
HOUSE BILL 2338

State of Washington

68th Legislature

2024 Regular Session

By Representatives Bergquist, Volz, Bronoske, and Griffey; by request of LEOFF Plan 2 Retirement Board

1 AN ACT Relating to the law enforcement officers' and
2 firefighters' retirement system plan 2; amending RCW 41.26.048,
3 41.26.030, 41.26.030, 41.50.130, and 41.26.470; adding a new section
4 to chapter 41.26 RCW; providing effective dates; and providing an
5 expiration date.

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

7 **Part I**

8 **Statute of Limitations for Applying for the Special Death Benefit**

9 **Sec. 101.** RCW 41.26.048 and 2010 c 261 s 2 are each amended to
10 read as follows:

11 (1) A two hundred fourteen thousand dollar death benefit shall be
12 paid to the member's estate, or such person or persons, trust or
13 organization as the member shall have nominated by written
14 designation duly executed and filed with the department. If there be
15 no such designated person or persons still living at the time of the
16 member's death, such member's death benefit shall be paid to the
17 member's surviving spouse or domestic partner as if in fact such
18 spouse or domestic partner had been nominated by written designation,
19 or if there be no such surviving spouse or domestic partner, then to
20 such member's legal representatives.

1 (2) The benefit under this section shall be paid only when death
2 occurs: (a) As a result of injuries sustained in the course of
3 employment; or (b) as a result of an occupational disease or
4 infection that arises naturally and proximately out of employment
5 covered under this chapter. The determination of eligibility for the
6 benefit shall be made consistent with Title 51 RCW by the department
7 of labor and industries. There is no statute of limitations for this
8 benefit. The department of labor and industries shall notify the
9 department of retirement systems by order under RCW 51.52.050.

10 (3) The department of labor and industries shall determine
11 eligibility under subsection (2) of this section for the special
12 death benefit for any beneficiaries who were denied the special death
13 benefit for failing to meet the statute of limitations under Title 51
14 RCW. If the department of labor and industries determines the
15 beneficiary is eligible for the special death benefit the department
16 must provide the beneficiary an option to reelect their pension
17 benefit under RCW 41.26.510(2) and if the member elects an ongoing
18 pension benefit the department must pay the beneficiary retroactive
19 to the date of the member's death.

20 (4)(a) Beginning July 1, 2010, and every year thereafter, the
21 department shall determine the following information:

22 (i) The index for the 2008 calendar year, to be known as "index
23 A;"

24 (ii) The index for the calendar year prior to the date of
25 determination, to be known as "index B;" and

26 (iii) The ratio obtained when index B is divided by index A.

27 (b) The value of the ratio obtained shall be the annual
28 adjustment to the original death benefit and shall be applied
29 beginning every July 1st. In no event, however, shall the annual
30 adjustment:

31 (i) Produce a benefit which is lower than two hundred fourteen
32 thousand dollars;

33 (ii) Exceed three percent in the initial annual adjustment; or

34 (iii) Differ from the previous year's annual adjustment by more
35 than three percent.

36 (c) For the purposes of this section, "index" means, for any
37 calendar year, that year's average consumer price index — Seattle,
38 Washington area for urban wage earners and clerical workers, all
39 items, compiled by the bureau of labor statistics, United States
40 department of labor.

1 **Part II**

2 **Definition of Firefighter**

3 **Sec. 201.** RCW 41.26.030 and 2021 c 12 s 2 are each amended to
4 read as follows:

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

7 (1) "Accumulated contributions" means the employee's
8 contributions made by a member, including any amount paid under RCW
9 41.50.165(2), plus accrued interest credited thereon.

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

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

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

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

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

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

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

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

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

17 (i) A natural born child;

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

20 (iii) A posthumous child;

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

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

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

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

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

35 (9) "Disability board" for plan 1 members means either the county
36 disability board or the city disability board established in RCW
37 41.26.110.

38 (10) "Disability leave" means the period of six months or any
39 portion thereof during which a member is on leave at an allowance
40 equal to the member's full salary prior to the commencement of

1 disability retirement. The definition contained in this subsection
2 shall apply only to plan 1 members.

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

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

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

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

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

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

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

29 (iii) The governing body of any other general authority law
30 enforcement agency;

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

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

36 (c) Except as otherwise specifically provided in this chapter,
37 "employer" does not include a government contractor. For purposes of
38 this subsection, a "government contractor" is any entity, including a
39 partnership, limited liability company, for-profit or nonprofit
40 corporation, or person, that provides services pursuant to a contract

1 with an "employer." The determination whether an employer-employee
2 relationship has been established is not based on the relationship
3 between a government contractor and an "employer," but is based
4 solely on the relationship between a government contractor's employee
5 and an "employer" under this chapter.

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

21 (b) "Final average salary" for plan 2 members, means the monthly
22 average of the member's basic salary for the highest consecutive
23 sixty service credit months of service prior to such member's
24 retirement, termination, or death. Periods constituting authorized
25 unpaid leaves of absence may not be used in the calculation of final
26 average salary.

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

29 (i) Any compensation forgone by a member employed by a state
30 agency or institution during the 2009-2011 fiscal biennium as a
31 result of reduced work hours, mandatory or voluntary leave without
32 pay, temporary reduction in pay implemented prior to December 11,
33 2010, or temporary layoffs if the reduced compensation is an integral
34 part of the employer's expenditure reduction efforts, as certified by
35 the employer;

36 (ii) Any compensation forgone by a member employed by the state
37 or a local government employer during the 2011-2013 fiscal biennium
38 as a result of reduced work hours, mandatory leave without pay,
39 temporary layoffs, or reductions to current pay if the reduced
40 compensation is an integral part of the employer's expenditure

1 reduction efforts, as certified by the employer. Reductions to
2 current pay shall not include elimination of previously agreed upon
3 future salary increases; and

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

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

17 (17) "Firefighter" means:

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

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

24 (c) Supervisory firefighter personnel;

25 (d) Personnel serving on a full-time, fully compensated basis as
26 an employee of a fire department in positions that necessitate
27 experience as a firefighter to perform the essential functions of
28 those positions;

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

32 ~~((e))~~ (f) The executive secretary of a labor guild, association
33 or organization (which is an employer under subsection (14) of this
34 section), if such individual has five years previous membership in a
35 retirement system established in chapter 41.16 or 41.18 RCW. The
36 provisions of this subsection (17) ~~((e))~~ (f) shall not apply to plan
37 2 members;

38 ~~((f))~~ (g) Any person who is serving on a full time, fully
39 compensated basis for an employer, as a fire dispatcher, in a

1 department in which, on March 1, 1970, a dispatcher was required to
2 have passed a civil service examination for firefighter;

3 ~~((g))~~ (h) Any person who on March 1, 1970, was employed on a
4 full time, fully compensated basis by an employer, and who on May 21,
5 1971, was making retirement contributions under the provisions of
6 chapter 41.16 or 41.18 RCW; and

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

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

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

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

37 (b) Only those deputy sheriffs, including those serving under a
38 different title pursuant to county charter, who have successfully
39 completed a civil service examination for deputy sheriff or the
40 equivalent position, where a different title is used, and those

1 persons serving in unclassified positions authorized by RCW 41.14.070
2 except a private secretary will be considered law enforcement
3 officers;

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

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

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

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

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

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

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

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

37 (i) The fees of the following:

38 (A) A physician or surgeon licensed under the provisions of
39 chapter 18.71 RCW;

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

3 (C) A chiropractor licensed under the provisions of chapter 18.25
4 RCW.

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

8 (iii) The charges for the following medical services and
9 supplies:

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

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

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

13 (D) Anesthesia and oxygen;

14 (E) Rental of iron lung and other durable medical and surgical
15 equipment;

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

17 (G) Professional ambulance service when used to transport the
18 member to or from a hospital when injured by an accident or stricken
19 by a disease;

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

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

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

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

27 (L) An optometrist licensed under the provisions of chapter 18.53
28 RCW.

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

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

39 (23) "Plan 2" means the law enforcement officers' and
40 firefighters' retirement system, plan 2 providing the benefits and

1 funding provisions covering persons who first became members of the
2 system on and after October 1, 1977.

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

5 (25) "Regular interest" means such rate as the director may
6 determine.

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

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

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

17 (29)(a) "Service" for plan 1 members, means all periods of
18 employment for an employer as a firefighter or law enforcement
19 officer, for which compensation is paid, together with periods of
20 suspension not exceeding thirty days in duration. For the purposes of
21 this chapter service shall also include service in the armed forces
22 of the United States as provided in RCW 41.26.190. Credit shall be
23 allowed for all service credit months of service rendered by a member
24 from and after the member's initial commencement of employment as a
25 firefighter or law enforcement officer, during which the member
26 worked for seventy or more hours, or was on disability leave or
27 disability retirement. Only service credit months of service shall be
28 counted in the computation of any retirement allowance or other
29 benefit provided for in this chapter.

30 (i) For members retiring after May 21, 1971 who were employed
31 under the coverage of a prior pension act before March 1, 1970,
32 "service" shall also include (A) such military service not exceeding
33 five years as was creditable to the member as of March 1, 1970, under
34 the member's particular prior pension act, and (B) such other periods
35 of service as were then creditable to a particular member under the
36 provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no
37 event shall credit be allowed for any service rendered prior to March
38 1, 1970, where the member at the time of rendition of such service
39 was employed in a position covered by a prior pension act, unless

1 such service, at the time credit is claimed therefor, is also
2 creditable under the provisions of such prior act.

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

6 (iii) Reduction efforts such as furloughs, reduced work hours,
7 mandatory leave without pay, temporary layoffs, or other similar
8 situations as contemplated by subsection (15)(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)(i) "Service" for plan 2 members, means periods of employment
14 by a member for one or more employers for which basic salary is
15 earned for ninety or more hours per calendar month which shall
16 constitute a service credit month. Periods of employment by a member
17 for one or more employers for which basic salary is earned for at
18 least seventy hours but less than ninety hours per calendar month
19 shall constitute one-half service credit month. Periods of employment
20 by a member for one or more employers for which basic salary is
21 earned for less than seventy hours shall constitute a one-quarter
22 service credit month.

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

26 (iii) Service credit years of service shall be determined by
27 dividing the total number of service credit months of service by
28 twelve. Any fraction of a service credit year of service as so
29 determined shall be taken into account in the computation of such
30 retirement allowance or benefits.

31 (iv) If a member receives basic salary from two or more employers
32 during any calendar month, the individual shall receive one service
33 credit month's service credit during any calendar month in which
34 multiple service for ninety or more hours is rendered; or one-half
35 service credit month's service credit during any calendar month in
36 which multiple service for at least seventy hours but less than
37 ninety hours is rendered; or one-quarter service credit month during
38 any calendar month in which multiple service for less than seventy
39 hours is rendered.

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

8 (30) "Service credit month" means a full service credit month or
9 an accumulation of partial service credit months that are equal to
10 one.

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

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

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

18 (34) "Surviving spouse" means the surviving widow or widower of a
19 member. "Surviving spouse" shall not include the divorced spouse of a
20 member except as provided in RCW 41.26.162.

21 **Sec. 202.** RCW 41.26.030 and 2023 c 77 s 1 are each amended to
22 read as follows:

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

25 (1) "Accumulated contributions" means the employee's
26 contributions made by a member, including any amount paid under RCW
27 41.50.165(2), plus accrued interest credited thereon.

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

33 (3) "Actuarial valuation" means a mathematical determination of
34 the financial condition of a retirement plan. It includes the
35 computation of the present monetary value of benefits payable to
36 present members, and the present monetary value of future employer
37 and employee contributions, giving effect to mortality among active
38 and retired members and also to the rates of disability, retirement,
39 withdrawal from service, salary and interest earned on investments.

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

6 (b) "Basic salary" for plan 2 members, means salaries or wages
7 earned by a member during a payroll period for personal services,
8 including overtime payments, and shall include wages and salaries
9 deferred under provisions established pursuant to sections 403(b),
10 414(h), and 457 of the United States Internal Revenue Code, but shall
11 exclude lump sum payments for deferred annual sick leave, unused
12 accumulated vacation, unused accumulated annual leave, or any form of
13 severance pay. In any year in which a member serves in the
14 legislature the member shall have the option of having such member's
15 basic salary be the greater of:

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

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

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

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

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

34 (i) A natural born child;

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

37 (iii) A posthumous child;

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

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

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

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

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

13 (9) "Disability board" for plan 1 members means either the county
14 disability board or the city disability board established in RCW
15 41.26.110.

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

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

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

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

28 (14)(a) "Employer" for plan 1 members, means the legislative
29 authority of any city, town, county, district, or regional fire
30 protection service authority or the elected officials of any
31 municipal corporation that employs any law enforcement officer and/or
32 firefighter, any authorized association of such municipalities, and,
33 except for the purposes of RCW 41.26.150, any labor guild,
34 association, or organization, which represents the firefighters or
35 law enforcement officers of at least seven cities of over 20,000
36 population and the membership of each local lodge or division of
37 which is composed of at least sixty percent law enforcement officers
38 or firefighters as defined in this chapter.

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

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

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

9 (iii) The governing body of any other general authority law
10 enforcement agency;

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

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

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

26 (15)(a) "Final average salary" for plan 1 members, means (i) for
27 a member holding the same position or rank for a minimum of twelve
28 months preceding the date of retirement, the basic salary attached to
29 such same position or rank at time of retirement; (ii) for any other
30 member, including a civil service member who has not served a minimum
31 of twelve months in the same position or rank preceding the date of
32 retirement, the average of the greatest basic salaries payable to
33 such member during any consecutive twenty-four month period within
34 such member's last ten years of service for which service credit is
35 allowed, computed by dividing the total basic salaries payable to
36 such member during the selected twenty-four month period by twenty-
37 four; (iii) in the case of disability of any member, the basic salary
38 payable to such member at the time of disability retirement; (iv) in
39 the case of a member who hereafter vests pursuant to RCW 41.26.090,
40 the basic salary payable to such member at the time of vesting.

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

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

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

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

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

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

37 (17) "Firefighter" means:

38 (a) Any person who is serving on a full time, fully compensated
39 basis as a member of a fire department of an employer and who is

1 serving in a position which requires passing a civil service
2 examination for firefighter, and who is actively employed as such;

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

5 (c) Supervisory firefighter personnel;

6 (d) Personnel serving on a full-time, fully compensated basis as
7 an employee of a fire department in positions that necessitate
8 experience as a firefighter to perform the essential functions of
9 those positions;

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

13 ~~((e))~~ (f) The executive secretary of a labor guild, association
14 or organization (which is an employer under subsection (14) of this
15 section), if such individual has five years previous membership in a
16 retirement system established in chapter 41.16 or 41.18 RCW. The
17 provisions of this subsection (17) ~~((e))~~ (f) shall not apply to plan
18 2 members;

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

23 ~~((g))~~ (h) Any person who on March 1, 1970, was employed on a
24 full time, fully compensated basis by an employer, and who on May 21,
25 1971, was making retirement contributions under the provisions of
26 chapter 41.16 or 41.18 RCW; and

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

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

1 enforcement agency having as one of its functions the apprehension or
2 detection of persons committing infractions or violating the traffic
3 or criminal laws relating to limited subject areas, including but not
4 limited to, the state departments of natural resources and social and
5 health services, the state gambling commission, the state lottery
6 commission, the state parks and recreation commission, the state
7 utilities and transportation commission, the state liquor and
8 cannabis board, and the state department of corrections. A general
9 authority law enforcement agency under this chapter does not include
10 a government contractor.

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

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

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

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

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

37 (e) The term "law enforcement officer" also includes a person
38 employed on or after January 1, 1993, as a public safety officer or
39 director of public safety, so long as the job duties substantially
40 involve only either police or fire duties, or both, and no other

1 duties in a city or town with a population of less than ten thousand.
2 The provisions of this subsection (19)(e) shall not apply to any
3 public safety officer or director of public safety who is receiving a
4 retirement allowance under this chapter as of May 12, 1993; and

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

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

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

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

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

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

25 (i) The fees of the following:

26 (A) A physician or surgeon licensed under the provisions of
27 chapter 18.71 RCW;

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

30 (C) A chiropractor licensed under the provisions of chapter 18.25
31 RCW.

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

35 (iii) The charges for the following medical services and
36 supplies:

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

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

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

40 (D) Anesthesia and oxygen;

1 (E) Rental of iron lung and other durable medical and surgical
2 equipment;

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

4 (G) Professional ambulance service when used to transport the
5 member to or from a hospital when injured by an accident or stricken
6 by a disease;

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

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

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

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

14 (L) An optometrist licensed under the provisions of chapter 18.53
15 RCW.

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

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

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

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

32 (25) "Regular interest" means such rate as the director may
33 determine.

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

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

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

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

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

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

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

1 (b) (i) "Service" for plan 2 members, means periods of employment
2 by a member for one or more employers for which basic salary is
3 earned for ninety or more hours per calendar month which shall
4 constitute a service credit month. Periods of employment by a member
5 for one or more employers for which basic salary is earned for at
6 least seventy hours but less than ninety hours per calendar month
7 shall constitute one-half service credit month. Periods of employment
8 by a member for one or more employers for which basic salary is
9 earned for less than seventy hours shall constitute a one-quarter
10 service credit month.

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

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

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

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

35 (30) "Service credit month" means a full service credit month or
36 an accumulation of partial service credit months that are equal to
37 one.

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

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

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

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

9 NEW SECTION. **Sec. 203.** Section 201 of this act expires July 1,
10 2025.

11 NEW SECTION. **Sec. 204.** Section 202 of this act takes effect
12 July 1, 2025.

13 **Part III**

14 **Pension Overpayment Responsibility**

15 **Sec. 301.** RCW 41.50.130 and 1997 c 254 s 15 are each amended to
16 read as follows:

17 (1) The director may at any time correct errors appearing in the
18 records of the retirement systems listed in RCW 41.50.030. Should any
19 error in such records result in any member, beneficiary, or other
20 person or entity receiving more or less than he or she would have
21 been entitled to had the records been correct, the director, subject
22 to the conditions set forth in this section, shall adjust the payment
23 in such a manner that the benefit to which such member, beneficiary,
24 or other person or entity was correctly entitled shall be paid in
25 accordance with the following:

26 (a) In the case of underpayments to a member or beneficiary, the
27 retirement system shall correct all future payments from the point of
28 error detection, and shall compute the additional payment due for the
29 allowable prior period which shall be paid in a lump sum by the
30 appropriate retirement system.

31 (b) In the case of overpayments to a retiree or other
32 beneficiary, the retirement system shall adjust the payment so that
33 the retiree or beneficiary receives the benefit to which he or she is
34 correctly entitled. The retiree or beneficiary shall either repay the
35 overpayment in a lump sum within ninety days of notification or, if
36 he or she is entitled to a continuing benefit, elect to have that

1 benefit actuarially reduced by an amount equal to the overpayment.
2 The retiree or beneficiary is not responsible for repaying the
3 overpayment if the employer is liable under RCW 41.50.139 or section
4 302 of this act.

5 (c) In the case of overpayments to a person or entity other than
6 a member or beneficiary, the overpayment shall constitute a debt from
7 the person or entity to the department, recovery of which shall not
8 be barred by laches or statute of limitations.

9 (2) Except in the case of actual fraud or overpayments under
10 section 302 of this act, in the case of overpayments to a member or
11 beneficiary, the benefits shall be adjusted to reflect only the
12 amount of overpayments made within three years of discovery of the
13 error, notwithstanding any provision to the contrary in chapter 4.16
14 RCW.

15 (3) Except in the case of actual fraud, no monthly benefit shall
16 be reduced by more than fifty percent of the member's or
17 beneficiary's corrected benefit. Any overpayment not recovered due to
18 the inability to actuarially reduce a member's benefit due to: (a)
19 The provisions of this subsection; or (b) the fact that the retiree's
20 monthly retirement allowance is less than the monthly payment
21 required to effectuate an actuarial reduction, shall constitute a
22 claim against the estate of a member, beneficiary, or other person or
23 entity in receipt of an overpayment.

24 (4) Except as provided in subsection (2) of this section,
25 obligations of employers or members until paid to the department
26 shall constitute a debt from the employer or member to the
27 department, recovery of which shall not be barred by laches or
28 statutes of limitation.

29 NEW SECTION. **Sec. 302.** A new section is added to chapter 41.26
30 RCW to read as follows:

31 (1) If an overpayment for a law enforcement officers' and
32 firefighters' retirement system plan 2 retiree was due to an employer
33 erroneously reporting law enforcement officers' and firefighters'
34 retirement system plan 2 member information to the department, and
35 the erroneous reporting was not the result of the member's
36 nondisclosure, fraud, misrepresentation, or other fault, the employer
37 is liable for the resulting overpayment.

38 (2) Upon receipt of a billing from the department, the employer
39 shall pay into the Washington law enforcement officers' and

1 firefighters' system plan 2 retirement fund the amount of the
2 overpayment plus interest as determined by the director. The
3 employer's liability under this section shall not exceed the amount
4 of overpayments plus interest received by the retiree within one year
5 of the date of discovery, except in the case of fraud committed by
6 the employer. In the case of fraud committed by the employer, the
7 employer is liable for the entire overpayment plus interest.

8 NEW SECTION. **Sec. 303.** Sections 301 and 302 of this act take
9 effect January 1, 2025.

10 **Part IV**

11 **Disability Pension Benefits**

12 **Sec. 401.** RCW 41.26.470 and 2016 c 115 s 3 are each amended to
13 read as follows:

14 (1) A member of the retirement system who becomes totally
15 incapacitated for continued employment by an employer as determined
16 by the director shall be eligible to receive an allowance under the
17 provisions of RCW 41.26.410 through 41.26.550. Such member shall
18 receive a monthly disability allowance computed as provided for in
19 RCW 41.26.420 and shall have such allowance actuarially reduced to
20 reflect the difference in the number of years between age at
21 disability and the attainment of age fifty-three, except under
22 subsection (7) of this section.

23 (2) Any member who receives an allowance under the provisions of
24 this section shall be subject to such comprehensive medical
25 examinations as required by the department. If such medical
26 examinations reveal that such a member has recovered from the
27 incapacitating disability and the member is no longer entitled to
28 benefits under Title 51 RCW, the retirement allowance shall be
29 canceled and the member shall be restored to duty in the same civil
30 service rank, if any, held by the member at the time of retirement
31 or, if unable to perform the duties of the rank, then, at the
32 member's request, in such other like or lesser rank as may be or
33 become open and available, the duties of which the member is then
34 able to perform. In no event shall a member previously drawing a
35 disability allowance be returned or be restored to duty at a salary
36 or rate of pay less than the current salary attached to the rank or
37 position held by the member at the date of the retirement for

1 disability. If the department determines that the member is able to
2 return to service, the member is entitled to notice and a hearing.
3 Both the notice and the hearing shall comply with the requirements of
4 chapter 34.05 RCW, the administrative procedure act.

5 (3) Those members subject to this chapter who became disabled in
6 the line of duty on or after July 23, 1989, and who receive benefits
7 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW
8 41.04.535 shall receive or continue to receive service credit subject
9 to the following:

10 (a) No member may receive more than one month's service credit in
11 a calendar month.

12 (b) No service credit under this section may be allowed after a
13 member separates or is separated without leave of absence.

14 (c) Employer contributions shall be paid by the employer at the
15 rate in effect for the period of the service credited.

16 (d) Employee contributions shall be collected by the employer and
17 paid to the department at the rate in effect for the period of
18 service credited.

19 (e) State contributions shall be as provided in RCW 41.45.060 and
20 41.45.067.

21 (f) Contributions shall be based on the regular compensation
22 which the member would have received had the disability not occurred.

23 (g) The service and compensation credit under this section shall
24 be granted for a period not to exceed six consecutive months.

25 (h) Should the legislature revoke the service credit authorized
26 under this section or repeal this section, no affected employee is
27 entitled to receive the credit as a matter of contractual right.

28 (4)(a) If the recipient of a monthly retirement allowance under
29 this section dies before the total of the retirement allowance paid
30 to the recipient equals the amount of the accumulated contributions
31 at the date of retirement, then the balance shall be paid to the
32 member's estate, or such person or persons, trust, or organization as
33 the recipient has nominated by written designation duly executed and
34 filed with the director, or, if there is no such designated person or
35 persons still living at the time of the recipient's death, then to
36 the surviving spouse or domestic partner, or, if there is neither
37 such designated person or persons still living at the time of his or
38 her death nor a surviving spouse or domestic partner, then to his or
39 her legal representative.

1 (b) If a recipient of a monthly retirement allowance under this
2 section died before April 27, 1989, and before the total of the
3 retirement allowance paid to the recipient equaled the amount of his
4 or her accumulated contributions at the date of retirement, then the
5 department shall pay the balance of the accumulated contributions to
6 the member's surviving spouse or, if there is no surviving spouse,
7 then in equal shares to the member's children. If there is no
8 surviving spouse or children, the department shall retain the
9 contributions.

10 (5) Should the disability retirement allowance of any disability
11 beneficiary be canceled for any cause other than reentrance into
12 service or retirement for service, he or she shall be paid the
13 excess, if any, of the accumulated contributions at the time of
14 retirement over all payments made on his or her behalf under this
15 chapter.

16 (6) A member who becomes disabled in the line of duty, and who
17 ceases to be an employee of an employer except by service or
18 disability retirement, may request a refund of one hundred fifty
19 percent of the member's accumulated contributions. Any accumulated
20 contributions attributable to restorations made under RCW
21 41.50.165(2) shall be refunded at one hundred percent. A person in
22 receipt of this benefit is a retiree.

23 (7) A member who becomes disabled in the line of duty shall be
24 entitled to receive a minimum retirement allowance equal to ten
25 percent of such member's final average salary. The member shall
26 additionally receive a retirement allowance equal to two percent of
27 such member's average final salary for each year of service beyond
28 five.

29 (8) A member who became disabled in the line of duty before
30 January 1, 2001, and is receiving an allowance under RCW 41.26.430 or
31 subsection (1) of this section shall be entitled to receive a minimum
32 retirement allowance equal to ten percent of such member's final
33 average salary. The member shall additionally receive a retirement
34 allowance equal to two percent of such member's average final salary
35 for each year of service beyond five, and shall have the allowance
36 actuarially reduced to reflect the difference in the number of years
37 between age at disability and the attainment of age fifty-three. An
38 additional benefit shall not result in a total monthly benefit
39 greater than that provided in subsection (1) of this section.

1 (9) A member who is totally disabled in the line of duty is
2 entitled to receive a retirement allowance equal to seventy percent
3 of the member's final average salary. The allowance provided under
4 this subsection shall be offset by:

5 (a) Temporary disability wage-replacement benefits or permanent
6 total disability benefits provided to the member under Title 51 RCW;
7 and

8 (b) Federal social security disability benefits, if any;
9 so that such an allowance does not result in the member receiving
10 combined benefits that exceed one hundred percent of the member's
11 final average salary. However, the offsets shall not in any case
12 reduce the allowance provided under this subsection below the
13 member's accrued retirement allowance.

14 A member is considered totally disabled if he or she is unable to
15 perform any substantial gainful activity due to a physical or mental
16 condition that may be expected to result in death or that has lasted
17 or is expected to last at least twelve months. Substantial gainful
18 activity is defined as average earnings in excess of eight hundred
19 sixty dollars a month in 2006 adjusted annually as determined by the
20 director based on federal social security disability standards. The
21 department may require a person in receipt of an allowance under this
22 subsection to provide any financial records that are necessary to
23 determine continued eligibility for such an allowance. A person in
24 receipt of an allowance under this subsection whose earnings exceed
25 the threshold for substantial gainful activity shall have their
26 benefit converted to a line-of-duty disability retirement allowance
27 as provided in subsection (7) of this section.

28 Any person in receipt of an allowance under the provisions of
29 this section is subject to comprehensive medical examinations as may
30 be required by the department under subsection (2) of this section in
31 order to determine continued eligibility for such an allowance.

32 (10)(a) In addition to the retirement allowance provided in
33 subsection (9) of this section, the retirement allowance of a member
34 who is totally disabled in the line of duty shall include
35 reimbursement for any payments made by the member after June 10,
36 2010, for premiums on employer-provided medical insurance, insurance
37 authorized by the consolidated omnibus budget reconciliation act of
38 1985 (COBRA), medicare part A (hospital insurance), and medicare part
39 B (medical insurance). A member who is entitled to medicare must
40 enroll and maintain enrollment in both medicare part A and medicare

1 part B in order to remain eligible for the reimbursement provided in
2 this subsection. The legislature reserves the right to amend or
3 repeal the benefits provided in this subsection in the future and no
4 member or beneficiary has a contractual right to receive any
5 distribution not granted prior to that time.

6 (b) The retirement allowance of a member who is not eligible for
7 reimbursement provided in (a) of this subsection shall include
8 reimbursement for any payments made after June 30, 2013, for premiums
9 on other medical insurance. However, in no instance shall the
10 reimbursement exceed the amount reimbursed for premiums authorized by
11 the consolidated omnibus budget reconciliation act of 1985 (COBRA).

12 (11) A member who has left the employ of an employer due to
13 service in the national guard, military reserves, federal emergency
14 management agency, or national disaster medical system of the United
15 States department of health and human services and who becomes
16 totally incapacitated for continued employment by an employer as
17 determined by the director while performing service in response to a
18 disaster, major emergency, special event, federal exercise, or
19 official training on or after March 22, 2014, shall be eligible to
20 receive an allowance under the provisions of RCW 41.26.410 through
21 41.26.550. Such member shall receive a monthly disability allowance
22 computed as provided for in RCW 41.26.420 except such allowance is
23 not subject to an actuarial reduction for early retirement as
24 provided in RCW 41.26.430. The member's retirement allowance is
25 computed under RCW 41.26.420, except that the member shall be
26 entitled to a minimum retirement allowance equal to ten percent of
27 such member's final average salary. The member shall additionally
28 receive a retirement allowance equal to two percent of such member's
29 average final salary for each year of service beyond five.

30 (12) A member who is in receipt of a nonduty disability benefit
31 under subsection (1) of this section, for a disabling condition that
32 was not considered an occupational disease by the department of labor
33 and industries at the time the member retired but is now considered
34 an occupational disease in accordance with the definition of
35 posttraumatic stress disorder in RCW 51.08.165, may file a new
36 application with the department for a determination of their
37 eligibility for an in the line of duty disability retirement benefit
38 under subsections (7) and (9) of this section with the current
39 occupational disease eligibility applied to their application. If the
40 department finds that the member is eligible for an in the line of

1 duty disability retirement the benefit must be paid retroactive to
2 the disabling condition being made eligible as an occupational
3 disease under RCW 51.08.165.

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