

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5119

Chapter 345, Laws of 1995

54th Legislature
1995 Regular Session

COST-OF-LIVING ALLOWANCES--STATE RETIREMENT SYSTEMS

EFFECTIVE DATE: 5/12/95

Passed by the Senate April 11, 1995
YEAS 44 NAYS 2

JOEL PRITCHARD
President of the Senate

Passed by the House April 22, 1995
YEAS 94 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved May 12, 1995

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5119** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN
Secretary

FILED

May 12, 1995 - 11:00 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5119

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Bauer, Long, Winsley, Loveland, Newhouse, Fraser, Gaspard, Haugen, Sutherland and McAuliffe)

Read first time 02/09/95.

1 AN ACT Relating to cost-of-living allowances for retirement
2 purposes; reenacting and amending RCW 41.32.010 and 41.40.010; adding
3 new sections to chapter 41.32 RCW; adding new sections to chapter 41.40
4 RCW; creating new sections; decodifying RCW 41.32.488; repealing RCW
5 41.32.487, 41.32.4871, 41.32.499, 41.32.575, 41.40.195, 41.40.198,
6 41.40.1981, 41.40.1983, and 41.40.325; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The intent of this act is to:

9 (1) Simplify the calculation of postretirement adjustments so that
10 they can be more easily communicated to plan I active and retired
11 members;

12 (2) Provide postretirement adjustments based on years of service
13 rather than size of benefit;

14 (3) Provide postretirement adjustments at an earlier age;

15 (4) Provide postretirement adjustments to a larger segment of plan
16 I retirees; and

17 (5) Simplify administration by reducing the number of plan I
18 postretirement adjustments to one.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW
2 under the subchapter heading "Plan I" to read as follows:

3 (1) Beginning July 1, 1995, and annually thereafter, the retirement
4 allowance of a person meeting the requirements of this section shall be
5 increased by the annual increase amount.

6 (2) The following persons shall be eligible for the benefit
7 provided in subsection (1) of this section:

8 (a) A beneficiary who has received a retirement allowance for at
9 least one year and has attained at least age sixty-six by July 1st in
10 the calendar year in which the annual increase is given; or

11 (b) A beneficiary whose retirement allowance is lower than the
12 minimum benefit provided under section 3 of this act.

13 (3) The following persons shall also be eligible for the benefit
14 provided in subsection (1) of this section:

15 (a) A beneficiary receiving the minimum benefit on June 30, 1995,
16 under RCW 41.32.485; or

17 (b) A recipient of a survivor benefit on June 30, 1995, which has
18 been increased by RCW 41.32.575.

19 (4) If otherwise eligible, those receiving an annual adjustment
20 under RCW 41.32.530(1)(d) shall be eligible for the annual increase
21 adjustment in addition to the benefit that would have been received
22 absent this section.

23 (5) Those receiving a temporary disability benefit under RCW
24 41.32.540 shall not be eligible for the benefit provided by this
25 section.

26 (6) The legislature reserves the right to amend or repeal this
27 section in the future and no member or beneficiary has a contractual
28 right to receive this postretirement adjustment not granted prior to
29 that time.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.32 RCW
31 under the subchapter heading "Plan I" to read as follows:

32 (1) No one who becomes a beneficiary after June 30, 1995, shall
33 receive a monthly retirement allowance of less than twenty-four dollars
34 and twenty-two cents times the number of years of service creditable to
35 the person whose service is the basis of such retirement allowance.

36 (2) If the retirement allowance payable was adjusted at the time
37 benefit payments to the beneficiary commenced, the minimum allowance

1 provided in this section shall be adjusted in a manner consistent with
2 that adjustment.

3 (3) Beginning July 1, 1996, the minimum benefit set forth in
4 subsection (1) of this section shall be adjusted annually by the annual
5 increase.

6 (4) Those receiving a temporary disability benefit under RCW
7 41.32.540 shall not be eligible for the benefit provided by this
8 section.

9 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.32 RCW
10 under the subchapter heading "Plan I" to read as follows:

11 (1) The amount of the July 1, 1993, increase to the retirement
12 allowance of beneficiaries under this chapter as a result of the
13 temporary adjustment authorized by section 2, chapter 519, Laws of
14 1993, shall be made a permanent adjustment on July 1, 1995.

15 (2) Beneficiaries receiving a benefit under RCW 41.32.485 who are
16 at least age seventy-nine shall receive on July 1, 1995, a permanent
17 adjustment of one dollar and eighteen cents per month per year of
18 service.

19 (3) Beneficiaries under this chapter who are not subject to
20 subsection (1) of this section and not receiving a benefit under RCW
21 41.32.485 shall receive the following permanent adjustment to their
22 retirement allowance on July 1, 1995:

23 (a) Those who are age seventy, thirty-nine cents per month per year
24 of service;

25 (b) Those who are age seventy-one, seventy-nine cents per month per
26 year of service; and

27 (c) Those who are at least age seventy-two, one dollar and eighteen
28 cents per month per year of service.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.40 RCW
30 under the subchapter heading "Plan I" to read as follows:

31 (1) Beginning July 1, 1995, and annually thereafter, the retirement
32 allowance of a person meeting the requirements of this section shall be
33 increased by the annual increase amount.

34 (2) The following persons shall be eligible for the benefit
35 provided in subsection (1) of this section:

1 (a) A beneficiary who has received a retirement allowance for at
2 least one year and has attained at least age sixty-six by July 1st in
3 the calendar year in which the annual increase is given; or

4 (b) A beneficiary whose retirement allowance is lower than the
5 minimum benefit provided under section 7 of this act.

6 (3) The following persons shall also be eligible for the benefit
7 provided in subsection (1) of this section:

8 (a) A beneficiary receiving the minimum benefit on June 30, 1995,
9 under RCW 41.40.198; or

10 (b) A recipient of a survivor benefit on June 30, 1995, which has
11 been increased by RCW 41.40.325.

12 (4) If otherwise eligible, those receiving an annual adjustment
13 under RCW 41.40.188(1)(c) shall be eligible for the annual increase
14 adjustment in addition to the benefit that would have been received
15 absent this section.

16 (5) Those receiving a benefit under RCW 41.40.220(1), or a survivor
17 of a disabled member under RCW 41.44.170(5) shall be eligible for the
18 benefit provided by this section.

19 (6) The legislature reserves the right to amend or repeal this
20 section in the future and no member or beneficiary has a contractual
21 right to receive this postretirement adjustment not granted prior to
22 that time.

23 **NEW SECTION.** **Sec. 6.** A new section is added to chapter 41.40 RCW
24 under the subchapter heading "Part I" to read as follows:

25 For the purposes of sections 5, 7, and 8 of this act, "beneficiary"
26 means a beneficiary under RCW 41.40.010 or 41.44.030, or both RCW
27 41.40.010 and 41.44.030.

28 **NEW SECTION.** **Sec. 7.** A new section is added to chapter 41.40 RCW
29 under the subchapter heading "Plan I" to read as follows:

30 (1) Except as provided in subsections (4) and (5) of this section,
31 no one who becomes a beneficiary after June 30, 1995, shall receive a
32 monthly retirement allowance of less than twenty-four dollars and
33 twenty-two cents times the number of years of service creditable to the
34 person whose service is the basis of such retirement allowance.

35 (2) Where the retirement allowance payable was adjusted at the time
36 benefit payments to the beneficiary commenced, the minimum allowance

provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Beginning July 1, 1996, the minimum benefit set forth in subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a benefit under RCW 41.40.220(1) or under RCW 41.44.170 (3) and (5) shall not be eligible for the benefit provided by this section.

(5) For persons who served as elected officials and whose accumulated employee contributions and credited interest was less than seven hundred fifty dollars at the time of retirement, the minimum benefit under subsection (1) of this section shall be ten dollars per month per each year of creditable service.

NEW SECTION. Sec. 8. A new section is added to chapter 41.40 RCW under the subchapter heading "Plan I" to read as follows:

(1) The amount of the July 1, 1993, increase to the retirement allowance of beneficiaries under this chapter as a result of the temporary adjustment authorized by section 3, chapter 519, Laws of 1993, shall be made a permanent adjustment on July 1, 1995.

(2) Beneficiaries receiving a benefit under RCW 41.40.198 who are at least age seventy-nine shall receive on July 1, 1995, a permanent adjustment of one dollar and eighteen cents per month per year of service.

(3) Beneficiaries under this chapter who are not subject to subsection (1) of this section and are not receiving a benefit under RCW 41.40.198 shall receive the following permanent adjustment to their retirement allowance on July 1, 1995:

(a) Those who are age seventy, thirty-nine cents per month per year of service;

(b) Those who are age seventy-one, seventy-nine cents per month per year of service; and

(c) Those who are at least age seventy-two, one dollar and eighteen cents per month per year of service.

Sec. 9. RCW 41.32.010 and 1994 c 298 s 3, 1994 c 247 s 2, and 1994 c 197 s 12 are each reenacted and amended to read as follows:

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

1 (1)(a) "Accumulated contributions" for plan I members, means the
2 sum of all regular annuity contributions and, except for the purpose of
3 withdrawal at the time of retirement, any amount paid under RCW
4 41.50.165(2) with regular interest thereon.

5 (b) "Accumulated contributions" for plan II members, means the sum
6 of all contributions standing to the credit of a member in the member's
7 individual account, including any amount paid under RCW 41.50.165(2),
8 together with the regular interest thereon.

9 (2) "Actuarial equivalent" means a benefit of equal value when
10 computed upon the basis of such mortality tables and regulations as
11 shall be adopted by the director and regular interest.

12 (3) "Annuity" means the moneys payable per year during life by
13 reason of accumulated contributions of a member.

14 (4) "Member reserve" means the fund in which all of the accumulated
15 contributions of members are held.

16 (5)(a) "Beneficiary" for plan I members, means any person in
17 receipt of a retirement allowance or other benefit provided by this
18 chapter.

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

22 (6) "Contract" means any agreement for service and compensation
23 between a member and an employer.

24 (7) "Creditable service" means membership service plus prior
25 service for which credit is allowable. This subsection shall apply
26 only to plan I members.

27 (8) "Dependent" means receiving one-half or more of support from a
28 member.

29 (9) "Disability allowance" means monthly payments during
30 disability. This subsection shall apply only to plan I members.

31 (10)(a) "Earnable compensation" for plan I members, means:

32 (i) All salaries and wages paid by an employer to an employee
33 member of the retirement system for personal services rendered during
34 a fiscal year. In all cases where compensation includes maintenance
35 the employer shall fix the value of that part of the compensation not
36 paid in money.

37 (ii) "Earnable compensation" for plan I members also includes the
38 following actual or imputed payments, which are not paid for personal
39 services:

1 (A) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an employer
3 to an individual in lieu of reinstatement in a position which are
4 awarded or granted as the equivalent of the salary or wages which the
5 individual would have earned during a payroll period shall be
6 considered earnable compensation and the individual shall receive the
7 equivalent service credit.

8 (B) If a leave of absence, without pay, is taken by a member for
9 the purpose of serving as a member of the state legislature, and such
10 member has served in the legislature five or more years, the salary
11 which would have been received for the position from which the leave of
12 absence was taken shall be considered as compensation earnable if the
13 employee's contribution thereon is paid by the employee. In addition,
14 where a member has been a member of the state legislature for five or
15 more years, earnable compensation for the member's two highest
16 compensated consecutive years of service shall include a sum not to
17 exceed thirty-six hundred dollars for each of such two consecutive
18 years, regardless of whether or not legislative service was rendered
19 during those two years.

20 (iii) For members employed less than full time under written
21 contract with a school district, or community college district, in an
22 instructional position, for which the member receives service credit of
23 less than one year in all of the years used to determine the earnable
24 compensation used for computing benefits due under RCW 41.32.497,
25 41.32.498, and 41.32.520, the member may elect to have earnable
26 compensation defined as provided in RCW 41.32.345. For the purposes of
27 this subsection, the term "instructional position" means a position in
28 which more than seventy-five percent of the member's time is spent as
29 a classroom instructor (including office hours), a librarian, or a
30 counselor. Earnable compensation shall be so defined only for the
31 purpose of the calculation of retirement benefits and only as necessary
32 to insure that members who receive fractional service credit under RCW
33 41.32.270 receive benefits proportional to those received by members
34 who have received full-time service credit.

35 (iv) "Earnable compensation" does not include:

36 (A) Remuneration for unused sick leave authorized under RCW
37 41.04.340, 28A.400.210, or 28A.310.490;

38 (B) Remuneration for unused annual leave in excess of thirty days
39 as authorized by RCW 43.01.044 and 43.01.041.

1 (b) "Earnable compensation" for plan II members, means salaries or
2 wages earned by a member during a payroll period for personal services,
3 including overtime payments, and shall include wages and salaries
4 deferred under provisions established pursuant to sections 403(b),
5 414(h), and 457 of the United States Internal Revenue Code, but shall
6 exclude lump sum payments for deferred annual sick leave, unused
7 accumulated vacation, unused accumulated annual leave, or any form of
8 severance pay.

9 "Earnable compensation" for plan II members also includes the
10 following actual or imputed payments which, except in the case of
11 (b)(ii)(B) of this subsection, are not paid for personal services:

12 (i) Retroactive payments to an individual by an employer on
13 reinstatement of the employee in a position or payments by an employer
14 to an individual in lieu of reinstatement in a position which are
15 awarded or granted as the equivalent of the salary or wages which the
16 individual would have earned during a payroll period shall be
17 considered earnable compensation, to the extent provided above, and the
18 individual shall receive the equivalent service credit.

19 (ii) In any year in which a member serves in the legislature the
20 member shall have the option of having such member's earnable
21 compensation be the greater of:

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

24 (B) Such member's actual earnable compensation received for
25 teaching and legislative service combined. Any additional
26 contributions to the retirement system required because compensation
27 earnable under (b)(ii)(A) of this subsection is greater than
28 compensation earnable under (b)(ii)(B) of this subsection shall be paid
29 by the member for both member and employer contributions.

30 (11) "Employer" means the state of Washington, the school district,
31 or any agency of the state of Washington by which the member is paid.

32 (12) "Fiscal year" means a year which begins July 1st and ends June
33 30th of the following year.

34 (13) "Former state fund" means the state retirement fund in
35 operation for teachers under chapter 187, Laws of 1923, as amended.

36 (14) "Local fund" means any of the local retirement funds for
37 teachers operated in any school district in accordance with the
38 provisions of chapter 163, Laws of 1917 as amended.

1 (15) "Member" means any teacher included in the membership of the
2 retirement system. Also, any other employee of the public schools who,
3 on July 1, 1947, had not elected to be exempt from membership and who,
4 prior to that date, had by an authorized payroll deduction, contributed
5 to the member reserve.

6 (16) "Membership service" means service rendered subsequent to the
7 first day of eligibility of a person to membership in the retirement
8 system: PROVIDED, That where a member is employed by two or more
9 employers the individual shall receive no more than one service credit
10 month during any calendar month in which multiple service is rendered.
11 The provisions of this subsection shall apply only to plan I members.

12 (17) "Pension" means the moneys payable per year during life from
13 the pension reserve.

14 (18) "Pension reserve" is a fund in which shall be accumulated an
15 actuarial reserve adequate to meet present and future pension
16 liabilities of the system and from which all pension obligations are to
17 be paid.

18 (19) "Prior service" means service rendered prior to the first date
19 of eligibility to membership in the retirement system for which credit
20 is allowable. The provisions of this subsection shall apply only to
21 plan I members.

22 (20) "Prior service contributions" means contributions made by a
23 member to secure credit for prior service. The provisions of this
24 subsection shall apply only to plan I members.

25 (21) "Public school" means any institution or activity operated by
26 the state of Washington or any instrumentality or political subdivision
27 thereof employing teachers, except the University of Washington and
28 Washington State University.

29 (22) "Regular contributions" means the amounts required to be
30 deducted from the compensation of a member and credited to the member's
31 individual account in the member reserve. This subsection shall apply
32 only to plan I members.

33 (23) "Regular interest" means such rate as the director may
34 determine.

35 (24)(a) "Retirement allowance" for plan I members, means monthly
36 payments based on the sum of annuity and pension, or any optional
37 benefits payable in lieu thereof.

38 (b) "Retirement allowance" for plan II members, means monthly
39 payments to a retiree or beneficiary as provided in this chapter.

1 (25) "Retirement system" means the Washington state teachers'
2 retirement system.

3 (26)(a) "Service" for plan I members means the time during which a
4 member has been employed by an employer for compensation.

5 (i) If a member is employed by two or more employers the individual
6 shall receive no more than one service credit month during any calendar
7 month in which multiple service is rendered.

8 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
9 sick leave may be creditable as service solely for the purpose of
10 determining eligibility to retire under RCW 41.32.470.

11 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
12 state retirement system that covers teachers in public schools may be
13 applied solely for the purpose of determining eligibility to retire
14 under RCW 41.32.470.

15 (b) "Service" for plan II members, means periods of employment by
16 a member for one or more employers for which earnable compensation is
17 earned subject to the following conditions:

18 (i) A member employed in an eligible position or as a substitute
19 shall receive one service credit month for each month of September
20 through August of the following year if he or she earns earnable
21 compensation for eight hundred ten or more hours during that period and
22 is employed during nine of those months, except that a member may not
23 receive credit for any period prior to the member's employment in an
24 eligible position except as provided in RCW 41.32.812 and 41.50.132;

25 (ii) If a member is employed either in an eligible position or as
26 a substitute teacher for nine months of the twelve month period between
27 September through August of the following year but earns earnable
28 compensation for less than eight hundred ten hours but for at least six
29 hundred thirty hours, he or she will receive one-half of a service
30 credit month for each month of the twelve month period;

31 (iii) All other members in an eligible position or as a substitute
32 teacher shall receive service credit as follows:

33 (A) A service credit month is earned in those calendar months where
34 earnable compensation is earned for ninety or more hours;

35 (B) A half-service credit month is earned in those calendar months
36 where earnable compensation is earned for at least seventy hours but
37 less than ninety hours; and

1 (C) A quarter-service credit month is earned in those calendar
2 months where earnable compensation is earned for less than seventy
3 hours.

4 (iv) Any person who is a member of the teachers' retirement system
5 and who is elected or appointed to a state elective position may
6 continue to be a member of the retirement system and continue to
7 receive a service credit month for each of the months in a state
8 elective position by making the required member contributions.

9 (v) When an individual is employed by two or more employers the
10 individual shall only receive one month's service credit during any
11 calendar month in which multiple service for ninety or more hours is
12 rendered.

13 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
14 sick leave may be creditable as service solely for the purpose of
15 determining eligibility to retire under RCW 41.32.470. For purposes of
16 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
17 service credit months. Use of less than forty-five days of sick leave
18 is creditable as allowed under this subsection as follows:

19 (A) Less than eleven days equals one-quarter service credit month;

20 (B) Eleven or more days but less than twenty-two days equals one-
21 half service credit month;

22 (C) Twenty-two days equals one service credit month;

23 (D) More than twenty-two days but less than thirty-three days
24 equals one and one-quarter service credit month;

25 (E) Thirty-three or more days but less than forty-five days equals
26 one and one-half service credit month.

27 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
28 state retirement system that covers teachers in public schools may be
29 applied solely for the purpose of determining eligibility to retire
30 under RCW 41.32.470.

31 (viii) The department shall adopt rules implementing this
32 subsection.

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

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

37 (29) "Teacher" means any person qualified to teach who is engaged
38 by a public school in an instructional, administrative, or supervisory
39 capacity. The term includes state, educational service district, and

1 school district superintendents and their assistants and all employees
2 certificated by the superintendent of public instruction; and in
3 addition thereto any full time school doctor who is employed by a
4 public school and renders service of an instructional or educational
5 nature.

6 (30) "Average final compensation" for plan II members, means the
7 member's average earnable compensation of the highest consecutive sixty
8 service credit months prior to such member's retirement, termination,
9 or death. Periods constituting authorized leaves of absence may not be
10 used in the calculation of average final compensation except under RCW
11 41.32.810(2).

12 (31) "Retiree" means any person in receipt of a retirement
13 allowance or other benefit provided by this chapter resulting from
14 service rendered to an employer while a member. A person is in receipt
15 of a retirement allowance as defined in subsection (24) of this section
16 or other benefit as provided by this chapter when the department mails,
17 causes to be mailed, or otherwise transmits the retirement allowance
18 warrant.

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

21 (33) "Director" means the director of the department.

22 (34) "State elective position" means any position held by any
23 person elected or appointed to state-wide office or elected or
24 appointed as a member of the legislature.

25 (35) "State actuary" or "actuary" means the person appointed
26 pursuant to RCW 44.44.010(2).

27 (36) "Substitute teacher" means:

28 (a) A teacher who is hired by an employer to work as a temporary
29 teacher, except for teachers who are annual contract employees of an
30 employer and are guaranteed a minimum number of hours; or

31 (b) Teachers who either (i) work in ineligible positions for more
32 than one employer or (ii) work in an ineligible position or positions
33 together with an eligible position.

34 (37)(a) "Eligible position" for plan II members from June 7, 1990,
35 through September 1, 1991, means a position which normally requires two
36 or more uninterrupted months of creditable service during September
37 through August of the following year.

38 (b) "Eligible position" for plan II on and after September 1, 1991,
39 means a position that, as defined by the employer, normally requires

1 five or more months of at least seventy hours of earnable compensation
2 during September through August of the following year.

3 (c) For purposes of this chapter an employer shall not define
4 "position" in such a manner that an employee's monthly work for that
5 employer is divided into more than one position.

6 (d) The elected position of the superintendent of public
7 instruction is an eligible position.

8 (38) "Plan I" means the teachers' retirement system, plan I
9 providing the benefits and funding provisions covering persons who
10 first became members of the system prior to October 1, 1977.

11 (39) "Plan II" means the teachers' retirement system, plan II
12 providing the benefits and funding provisions covering persons who
13 first became members of the system on and after October 1, 1977.

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

18 (41) "Index A" means the index for the year prior to the
19 determination of a postretirement adjustment.

20 (42) "Index B" means the index for the year prior to index A.

21 (43) "Index year" means the earliest calendar year in which the
22 index is more than sixty percent of index A.

23 (44) "Adjustment ratio" means the value of index A divided by index
24 B.

25 (45) "Annual increase" means, initially, fifty-nine cents per month
26 per year of service which amount shall be increased each July 1st by
27 three percent, rounded to the nearest cent.

28 **Sec. 10.** RCW 41.40.010 and 1994 c 298 s 2, 1994 c 247 s 5, 1994 c
29 197 s 23, and 1994 c 177 s 8 are each reenacted and amended to read as
30 follows:

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

33 (1) "Retirement system" means the public employees' retirement
34 system provided for in this chapter.

35 (2) "Department" means the department of retirement systems created
36 in chapter 41.50 RCW.

37 (3) "State treasurer" means the treasurer of the state of
38 Washington.

1 (4)(a) "Employer" for plan I members, means every branch,
2 department, agency, commission, board, and office of the state, any
3 political subdivision or association of political subdivisions of the
4 state admitted into the retirement system, and legal entities
5 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
6 term shall also include any labor guild, association, or organization
7 the membership of a local lodge or division of which is comprised of at
8 least forty percent employees of an employer (other than such labor
9 guild, association, or organization) within this chapter. The term may
10 also include any city of the first class that has its own retirement
11 system.

12 (b) "Employer" for plan II members, means every branch, department,
13 agency, commission, board, and office of the state, and any political
14 subdivision and municipal corporation of the state admitted into the
15 retirement system, including public agencies created pursuant to RCW
16 35.63.070, 36.70.060, and 39.34.030.

17 (5) "Member" means any employee included in the membership of the
18 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
19 does not prohibit a person otherwise eligible for membership in the
20 retirement system from establishing such membership effective when he
21 or she first entered an eligible position.

22 (6) "Original member" of this retirement system means:

23 (a) Any person who became a member of the system prior to April 1,
24 1949;

25 (b) Any person who becomes a member through the admission of an
26 employer into the retirement system on and after April 1, 1949, and
27 prior to April 1, 1951;

28 (c) Any person who first becomes a member by securing employment
29 with an employer prior to April 1, 1951, provided the member has
30 rendered at least one or more years of service to any employer prior to
31 October 1, 1947;

32 (d) Any person who first becomes a member through the admission of
33 an employer into the retirement system on or after April 1, 1951,
34 provided, such person has been in the regular employ of the employer
35 for at least six months of the twelve-month period preceding the said
36 admission date;

37 (e) Any member who has restored all contributions that may have
38 been withdrawn as provided by RCW 41.40.150 and who on the effective
39 date of the individual's retirement becomes entitled to be credited

1 with ten years or more of membership service except that the provisions
2 relating to the minimum amount of retirement allowance for the member
3 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
4 apply to the member;

5 (f) Any member who has been a contributor under the system for two
6 or more years and who has restored all contributions that may have been
7 withdrawn as provided by RCW 41.40.150 and who on the effective date of
8 the individual's retirement has rendered five or more years of service
9 for the state or any political subdivision prior to the time of the
10 admission of the employer into the system; except that the provisions
11 relating to the minimum amount of retirement allowance for the member
12 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
13 apply to the member.

14 (7) "New member" means a person who becomes a member on or after
15 April 1, 1949, except as otherwise provided in this section.

16 (8)(a) "Compensation earnable" for plan I members, means salaries
17 or wages earned during a payroll period for personal services and where
18 the compensation is not all paid in money, maintenance compensation
19 shall be included upon the basis of the schedules established by the
20 member's employer. Compensation that a member receives for being in
21 standby status is also compensation earnable, subject to the conditions
22 of this subsection. A member is in standby status when not being paid
23 for time actually worked and only when both of the following conditions
24 exist: (i) The member is required to be present at, or in the
25 immediate vicinity of, a specified location; and (ii) the employer
26 requires the member to be prepared to report immediately for work, if
27 the need arises, although the need may not arise. Standby compensation
28 is regular salary for the purposes of RCW 41.50.150(2).

29 (A) "Compensation earnable" for plan I members also includes the
30 following actual or imputed payments, which are not paid for personal
31 services:

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

(II) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee.

(III) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(IV) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038; and

(V) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670.

(B) "Compensation earnable" does not include:

(I) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(II) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. Compensation that a member receives for being in standby status is also compensation earnable, subject to the conditions of this subsection. A member is in standby status when not being paid for time actually worked and only when both of the following conditions exist: (i) The member is required to be present at, or in the immediate vicinity of, a specified location; and (ii) the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).

"Compensation earnable" for plan II members also includes the following actual or imputed payments, which are not paid for personal services:

1 (A) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an employer
3 to an individual in lieu of reinstatement in a position which are
4 awarded or granted as the equivalent of the salary or wage which the
5 individual would have earned during a payroll period shall be
6 considered compensation earnable to the extent provided above, and the
7 individual shall receive the equivalent service credit;

8 (B) In any year in which a member serves in the legislature, the
9 member shall have the option of having such member's compensation
10 earnable be the greater of:

11 (I) The compensation earnable the member would have received had
12 such member not served in the legislature; or

13 (II) Such member's actual compensation earnable received for
14 nonlegislative public employment and legislative service combined. Any
15 additional contributions to the retirement system required because
16 compensation earnable under (b)(ii)(B)(II) of this subsection is
17 greater than compensation earnable under (b)(ii)(B)(I) of this
18 subsection shall be paid by the member for both member and employer
19 contributions;

20 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
21 72.09.240;

22 (D) Compensation that a member would have received but for a
23 disability occurring in the line of duty only as authorized by RCW
24 41.40.038; and

25 (E) Compensation that a member receives due to participation in the
26 leave sharing program only as authorized by RCW 41.04.650 through
27 41.04.670.

28 (9)(a) "Service" for plan I members, except as provided in RCW
29 41.40.088, means periods of employment in an eligible position or
30 positions for one or more employers rendered to any employer for which
31 compensation is paid, and includes time spent in office as an elected
32 or appointed official of an employer. Compensation earnable earned in
33 full time work for seventy hours or more in any given calendar month
34 shall constitute one service credit month except as provided in RCW
35 41.40.088. Compensation earnable earned for less than seventy hours in
36 any calendar month shall constitute one-quarter service credit month of
37 service except as provided in RCW 41.40.088. Only service credit
38 months and one-quarter service credit months shall be counted in the
39 computation of any retirement allowance or other benefit provided for

1 in this chapter. Any fraction of a year of service shall be taken into
2 account in the computation of such retirement allowance or benefits.
3 Time spent in standby status, whether compensated or not, is not
4 service.

5 (i) Service by a state employee officially assigned by the state on
6 a temporary basis to assist another public agency, shall be considered
7 as service as a state employee: PROVIDED, That service to any other
8 public agency shall not be considered service as a state employee if
9 such service has been used to establish benefits in any other public
10 retirement system.

11 (ii) An individual shall receive no more than a total of twelve
12 service credit months of service during any calendar year. If an
13 individual is employed in an eligible position by one or more employers
14 the individual shall receive no more than one service credit month
15 during any calendar month in which multiple service for seventy or more
16 hours is rendered.

17 (iii) A school district employee may count up to forty-five days of
18 sick leave as creditable service solely for the purpose of determining
19 eligibility to retire under RCW 41.40.180 as authorized by RCW
20 28A.400.300. For purposes of plan I "forty-five days" as used in RCW
21 28A.400.300 is equal to two service credit months. Use of less than
22 forty-five days of sick leave is creditable as allowed under this
23 subsection as follows:

24 (A) Less than twenty-two days equals one-quarter service credit
25 month;

26 (B) Twenty-two days equals one service credit month;

27 (C) More than twenty-two days but less than forty-five days equals
28 one and one-quarter service credit month.

29 (b) "Service" for plan II members, means periods of employment by
30 a member in an eligible position or positions for one or more employers
31 for which compensation earnable is paid. Compensation earnable earned
32 for ninety or more hours in any calendar month shall constitute one
33 service credit month except as provided in RCW 41.40.088. Compensation
34 earnable earned for at least seventy hours but less than ninety hours
35 in any calendar month shall constitute one-half service credit month of
36 service. Compensation earnable earned for less than seventy hours in
37 any calendar month shall constitute one-quarter service credit month of
38 service. Time spent in standby status, whether compensated or not, is
39 not service.

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

3 (i) Service in any state elective position shall be deemed to be
4 full time service, except that persons serving in state elective
5 positions who are members of the teachers' retirement system or law
6 enforcement officers' and fire fighters' retirement system at the time
7 of election or appointment to such position may elect to continue
8 membership in the teachers' retirement system or law enforcement
9 officers' and fire fighters' retirement system.

10 (ii) A member shall receive a total of not more than twelve service
11 credit months of service for such calendar year. If an individual is
12 employed in an eligible position by one or more employers the
13 individual shall receive no more than one service credit month during
14 any calendar month in which multiple service for ninety or more hours
15 is rendered.

16 (iii) Up to forty-five days of sick leave may be creditable as
17 service solely for the purpose of determining eligibility to retire
18 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
19 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
20 service credit months. Use of less than forty-five days of sick leave
21 is creditable as allowed under this subsection as follows:

22 (A) Less than eleven days equals one-quarter service credit month;

23 (B) Eleven or more days but less than twenty-two days equals one-
24 half service credit month;

25 (C) Twenty-two days equals one service credit month;

26 (D) More than twenty-two days but less than thirty-three days
27 equals one and one-quarter service credit month;

28 (E) Thirty-three or more days but less than forty-five days equals
29 one and one-half service credit month.

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

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

34 (12) "Prior service" means all service of an original member
35 rendered to any employer prior to October 1, 1947.

36 (13) "Membership service" means:

37 (a) All service rendered, as a member, after October 1, 1947;

38 (b) All service after October 1, 1947, to any employer prior to the
39 time of its admission into the retirement system: PROVIDED, That an

1 amount equal to the employer and employee contributions which would
2 have been paid to the retirement system on account of such service
3 shall have been paid to the retirement system with interest (as
4 computed by the department) on the employee's portion prior to
5 retirement of such person, by the employee or his or her employer,
6 except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer
7 contributions plus employee contributions with interest submitted by
8 the employee under this subsection shall be placed in the employee's
9 individual account in the employees' savings fund and be treated as any
10 other contribution made by the employee, with the exception that the
11 contributions submitted by the employee in payment of the employer's
12 obligation, together with the interest the director may apply to the
13 employer's contribution, shall be excluded from the calculation of the
14 member's annuity in the event the member selects a benefit with an
15 annuity option;

16 (c) Service not to exceed six consecutive months of probationary
17 service rendered after April 1, 1949, and prior to becoming a member,
18 in the case of any member, upon payment in full by such member of the
19 total amount of the employer's contribution to the retirement fund
20 which would have been required under the law in effect when such
21 probationary service was rendered if the member had been a member
22 during such period, except that the amount of the employer's
23 contribution shall be calculated by the director based on the first
24 month's compensation earnable as a member;

25 (d) Service not to exceed six consecutive months of probationary
26 service, rendered after October 1, 1947, and before April 1, 1949, and
27 prior to becoming a member, in the case of any member, upon payment in
28 full by such member of five percent of such member's salary during said
29 period of probationary service, except that the amount of the
30 employer's contribution shall be calculated by the director based on
31 the first month's compensation earnable as a member.

32 (14)(a) "Beneficiary" for plan I members, means any person in
33 receipt of a retirement allowance, pension or other benefit provided by
34 this chapter.

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

38 (15) "Regular interest" means such rate as the director may
39 determine.

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

5 (17)(a) "Average final compensation" for plan I members, means the
6 annual average of the greatest compensation earnable by a member during
7 any consecutive two year period of service credit months for which
8 service credit is allowed; or if the member has less than two years of
9 service credit months then the annual average compensation earnable
10 during the total years of service for which service credit is allowed.

11 (b) "Average final compensation" for plan II members, means the
12 member's average compensation earnable of the highest consecutive sixty
13 months of service credit months prior to such member's retirement,
14 termination, or death. Periods constituting authorized leaves of
15 absence may not be used in the calculation of average final
16 compensation except under RCW 41.40.710(2).

17 (18) "Final compensation" means the annual rate of compensation
18 earnable by a member at the time of termination of employment.

19 (19) "Annuity" means payments for life derived from accumulated
20 contributions of a member. All annuities shall be paid in monthly
21 installments.

22 (20) "Pension" means payments for life derived from contributions
23 made by the employer. All pensions shall be paid in monthly
24 installments.

25 (21) "Retirement allowance" means the sum of the annuity and the
26 pension.

27 (22) "Employee" means any person who may become eligible for
28 membership under this chapter, as set forth in RCW 41.40.023.

29 (23) "Actuarial equivalent" means a benefit of equal value when
30 computed upon the basis of such mortality and other tables as may be
31 adopted by the director.

32 (24) "Retirement" means withdrawal from active service with a
33 retirement allowance as provided by this chapter.

34 (25) "Eligible position" means:

35 (a) Any position that, as defined by the employer, normally
36 requires five or more months of service a year for which regular
37 compensation for at least seventy hours is earned by the occupant
38 thereof. For purposes of this chapter an employer shall not define

1 "position" in such a manner that an employee's monthly work for that
2 employer is divided into more than one position;

3 (b) Any position occupied by an elected official or person
4 appointed directly by the governor for which compensation is paid.

5 (26) "Ineligible position" means any position which does not
6 conform with the requirements set forth in subsection (25) of this
7 section.

8 (27) "Leave of absence" means the period of time a member is
9 authorized by the employer to be absent from service without being
10 separated from membership.

11 (28) "Totally incapacitated for duty" means total inability to
12 perform the duties of a member's employment or office or any other work
13 for which the member is qualified by training or experience.

14 (29) "Retiree" means any person in receipt of a retirement
15 allowance or other benefit provided by this chapter resulting from
16 service rendered to an employer while a member. A person is in receipt
17 of a retirement allowance as defined in subsection (21) of this section
18 or other benefit as provided by this chapter when the department mails,
19 causes to be mailed, or otherwise transmits the retirement allowance
20 warrant.

21 (30) "Director" means the director of the department.

22 (31) "State elective position" means any position held by any
23 person elected or appointed to state-wide office or elected or
24 appointed as a member of the legislature.

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

27 (33) "Plan I" means the public employees' retirement system, plan
28 I providing the benefits and funding provisions covering persons who
29 first became members of the system prior to October 1, 1977.

30 (34) "Plan II" means the public employees' retirement system, plan
31 II providing the benefits and funding provisions covering persons who
32 first became members of the system on and after October 1, 1977.

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

37 (36) "Index A" means the index for the year prior to the
38 determination of a postretirement adjustment.

39 (37) "Index B" means the index for the year prior to index A.

(38) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(39) "Adjustment ratio" means the value of index A divided by index B.

(40) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

NEW SECTION. **Sec. 11.** The following acts or parts of acts are each repealed:

(1) RCW 41.32.487 and 1989 c 272 s 6 & 1987 c 455 s 3;

(2) RCW 41.32.4871 and 1993 c 519 s 2;

(3) RCW 41.32.499 and 1991 c 35 s 56, 1973 2nd ex.s. c 32 s 1, & 1973 1st ex.s. c 189 s 9;

(4) RCW 41.32.575 and 1994 c 247 s 3 & 1989 c 272 s 3;

(5) RCW 41.40.195 and 1991 c 35 s 79, 1973 2nd ex.s. c 14 s 1, 1973 1st ex.s. c 190 s 11, 1971 ex.s. c 271 s 6, & 1970 ex.s. c 68 s 1;

(6) RCW 41.40.198 and 1989 c 272 s 8, 1987 c 455 s 2, 1986 c 306 s 3, & 1979 ex.s. c 96 s 1;

(7) RCW 41.40.1981 and 1989 c 272 s 9 & 1987 c 455 s 4;

(8) RCW 41.40.1983 and 1993 c 519 s 3; and

(9) RCW 41.40.325 and 1994 c 247 s 6 & 1989 c 272 s 2.

NEW SECTION. **Sec. 12.** RCW 41.32.488 is decodified.

NEW SECTION. **Sec. 13.** The department of retirement systems may continue to pay cost-of-living adjustments consistent with the provisions of the statutes repealed by section 11 of this act, in lieu of the benefits provided by sections 2, 4, 5, and 8 of this act, if the department determines that: (1) A member earned service credit under chapter 41.40 or 41.32 RCW on or after May 8, 1989; and (2) a retiree would receive greater increases in the next ten years under the statutes repealed by section 11 of this act than under the provisions of sections 2, 4, 5, and 8 of this act; and (3) the retiree does not elect the benefits provided by this act over the benefits provided under the statutes repealed by section 11 of this act. The election must be made in a manner prescribed by the department.

1 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect immediately.

 Passed the Senate April 11, 1995.

 Passed the House April 22, 1995.

 Approved by the Governor May 12, 1995.

 Filed in Office of Secretary of State May 12, 1995.