenue Code, but shall
36 exclude lump sum payments for deferred annual sick leave, unused
37 accumulated vacation, unused accumulated annual leave, or any form of
38 severance pay. In any year in which a member serves in the

1 legislature the member shall have the option of having such member's
2 basic salary be the greater of:

3 (i) The basic salary the member would have received had such
4 member not served in the legislature; or

5 (ii) Such member's actual basic salary received for
6 nonlegislative public employment and legislative service combined.
7 Any additional contributions to the retirement system required
8 because basic salary under (b)(i) of this subsection is greater than
9 basic salary under (b)(ii) of this subsection shall be paid by the
10 member for both member and employer contributions.

11 (5)(a) "Beneficiary" for plan 1 members, means any person in
12 receipt of a retirement allowance, disability allowance, death
13 benefit, or any other benefit described herein.

14 (b) "Beneficiary" for plan 2 members, means any person in receipt
15 of a retirement allowance or other benefit provided by this chapter
16 resulting from service rendered to an employer by another person.

17 (6)(a) "Child" or "children" means an unmarried person who is
18 under the age of eighteen or mentally or physically disabled as
19 determined by the department, except a person who is disabled and in
20 the full time care of a state institution, who is:

21 (i) A natural born child;

22 (ii) A stepchild where that relationship was in existence prior
23 to the date benefits are payable under this chapter;

24 (iii) A posthumous child;

25 (iv) A child legally adopted or made a legal ward of a member
26 prior to the date benefits are payable under this chapter; or

27 (v) An illegitimate child legitimized prior to the date any
28 benefits are payable under this chapter.

29 (b) A person shall also be deemed to be a child up to and
30 including the age of twenty years and eleven months while attending
31 any high school, college, or vocational or other educational
32 institution accredited, licensed, or approved by the state, in which
33 it is located, including the summer vacation months and all other
34 normal and regular vacation periods at the particular educational
35 institution after which the child returns to school.

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

38 (8) "Director" means the director of the department.

1 (9) "Disability board" for plan 1 members means either the county
2 disability board or the city disability board established in RCW
3 41.26.110.

4 (10) "Disability leave" means the period of six months or any
5 portion thereof during which a member is on leave at an allowance
6 equal to the member's full salary prior to the commencement of
7 disability retirement. The definition contained in this subsection
8 shall apply only to plan 1 members.

9 (11) "Disability retirement" for plan 1 members, means the period
10 following termination of a member's disability leave, during which
11 the member is in receipt of a disability retirement allowance.

12 (12) "Domestic partners" means two adults who have registered as
13 domestic partners under RCW 26.60.020.

14 (13) "Employee" means any law enforcement officer or firefighter
15 as defined in subsections (17) and (19) of this section.

16 (14)(a) "Employer" for plan 1 members, means the legislative
17 authority of any city, town, county, district, or regional fire
18 protection service authority or the elected officials of any
19 municipal corporation that employs any law enforcement officer and/or
20 firefighter, any authorized association of such municipalities, and,
21 except for the purposes of RCW 41.26.150, any labor guild,
22 association, or organization, which represents the firefighters or
23 law enforcement officers of at least seven cities of over 20,000
24 population and the membership of each local lodge or division of
25 which is composed of at least sixty percent law enforcement officers
26 or firefighters as defined in this chapter.

27 (b) "Employer" for plan 2 members, means the following entities
28 to the extent that the entity employs any law enforcement officer
29 and/or firefighter:

30 (i) The legislative authority of any city, town, county,
31 district, public corporation, or regional fire protection service
32 authority established under RCW 35.21.730 to provide emergency
33 medical services as defined in RCW 18.73.030;

34 (ii) The elected officials of any municipal corporation;

35 (iii) The governing body of any other general authority law
36 enforcement agency;

37 (iv) A four-year institution of higher education having a fully
38 operational fire department as of January 1, 1996; or

1 (v) The department of social and health services or the
2 department of corrections when employing firefighters serving at a
3 prison or civil commitment center on an island.

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

14 (15)(a) "Final average salary" for plan 1 members, means (i) for
15 a member holding the same position or rank for a minimum of twelve
16 months preceding the date of retirement, the basic salary attached to
17 such same position or rank at time of retirement; (ii) for any other
18 member, including a civil service member who has not served a minimum
19 of twelve months in the same position or rank preceding the date of
20 retirement, the average of the greatest basic salaries payable to
21 such member during any consecutive twenty-four month period within
22 such member's last ten years of service for which service credit is
23 allowed, computed by dividing the total basic salaries payable to
24 such member during the selected twenty-four month period by twenty-
25 four; (iii) in the case of disability of any member, the basic salary
26 payable to such member at the time of disability retirement; (iv) in
27 the case of a member who hereafter vests pursuant to RCW 41.26.090,
28 the basic salary payable to such member at the time of vesting.

29 (b) "Final average salary" for plan 2 members, means the monthly
30 average of the member's basic salary for the highest consecutive
31 sixty service credit months of service prior to such member's
32 retirement, termination, or death. Periods constituting authorized
33 unpaid leaves of absence may not be used in the calculation of final
34 average salary.

35 (c) In calculating final average salary under (a) or (b) of this
36 subsection, the department of retirement systems shall include:

37 (i) Any compensation forgone by a member employed by a state
38 agency or institution during the 2009-2011 fiscal biennium as a
39 result of reduced work hours, mandatory or voluntary leave without
40 pay, temporary reduction in pay implemented prior to December 11,

1 2010, or temporary layoffs if the reduced compensation is an integral
2 part of the employer's expenditure reduction efforts, as certified by
3 the employer;

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

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

21 (16) "Fire department" includes a fire station operated by the
22 department of social and health services or the department of
23 corrections when employing firefighters serving a prison or civil
24 commitment center on an island.

25 (17) "Firefighter" means:

26 (a) Any person who is serving on a full time, fully compensated
27 basis as a member of a fire department of an employer and who is
28 serving in a position which requires passing a civil service
29 examination for firefighter, and who is actively employed as such;

30 (b) Anyone who is actively employed as a full time firefighter
31 where the fire department does not have a civil service examination;

32 (c) Supervisory firefighter personnel;

33 (d) Any full time executive secretary of an association of fire
34 protection districts authorized under RCW 52.12.031. The provisions
35 of this subsection (17)(d) shall not apply to plan 2 members;

36 (e) The executive secretary of a labor guild, association or
37 organization (which is an employer under subsection (14) of this
38 section), if such individual has five years previous membership in a
39 retirement system established in chapter 41.16 or 41.18 RCW. The

1 provisions of this subsection (17)(e) shall not apply to plan 2
2 members;

3 (f) Any person who is serving on a full time, fully compensated
4 basis for an employer, as a fire dispatcher, in a department in
5 which, on March 1, 1970, a dispatcher was required to have passed a
6 civil service examination for firefighter;

7 (g) Any person who on March 1, 1970, was employed on a full time,
8 fully compensated basis by an employer, and who on May 21, 1971, was
9 making retirement contributions under the provisions of chapter 41.16
10 or 41.18 RCW; and

11 (h) Any person who is employed on a full-time, fully compensated
12 basis by an employer as an emergency medical technician that meets
13 the requirements of RCW 18.71.200 or 18.73.030(13), and whose duties
14 include providing emergency medical services as defined in RCW
15 18.73.030.

16 (18) "General authority law enforcement agency" means any agency,
17 department, or division of a municipal corporation, political
18 subdivision, or other unit of local government of this state, the
19 government of a federally recognized tribe, and any agency,
20 department, or division of state government, having as its primary
21 function the detection and apprehension of persons committing
22 infractions or violating the traffic or criminal laws in general, but
23 not including the Washington state patrol. Such an agency,
24 department, or division is distinguished from a limited authority law
25 enforcement agency having as one of its functions the apprehension or
26 detection of persons committing infractions or violating the traffic
27 or criminal laws relating to limited subject areas, including but not
28 limited to, the state departments of natural resources and social and
29 health services, the state gambling commission, the state lottery
30 commission, the state parks and recreation commission, the state
31 utilities and transportation commission, the state liquor and
32 cannabis board, and the state department of corrections. A general
33 authority law enforcement agency under this chapter does not include
34 a government contractor.

35 (19) "Law enforcement officer" beginning January 1, 1994, means
36 any person who is commissioned and employed by an employer on a full
37 time, fully compensated basis to enforce the criminal laws of the
38 state of Washington generally, with the following qualifications:

1 (a) No person who is serving in a position that is basically
2 clerical or secretarial in nature, and who is not commissioned shall
3 be considered a law enforcement officer;

4 (b) Only those deputy sheriffs, including those serving under a
5 different title pursuant to county charter, who have successfully
6 completed a civil service examination for deputy sheriff or the
7 equivalent position, where a different title is used, and those
8 persons serving in unclassified positions authorized by RCW 41.14.070
9 except a private secretary will be considered law enforcement
10 officers;

11 (c) Only such full time commissioned law enforcement personnel as
12 have been appointed to offices, positions, or ranks in the police
13 department which have been specifically created or otherwise
14 expressly provided for and designated by city charter provision or by
15 ordinance enacted by the legislative body of the city shall be
16 considered city police officers;

17 (d) The term "law enforcement officer" also includes the
18 executive secretary of a labor guild, association or organization
19 (which is an employer under subsection (14) of this section) if that
20 individual has five years previous membership in the retirement
21 system established in chapter 41.20 RCW. The provisions of this
22 subsection (19)(d) shall not apply to plan 2 members;

23 (e) The term "law enforcement officer" also includes a person
24 employed on or after January 1, 1993, as a public safety officer or
25 director of public safety, so long as the job duties substantially
26 involve only either police or fire duties, or both, and no other
27 duties in a city or town with a population of less than ten thousand.
28 The provisions of this subsection (19)(e) shall not apply to any
29 public safety officer or director of public safety who is receiving a
30 retirement allowance under this chapter as of May 12, 1993; and

31 (f) The term "law enforcement officer" also includes a person who
32 is employed on or after January 1, 2024, on a full-time basis by the
33 government of a federally recognized tribe within the state of
34 Washington that meets the terms and conditions of RCW 41.26.565, is
35 employed in a police department maintained by that tribe, and who is
36 currently certified as a general authority peace officer under
37 chapter 43.101 RCW.

38 (20) "Medical services" for plan 1 members, shall include the
39 following as minimum services to be provided. Reasonable charges for
40 these services shall be paid in accordance with RCW 41.26.150.

1 (a) Hospital expenses: These are the charges made by a hospital,
2 in its own behalf, for

3 (i) Board and room not to exceed semiprivate room rate unless
4 private room is required by the attending physician due to the
5 condition of the patient.

6 (ii) Necessary hospital services, other than board and room,
7 furnished by the hospital.

8 (b) Other medical expenses: The following charges are considered
9 "other medical expenses," provided that they have not been considered
10 as "hospital expenses".

11 (i) The fees of the following:

12 (A) A physician or surgeon licensed under the provisions of
13 chapter 18.71 RCW;

14 (B) An osteopathic physician and surgeon licensed under the
15 provisions of chapter 18.57 RCW;

16 (C) A chiropractor licensed under the provisions of chapter 18.25
17 RCW.

18 (ii) The charges of a registered graduate nurse other than a
19 nurse who ordinarily resides in the member's home, or is a member of
20 the family of either the member or the member's spouse.

21 (iii) The charges for the following medical services and
22 supplies:

23 (A) Drugs and medicines upon a physician's prescription;

24 (B) Diagnostic X-ray and laboratory examinations;

25 (C) X-ray, radium, and radioactive isotopes therapy;

26 (D) Anesthesia and oxygen;

27 (E) Rental of iron lung and other durable medical and surgical
28 equipment;

29 (F) Artificial limbs and eyes, and casts, splints, and trusses;

30 (G) Professional ambulance service when used to transport the
31 member to or from a hospital when injured by an accident or stricken
32 by a disease;

33 (H) Dental charges incurred by a member who sustains an
34 accidental injury to his or her teeth and who commences treatment by
35 a legally licensed dentist within ninety days after the accident;

36 (I) Nursing home confinement or hospital extended care facility;

37 (J) Physical therapy by a registered physical therapist;

38 (K) Blood transfusions, including the cost of blood and blood
39 plasma not replaced by voluntary donors;

1 (L) An optometrist licensed under the provisions of chapter 18.53
2 RCW.

3 (21) "Member" means any firefighter, law enforcement officer, or
4 other person as would apply under subsection (17) or (19) of this
5 section whose membership is transferred to the Washington law
6 enforcement officers' and firefighters' retirement system on or after
7 March 1, 1970, and every law enforcement officer and firefighter who
8 is employed in that capacity on or after such date.

9 (22) "Plan 1" means the law enforcement officers' and
10 firefighters' retirement system, plan 1 providing the benefits and
11 funding provisions covering persons who first became members of the
12 system prior to October 1, 1977.

13 (23) "Plan 2" means the law enforcement officers' and
14 firefighters' retirement system, plan 2 providing the benefits and
15 funding provisions covering persons who first became members of the
16 system on and after October 1, 1977.

17 (24) "Position" means the employment held at any particular time,
18 which may or may not be the same as civil service rank.

19 (25) "Regular interest" means such rate as the director may
20 determine.

21 (26) "Retiree" for persons who establish membership in the
22 retirement system on or after October 1, 1977, means any member in
23 receipt of a retirement allowance or other benefit provided by this
24 chapter resulting from service rendered to an employer by such
25 member.

26 (27) "Retirement fund" means the "Washington law enforcement
27 officers' and firefighters' retirement system fund" as provided for
28 herein.

29 (28) "Retirement system" means the "Washington law enforcement
30 officers' and firefighters' retirement system" provided herein.

31 (29) "Separation from service" occurs when a person has
32 terminated all employment with an employer. Separation from service
33 or employment does not occur, and if claimed by an employer or
34 employee may be a violation of RCW 41.26.062, when an employee and
35 employer have a written or oral agreement to resume employment with
36 the same employer following termination. Mere expressions or
37 inquiries about postretirement employment by an employer or employee
38 that do not constitute a commitment to reemploy the employee after
39 retirement are not an agreement under this subsection.

1 (30)(a) "Service" for plan 1 members, means all periods of
2 employment for an employer as a firefighter or law enforcement
3 officer, for which compensation is paid, together with periods of
4 suspension not exceeding thirty days in duration. For the purposes of
5 this chapter service shall also include service in the armed forces
6 of the United States as provided in RCW 41.26.190. Credit shall be
7 allowed for all service credit months of service rendered by a member
8 from and after the member's initial commencement of employment as a
9 firefighter or law enforcement officer, during which the member
10 worked for seventy or more hours, or was on disability leave or
11 disability retirement. Only service credit months of service shall be
12 counted in the computation of any retirement allowance or other
13 benefit provided for in this chapter.

14 (i) For members retiring after May 21, 1971 who were employed
15 under the coverage of a prior pension act before March 1, 1970,
16 "service" shall also include (A) such military service not exceeding
17 five years as was creditable to the member as of March 1, 1970, under
18 the member's particular prior pension act, and (B) such other periods
19 of service as were then creditable to a particular member under the
20 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
21 event shall credit be allowed for any service rendered prior to March
22 1, 1970, where the member at the time of rendition of such service
23 was employed in a position covered by a prior pension act, unless
24 such service, at the time credit is claimed therefor, is also
25 creditable under the provisions of such prior act.

26 (ii) A member who is employed by two employers at the same time
27 shall only be credited with service to one such employer for any
28 month during which the member rendered such dual service.

29 (iii) Reduction efforts such as furloughs, reduced work hours,
30 mandatory leave without pay, temporary layoffs, or other similar
31 situations as contemplated by subsection (15)(c)(iii) of this section
32 do not result in a reduction in service credit that otherwise would
33 have been earned for that month of work, and the member shall receive
34 the full service credit for the hours that were scheduled to be
35 worked before the reduction.

36 (b)(i) "Service" for plan 2 members, means periods of employment
37 by a member for one or more employers for which basic salary is
38 earned for ninety or more hours per calendar month which shall
39 constitute a service credit month. Periods of employment by a member
40 for one or more employers for which basic salary is earned for at

1 least seventy hours but less than ninety hours per calendar month
2 shall constitute one-half service credit month. Periods of employment
3 by a member for one or more employers for which basic salary is
4 earned for less than seventy hours shall constitute a one-quarter
5 service credit month.

6 (ii) Members of the retirement system who are elected or
7 appointed to a state elective position may elect to continue to be
8 members of this retirement system.

9 (iii) Service credit years of service shall be determined by
10 dividing the total number of service credit months of service by
11 twelve. Any fraction of a service credit year of service as so
12 determined shall be taken into account in the computation of such
13 retirement allowance or benefits.

14 (iv) If a member receives basic salary from two or more employers
15 during any calendar month, the individual shall receive one service
16 credit month's service credit during any calendar month in which
17 multiple service for ninety or more hours is rendered; or one-half
18 service credit month's service credit during any calendar month in
19 which multiple service for at least seventy hours but less than
20 ninety hours is rendered; or one-quarter service credit month during
21 any calendar month in which multiple service for less than seventy
22 hours is rendered.

23 (v) Reduction efforts such as furloughs, reduced work hours,
24 mandatory leave without pay, temporary layoffs, or other similar
25 situations as contemplated by subsection (15)(c)(iii) of this section
26 do not result in a reduction in service credit that otherwise would
27 have been earned for that month of work, and the member shall receive
28 the full service credit for the hours that were scheduled to be
29 worked before the reduction.

30 ~~((+30+))~~ (31) "Service credit month" means a full service credit
31 month or an accumulation of partial service credit months that are
32 equal to one.

33 ~~((+31+))~~ (32) "Service credit year" means an accumulation of
34 months of service credit which is equal to one when divided by
35 twelve.

36 ~~((+32+))~~ (33) "State actuary" or "actuary" means the person
37 appointed pursuant to RCW 44.44.010(2).

38 ~~((+33+))~~ (34) "State elective position" means any position held
39 by any person elected or appointed to statewide office or elected or
40 appointed as a member of the legislature.

1 (~~(34)~~) (35) "Surviving spouse" means the surviving widow or
2 widower of a member. "Surviving spouse" shall not include the
3 divorced spouse of a member except as provided in RCW 41.26.162.

4 **Sec. 3.** RCW 41.26.500 and 2005 c 372 s 2 are each amended to
5 read as follows:

6 (1) Except under subsection (3) of this section, a retiree under
7 the provisions of plan 2 shall not be eligible to receive such
8 retiree's monthly retirement allowance if he or she is employed in an
9 eligible position as defined in RCW 41.40.010, 41.32.010, 41.37.010,
10 or 41.35.010, or as a law enforcement officer or firefighter as
11 defined in RCW 41.26.030. If a retiree's benefits have been suspended
12 under this section, his or her benefits shall be reinstated when the
13 retiree terminates the employment that caused his or her benefits to
14 be suspended. Upon reinstatement, the retiree's benefits shall be
15 actuarially recomputed pursuant to the rules adopted by the
16 department.

17 (2) The department shall adopt rules implementing this section.

18 (3) A member or retiree who becomes employed in an eligible
19 position as defined in RCW 41.40.010, 41.32.010, 41.35.010, or
20 41.37.010 shall have the option to enter into membership in the
21 corresponding retirement system for that position notwithstanding any
22 provision of RCW 41.04.270. A retiree who elects to enter into plan
23 membership shall have his or her benefits suspended as provided in
24 subsection (1) of this section. A retiree who does not elect to enter
25 into plan membership shall continue to receive his or her benefits
26 without interruption.

27 (4) A retiree that has separated from service with an employer as
28 defined in RCW 41.40.010, 41.32.010, 41.37.010, or 41.35.010, or as a
29 law enforcement officer or firefighter as defined in RCW
30 41.26.030(29) for six months or more may:

31 (a) Enter employment with an employer as a law enforcement
32 officer or firefighter for up to 1040 hours per calendar year for
33 three years without suspension of retirement benefits;

34 (b) Forgo any service credit or other accrual of retirement
35 benefits during this period of part-time employment as a retiree; and

36 (c) Accept that this provision of expanded benefit eligibility
37 during postretirement employment in a law enforcement or firefighter
38 position is not provided as a matter of contractual right, and may be
39 repealed or modified by the legislature at any time.

1 NEW SECTION. **Sec. 4.** Section 1 of this act expires July 1,
2 2025.

3 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect July 1,
4 2025.

--- **END** ---