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**HOUSE BILL 1992**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representatives Bateman and Leavitt

1 AN ACT Relating to vacation leave accrual for public employees;  
2 amending RCW 43.01.044, 41.32.010, 41.40.010, 43.43.120, and  
3 28A.400.300; reenacting and amending RCW 43.01.040; adding a new  
4 section to chapter 28A.400 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the COVID-19  
7 pandemic has emphasized the need for employees to have access to  
8 leave for their own use and to comply with employer requirements for  
9 quarantine and isolation. Educators and public employees have been  
10 exposed at work and have needed to use leave when dependents are ill  
11 or exposed to the virus, sometimes leading to multiple instances of  
12 required isolation and quarantine, draining the leave balances of  
13 many employees. It is the intent of the legislature to allow  
14 employees to accumulate more leave to recognize the burdens that have  
15 been placed on frontline workers during the pandemic.

16 **Sec. 2.** RCW 43.01.040 and 2017 c 168 s 1 and 2017 c 167 s 1 are  
17 each reenacted and amended to read as follows:

18 Each subordinate officer and employee of the several offices,  
19 departments, and institutions of the state government shall be  
20 entitled under their contract of employment with the state government

1 to not less than eight hours of vacation leave with full pay for each  
2 month of employment.

3 Each such subordinate officer and employee shall be entitled  
4 under such contract of employment to not less than eight additional  
5 hours of vacation with full pay each year for satisfactorily  
6 completing the first two, three, and five continuous years of  
7 employment respectively.

8 Such part-time officers or employees of the state government who  
9 are employed on a regular schedule of duration of not less than one  
10 year shall be entitled under their contract of employment to that  
11 fractional part of the vacation leave that the total number of hours  
12 of such employment bears to the total number of hours of full-time  
13 employment.

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

37 **Sec. 3.** RCW 43.01.044 and 2017 c 167 s 2 are each amended to  
38 read as follows:

1 As an alternative, in addition to the provisions of RCW 43.01.040  
2 authorizing the accumulation of vacation leave in excess of (~~two~~  
3 ~~hundred forty~~) 280 hours with the filing of a statement of  
4 necessity, vacation leave in excess of (~~two hundred forty~~) 280  
5 hours may also be accumulated as provided in this section but without  
6 the filing of a statement of necessity. The accumulation of leave  
7 under this alternative method shall be governed by the following  
8 provisions:

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

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

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

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

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

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

35 **Sec. 4.** RCW 41.32.010 and 2021 c 12 s 3 are each amended to read  
36 as follows:

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

1 (1) (a) "Accumulated contributions" for plan 1 members, means the  
2 sum of all regular annuity contributions and, except for the purpose  
3 of withdrawal at the time of retirement, any amount paid under RCW  
4 41.50.165(2) with regular interest thereon.

5 (b) "Accumulated contributions" for plan 2 members, means the sum  
6 of all contributions standing to the credit of a member in the  
7 member's individual account, including any amount paid under RCW  
8 41.50.165(2), together with the regular interest thereon.

9 (2) "Actuarial equivalent" means a benefit of equal value when  
10 computed upon the basis of such mortality tables and regulations as  
11 shall be adopted by the director and regular interest.

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

14 (4) "Annual increase" means, initially, fifty-nine cents per  
15 month per year of service which amount shall be increased each July  
16 1st by three percent, rounded to the nearest cent.

17 (5) "Annuity" means the moneys payable per year during life by  
18 reason of accumulated contributions of a member.

19 (6) "Average final compensation" for plan 2 and plan 3 members,  
20 means the member's average earnable compensation of the highest  
21 consecutive sixty service credit months prior to such member's  
22 retirement, termination, or death. Periods constituting authorized  
23 leaves of absence may not be used in the calculation of average final  
24 compensation except under RCW 41.32.810(2).

25 (7) (a) "Beneficiary" for plan 1 members, means any person in  
26 receipt of a retirement allowance or other benefit provided by this  
27 chapter.

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

32 (8) "Contract" means any agreement for service and compensation  
33 between a member and an employer.

34 (9) "Creditable service" means membership service plus prior  
35 service for which credit is allowable. This subsection shall apply  
36 only to plan 1 members.

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

39 (11) "Dependent" means receiving one-half or more of support from  
40 a member.

1 (12) "Director" means the director of the department.

2 (13) "Disability allowance" means monthly payments during  
3 disability. This subsection shall apply only to plan 1 members.

4 (14)(a) "Earnable compensation" for plan 1 members, means:

5 (i) All salaries and wages paid by an employer to an employee  
6 member of the retirement system for personal services rendered during  
7 a fiscal year. In all cases where compensation includes maintenance  
8 the employer shall fix the value of that part of the compensation not  
9 paid in money.

10 (ii) For an employee member of the retirement system teaching in  
11 an extended school year program, two consecutive extended school  
12 years, as defined by the employer school district, may be used as the  
13 annual period for determining earnable compensation in lieu of the  
14 two fiscal years.

15 (iii) "Earnable compensation" for plan 1 members also includes  
16 the following actual or imputed payments, which are not paid for  
17 personal 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 wages  
22 which the individual would have earned during a payroll period shall  
23 be considered earnable compensation and the individual shall receive  
24 the equivalent service credit.

25 (B) If a leave of absence, without pay, is taken by a member for  
26 the purpose of serving as a member of the state legislature, and such  
27 member has served in the legislature five or more years, the salary  
28 which would have been received for the position from which the leave  
29 of absence was taken shall be considered as compensation earnable if  
30 the employee's contribution thereon is paid by the employee. In  
31 addition, where a member has been a member of the state legislature  
32 for five or more years, earnable compensation for the member's two  
33 highest compensated consecutive years of service shall include a sum  
34 not to exceed thirty-six hundred dollars for each of such two  
35 consecutive years, regardless of whether or not legislative service  
36 was rendered during those two years.

37 (iv) For members employed less than full time under written  
38 contract with a school district, or community college district, in an  
39 instructional position, for which the member receives service credit  
40 of less than one year in all of the years used to determine the

1 earnable compensation used for computing benefits due under RCW  
2 41.32.497, 41.32.498, and 41.32.520, the member may elect to have  
3 earnable compensation defined as provided in RCW 41.32.345. For the  
4 purposes of this subsection, the term "instructional position" means  
5 a position in which more than seventy-five percent of the member's  
6 time is spent as a classroom instructor (including office hours), a  
7 librarian, a psychologist, a social worker, a nurse, a physical  
8 therapist, an occupational therapist, a speech language pathologist  
9 or audiologist, or a counselor. Earnable compensation shall be so  
10 defined only for the purpose of the calculation of retirement  
11 benefits and only as necessary to insure that members who receive  
12 fractional service credit under RCW 41.32.270 receive benefits  
13 proportional to those received by members who have received full-time  
14 service credit.

15 (v) "Earnable compensation" does not include:

16 (A) Remuneration for unused sick leave authorized under RCW  
17 41.04.340, 28A.400.210, or 28A.310.490;

18 (B) Remuneration for unused annual leave in excess of two hundred  
19 forty hours (~~as authorized by RCW 43.01.044 and 43.01.041~~).

20 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
21 salaries or wages earned by a member during a payroll period for  
22 personal services, including overtime payments, and shall include  
23 wages and salaries deferred under provisions established pursuant to  
24 sections 403(b), 414(h), and 457 of the United States Internal  
25 Revenue Code, but shall exclude lump sum payments for deferred annual  
26 sick leave, unused accumulated vacation, unused accumulated annual  
27 leave, or any form of severance pay.

28 "Earnable compensation" for plan 2 and plan 3 members also  
29 includes the following actual or imputed payments which, except in  
30 the case of (b)(ii)(B) of this subsection, are not paid for personal  
31 services:

32 (i) Retroactive payments to an individual by an employer on  
33 reinstatement of the employee in a position or payments by an  
34 employer to an individual in lieu of reinstatement in a position  
35 which are awarded or granted as the equivalent of the salary or wages  
36 which the individual would have earned during a payroll period shall  
37 be considered earnable compensation, to the extent provided above,  
38 and the individual shall receive the equivalent service credit.

1 (ii) In any year in which a member serves in the legislature the  
2 member shall have the option of having such member's earnable  
3 compensation be the greater of:

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

6 (B) Such member's actual earnable compensation received for  
7 teaching and legislative service combined. Any additional  
8 contributions to the retirement system required because compensation  
9 earnable under (b)(ii)(A) of this subsection is greater than  
10 compensation earnable under (b)(ii)(B) of this subsection shall be  
11 paid by the member for both member and employer contributions.

12 (c) In calculating earnable compensation under (a) or (b) of this  
13 subsection, the department of retirement systems shall include:

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

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

28 (iii) Any compensation forgone by a member during the 2019-2021  
29 and 2021-2023 fiscal biennia as a result of reduced work hours,  
30 mandatory leave without pay, temporary layoffs, furloughs, reductions  
31 to current pay, or other similar measures resulting from the COVID-19  
32 budgetary crisis, if the reduced compensation is an integral part of  
33 the 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 (15)(a) "Eligible position" for plan 2 members from June 7, 1990,  
37 through September 1, 1991, means a position which normally requires  
38 two or more uninterrupted months of creditable service during  
39 September through August of the following year.

1 (b) "Eligible position" for plan 2 and plan 3 on and after  
2 September 1, 1991, means a position that, as defined by the employer,  
3 normally requires five or more months of at least seventy hours of  
4 earnable compensation during September through August of the  
5 following year.

6 (c) For purposes of this chapter an employer shall not define  
7 "position" in such a manner that an employee's monthly work for that  
8 employer is divided into more than one position.

9 (d) The elected position of the superintendent of public  
10 instruction is an eligible position.

11 (16) "Employed" or "employee" means a person who is providing  
12 services for compensation to an employer, unless the person is free  
13 from the employer's direction and control over the performance of  
14 work. The department shall adopt rules and interpret this subsection  
15 consistent with common law.

16 (17) "Employer" means the state of Washington, the school  
17 district, or any agency of the state of Washington by which the  
18 member is paid. Except as otherwise specifically provided in this  
19 chapter, "employer" does not include a government contractor. For  
20 purposes of this subsection, a "government contractor" is any entity,  
21 including a partnership, limited liability company, for-profit or  
22 nonprofit corporation, or person, that provides services pursuant to  
23 a contract with an employer. The determination whether an employer-  
24 employee relationship has been established is not based on the  
25 relationship between a government contractor and an employer, but is  
26 based solely on the relationship between a government contractor's  
27 employee and an employer under this chapter. For the purposes of  
28 retirement plan membership, this subsection includes tribal schools  
29 who have chosen to participate in the retirement system and satisfied  
30 the requirements of RCW 28A.715.010(7).

31 (18) "Fiscal year" means a year which begins July 1st and ends  
32 June 30th of the following year.

33 (19) "Former state fund" means the state retirement fund in  
34 operation for teachers under chapter 187, Laws of 1923, as amended.

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

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



1 (22) "Index B" means the index for the year prior to index A.  
2 (23) "Index year" means the earliest calendar year in which the  
3 index is more than sixty percent of index A.  
4 (24) "Local fund" means any of the local retirement funds for  
5 teachers operated in any school district in accordance with the  
6 provisions of chapter 163, Laws of 1917 as amended.  
7 (25) "Member" means any teacher included in the membership of the  
8 retirement system who has not been removed from membership under RCW  
9 41.32.878 or 41.32.768. Also, any other employee of the public  
10 schools who, on July 1, 1947, had not elected to be exempt from  
11 membership and who, prior to that date, had by an authorized payroll  
12 deduction, contributed to the member reserve.  
13 (26) "Member account" or "member's account" for purposes of plan  
14 3 means the sum of the contributions and earnings on behalf of the  
15 member in the defined contribution portion of plan 3.  
16 (27) "Member reserve" means the fund in which all of the  
17 accumulated contributions of members are held.  
18 (28) "Membership service" means service rendered subsequent to  
19 the first day of eligibility of a person to membership in the  
20 retirement system: PROVIDED, That where a member is employed by two  
21 or more employers the individual shall receive no more than one  
22 service credit month during any calendar month in which multiple  
23 service is rendered. The provisions of this subsection shall apply  
24 only to plan 1 members.  
25 (29) "Pension" means the moneys payable per year during life from  
26 the pension reserve.  
27 (30) "Pension reserve" is a fund in which shall be accumulated an  
28 actuarial reserve adequate to meet present and future pension  
29 liabilities of the system and from which all pension obligations are  
30 to be paid.  
31 (31) "Plan 1" means the teachers' retirement system, plan 1  
32 providing the benefits and funding provisions covering persons who  
33 first became members of the system prior to October 1, 1977.  
34 (32) "Plan 2" means the teachers' retirement system, plan 2  
35 providing the benefits and funding provisions covering persons who  
36 first became members of the system on and after October 1, 1977, and  
37 prior to July 1, 1996.  
38 (33) "Plan 3" means the teachers' retirement system, plan 3  
39 providing the benefits and funding provisions covering persons who

1 first become members of the system on and after July 1, 1996, or who  
2 transfer under RCW 41.32.817.

3 (34) "Prior service" means service rendered prior to the first  
4 date of eligibility to membership in the retirement system for which  
5 credit is allowable. The provisions of this subsection shall apply  
6 only to plan 1 members.

7 (35) "Prior service contributions" means contributions made by a  
8 member to secure credit for prior service. The provisions of this  
9 subsection shall apply only to plan 1 members.

10 (36) "Public school" means any institution or activity operated  
11 by the state of Washington or any instrumentality or political  
12 subdivision thereof employing teachers, except the University of  
13 Washington and Washington State University. For the purposes of  
14 retirement plan membership, this subsection includes tribal schools  
15 who have chosen to participate in the retirement system and satisfied  
16 the requirements of RCW 28A.715.010(7).

17 (37) "Regular contributions" means the amounts required to be  
18 deducted from the compensation of a member and credited to the  
19 member's individual account in the member reserve. This subsection  
20 shall apply only to plan 1 members.

21 (38) "Regular interest" means such rate as the director may  
22 determine.

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

26 (40)(a) "Retirement allowance" for plan 1 members, means monthly  
27 payments based on the sum of annuity and pension, or any optional  
28 benefits payable in lieu thereof.

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

32 (41) "Retirement system" means the Washington state teachers'  
33 retirement system.

34 (42) "Separation from service or employment" occurs when a person  
35 has terminated all employment with an employer. Separation from  
36 service or employment does not occur, and if claimed by an employer  
37 or employee may be a violation of RCW 41.32.055, when an employee and  
38 employer have a written or oral agreement to resume employment with  
39 the same employer following termination. Mere expressions or  
40 inquiries about postretirement employment by an employer or employee

1 that do not constitute a commitment to reemploy the employee after  
2 retirement are not an agreement under this section.

3 (43) (a) "Service" for plan 1 members means the time during which  
4 a member has been employed by an employer for compensation.

5 (i) If a member is employed by two or more employers the  
6 individual shall receive no more than one service credit month during  
7 any calendar month in which multiple service is rendered.

8 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
9 sick leave may be creditable as service solely for the purpose of  
10 determining eligibility to retire under RCW 41.32.470.

11 (iii) As authorized in RCW 41.32.065, service earned in an out-  
12 of-state retirement system that covers teachers in public schools may  
13 be applied solely for the purpose of determining eligibility to  
14 retire under RCW 41.32.470.

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

22 (b) "Service" for plan 2 and plan 3 members, means periods of  
23 employment by a member for one or more employers for which earnable  
24 compensation is earned subject to the following conditions:

25 (i) A member employed in an eligible position or as a substitute  
26 shall receive one service credit month for each month of September  
27 through August of the following year if he or she earns earnable  
28 compensation for eight hundred ten or more hours during that period  
29 and is employed during nine of those months, except that a member may  
30 not receive credit for any period prior to the member's employment in  
31 an eligible position except as provided in RCW 41.32.812 and  
32 41.50.132.

33 (ii) Any other member employed in an eligible position or as a  
34 substitute who earns earnable compensation during the period from  
35 September through August shall receive service credit according to  
36 one of the following methods, whichever provides the most service  
37 credit to the member:

38 (A) If a member is employed either in an eligible position or as  
39 a substitute teacher for nine months of the twelve-month period  
40 between September through August of the following year but earns

1 earnable compensation for less than eight hundred ten hours but for  
2 at least six hundred thirty hours, he or she will receive one-half of  
3 a service credit month for each month of the twelve-month period;

4 (B) If a member is employed in an eligible position or as a  
5 substitute teacher for at least five months of a six-month period  
6 between September through August of the following year and earns  
7 earnable compensation for six hundred thirty or more hours within the  
8 six-month period, he or she will receive a maximum of six service  
9 credit months for the school year, which shall be recorded as one  
10 service credit month for each month of the six-month period;

11 (C) All other members employed in an eligible position or as a  
12 substitute teacher shall receive service credit as follows:

13 (I) A service credit month is earned in those calendar months  
14 where earnable compensation is earned for ninety or more hours;

15 (II) A half-service credit month is earned in those calendar  
16 months where earnable compensation is earned for at least seventy  
17 hours but less than ninety hours; and

18 (III) A quarter-service credit month is earned in those calendar  
19 months where earnable compensation is earned for less than seventy  
20 hours.

21 (iii) Any person who is a member of the teachers' retirement  
22 system and who is elected or appointed to a state elective position  
23 may continue to be a member of the retirement system and continue to  
24 receive a service credit month for each of the months in a state  
25 elective position by making the required member contributions.

26 (iv) When an individual is employed by two or more employers the  
27 individual shall only receive one month's service credit during any  
28 calendar month in which multiple service for ninety or more hours is  
29 rendered.

30 (v) As authorized by RCW 28A.400.300, up to forty-five days of  
31 sick leave may be creditable as service solely for the purpose of  
32 determining eligibility to retire under RCW 41.32.470. For purposes  
33 of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is  
34 equal to two service credit months. Use of less than forty-five days  
35 of sick leave is creditable as allowed under this subsection as  
36 follows:

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

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

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

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

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

6 (vi) As authorized in RCW 41.32.065, service earned in an out-of-  
7 state retirement system that covers teachers in public schools may be  
8 applied solely for the purpose of determining eligibility to retire  
9 under RCW 41.32.470.

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

17 (viii) The department shall adopt rules implementing this  
18 subsection.

19 (44) "Service credit month" means a full service credit month or  
20 an accumulation of partial service credit months that are equal to  
21 one.

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

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

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

29 (48) "Substitute teacher" means:

30 (a) A teacher who is hired by an employer to work as a temporary  
31 teacher, except for teachers who are annual contract employees of an  
32 employer and are guaranteed a minimum number of hours; or

33 (b) Teachers who either (i) work in ineligible positions for more  
34 than one employer or (ii) work in an ineligible position or positions  
35 together with an eligible position.

36 (49) "Teacher" means any person qualified to teach who is engaged  
37 by a public school in an instructional, administrative, or  
38 supervisory capacity. The term includes state, educational service  
39 district, and school district superintendents and their assistants  
40 and all employees certificated by the superintendent of public

1 instruction; and in addition thereto any full time school doctor who  
2 is employed by a public school and renders service of an  
3 instructional or educational nature.

4 **Sec. 5.** RCW 41.40.010 and 2021 c 12 s 7 are each amended to read  
5 as follows:

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

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

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

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

17 (4) "Annual increase" means, initially, fifty-nine cents per  
18 month per year of service which amount shall be increased each July  
19 1st by three percent, rounded to the nearest cent.

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

23 (6) (a) "Average final compensation" for plan 1 members, means the  
24 annual average of the greatest compensation earnable by a member  
25 during any consecutive two year period of service credit months for  
26 which service credit is allowed; or if the member has less than two  
27 years of service credit months then the annual average compensation  
28 earnable during the total years of service for which service credit  
29 is allowed.

30 (b) "Average final compensation" for plan 2 and plan 3 members,  
31 means the member's average compensation earnable of the highest  
32 consecutive sixty months of service credit months prior to such  
33 member's retirement, termination, or death. Periods constituting  
34 authorized leaves of absence may not be used in the calculation of  
35 average final compensation except under RCW 41.40.710(2) or (c) of  
36 this subsection.

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

1 (i) Any compensation forgone by the member during the 2009-2011  
2 fiscal biennium as a result of reduced work hours, voluntary leave  
3 without pay, temporary reduction in pay implemented prior to December  
4 11, 2010, or temporary furloughs if the reduced compensation is an  
5 integral part of the employer's expenditure reduction efforts, as  
6 certified by the employer;

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

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

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

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

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

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

38 (A) Retroactive payments to an individual by an employer on  
39 reinstatement of the employee in a position, or payments by an  
40 employer to an individual in lieu of reinstatement in a position

1 which are awarded or granted as the equivalent of the salary or wage  
2 which the individual would have earned during a payroll period shall  
3 be considered compensation earnable and the individual shall receive  
4 the equivalent service credit;

5 (B) If a leave of absence is taken by an individual for the  
6 purpose of serving in the state legislature, the salary which would  
7 have been received for the position from which the leave of absence  
8 was taken, shall be considered as compensation earnable if the  
9 employee's contribution is paid by the employee and the employer's  
10 contribution is paid by the employer or employee;

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

13 (D) Compensation that a member would have received but for a  
14 disability occurring in the line of duty only as authorized by RCW  
15 41.40.038;

16 (E) Compensation that a member receives due to participation in  
17 the leave sharing program only as authorized by RCW 41.04.650 through  
18 41.04.670; and

19 (F) Compensation that a member receives for being in standby  
20 status. For the purposes of this section, a member is in standby  
21 status when not being paid for time actually worked and the employer  
22 requires the member to be prepared to report immediately for work, if  
23 the need arises, although the need may not arise.

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

25 (A) Remuneration for unused sick leave authorized under RCW  
26 41.04.340, 28A.400.210, or 28A.310.490;

27 (B) Remuneration for unused annual leave in excess of thirty days  
28 (~~as authorized by RCW 43.01.044 and 43.01.041~~).

29 (b) "Compensation earnable" for plan 2 and plan 3 members, means  
30 salaries or wages earned by a member during a payroll period for  
31 personal services, including overtime payments, and shall include  
32 wages and salaries deferred under provisions established pursuant to  
33 sections 403(b), 414(h), and 457 of the United States Internal  
34 Revenue Code, but shall exclude nonmoney maintenance compensation and  
35 lump sum or other payments for deferred annual sick leave, unused  
36 accumulated vacation, unused accumulated annual leave, or any form of  
37 severance pay.

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



1 (i) Retroactive payments to an individual by an employer on  
2 reinstatement of the employee in a position, or payments by an  
3 employer to an individual in lieu of reinstatement in a position  
4 which are awarded or granted as the equivalent of the salary or wage  
5 which the individual would have earned during a payroll period shall  
6 be considered compensation earnable to the extent provided above, and  
7 the individual shall receive the equivalent service credit;

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

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

13 (B) Such member's actual compensation earnable received for  
14 nonlegislative public employment and legislative service combined.  
15 Any additional contributions to the retirement system required  
16 because compensation earnable under (b)(ii)(A) of this subsection is  
17 greater than compensation earnable under (b)(ii)(B) of this  
18 subsection shall be paid by the member for both member and employer  
19 contributions;

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

22 (iv) Compensation that a member would have received but for a  
23 disability occurring in the line of duty only as authorized by RCW  
24 41.40.038;

25 (v) Compensation that a member receives due to participation in  
26 the leave sharing program only as authorized by RCW 41.04.650 through  
27 41.04.670; and

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

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

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

36 (11) "Eligible position" means:

37 (a) Any position that, as defined by the employer, normally  
38 requires five or more months of service a year for which regular  
39 compensation for at least seventy hours is earned by the occupant  
40 thereof. For purposes of this chapter an employer shall not define

1 "position" in such a manner that an employee's monthly work for that  
2 employer is divided into more than one position;

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

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

12 (13)(a) "Employer" for plan 1 members, means every branch,  
13 department, agency, commission, board, and office of the state, any  
14 political subdivision or association of political subdivisions of the  
15 state admitted into the retirement system, and legal entities  
16 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and  
17 the term shall also include any labor guild, association, or  
18 organization the membership of a local lodge or division of which is  
19 comprised of at least forty percent employees of an employer (other  
20 than such labor guild, association, or organization) within this  
21 chapter. The term may also include any city of the first class that  
22 has its own retirement system.

23 (b) "Employer" for plan 2 and plan 3 members, means every branch,  
24 department, agency, commission, board, and office of the state, and  
25 any political subdivision and municipal corporation of the state  
26 admitted into the retirement system, including public agencies  
27 created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except  
28 that after August 31, 2000, school districts and educational service  
29 districts will no longer be employers for the public employees'  
30 retirement system plan 2.

31 (c) Except as otherwise specifically provided in this chapter,  
32 "employer" does not include a government contractor. For purposes of  
33 this subsection, a "government contractor" is any entity, including a  
34 partnership, limited liability company, for-profit or nonprofit  
35 corporation, or person, that provides services pursuant to a contract  
36 with an "employer." The determination whether an employer-employee  
37 relationship has been established is not based on the relationship  
38 between a government contractor and an "employer," but is based  
39 solely on the relationship between a government contractor's employee  
40 and an "employer" under this chapter.

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

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

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

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

10 (18) "Index year" means the earliest calendar year in which the  
11 index is more than sixty percent of index A.

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

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

18 (21) "Member" means any employee included in the membership of  
19 the retirement system, as provided for in RCW 41.40.023. RCW  
20 41.26.045 does not prohibit a person otherwise eligible for  
21 membership in the retirement system from establishing such membership  
22 effective when he or she first entered an eligible position.

23 (22) "Member account" or "member's account" for purposes of plan  
24 3 means the sum of the contributions and earnings on behalf of the  
25 member in the defined contribution portion of plan 3.

26 (23) "Membership service" means:

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

28 (b) All service after October 1, 1947, to any employer prior to  
29 the time of its admission into the retirement system for which member  
30 and employer contributions, plus interest as required by RCW  
31 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

32 (c) Service not to exceed six consecutive months of probationary  
33 service rendered after April 1, 1949, and prior to becoming a member,  
34 in the case of any member, upon payment in full by such member of the  
35 total amount of the employer's contribution to the retirement fund  
36 which would have been required under the law in effect when such  
37 probationary service was rendered if the member had been a member  
38 during such period, except that the amount of the employer's  
39 contribution shall be calculated by the director based on the first  
40 month's compensation earnable as a member;

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

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

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

12 (a) Any person who became a member of the system prior to April  
13 1, 1949;

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

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

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

26 (e) Any member who has restored all contributions that may have  
27 been withdrawn as provided by RCW 41.40.150 and who on the effective  
28 date of the individual's retirement becomes entitled to be credited  
29 with ten years or more of membership service except that the  
30 provisions relating to the minimum amount of retirement allowance for  
31 the member upon retirement at age seventy as found in RCW  
32 41.40.190(4) shall not apply to the member;

33 (f) Any member who has been a contributor under the system for  
34 two or more years and who has restored all contributions that may  
35 have been withdrawn as provided by RCW 41.40.150 and who on the  
36 effective date of the individual's retirement has rendered five or  
37 more years of service for the state or any political subdivision  
38 prior to the time of the admission of the employer into the system;  
39 except that the provisions relating to the minimum amount of

1 retirement allowance for the member upon retirement at age seventy as  
2 found in RCW 41.40.190(4) shall not apply to the member.

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

6 (27) "Plan 1" means the public employees' retirement system, plan  
7 1 providing the benefits and funding provisions covering persons who  
8 first became members of the system prior to October 1, 1977.

9 (28) "Plan 2" means the public employees' retirement system, plan  
10 2 providing the benefits and funding provisions covering persons who  
11 first became members of the system on and after October 1, 1977, and  
12 are not included in plan 3.

13 (29) "Plan 3" means the public employees' retirement system, plan  
14 3 providing the benefits and funding provisions covering persons who:

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

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

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

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

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

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

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

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

32 (34) "Retirement allowance" means the sum of the annuity and the  
33 pension.

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

36 (36) "Separation from service" occurs when a person has  
37 terminated all employment with an employer. Separation from service  
38 or employment does not occur, and if claimed by an employer or  
39 employee may be a violation of RCW 41.40.055, when an employee and  
40 employer have a written or oral agreement to resume employment with

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

5 (37)(a) "Service" for plan 1 members, except as provided in RCW  
6 41.40.088, means periods of employment in an eligible position or  
7 positions for one or more employers rendered to any employer for  
8 which compensation is paid, and includes time spent in office as an  
9 elected or appointed official of an employer. Compensation earnable  
10 earned in full time work for seventy hours or more in any given  
11 calendar month shall constitute one service credit month except as  
12 provided in RCW 41.40.088. Compensation earnable earned for less than  
13 seventy hours in any calendar month shall constitute one-quarter  
14 service credit month of service except as provided in RCW 41.40.088.  
15 Only service credit months and one-quarter service credit months  
16 shall be counted in the computation of any retirement allowance or  
17 other benefit provided for in this chapter. Any fraction of a year of  
18 service shall be taken into account in the computation of such  
19 retirement allowance or benefits. Time spent in standby status,  
20 whether compensated or not, is not service.

21 (i) Service by a state employee officially assigned by the state  
22 on a temporary basis to assist another public agency, shall be  
23 considered as service as a state employee: PROVIDED, That service to  
24 any other public agency shall not be considered service as a state  
25 employee if such service has been used to establish benefits in any  
26 other public retirement system.

27 (ii) An individual shall receive no more than a total of twelve  
28 service credit months of service during any calendar year. If an  
29 individual is employed in an eligible position by one or more  
30 employers the individual shall receive no more than one service  
31 credit month during any calendar month in which multiple service for  
32 seventy or more hours is rendered.

33 (iii) A school district employee may count up to forty-five days  
34 of sick leave as creditable service solely for the purpose of  
35 determining eligibility to retire under RCW 41.40.180 as authorized  
36 by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used  
37 in RCW 28A.400.300 is equal to two service credit months. Use of less  
38 than forty-five days of sick leave is creditable as allowed under  
39 this subsection as follows:

1 (A) Less than twenty-two days equals one-quarter service credit  
2 month;

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

4 (C) More than twenty-two days but less than forty-five days  
5 equals one and one-quarter service credit month.

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

13 (b) "Service" for plan 2 and plan 3 members, means periods of  
14 employment by a member in an eligible position or positions for one  
15 or more employers for which compensation earnable is paid.  
16 Compensation earnable earned for ninety or more hours in any calendar  
17 month shall constitute one service credit month except as provided in  
18 RCW 41.40.088. Compensation earnable earned for at least seventy  
19 hours but less than ninety hours in any calendar month shall  
20 constitute one-half service credit month of service. Compensation  
21 earnable earned for less than seventy hours in any calendar month  
22 shall constitute one-quarter service credit month of service. Time  
23 spent in standby status, whether compensated or not, is not service.

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

26 (i) Service in any state elective position shall be deemed to be  
27 full time service, except that persons serving in state elective  
28 positions who are members of the Washington school employees'  
29 retirement system, teachers' retirement system, public safety  
30 employees' retirement system, or law enforcement officers' and  
31 firefighters' retirement system at the time of election or  
32 appointment to such position may elect to continue membership in the  
33 Washington school employees' retirement system, teachers' retirement  
34 system, public safety employees' retirement system, or law  
35 enforcement officers' and firefighters' retirement system.

36 (ii) A member shall receive a total of not more than twelve  
37 service credit months of service for such calendar year. If an  
38 individual is employed in an eligible position by one or more  
39 employers the individual shall receive no more than one service

1 credit month during any calendar month in which multiple service for  
2 ninety or more hours is rendered.

3 (iii) Up to forty-five days of sick leave may be creditable as  
4 service solely for the purpose of determining eligibility to retire  
5 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
6 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is  
7 equal to two service credit months. Use of less than forty-five days  
8 of sick leave is creditable as allowed under this subsection as  
9 follows:

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

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

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

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

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

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

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

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

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

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

35 (42) "State treasurer" means the treasurer of the state of  
36 Washington.

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



1       **Sec. 6.** RCW 43.43.120 and 2021 c 12 s 8 are each amended to read  
2 as follows:

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

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

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

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

19       (b) "Average final salary," for members commissioned on or after  
20 January 1, 2003, shall mean the average monthly salary received by a  
21 member for the highest consecutive sixty service credit months; or if  
22 the member has less than sixty months of service, then the average  
23 monthly salary received by the member during the member's total  
24 months of service.

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

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

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

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

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

11 (5)(a) "Cadet," for a person who became a member of the  
12 retirement system after June 12, 1980, is a person who has passed the  
13 Washington state patrol's entry-level oral, written, physical  
14 performance, and background examinations and is, thereby, appointed  
15 by the chief as a candidate to be a commissioned officer of the  
16 Washington state patrol.

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

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

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

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

33 (9) "Director" means the director of the department of retirement  
34 systems.

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

37 (11) "Employee" means any commissioned employee of the Washington  
38 state patrol.

39 (12) "Insurance commissioner" means the insurance commissioner of  
40 the state of Washington.

1 (13) "Lieutenant governor" means the lieutenant governor of the  
2 state of Washington.

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

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

9 (16) "Prior service" shall mean all services rendered by a member  
10 to the state of Washington, or any of its political subdivisions  
11 prior to August 1, 1947, unless such service has been credited in  
12 another public retirement or pension system operating in the state of  
13 Washington.

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

16 (18) "Retirement board" means the board provided for in this  
17 chapter.

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

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

22 (21)(a) "Salary," for members commissioned prior to July 1, 2001,  
23 shall exclude any overtime earnings related to RCW 47.46.040, or any  
24 voluntary overtime, earned on or after July 1, 2001, and prior to  
25 July 1, 2017, and lump sum payments for unused accumulated vacation  
26 or annual leave in excess of 240 hours, plus hours earned since the  
27 member's anniversary date. On or after July 1, 2017, salary shall  
28 exclude overtime earnings in excess of seventy hours per year in  
29 total related to either RCW 47.46.040 or any voluntary overtime.

30 (b) "Salary," for members commissioned from July 1, 2001, to  
31 December 31, 2002, shall exclude any overtime earnings related to RCW  
32 47.46.040 or any voluntary overtime, earned prior to July 1, 2017,  
33 lump sum payments for deferred annual sick leave, or any form of  
34 severance pay. On or after July 1, 2017, salary shall exclude  
35 overtime earnings in excess of seventy hours per year in total  
36 related to either RCW 47.46.040 or any voluntary overtime.

37 (c) "Salary," for members commissioned on or after January 1,  
38 2003, shall exclude any overtime earnings related to RCW 47.46.040 or  
39 any voluntary overtime, earned prior to July 1, 2017, lump sum  
40 payments for deferred annual sick leave, unused accumulated vacation,

1 unused accumulated annual leave, holiday pay, or any form of  
2 severance pay. On or after July 1, 2017, salary shall exclude  
3 overtime earnings in excess of seventy hours per year in total  
4 related to either RCW 47.46.040 or any voluntary overtime.

5 (d) The addition of overtime earnings related to RCW 47.46.040 or  
6 any voluntary overtime earned on or after July 1, 2017, in chapter  
7 181, Laws of 2017 is a benefit improvement that increases the member  
8 maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

9 (22)(a) "Service" shall mean services rendered to the state of  
10 Washington or any political subdivisions thereof for which  
11 compensation has been paid. Full time employment for seventy or more  
12 hours in any given calendar month shall constitute one month of  
13 service. An employee who is reinstated in accordance with RCW  
14 43.43.110 shall suffer no loss of service for the period reinstated  
15 subject to the contribution requirements of this chapter. Only months  
16 of service shall be counted in the computation of any retirement  
17 allowance or other benefit provided for herein. Years of service  
18 shall be determined by dividing the total number of months of service  
19 by twelve. Any fraction of a year of service as so determined shall  
20 be taken into account in the computation of such retirement allowance  
21 or benefit.

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

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

31 (24) "State treasurer" means the treasurer of the state of  
32 Washington.

33 Unless the context expressly indicates otherwise, words importing  
34 the masculine gender shall be extended to include the feminine gender  
35 and words importing the feminine gender shall be extended to include  
36 the masculine gender.

37 **Sec. 7.** RCW 28A.400.300 and 2019 c 266 s 19 are each amended to  
38 read as follows:

1 (1) Every board of directors, unless otherwise specially provided  
2 by law, shall:

3 (a) Except as provided in subsection (3) of this section, employ  
4 for not more than one year, and for sufficient cause discharge all  
5 certificated and classified employees;

6 (b) Adopt written policies granting leaves to persons under  
7 contracts of employment with the school district(s) in positions  
8 requiring either certification or classified qualifications,  
9 including but not limited to leaves for attendance at official or  
10 private institutes and conferences and sabbatical leaves for  
11 employees in positions requiring certification qualification, and  
12 leaves for illness, injury, bereavement and, emergencies for both  
13 certificated and classified employees, and with such compensation as  
14 the board of directors prescribe. However, the board of directors  
15 shall adopt written policies granting to such persons annual leave  
16 with compensation for illness, injury and emergencies as follows:

17 (i) For such persons under contract with the school district for  
18 a full year, at least ten days;

19 (ii) For such persons under contract with the school district as  
20 part time employees, at least that portion of ten days as the total  
21 number of days contracted for bears to one hundred eighty days;

22 (iii) For certificated and classified employees, annual leave  
23 with compensation for illness, injury, and emergencies shall be  
24 granted and accrue at a rate not to exceed twelve days per year;  
25 provisions of any contract in force on June 12, 1980, which conflict  
26 with requirements of this subsection shall continue in effect until  
27 contract expiration; after expiration, any new contract executed  
28 between the parties shall be consistent with this subsection;

29 (iv) Compensation for leave for illness or injury actually taken  
30 shall be the same as the compensation such person would have received  
31 had such person not taken the leave provided in this proviso;

32 (v) Leave provided in this (~~proviso~~) section not taken shall  
33 accumulate from year to year (~~up to a maximum of one hundred eighty~~  
34 ~~days for the purposes of RCW 28A.400.210 and 28A.400.220, and for~~  
35 ~~leave purposes up to a maximum of the number of contract days agreed~~  
36 ~~to in a given contract, but not greater than one year)). Such~~  
37 accumulated time may be taken at any time during the school year or  
38 (~~up to twelve days per year~~) may be used for the purpose of  
39 payments for unused sick leave in accordance with RCW 28A.400.210;

1 (vi) Sick leave heretofore accumulated under section 1, chapter  
2 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated  
3 under administrative practice of school districts prior to the  
4 effective date of section 1, chapter 195, Laws of 1959 (former RCW  
5 28.58.430) is hereby declared valid, and shall be added to leave for  
6 illness or injury accumulated under this proviso;

7 (vii) Any leave for injury or illness accumulated up to a maximum  
8 of forty-five days shall be creditable as service rendered for the  
9 purpose of determining the time at which an employee is eligible to  
10 retire, if such leave is taken it may not be compensated under the  
11 provisions of RCW 28A.400.210 and 28A.310.490;

12 (viii) Accumulated leave under this proviso shall be transferred  
13 to and from one district to another, the office of superintendent of  
14 public instruction, offices of educational service district  
15 superintendents and boards, the state school for the blind, the  
16 Washington center for deaf and hard of hearing youth, institutions of  
17 higher education, and community and technical colleges, to and from  
18 such districts, schools, offices, institutions of higher education,  
19 and community and technical colleges;

20 (ix) Leave accumulated by a person in a district prior to leaving  
21 said district may, under rules of the board, be granted to such  
22 person when the person returns to the employment of the district.

23 (2) When any certificated or classified employee leaves one  
24 school district within the state and commences employment with  
25 another school district within the state, the employee shall retain  
26 the same seniority, leave benefits and other benefits that the  
27 employee had in his or her previous position. However, classified  
28 employees who transfer between districts after July 28, 1985, shall  
29 not retain any seniority rights other than longevity when leaving one  
30 school district and beginning employment with another. If the school  
31 district to which the person transfers has a different system for  
32 computing seniority, leave benefits, and other benefits, then the  
33 employee shall be granted the same seniority, leave benefits and  
34 other benefits as a person in that district who has similar  
35 occupational status and total years of service.

36 (3) Notwithstanding subsection (1)(a) of this section, discharges  
37 of certificated and classified employees in school districts that are  
38 dissolved due to financial insolvency shall be conducted in  
39 accordance with RCW 28A.315.229.

1        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 28A.400  
2    RCW to read as follows:

3        During a public health emergency where a presidential or  
4    gubernatorial declaration of emergency includes all or relevant areas  
5    of the state of Washington, each school district in the affected area  
6    shall establish a pool of paid emergency leave that will be available  
7    to staff who become ill or need to quarantine and who have limited  
8    sick leave balances, with priority given to those with 10 days or  
9    less of available sick leave.

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