
HOUSE BILL 1566

State of Washington

68th Legislature

2023 Regular Session

By Representatives Bateman and Doglio

1 AN ACT Relating to vacation leave accrual for state employees;
2 amending RCW 43.01.044, 41.40.010, 43.43.120, and 43.01.041; and
3 reenacting and amending RCW 43.01.040.

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

5 **Sec. 1.** RCW 43.01.040 and 2017 c 168 s 1 and 2017 c 167 s 1 are
6 each reenacted and amended to read as follows:

7 Each subordinate officer and employee of the several offices,
8 departments, and institutions of the state government shall be
9 entitled under their contract of employment with the state government
10 to not less than eight hours of vacation leave with full pay for each
11 month of employment.

12 Each such subordinate officer and employee shall be entitled
13 under such contract of employment to not less than eight additional
14 hours of vacation with full pay each year for satisfactorily
15 completing the first two, three, and five continuous years of
16 employment respectively.

17 Such part-time officers or employees of the state government who
18 are employed on a regular schedule of duration of not less than one
19 year shall be entitled under their contract of employment to that
20 fractional part of the vacation leave that the total number of hours

1 of such employment bears to the total number of hours of full-time
2 employment.

3 Each subordinate officer and employee of the several offices,
4 departments, and institutions of the state government shall be
5 entitled under his or her contract of employment with the state
6 government to accrue unused vacation leave not to exceed (~~two~~
7 ~~hundred forty~~) 280 hours. However, employees of the Washington state
8 ferries covered by collective bargaining agreements containing
9 provisions in effect on June 30, 2017, allowing accrual of unused
10 vacation leave not to exceed three hundred twenty hours shall be
11 allowed to continue the higher accrual limit until such time as those
12 provisions are modified through collective bargaining, or the
13 bargaining unit changes its exclusive representative or is
14 decertified. Officers and employees transferring within the several
15 offices, departments, and institutions of the state government shall
16 be entitled to transfer such accrued vacation leave to each
17 succeeding state office, department, or institution. All vacation
18 leave shall be taken at the time convenient to the employing office,
19 department, or institution: PROVIDED, That if a subordinate officer's
20 or employee's request for vacation leave is deferred by reason of the
21 convenience of the employing office, department, or institution, and
22 a statement of the necessity therefor is retained by the agency, then
23 the aforesaid maximum (~~two hundred forty~~) 280 hours of accrued
24 unused vacation leave shall be extended for each month said leave is
25 so deferred.

26 **Sec. 2.** RCW 43.01.044 and 2017 c 167 s 2 are each amended to
27 read as follows:

28 As an alternative, in addition to the provisions of RCW 43.01.040
29 authorizing the accumulation of vacation leave in excess of (~~two~~
30 ~~hundred forty~~) 280 hours with the filing of a statement of
31 necessity, vacation leave in excess of (~~two hundred forty~~) 280
32 hours may also be accumulated as provided in this section but without
33 the filing of a statement of necessity. The accumulation of leave
34 under this alternative method shall be governed by the following
35 provisions:

36 (1) Each subordinate officer and employee of the several offices,
37 departments, and institutions of state government may accumulate the
38 vacation leave hours between the time (~~two hundred forty~~) 280 hours
39 is accrued and his or her anniversary date of state employment.

1 (2) All vacation hours accumulated under this section shall be
2 used by the anniversary date and at a time convenient to the
3 employing office, department, or institution. If an officer or
4 employee does not use the excess leave by the anniversary date, then
5 such leave shall be automatically extinguished and considered to have
6 never existed.

7 (3) This section shall not result in any increase in a retirement
8 allowance under any public retirement system in this state.

9 (4) Should the legislature revoke any benefits or rights provided
10 under this section, no affected officer or employee shall be entitled
11 thereafter to receive such benefits or exercise such rights as a
12 matter of contractual right.

13 (5) Vacation leave credit acquired and accumulated under this
14 section shall never, regardless of circumstances, be deferred by the
15 employing office, department, or institution by filing a statement of
16 necessity under the provisions of RCW 43.01.040.

17 (6) Notwithstanding any other provision of this chapter, on or
18 after July 24, 1983, a statement of necessity for excess leave shall,
19 ((as-[at])) at a minimum, include the following: (a) The specific
20 number of hours of excess leave; and (b) the date on which it was
21 authorized. A copy of any such authorization shall be sent to the
22 department of retirement systems.

23 **Sec. 3.** RCW 41.40.010 and 2022 c 71 s 8 are each amended to read
24 as follows:

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

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

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

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

36 (4) "Annual increase" means, initially, ((fifty-nine)) 59 cents
37 per month per year of service which amount shall be increased each
38 July 1st by three percent, rounded to the nearest cent.

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

4 (6) (a) "Average final compensation" for plan 1 members, means the
5 annual average of the greatest compensation earnable by a member
6 during any consecutive two year period of service credit months for
7 which service credit is allowed; or if the member has less than two
8 years of service credit months then the annual average compensation
9 earnable during the total years of service for which service credit
10 is allowed.

11 (b) "Average final compensation" for plan 2 and plan 3 members,
12 means the member's average compensation earnable of the highest
13 consecutive sixty months of service credit months prior to such
14 member's retirement, termination, or death. Periods constituting
15 authorized leaves of absence may not be used in the calculation of
16 average final compensation except under RCW 41.40.710(2) or (c) of
17 this subsection.

18 (c) In calculating average final compensation under this
19 subsection for a member of plan 1, 2, or 3, the department of
20 retirement systems shall include:

21 (i) Any compensation forgone by the member during the 2009-2011
22 fiscal biennium as a result of reduced work hours, voluntary leave
23 without pay, temporary reduction in pay implemented prior to December
24 11, 2010, or temporary furloughs if the reduced compensation is an
25 integral part of the employer's expenditure reduction efforts, as
26 certified by the employer;

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

35 (iii) Any compensation forgone by a member during the 2019-2021
36 and 2021-2023 fiscal biennia as a result of reduced work hours,
37 mandatory leave without pay, temporary layoffs, furloughs, reductions
38 to current pay, or other similar measures resulting from the COVID-19
39 budgetary crisis, if the reduced compensation is an integral part of
40 the employer's expenditure reduction efforts, as certified by the

1 employer. Reductions to current pay shall not include elimination of
2 previously agreed upon future salary increases.

3 (7) (a) "Beneficiary" for plan 1 members, means any person in
4 receipt of a retirement allowance, pension or other benefit provided
5 by this chapter.

6 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
7 in receipt of a retirement allowance or other benefit provided by
8 this chapter resulting from service rendered to an employer by
9 another person.

10 (8) (a) "Compensation earnable" for plan 1 members, means salaries
11 or wages earned during a payroll period for personal services and
12 where the compensation is not all paid in money, maintenance
13 compensation shall be included upon the basis of the schedules
14 established by the member's employer.

15 (i) "Compensation earnable" for plan 1 members also includes the
16 following actual or imputed payments, which are not paid for personal
17 services:

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

25 (B) If a leave of absence is taken by an individual for the
26 purpose of serving in the state legislature, the salary which would
27 have been received for the position from which the leave of absence
28 was taken, shall be considered as compensation earnable if the
29 employee's contribution is paid by the employee and the employer's
30 contribution is paid by the employer or employee;

31 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
32 and 72.09.240;

33 (D) Compensation that a member would have received but for a
34 disability occurring in the line of duty only as authorized by RCW
35 41.40.038;

36 (E) Compensation that a member receives due to participation in
37 the leave sharing program only as authorized by RCW 41.04.650 through
38 41.04.670; and

39 (F) Compensation that a member receives for being in standby
40 status. For the purposes of this section, a member is in standby

1 status when not being paid for time actually worked and the employer
2 requires the member to be prepared to report immediately for work, if
3 the need arises, although the need may not arise.

4 (ii) "Compensation earnable" does not include:

5 (A) Remuneration for unused sick leave authorized under RCW
6 41.04.340, 28A.400.210, or 28A.310.490;

7 (B) Remuneration for unused annual leave in excess of 240 hours
8 (~~as authorized by RCW 43.01.044 and 43.01.041~~).

9 (b) "Compensation earnable" for plan 2 and plan 3 members, means
10 salaries or wages earned by a member during a payroll period for
11 personal services, including overtime payments, and shall include
12 wages and salaries deferred under provisions established pursuant to
13 sections 403(b), 414(h), and 457 of the United States Internal
14 Revenue Code, but shall exclude nonmoney maintenance compensation and
15 lump sum or other payments for deferred annual sick leave, unused
16 accumulated vacation, unused accumulated annual leave, or any form of
17 severance pay.

18 "Compensation earnable" for plan 2 and plan 3 members also
19 includes the following actual or imputed payments, which are not paid
20 for personal services:

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

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

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

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

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

3 (iv) Compensation that a member would have received but for a
4 disability occurring in the line of duty only as authorized by RCW
5 41.40.038;

6 (v) Compensation that a member receives due to participation in
7 the leave sharing program only as authorized by RCW 41.04.650 through
8 41.04.670; and

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

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

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

17 (11) "Eligible position" means:

18 (a) Any position that, as defined by the employer, normally
19 requires five or more months of service a year for which regular
20 compensation for at least seventy hours is earned by the occupant
21 thereof. For purposes of this chapter an employer shall not define
22 "position" in such a manner that an employee's monthly work for that
23 employer is divided into more than one position;

24 (b) Any position occupied by an elected official or person
25 appointed directly by the governor, or appointed by the chief justice
26 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
27 compensation is paid.

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

33 (13)(a) "Employer" for plan 1 members, means every branch,
34 department, agency, commission, board, and office of the state, any
35 political subdivision or association of political subdivisions of the
36 state admitted into the retirement system, and legal entities
37 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and
38 the term shall also include any labor guild, association, or
39 organization the membership of a local lodge or division of which is
40 comprised of at least forty percent employees of an employer (other

1 than such labor guild, association, or organization) within this
2 chapter. The term may also include any city of the first class that
3 has its own retirement system.

4 (b) "Employer" for plan 2 and plan 3 members, means every branch,
5 department, agency, commission, board, and office of the state, and
6 any political subdivision and municipal corporation of the state
7 admitted into the retirement system, including public agencies
8 created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except
9 that after August 31, 2000, school districts and educational service
10 districts will no longer be employers for the public employees'
11 retirement system plan 2.

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

22 (d) "Employer" does not include a comprehensive cancer center
23 participating in a collaborative arrangement as defined in RCW
24 28B.10.930 that is operated in conformance with RCW 28B.10.930.

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

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

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

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

34 (18) "Index year" means the earliest calendar year in which the
35 index is more than (~~sixty~~) 60 percent of index A.

36 (19) "Ineligible position" means any position which does not
37 conform with the requirements set forth in subsection (11) of this
38 section.

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

4 (21) "Member" means any employee included in the membership of
5 the retirement system, as provided for in RCW 41.40.023. RCW
6 41.26.045 does not prohibit a person otherwise eligible for
7 membership in the retirement system from establishing such membership
8 effective when he or she first entered an eligible position.

9 (22) "Member account" or "member's account" for purposes of plan
10 3 means the sum of the contributions and earnings on behalf of the
11 member in the defined contribution portion of plan 3.

12 (23) "Membership service" means:

13 (a) All service rendered, as a member, after October 1, 1947;

14 (b) All service after October 1, 1947, to any employer prior to
15 the time of its admission into the retirement system for which member
16 and employer contributions, plus interest as required by RCW
17 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

18 (c) Service not to exceed six consecutive months of probationary
19 service rendered after April 1, 1949, and prior to becoming a member,
20 in the case of any member, upon payment in full by such member of the
21 total amount of the employer's contribution to the retirement fund
22 which would have been required under the law in effect when such
23 probationary service was rendered if the member had been a member
24 during such period, except that the amount of the employer's
25 contribution shall be calculated by the director based on the first
26 month's compensation earnable as a member;

27 (d) Service not to exceed six consecutive months of probationary
28 service, rendered after October 1, 1947, and before April 1, 1949,
29 and prior to becoming a member, in the case of any member, upon
30 payment in full by such member of five percent of such member's
31 salary during said period of probationary service, except that the
32 amount of the employer's contribution shall be calculated by the
33 director based on the first month's compensation earnable as a
34 member.

35 (24) "New member" means a person who becomes a member on or after
36 April 1, 1949, except as otherwise provided in this section.

37 (25) "Original member" of this retirement system means:

38 (a) Any person who became a member of the system prior to April
39 1, 1949;

1 (b) Any person who becomes a member through the admission of an
2 employer into the retirement system on and after April 1, 1949, and
3 prior to April 1, 1951;

4 (c) Any person who first becomes a member by securing employment
5 with an employer prior to April 1, 1951, provided the member has
6 rendered at least one or more years of service to any employer prior
7 to October 1, 1947;

8 (d) Any person who first becomes a member through the admission
9 of an employer into the retirement system on or after April 1, 1951,
10 provided, such person has been in the regular employ of the employer
11 for at least six months of the (~~twelve~~) 12-month period preceding
12 the said admission date;

13 (e) Any member who has restored all contributions that may have
14 been withdrawn as provided by RCW 41.40.150 and who on the effective
15 date of the individual's retirement becomes entitled to be credited
16 with (~~ten~~) 10 years or more of membership service except that the
17 provisions relating to the minimum amount of retirement allowance for
18 the member upon retirement at age (~~seventy~~) 70 as found in RCW
19 41.40.190(4) shall not apply to the member;

20 (f) Any member who has been a contributor under the system for
21 two or more years and who has restored all contributions that may
22 have been withdrawn as provided by RCW 41.40.150 and who on the
23 effective date of the individual's retirement has rendered five or
24 more years of service for the state or any political subdivision
25 prior to the time of the admission of the employer into the system;
26 except that the provisions relating to the minimum amount of
27 retirement allowance for the member upon retirement at age
28 (~~seventy~~) 70 as found in RCW 41.40.190(4) shall not apply to the
29 member.

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

33 (27) "Plan 1" means the public employees' retirement system, plan
34 1 providing the benefits and funding provisions covering persons who
35 first became members of the system prior to October 1, 1977.

36 (28) "Plan 2" means the public employees' retirement system, plan
37 2 providing the benefits and funding provisions covering persons who
38 first became members of the system on and after October 1, 1977, and
39 are not included in plan 3.

1 (29) "Plan 3" means the public employees' retirement system, plan
2 3 providing the benefits and funding provisions covering persons who:

3 (a) First become a member on or after:

4 (i) March 1, 2002, and are employed by a state agency or
5 institute of higher education and who did not choose to enter plan 2;
6 or

7 (ii) September 1, 2002, and are employed by other than a state
8 agency or institute of higher education and who did not choose to
9 enter plan 2; or

10 (b) Transferred to plan 3 under RCW 41.40.795.

11 (30) "Prior service" means all service of an original member
12 rendered to any employer prior to October 1, 1947.

13 (31) "Regular interest" means such rate as the director may
14 determine.

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

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

20 (34) "Retirement allowance" means the sum of the annuity and the
21 pension.

22 (35) "Retirement system" means the public employees' retirement
23 system provided for in this chapter.

24 (36) "Separation from service" occurs when a person has
25 terminated all employment with an employer. Separation from service
26 or employment does not occur, and if claimed by an employer or
27 employee may be a violation of RCW 41.40.055, when an employee and
28 employer have a written or oral agreement to resume employment with
29 the same employer following termination. Mere expressions or
30 inquiries about postretirement employment by an employer or employee
31 that do not constitute a commitment to reemploy the employee after
32 retirement are not an agreement under this subsection.

33 (37)(a) "Service" for plan 1 members, except as provided in RCW
34 41.40.088, means periods of employment in an eligible position or
35 positions for one or more employers rendered to any employer for
36 which compensation is paid, and includes time spent in office as an
37 elected or appointed official of an employer. Compensation earnable
38 earned in full time work for (~~seventy~~) 70 hours or more in any
39 given calendar month shall constitute one service credit month except
40 as provided in RCW 41.40.088. Compensation earnable earned for less

1 than (~~seventy~~) 70 hours in any calendar month shall constitute one-
2 quarter service credit month of service except as provided in RCW
3 41.40.088. Only service credit months and one-quarter service credit
4 months shall be counted in the computation of any retirement
5 allowance or other benefit provided for in this chapter. Any fraction
6 of a year of service shall be taken into account in the computation
7 of such retirement allowance or benefits. Time spent in standby
8 status, whether compensated or not, is not service.

9 (i) Service by a state employee officially assigned by the state
10 on a temporary basis to assist another public agency, shall be
11 considered as service as a state employee: PROVIDED, That service to
12 any other public agency shall not be considered service as a state
13 employee if such service has been used to establish benefits in any
14 other public retirement system.

15 (ii) An individual shall receive no more than a total of
16 (~~twelve~~) 12 service credit months of service during any calendar
17 year. If an individual is employed in an eligible position by one or
18 more employers the individual shall receive no more than one service
19 credit month during any calendar month in which multiple service for
20 seventy or more hours is rendered.

21 (iii) A school district employee may count up to (~~forty-five~~)
22 45 days of sick leave as creditable service solely for the purpose of
23 determining eligibility to retire under RCW 41.40.180 as authorized
24 by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used
25 in RCW 28A.400.300 is equal to two service credit months. Use of less
26 than (~~forty-five~~) 45 days of sick leave is creditable as allowed
27 under this subsection as follows:

28 (A) Less than (~~twenty-two~~) 22 days equals one-quarter service
29 credit month;

30 (B) (~~Twenty-two~~) 22 days equals one service credit month;

31 (C) More than (~~twenty-two~~) 22 days but less than (~~forty-five~~)
32 45 days equals one and one-quarter service credit month.

33 (iv) Reduction efforts such as furloughs, reduced work hours,
34 mandatory leave without pay, temporary layoffs, or other similar
35 situations as contemplated by subsection (6)(c)(iii) of this section
36 do not result in a reduction in service credit that otherwise would
37 have been earned for that month of work, and the member shall receive
38 the full service credit for the hours that were scheduled to be
39 worked before the reduction.

1 (b) "Service" for plan 2 and plan 3 members, means periods of
2 employment by a member in an eligible position or positions for one
3 or more employers for which compensation earnable is paid.
4 Compensation earnable earned for (~~ninety~~) 90 or more hours in any
5 calendar month shall constitute one service credit month except as
6 provided in RCW 41.40.088. Compensation earnable earned for at least
7 (~~seventy~~) 70 hours but less than (~~ninety~~) 90 hours in any
8 calendar month shall constitute one-half service credit month of
9 service. Compensation earnable earned for less than (~~seventy~~) 70
10 hours in any calendar month shall constitute one-quarter service
11 credit month of service. Time spent in standby status, whether
12 compensated or not, is not service.

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

15 (i) Service in any state elective position shall be deemed to be
16 full time service, except that persons serving in state elective
17 positions who are members of the Washington school employees'
18 retirement system, teachers' retirement system, public safety
19 employees' retirement system, or law enforcement officers' and
20 firefighters' retirement system at the time of election or
21 appointment to such position may elect to continue membership in the
22 Washington school employees' retirement system, teachers' retirement
23 system, public safety employees' retirement system, or law
24 enforcement officers' and firefighters' retirement system.

25 (ii) A member shall receive a total of not more than (~~twelve~~)
26 12 service credit months of service for such calendar year. If an
27 individual is employed in an eligible position by one or more
28 employers the individual shall receive no more than one service
29 credit month during any calendar month in which multiple service for
30 ninety or more hours is rendered.

31 (iii) Up to (~~forty-five~~) 45 days of sick leave may be
32 creditable as service solely for the purpose of determining
33 eligibility to retire under RCW 41.40.180 as authorized by RCW
34 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as
35 used in RCW 28A.400.300 is equal to two service credit months. Use of
36 less than (~~forty-five~~) 45 days of sick leave is creditable as
37 allowed under this subsection as follows:

38 (A) Less than (~~eleven~~) 11 days equals one-quarter service
39 credit month;

1 (B) (~~Eleven~~) 11 or more days but less than (~~twenty-two~~) 22
2 days equals one-half service credit month;

3 (C) (~~Twenty-two~~) 22 days equals one service credit month;

4 (D) More than (~~twenty-two~~) 22 days but less than (~~thirty-~~
5 ~~three~~) 33 days equals one and one-quarter service credit month;

6 (E) (~~Thirty-three~~) 33 or more days but less than (~~forty-five~~)
7 45 days equals one and one-half service credit month.

8 (iv) Reduction efforts such as furloughs, reduced work hours,
9 mandatory leave without pay, temporary layoffs, or other similar
10 situations as contemplated by subsection (6)(c)(iii) of this section
11 do not result in a reduction in service credit that otherwise would
12 have been earned for that month of work, and the member shall receive
13 the full service credit for the hours that were scheduled to be
14 worked before the reduction.

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

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

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

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

24 (42) "State treasurer" means the treasurer of the state of
25 Washington.

26 (43) "Totally incapacitated for duty" means total inability to
27 perform the duties of a member's employment or office or any other
28 work for which the member is qualified by training or experience.

29 **Sec. 4.** RCW 43.43.120 and 2021 c 12 s 8 are each amended to read
30 as follows:

31 As used in this section and RCW 43.43.130 through 43.43.320,
32 unless a different meaning is plainly required by the context:

33 (1) "Actuarial equivalent" shall mean a benefit of equal value
34 when computed upon the basis of such mortality table as may be
35 adopted and such interest rate as may be determined by the director.

36 (2) "Annual increase" means as of July 1, 1999, seventy-seven
37 cents per month per year of service which amount shall be increased
38 each subsequent July 1st by three percent, rounded to the nearest
39 cent.

1 (3) (a) "Average final salary," for members commissioned prior to
2 January 1, 2003, shall mean the average monthly salary received by a
3 member during the member's last two years of service or any
4 consecutive two-year period of service, whichever is the greater, as
5 an employee of the Washington state patrol; or if the member has less
6 than two years of service, then the average monthly salary received
7 by the member during the member's total years of service.

8 (b) "Average final salary," for members commissioned on or after
9 January 1, 2003, shall mean the average monthly salary received by a
10 member for the highest consecutive sixty service credit months; or if
11 the member has less than sixty months of service, then the average
12 monthly salary received by the member during the member's total
13 months of service.

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

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

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

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

37 (4) "Beneficiary" means any person in receipt of retirement
38 allowance or any other benefit allowed by this chapter.

39 (5) (a) "Cadet," for a person who became a member of the
40 retirement system after June 12, 1980, is a person who has passed the

1 Washington state patrol's entry-level oral, written, physical
2 performance, and background examinations and is, thereby, appointed
3 by the chief as a candidate to be a commissioned officer of the
4 Washington state patrol.

5 (b) "Cadet," for a person who became a member of the retirement
6 system before June 12, 1980, is a trooper cadet, patrol cadet, or
7 employee of like classification, employed for the express purpose of
8 receiving the on-the-job training required for attendance at the
9 state patrol academy and for becoming a commissioned trooper. "Like
10 classification" includes: Radio operators or dispatchers; persons
11 providing security for the governor or legislature; patrol officers;
12 drivers' license examiners; weighmasters; vehicle safety inspectors;
13 central wireless operators; and warehouse workers.

14 (6) "Contributions" means the deduction from the compensation of
15 each member in accordance with the contribution rates established
16 under chapter 41.45 RCW.

17 (7) "Current service" shall mean all service as a member rendered
18 on or after August 1, 1947.

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

21 (9) "Director" means the director of the department of retirement
22 systems.

23 (10) "Domestic partners" means two adults who have registered as
24 domestic partners under RCW 26.60.040.

25 (11) "Employee" means any commissioned employee of the Washington
26 state patrol.

27 (12) "Insurance commissioner" means the insurance commissioner of
28 the state of Washington.

29 (13) "Lieutenant governor" means the lieutenant governor of the
30 state of Washington.

31 (14) "Member" means any person included in the membership of the
32 retirement fund.

33 (15) "Plan 2" means the Washington state patrol retirement system
34 plan 2, providing the benefits and funding provisions covering
35 commissioned employees who first become members of the system on or
36 after January 1, 2003.

37 (16) "Prior service" shall mean all services rendered by a member
38 to the state of Washington, or any of its political subdivisions
39 prior to August 1, 1947, unless such service has been credited in

1 another public retirement or pension system operating in the state of
2 Washington.

3 (17) "Regular interest" means interest compounded annually at
4 such rates as may be determined by the director.

5 (18) "Retirement board" means the board provided for in this
6 chapter.

7 (19) "Retirement fund" means the Washington state patrol
8 retirement fund.

9 (20) "Retirement system" means the Washington state patrol
10 retirement system.

11 (21)(a) "Salary," for members commissioned prior to July 1, 2001,
12 shall exclude any overtime earnings related to RCW 47.46.040, or any
13 voluntary overtime, earned on or after July 1, 2001, and prior to
14 July 1, 2017, and lump sum payments for unused accumulated vacation
15 or annual leave in excess of 240 hours, plus hours earned since the
16 member's anniversary date. On or after July 1, 2017, salary shall
17 exclude overtime earnings in excess of seventy hours per year in
18 total related to either RCW 47.46.040 or any voluntary overtime.

19 (b) "Salary," for members commissioned from July 1, 2001, to
20 December 31, 2002, shall exclude any overtime earnings related to RCW
21 47.46.040 or any voluntary overtime, earned prior to July 1, 2017,
22 lump sum payments for deferred annual sick leave, or any form of
23 severance pay. On or after July 1, 2017, salary shall exclude
24 overtime earnings in excess of seventy hours per year in total
25 related to either RCW 47.46.040 or any voluntary overtime.

26 (c) "Salary," for members commissioned on or after January 1,
27 2003, shall exclude any overtime earnings related to RCW 47.46.040 or
28 any voluntary overtime, earned prior to July 1, 2017, lump sum
29 payments for deferred annual sick leave, unused accumulated vacation,
30 unused accumulated annual leave, holiday pay, or any form of
31 severance pay. On or after July 1, 2017, salary shall exclude
32 overtime earnings in excess of seventy hours per year in total
33 related to either RCW 47.46.040 or any voluntary overtime.

34 (d) The addition of overtime earnings related to RCW 47.46.040 or
35 any voluntary overtime earned on or after July 1, 2017, in chapter
36 181, Laws of 2017 is a benefit improvement that increases the member
37 maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

38 (22)(a) "Service" shall mean services rendered to the state of
39 Washington or any political subdivisions thereof for which
40 compensation has been paid. Full time employment for seventy or more

1 hours in any given calendar month shall constitute one month of
2 service. An employee who is reinstated in accordance with RCW
3 43.43.110 shall suffer no loss of service for the period reinstated
4 subject to the contribution requirements of this chapter. Only months
5 of service shall be counted in the computation of any retirement
6 allowance or other benefit provided for herein. Years of service
7 shall be determined by dividing the total number of months of service
8 by twelve. Any fraction of a year of service as so determined shall
9 be taken into account in the computation of such retirement allowance
10 or benefit.

11 (b) Reduction efforts such as furloughs, reduced work hours,
12 mandatory leave without pay, temporary layoffs, or other similar
13 situations as contemplated by subsection (3)(c)(iii) of this section
14 do not result in a reduction in service credit that otherwise would
15 have been earned for that month of work, and the member shall receive
16 the full service credit for the hours that were scheduled to be
17 worked before the reduction.

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

20 (24) "State treasurer" means the treasurer of the state of
21 Washington.

22 Unless the context expressly indicates otherwise, words importing
23 the masculine gender shall be extended to include the feminine gender
24 and words importing the feminine gender shall be extended to include
25 the masculine gender.

26 **Sec. 5.** RCW 43.01.041 and 2017 c 167 s 3 are each amended to
27 read as follows:

28 Officers and employees referred to in RCW 43.01.040 whose
29 employment is terminated by their death, reduction in force,
30 resignation, dismissal, or retirement, who have been employed for at
31 least six continuous months, and who have accrued vacation leave as
32 specified in RCW 43.01.040 or 43.01.044, shall be paid for up to 240
33 hours therefor under their contract of employment, or their estate if
34 they are deceased, or if the employee in case of voluntary
35 resignation has provided adequate notice of termination. Vacation
36 leave accumulated under RCW 43.01.044 is not to be included in the
37 computation of retirement benefits. From July 1, 2011, through June
38 29, 2013, the amount of pay received by an employee under the

1 provisions of this section shall not be reduced by any temporary
2 salary reduction.

3 Should the legislature revoke any benefits or rights provided
4 under chapter 292, Laws of 1985, no affected officer or employee
5 shall be entitled thereafter to receive such benefits or exercise
6 such rights as a matter of contractual right.

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