
SENATE BILL 5698

State of Washington 63rd Legislature 2013 Regular Session

By Senators Eide, Conway, Roach, Hasegawa, Keiser, McAuliffe, and Brown

Read first time 02/11/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to providing access to health insurance for certain
2 law enforcement officers' and firefighters' plan 2 members
3 catastrophically disabled in the line of duty; and amending RCW
4 41.26.470.

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

6 **Sec. 1.** RCW 41.26.470 and 2010 c 259 s 2 are each amended to read
7 as follows:

8 (1) A member of the retirement system who becomes totally
9 incapacitated for continued employment by an employer as determined by
10 the director shall be eligible to receive an allowance under the
11 provisions of RCW 41.26.410 through 41.26.550. Such member shall
12 receive a monthly disability allowance computed as provided for in RCW
13 41.26.420 and shall have such allowance actuarially reduced to reflect
14 the difference in the number of years between age at disability and the
15 attainment of age fifty-three, except under subsection (7) of this
16 section.

17 (2) Any member who receives an allowance under the provisions of
18 this section shall be subject to such comprehensive medical
19 examinations as required by the department. If such medical

1 examinations reveal that such a member has recovered from the
2 incapacitating disability and the member is no longer entitled to
3 benefits under Title 51 RCW, the retirement allowance shall be canceled
4 and the member shall be restored to duty in the same civil service
5 rank, if any, held by the member at the time of retirement or, if
6 unable to perform the duties of the rank, then, at the member's
7 request, in such other like or lesser rank as may be or become open and
8 available, the duties of which the member is then able to perform. In
9 no event shall a member previously drawing a disability allowance be
10 returned or be restored to duty at a salary or rate of pay less than
11 the current salary attached to the rank or position held by the member
12 at the date of the retirement for disability. If the department
13 determines that the member is able to return to service, the member is
14 entitled to notice and a hearing. Both the notice and the hearing
15 shall comply with the requirements of chapter 34.05 RCW, the
16 administrative procedure act.

17 (3) Those members subject to this chapter who became disabled in
18 the line of duty on or after July 23, 1989, and who receive benefits
19 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW
20 41.04.535 shall receive or continue to receive service credit subject
21 to the following:

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

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

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

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

31 (e) State contributions shall be as provided in RCW 41.45.060 and
32 41.45.067.

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

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

37 (h) Should the legislature revoke the service credit authorized

1 under this section or repeal this section, no affected employee is
2 entitled to receive the credit as a matter of contractual right.

3 (4)(a) If the recipient of a monthly retirement allowance under
4 this section dies before the total of the retirement allowance paid to
5 the recipient equals the amount of the accumulated contributions at the
6 date of retirement, then the balance shall be paid to the member's
7 estate, or such person or persons, trust, or organization as the
8 recipient has nominated by written designation duly executed and filed
9 with the director, or, if there is no such designated person or persons
10 still living at the time of the recipient's death, then to the
11 surviving spouse or domestic partner, or, if there is neither such
12 designated person or persons still living at the time of his or her
13 death nor a surviving spouse or domestic partner, then to his or her
14 legal representative.

15 (b) If a recipient of a monthly retirement allowance under this
16 section died before April 27, 1989, and before the total of the
17 retirement allowance paid to the recipient equaled the amount of his or
18 her accumulated contributions at the date of retirement, then the
19 department shall pay the balance of the accumulated contributions to
20 the member's surviving spouse or, if there is no surviving spouse, then
21 in equal shares to the member's children. If there is no surviving
22 spouse or children, the department shall retain the contributions.

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

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

35 (7) A member who becomes disabled in the line of duty shall be
36 entitled to receive a minimum retirement allowance equal to ten percent
37 of such member's final average salary. The member shall additionally

1 receive a retirement allowance equal to two percent of such member's
2 average final salary for each year of service beyond five.

3 (8) A member who became disabled in the line of duty before January
4 1, 2001, and is receiving an allowance under RCW 41.26.430 or
5 subsection (1) of this section shall be entitled to receive a minimum
6 retirement allowance equal to ten percent of such member's final
7 average salary. The member shall additionally receive a retirement
8 allowance equal to two percent of such member's average final salary
9 for each year of service beyond five, and shall have the allowance
10 actuarially reduced to reflect the difference in the number of years
11 between age at disability and the attainment of age fifty-three. An
12 additional benefit shall not result in a total monthly benefit greater
13 than that provided in subsection (1) of this section.

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

18 (a) Temporary disability wage-replacement benefits or permanent
19 total disability benefits provided to the member under Title 51 RCW;
20 and

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

27 A member is considered totally disabled if he or she is unable to
28 perform any substantial gainful activity due to a physical or mental
29 condition that may be expected to result in death or that has lasted or
30 is expected to last at least twelve months. Substantial gainful
31 activity is defined as average earnings in excess of eight hundred
32 sixty dollars a month in 2006 adjusted annually as determined by the
33 director based on federal social security disability standards. The
34 department may require a person in receipt of an allowance under this
35 subsection to provide any financial records that are necessary to
36 determine continued eligibility for such an allowance. A person in
37 receipt of an allowance under this subsection whose earnings exceed the

1 threshold for substantial gainful activity shall have their benefit
2 converted to a line-of-duty disability retirement allowance as provided
3 in subsection (7) of this section.

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

8 (10)(a) In addition to the retirement allowance provided in
9 subsection (9) of this section, the retirement allowance of a member
10 who is totally disabled in the line of duty shall include reimbursement
11 for any payments made by the member after June 10, 2010, for premiums
12 on employer-provided medical insurance or other insurance as provided
13 in (b) of this subsection, insurance authorized by the consolidated
14 omnibus budget reconciliation act of 1985 (COBRA), medicare part A
15 (hospital insurance), and medicare part B (medical insurance). A
16 member who is entitled to medicare must enroll and maintain enrollment
17 in both medicare part A and medicare part B in order to remain eligible
18 for the reimbursement provided in this subsection. The legislature
19 reserves the right to amend or repeal the benefits provided in this
20 subsection in the future and no member or beneficiary has a contractual
21 right to receive any distribution not granted prior to that time.

22 (b) The retirement allowance of a member who is not eligible for
23 employer-provided medical insurance shall include reimbursement for any
24 payments made after June 30, 2013, for premiums on medical insurance.
25 However, in no instance shall the reimbursement exceed the amount
26 reimbursed for premiums authorized by the consolidated omnibus budget
27 reconciliation act of 1985 (COBRA).

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