
SENATE BILL 5161

State of Washington

62nd Legislature

2011 Regular Session

By Senators Fain, Schoesler, Holmquist Newbry, Conway, Delvin, Carrell, Murray, Hobbs, Pridemore, and Rockefeller; by request of Select Committee on Pension Policy

Read first time 01/17/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to public corrections entities formed by counties
2 or cities under RCW 39.34.030; reenacting and amending RCW 41.37.010;
3 and creating a new section.

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

5 **Sec. 1.** RCW 41.37.010 and 2010 1st sp.s. c 32 s 8 are each
6 reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter,
8 unless the context clearly requires otherwise.

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

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

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

18 (4) "Annuity" means payments for life derived from accumulated

1 contributions of a member. All annuities shall be paid in monthly
2 installments.

3 (5)(a) "Average final compensation" means the member's average
4 compensation earnable of the highest consecutive sixty months of
5 service credit months prior to such member's retirement, termination,
6 or death. Periods constituting authorized leaves of absence may not be
7 used in the calculation of average final compensation except under RCW
8 41.37.290.

9 (b) In calculating average final compensation under (a) of this
10 subsection, the department of retirement systems shall include any
11 compensation forgone by a member employed by a state agency or
12 institution during the 2009-2011 fiscal biennium as a result of reduced
13 work hours, mandatory or voluntary leave without pay, or temporary
14 layoffs if the reduced compensation is an integral part of the
15 employer's expenditure reduction efforts, as certified by the employer.

16 (6) "Beneficiary" means any person in receipt of a retirement
17 allowance or other benefit provided by this chapter resulting from
18 service rendered to an employer by another person.

19 (7)(a) "Compensation earnable" for members, means salaries or wages
20 earned by a member during a payroll period for personal services,
21 including overtime payments, and shall include wages and salaries
22 deferred under provisions established pursuant to sections 403(b),
23 414(h), and 457 of the United States internal revenue code, but shall
24 exclude nonmoney maintenance compensation and lump sum or other
25 payments for deferred annual sick leave, unused accumulated vacation,
26 unused accumulated annual leave, or any form of severance pay.

27 (b) "Compensation earnable" for members also includes the following
28 actual or imputed payments, which are not paid for personal services:

29 (i) Retroactive payments to an individual by an employer on
30 reinstatement of the employee in a position, or payments by an employer
31 to an individual in lieu of reinstatement, which are awarded or granted
32 as the equivalent of the salary or wage which the individual would have
33 earned during a payroll period shall be considered compensation
34 earnable to the extent provided in this subsection, and the individual
35 shall receive the equivalent service credit;

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

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

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

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

11 (iv) Compensation that a member would have received but for a
12 disability occurring in the line of duty only as authorized by RCW
13 41.37.060;

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

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

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

24 (9) "Director" means the director of the department.

25 (10) "Eligible position" means any permanent, full-time position
26 included in subsection (19) of this section.

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

32 (12) "Employer" means the Washington state department of
33 corrections, the Washington state parks and recreation commission, the
34 Washington state gambling commission, the Washington state patrol, the
35 Washington state department of natural resources, and the Washington
36 state liquor control board; any county corrections department; (~~(or)~~)
37 any city corrections department not covered under chapter 41.28 RCW;

1 and any public corrections entity created under RCW 39.34.030 by
2 counties, cities not covered under chapter 41.28 RCW, or both.

3 (13) "Final compensation" means the annual rate of compensation
4 earnable by a member at the time of termination of employment.

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

9 (15) "Index A" means the index for the year prior to the
10 determination of a postretirement adjustment.

11 (16) "Index B" means the index for the year prior to index A.

12 (17) "Ineligible position" means any position which does not
13 conform with the requirements set forth in subsection (10) of this
14 section.

15 (18) "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 (19) "Member" means any employee employed by an employer on a full-
19 time basis:

20 (a) Who is in a position that requires completion of a certified
21 criminal justice training course and is authorized by their employer to
22 arrest, conduct criminal investigations, enforce the criminal laws of
23 the state of Washington, and carry a firearm as part of the job;

24 (b) Whose primary responsibility is to ensure the custody and
25 security of incarcerated or probationary individuals as a corrections
26 officer, probation officer, or jailer;

27 (c) Who is a limited authority Washington peace officer, as defined
28 in RCW 10.93.020, for an employer; or

29 (d) Whose primary responsibility is to supervise members eligible
30 under this subsection.

31 (20) "Membership service" means all service rendered as a member.

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

35 (22) "Plan" means the Washington public safety employees'
36 retirement system plan 2.

37 (23) "Regular interest" means such rate as the director may
38 determine.

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

4 (25) "Retirement" means withdrawal from active service with a
5 retirement allowance as provided by this chapter.

6 (26) "Retirement allowance" means monthly payments to a retiree or
7 beneficiary as provided in this chapter.

8 (27) "Retirement system" means the Washington public safety
9 employees' retirement system provided for in this chapter.

10 (28) "Separation from service" occurs when a person has terminated
11 all employment with an employer.

12 (29) "Service" means periods of employment by a member on or after
13 July 1, 2006, for one or more employers for which compensation earnable
14 is paid. Compensation earnable earned for ninety or more hours in any
15 calendar month shall constitute one service credit month. Compensation
16 earnable earned for at least seventy hours but less than ninety hours
17 in any calendar month shall constitute one-half service credit month of
18 service. Compensation earnable earned for less than seventy hours in
19 any calendar month shall constitute one-quarter service credit month of
20 service. Time spent in standby status, whether compensated or not, is
21 not service.

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

24 (a) Service in any state elective position shall be deemed to be
25 full-time service.

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

32 (30) "Service credit month" means a month or an accumulation of
33 months of service credit which is equal to one.

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

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

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

4 (34) "State treasurer" means the treasurer of the state of
5 Washington.

6 NEW SECTION. **Sec. 2.** This act applies retroactively to any public
7 corrections entity existing on or after January 1, 2011.

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