

---

**SENATE BILL 6125**

---

**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senator Hunt

Prefiled 12/31/19.

1 AN ACT Relating to postretirement work in an elected city or  
2 county council position; and amending RCW 41.40.037 and 41.40.820.

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

4 **Sec. 1.** RCW 41.40.037 and 2015 c 75 s 1 are each amended to read  
5 as follows:

6 (1)(a) If a retiree enters employment with an employer sooner  
7 than one calendar month after his or her accrual date, the retiree's  
8 monthly retirement allowance will be reduced by five and one-half  
9 percent for every eight hours worked during that month. This  
10 reduction will be applied each month until the retiree remains absent  
11 from employment with an employer for one full calendar month.

12 (b) The benefit reduction provided in (a) of this subsection will  
13 accrue for a maximum of one hundred sixty hours per month. Any  
14 benefit reduction over one hundred percent will be applied to the  
15 benefit the retiree is eligible to receive in subsequent months.

16 (2) ((A)) (a) Except as provided in (b) of this subsection, a  
17 retiree from plan 1, plan 2, or plan 3 who has satisfied the break in  
18 employment requirement of subsection (1) of this section may work up  
19 to eight hundred sixty-seven hours per calendar year in an eligible  
20 position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or  
21 41.40.010, or as a firefighter or law enforcement officer, as defined

1 in RCW 41.26.030, or in a position covered by annuity and retirement  
2 income plans offered by institutions of higher education pursuant to  
3 RCW 28B.10.400, without suspension of his or her benefit.

4 (b) A retiree from plan 2 or plan 3 who has satisfied the break  
5 in employment requirement of subsection (1) of this section may work  
6 up to one thousand eighty hours per calendar year in an elected city  
7 or county council position, without suspension of his or her benefit.

8 (3) If the retiree opts to reestablish membership under RCW  
9 41.40.023(12), he or she terminates his or her retirement status and  
10 becomes a member. Retirement benefits shall not accrue during the  
11 period of membership and the individual shall make contributions and  
12 receive membership credit. Such a member shall have the right to  
13 again retire if eligible in accordance with RCW 41.40.180. However,  
14 if the right to retire is exercised to become effective before the  
15 member has rendered two uninterrupted years of service, the  
16 retirement formula and survivor options the member had at the time of  
17 the member's previous retirement shall be reinstated.

18 (4) The department shall collect and provide the state actuary  
19 with information relevant to the use of this section for the select  
20 committee on pension policy.

21 (5) The legislature reserves the right to amend or repeal this  
22 section in the future and no member or beneficiary has a contractual  
23 right to be employed for more than five months in a calendar year  
24 without a reduction of his or her pension.

25 **Sec. 2.** RCW 41.40.820 and 2012 1st sp.s. c 7 s 6 are each  
26 amended to read as follows:

27 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
28 and who has:

29 (a) Completed ten service credit years; or

30 (b) (i) Completed five service credit years, including twelve  
31 service credit months after attaining age forty-four; or

32 (c) Completed five service credit years by the transfer payment  
33 date specified in RCW 41.40.795, under the public employees'  
34 retirement system plan 2 and who transferred to plan 3 under RCW  
35 41.40.795;

36 shall be eligible to retire and to receive a retirement allowance  
37 computed according to the provisions of RCW 41.40.790.

38 (2) EARLY RETIREMENT. Any member who has attained at least age  
39 fifty-five and has completed at least ten years of service shall be

1 eligible to retire and to receive a retirement allowance computed  
2 according to the provisions of RCW 41.40.790, except that a member  
3 retiring pursuant to this subsection shall have the retirement  
4 allowance actuarially reduced to reflect the difference in the number  
5 of years between age at retirement and the attainment of age sixty-  
6 five.

7 (3) ALTERNATE EARLY RETIREMENT.

8 (a) Any member who has completed at least thirty service credit  
9 years and has attained age fifty-five shall be eligible to retire and  
10 to receive a retirement allowance computed according to the  
11 provisions of RCW 41.40.790, except that a member retiring pursuant  
12 to this subsection shall have the retirement allowance reduced by  
13 three percent per year to reflect the difference in the number of  
14 years between age at retirement and the attainment of age sixty-five.

15 (b) (i) On or after July 1, 2008, any member who has completed at  
16 least thirty service credit years and has attained age fifty-five  
17 shall be eligible to retire and to receive a retirement allowance  
18 computed according to the provisions of RCW 41.40.790, except that a  
19 member retiring pursuant to this subsection shall have the retirement  
20 allowance reduced as follows:

21	Retirement	Percent
22	Age	Reduction
23	55	20%
24	56	17%
25	57	14%
26	58	11%
27	59	8%
28	60	5%
29	61	2%
30	62	0%
31	63	0%
32	64	0%

33 ~~((Any))~~ (ii) Except as provided in (b)(iii) of this subsection,  
34 any member who retires under the provisions of this subsection is  
35 ineligible for the postretirement employment provisions of RCW  
36 41.40.037(2)(d) until the retired member has reached sixty-five years

1 of age. For purposes of this subsection, employment with an employer  
2 also includes any personal service contract, service by an employer  
3 as a temporary or project employee, or any other similar compensated  
4 relationship with any employer included under the provisions of RCW  
5 41.40.850(1).

6 (iii) The postretirement employment restrictions in (b)(ii) of  
7 this subsection do not apply to a retired member serving in an  
8 elected city or county council position.

9 (iv) The subsidized reductions for alternate early retirement in  
10 this subsection as set forth in section 10, chapter 491, Laws of 2007  
11 were intended by the legislature as replacement benefits for gain-  
12 sharing. Until there is legal certainty with respect to the repeal of  
13 chapter 41.31A RCW, the right to retire under this subsection is  
14 noncontractual, and the legislature reserves the right to amend or  
15 repeal this subsection. Legal certainty includes, but is not limited  
16 to, the expiration of any: Applicable limitations on actions; and  
17 periods of time for seeking appellate review, up to and including  
18 reconsideration by the Washington supreme court and the supreme court  
19 of the United States. Until that time, eligible members may still  
20 retire under this subsection, and upon receipt of the first  
21 installment of a retirement allowance computed under this subsection,  
22 the resulting benefit becomes contractual for the recipient. If the  
23 repeal of chapter 41.31A RCW is held to be invalid in a final  
24 determination of a court of law, and the court orders reinstatement  
25 of gain-sharing or other alternate benefits as a remedy, then  
26 retirement benefits for any member who has completed at least thirty  
27 service credit years and has attained age fifty-five but has not yet  
28 received the first installment of a retirement allowance under this  
29 subsection shall be computed using the reductions in (a) of this  
30 subsection.

31 (c) Members who first become employed by an employer in an  
32 eligible position on or after May 1, 2013, are not eligible for the  
33 alternate early retirement provisions of (a) or (b) of this  
34 subsection. Any member who first becomes employed by an employer in  
35 an eligible position on or after May 1, 2013, and has completed at  
36 least thirty service credit years and has attained age fifty-five  
37 shall be eligible to retire and to receive a retirement allowance  
38 computed according to the provisions of RCW 41.40.790, except that a  
39 member retiring pursuant to this subsection shall have the retirement  
40 allowance reduced by five percent per year to reflect the difference

1 in the number of years between age at retirement and the attainment  
2 of age sixty-five.

--- END ---