
SENATE BILL 5748

State of Washington

67th Legislature

2022 Regular Session

By Senator Schoesler; by request of Select Committee on Pension Policy

Prefiled 01/07/22.

1 AN ACT Relating to disability benefits in the public safety
2 employees' retirement system; and amending RCW 41.37.230.

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

4 **Sec. 1.** RCW 41.37.230 and 2004 c 242 s 29 are each amended to
5 read as follows:

6 (1)(a) A member of the retirement system with at least ten years
7 of service in the public safety employees' retirement system who
8 becomes totally incapacitated for continued employment as an employee
9 by an employer, as determined by the department, shall be eligible to
10 receive an allowance under RCW 41.37.190 through 41.37.290. The
11 member shall receive a monthly disability allowance computed as
12 provided for in RCW 41.37.190 and shall have this allowance
13 actuarially reduced to reflect the difference in the number of years
14 between age at disability and the attainment of age sixty, except
15 under subsection (3) of this section.

16 (b) A member of the retirement system with less than ten years of
17 service who becomes totally incapacitated for continued employment by
18 an employer, as determined by the department, shall be eligible to
19 receive an allowance under RCW 41.37.190 through 41.37.290. The
20 member shall receive a monthly disability allowance computed as
21 provided for in RCW 41.37.190 and shall have this allowance

1 actuarially reduced to reflect the difference in the number of years
2 between age at disability and the attainment of age sixty-five.

3 (2) Any member who receives an allowance under this section shall
4 be subject to comprehensive medical examinations as required by the
5 department. If these medical examinations reveal that a member has
6 recovered from the incapacitating disability and the member is
7 offered reemployment by an employer at a comparable compensation, the
8 member shall cease to be eligible for the allowance.

9 (3)(a) A member who is totally disabled in the line of duty is
10 entitled to receive a retirement allowance equal to 70 percent of the
11 member's final average salary. The allowance provided under this
12 section shall be offset by:

13 (i) Temporary disability wage-replacement benefits or permanent
14 total disability benefits provided to the member under Title 51 RCW;
15 and

16 (ii) Federal social security disability benefits, if any;
17 so that such an allowance does not result in the member receiving
18 combined benefits that exceed 100 percent of the member's final
19 average salary. However, the offsets shall not in any case reduce the
20 allowance provided under this subsection below the member's accrued
21 retirement allowance.

22 (b) A member is considered totally disabled if he or she is
23 unable to perform any substantial gainful activity due to a physical
24 or mental condition that may be expected to result in death or that
25 has lasted or is expected to last at least 12 months. Substantial
26 gainful activity is defined as average earnings in excess of \$860 a
27 month in 2006 adjusted annually as determined by the director based
28 on federal social security disability standards. The department may
29 require a person in receipt of an allowance under this subsection to
30 provide any financial records that are necessary to determine
31 continued eligibility for such an allowance. A person in receipt of
32 an allowance under this subsection whose earnings exceed the
33 threshold for substantial gainful activity shall have their benefit
34 converted to a disability retirement allowance as provided in
35 subsection (1) of this section.

36 (c) Any person in receipt of an allowance under the provisions of
37 this section is subject to comprehensive medical examinations as may
38 be required by the department under subsection (2) of this section in
39 order to determine continued eligibility for such an allowance.

1 (4) If the recipient of a monthly allowance under this section
2 dies before the total of the allowance payments equal the amount of
3 the accumulated contributions at the date of retirement, then the
4 balance shall be paid to the member's estate, or the person or
5 persons, trust, or organization the recipient has nominated by
6 written designation duly executed and filed with the director. If
7 there is no designated person or persons still living at the time of
8 the recipient's death, then to the surviving spouse, or, if there is
9 no designated person or persons still living at the time of his or
10 her death nor a surviving spouse, then to his or her legal
11 representative.

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