

CHAPTER 6
[Engrossed House Bill No. 74]
WASHINGTON LAW ENFORCEMENT OFFICERS'
AND FIRE FIGHTERS' RETIREMENT

AN ACT Relating to the retirement and pensions of law enforcement officers and fire fighters; amending section 3, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.030; amending section 4, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.040; amending section 5, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.050; amending section 9, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.090; amending section 10, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.100; amending section 11, chapter 209, Laws of 1969 ex. sess. as amended by section 3, chapter 219, Laws of 1969 ex. sess. and RCW 41.26.110; amending section 12, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.120; amending section 13, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.130; amending section 14, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.140; amending section 15, chapter 209, Laws of 1969 ex. sess. as amended by section 4, chapter 219, Laws of 1969 ex. sess. and RCW 41.26.150; amending section 16, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.200; amending section 17, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.160; amending section 18, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.190; amending section 22, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.170; amending section 23, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.180; amending section 24, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.240; amending section 44, chapter 209, Laws of 1969 ex. sess. (uncodified); amending section 1, chapter 261, Laws of 1945 as amended by section 1, chapter 263, Laws of 1955 and RCW 41.24.010; amending section 3, chapter 261, Laws of 1945 as last amended by section 2, chapter 160, Laws of 1967 and RCW 41.24.030; amending section 4, chapter 86, Laws of 1965 and RCW 41.24.031; transferring mem-

bership from existing pension systems; and declaring an emergency.

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

Section 1. Section 3, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.030 are each amended to read as follows:

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

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2) "Employer" means the legislative authority of any city, town, county or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter and shall include any authorized association of such municipalities.

(3) "Law enforcement officer" means any (~~full-time~~) person who is serving on a full time, fully compensated basis as a county sheriff ((7) or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, or town marshal or deputy marshal: PROVIDED, That the term "city police officer" shall only include such regular, full time personnel of a city police department as have been appointed to offices, positions or ranks in the department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city.

(4) "Fire fighter" means any person who is (~~regularly-employed-and-paid-as-a~~) serving on a full time, fully compensated basis as a member of a fire department by an employer and who has passed a civil service examination for fire fighter, or fireman if this title is used by the department, and who is actively employed as such; and shall include anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination; this term shall also include supervisory fire fighter person-

nel; and shall also include any ~~((all))~~ full time ~~((employees))~~ executive secretary of an association of fire protection districts authorized under chapter 52.08 RCW.

(5) "Retirement board" means the Washington public employees' retirement system board established in chapter 41.40 RCW, including two members of the retirement system as provided for in RCW 41.26.050.

(6) "Surviving spouse" means the surviving widow or widower of a member. The word shall not include the divorced spouse of a member.

(7) "Child" or "children" whenever used in this chapter means every natural born child, posthumous child, child legally adopted prior to the date benefits are payable under this chapter, stepchild and illegitimate child legitimized prior to the date any benefits are payable under this chapter, all while under the age of eighteen years and unmarried.

(8) "Member" means any ~~((county-sheriff, deputy-sheriff, city police-officer,))~~ fire fighter, or ~~((a full-time town marshal of the state of Washington))~~ law enforcement officer whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) above.

(11) "Beneficiary" means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(12) "Final average salary" means (a) for a member holding the same ~~((civil-service))~~ position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached

to such same position or rank at time of retirement; (b) for any other member, including a civil service member who has not served a minimum of twelve months in the same ~~((civil-service))~~ position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (c) in the case of disability of any member, the basic salary payable to such member at the ~~((date-a))~~ time of disability ~~((is-claimed-by-such-member-to-have-been-incurred))~~ retirement.

(13) "Basic salary" means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(14) "Service" means ~~((service-rendered-as-an-employee))~~ all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter ~~((a-member-shall-be-considered-as-being-in service-only-while-he-is-receiving-a-salary-from-the-employer-for such-service-or-is-on-leave-granted-for))~~ service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. ~~((Service-shall-also-include-any-time-that-a-member-is on-disability-))~~ Credit shall be allowed for all months of service rendered by a member from and after his initial commencement of employment as a fire fighter or law enforcement officer, during which he worked for ten days or more, or the equivalent thereof, or was on disability leave or disability retirement. Only months of service shall be counted in the computation of any retirement allowance or

other benefit provided for in this 1970 amendatory act. No credit shall be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act: PROVIDED, That if such member's prior service is not creditable due to the withdrawal of his contributions plus accrued interest thereon from a prior pension system, such member shall be credited with such prior service, as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to that which was withdrawn from the prior system by such member, as a law enforcement officer or fire fighter.

(15) "Accumulated contributions" means the contributions made by a member plus accrued interest credited thereon.

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

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

(18) "Disability board" means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to his full salary prior to the commencement of disability retirement.

(20) "Disability retirement" means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

Sec. 2. Section 4, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.040 are each amended to read as follows:

The Washington law enforcement officers' and fire fighters' retirement system is hereby created for fire fighters (~~(7-policeemen, deputy-sheriffs, sheriffs, and town-marshals)~~) and law enforcement officers.

(1) All fire fighters (~~(7-policeemen, deputy-sheriffs, sheriffs and town-marshals initially)~~) and law enforcement officers employed (~~(in that capacity)~~) as such on or after March 1, 1970, on a full time fully compensated basis in this state shall be members of the retirement system established by this chapter with respect to all periods of service as such, to the exclusion of any pension system existing under any prior act except as provided in subsection (2) of this section.

(2) Any employee serving as a law enforcement officer or fire fighter on March 1, 1970, who (~~(has made)~~) is then making retirement contributions under any prior act shall have his membership transferred to the system established by this chapter (~~(on March 1, 1970+ PROVIDED, HOWEVER, That for purposes of employee contribution rate, creditability of service, eligibility for service or disability retirement, and survivor and all other benefits, such employee shall also continue to be covered by the provisions of such prior act which relate thereto, as if this transfer of membership had not occurred)~~) as of such date. Upon retirement for service or for disability, or death, of any such employee, his retirement benefits earned under this chapter shall be computed and paid. In addition, his benefits under the prior retirement act to which he was making contributions at the time of this transfer shall be computed as if he had (~~(continued to be a member of the retirement system covered thereby and these benefits, including survivor's benefits, offset by all benefits payable~~

~~under this chapter, shall be paid to him by the county, city, town or district by which he was employed at the time of his retirement))~~ not transferred. For the purpose of such computations, the employee's creditability of service and eligibility for service or disability retirement and survivor and all other benefits shall continue to be as provided in such prior retirement act, as if transfer of membership had not occurred. The excess, if any, of the benefits so computed, giving full value to survivor benefits, over the benefits payable under this 1970 amendatory act shall be paid. If the employee's prior retirement system was the Washington public employees' retirement system, payment of such excess shall be made by that system; if the employee's prior retirement system was the state-wide city employees' retirement system, payment of such excess shall be made by the employer which was the member's employer when his transfer of membership occurred: PROVIDED, That any death in line of duty lump sum benefit payment shall continue to be the obligation of that system as provided in RCW 41.44.210; in the case of all other prior retirement systems, payment of such excess shall be made by the employer which was the member's employer when his transfer of membership occurred.

(3) All funds held by any firemen's or policemen's relief and pension fund shall remain in that fund for the purpose of paying the obligations of the fund. The municipality shall continue to levy the millage as provided in RCW 41.16.060, and this millage shall be used for the purpose of paying the benefits provided in chapters 41.16 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to be paid from whatever financial sources the city has been using for this purpose.

(4) Any member transferring from the Washington public employees' retirement system or the state-wide city employees' retirement system shall have transferred from the appropriate fund of the prior system of membership, a sum sufficient to pay into the Washing-

ton law enforcement officers' and fire fighters' retirement system fund the amount of the employees' and employers' contributions plus credited interest in the prior system for all service, as defined in this 1970 amendatory act, from the date of the employee's entrance therein until March 1, 1970. Except as provided for in subsection (2), such transfer of funds shall discharge said state retirement systems from any further obligation to pay benefits to such transferring members (~~(7-and-thereafter-the-full-obligation-of-payment-of benefits-earned-shall-be-borne-by-the-retirement-board-administering this-chapter-and-by-the-member's-employer-as-provided-for-in-subsection-(2)-of-this-section)~~) with respect to such service.

(5) All unfunded liabilities created by this or any other section of this chapter shall be computed by the actuary in his biennial evaluation. Such computation shall provide for amortization of the unfunded liabilities over a period of not more than forty years from March 1, 1970. The amount thus computed as necessary shall be reported to the governor by the board of the retirement system for inclusion in the budget. The legislature shall make the necessary appropriation to fund the unfunded liability from the state general fund beginning with the 1971-1973 biennium.

Sec. 3. Section 5, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.050 are each amended to read as follows:

The retirement board shall be composed of the members of the public employees' retirement board established in chapter 41.40 RCW. Their terms of office shall be the same as their term of office with the public employees' retirement board. The members of the retirement system shall elect two additional members to the board who shall be members of the Washington law enforcement officers' and fire fighters' retirement system. These additional board members shall serve on the retirement board only for the purposes of administering this chapter. One board member shall be a fire fighter and shall be elected by the fire fighter members and one shall be a law enforce-

ment officer elected by the law enforcement members. These board members shall serve two year terms. The first board (~~((members elected by the system shall provide that the))~~) member elected by the (~~((pe- lieemen))~~) law enforcement officer members shall serve for one year only (~~((and))~~) , the first board member elected by the fire fighters shall serve a two year term, and thereafter both shall serve two years unless they cease to be members of the retirement system. In such case (~~((it shall be the duty of the remaining board members to appoint))~~) there shall be elected in the same manner another member from the same service to fill out the remaining part of the term. All administrative services of this system shall be performed by the director and staff of the public employees' retirement system with the cost of administration as determined by the retirement board charged against the Washington law enforcement officers' and fire fighters' retirement fund as provided in this chapter from funds appropriated for this purpose.

Sec. 4. Section 9, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.090 are each amended to read as follows:

Retirement of a member for service shall be made by the board as follows:

(1) Any member having (~~((twenty-))~~) five or more years of service and having attained the age of fifty years shall be eligible for a service retirement allowance and shall be retired upon his written request (~~((r))~~) effective the first day following the date upon which the member is separated from service.

(2) Any member having five or more years of service, who terminates his employment with any employer, may leave his contributions in the fund. Any employee who so elects (~~((shall be eligible at))~~) , upon attaining age fifty, shall be eligible to apply for and receive a service retirement allowance based on his years of service (~~((as follows:--Five years but under ten years, one percent of his final average salary for each year of service; ten years but under~~

~~twenty-years, one-and-one-half-percent-of-his-final-average-salary for-each-year-of-service, and twenty-years-and-over, two-percent-of his-final-average-salary-for-each-year-of-service))~~ , commencing on the first day following his attainment of age fifty. Any member selecting this optional vesting shall not be covered by the provisions of RCW 41.26.150 or 41.26.160 until the attainment of the age of fifty years: PROVIDED, That a member selecting this option who shall die prior to attaining the age of fifty years, shall have paid from the Washington law enforcement officers' and fire fighters' retirement fund, to such member's surviving spouse, if any, otherwise to such beneficiary as the member shall have designated in writing, or if no such designation has been made, to the personal representative of his estate, a lump sum which is equal to the amount of such member's accumulated contributions plus accrued interest.

(3) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty and may not thereafter be employed as a law enforcement officer or fire fighter: PROVIDED, That for any member who is elected or appointed to the office of sheriff, his election or appointment shall be considered as a waiver of the age sixty provision for retirement and nonemployment for whatever number of years remain in his present term of office and any succeeding ((~~terms~~)) periods for which he may be so elected or appointed: PROVIDED FURTHER, That the provisions of this subsection shall not apply to any member ((employed-on-July-17-1969)) who is employed as a law enforcement officer or fire fighter on March 1, 1970.

Sec. 5. Section 10, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.100 are each amended to read as follows:

A member upon retirement for service shall receive a monthly retirement allowance ((~~of two-percent-of-his-final-average-salary-for-each-completed-year-of-service~~)) computed according to his completed years of creditable service, as follows: Five years but under ten

years, one percent of his final average salary for each year of service; ten years but under twenty years, one and one-half percent of his final average salary for each year of service; and twenty years and over, two percent of his final average salary for each year of service: PROVIDED, That the recipient of a retirement allowance who shall return to service as a law enforcement officer or fire fighter shall be considered to have terminated his retirement status and he shall immediately become a member of the retirement system with the status of membership he had as of the date of his retirement. Retirement benefits shall be suspended during the period of his return to service and he shall make contributions and receive service credit. Such a member shall have the right to again retire at any time and his retirement allowance shall be recomputed, based upon additional service rendered and any change in final average salary, and shall be paid.

Sec. 6. Section 11, chapter 209, Laws of 1969 ex. sess. as amended by section 3, chapter 219, Laws of 1969 ex. sess. and RCW 41.26.110 are each amended to read as follows:

(1) All claims for disability (~~made against the retirement system as defined in RCW 41.26.030(1)~~) shall be acted upon and either approved or disapproved by either type of disability board hereafter authorized to be created.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by said cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor, one fire fighter to be elected by the fire fighters employed by the city, one law enforcement officer to be elected by the law enforcement officers employed by the city and one member from the public at large who resides within the city to be appointed by the other four appointed members heretofore designated in this subsection. All members appointed or elected pursuant to this subsection shall serve for two year terms: PROVIDED, That cities of the first class

only, shall retain existing firemen's pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by fire fighters' or law enforcement officers' as ~~((appropriate))~~ provided under the Washington law enforcement officers' and fire fighters' retirement system act.

(b) Each county shall establish a disability board having jurisdiction over all members residing in the county and not ~~((residing-within))~~ employed by a city in which a disability board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by the county legislative body, one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to subsection (1) (a) of this section to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board, one fire fighter to be elected by the fire fighters subject to the jurisdiction of the county disability board, one law enforcement officer to be elected by the law enforcement officers subject to the jurisdiction of the county disability board, and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four appointed members heretofore designated in this subsection. All members appointed or elected pursuant to this subsection shall serve for two year terms.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but said members shall be reimbursed by their respective county or city for all ~~((travel))~~ expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter (~~and subsequent legislative acts~~).

Sec. 7. Section 12, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.120 are each amended to read as follows:

Any member, regardless of his age or years of service may be (~~recommended for retirement~~) retired by the disability board, subject to approval by the retirement board as hereinafter provided, for any disability which has been continuous since his discontinuance of active service and which renders him unable to continue his service, whether incurred in the line of duty or not. ((Benefits hereunder shall not begin for)) No disability retirement allowance shall be paid until the expiration of a period of six months after the disability is incurred ((-)) during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of his application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to his full monthly salary from his employer for such period. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he is or is believed to be physically or mentally disabled ((-if such disability has been continuous from discontinuance of service-)) shall be examined by such medical authority as the disability board shall employ, ((upon the application of the head of the office or department in which the member is employed, -or)) upon application of said member, or a person acting in his behalf, stating that said member is disabled, either physically or mentally ((-if examination shows, to the satisfaction of the disability board, that the member should be retired, he shall be retired for that with)): PROVIDED, That no such application shall be considered unless said member or someone in his behalf, in case of

the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member. (~~(Where an application for disability is filed after the sixth month of disability but prior to the one-year time limit, the member shall be entitled to receive disability benefits to which he is entitled retroactive to the end of the sixth month.)~~)

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, and that such disability has been continuous from the discontinuance of active service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this 1970 amendatory act as now or hereafter amended, granting the member a disability retirement allowance; otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the retirement board in accordance with RCW 41.26.200.

(3) Every order of a disability board granting a disability retirement allowance shall forthwith be reviewed by the retirement board for the purposes of determining (a) whether the facts as found by the disability board are supported by substantial evidence in the record; and (b) whether the order is in accordance with law on the basis of such facts. If an affirmative determination is made by the retirement board on both of the aspects of the decision and order, it shall be affirmed; otherwise, it shall be reversed and remanded to the disability board for such further proceedings as the retirement board may direct.

Sec. 8. Section 13, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.130 are each amended to read as follows:

(1) (~~(On retirement for disability, as provided in RCW 41.26-120.)~~) Upon retirement for disability a member shall be entitled to receive a monthly retirement allowance computed as follows: (a) A

basic amount of fifty percent of final average salary at time of disability retirement, and (b) an additional five percent of final average salary for each child as defined in RCW 41.26.030(7), (c) the combined total of subsections (1) (a) and (1) (b) of this section shall not exceed a maximum of sixty percent of final average salary.

(2) A disabled member shall (~~receive his full monthly salary from the employer during the six months waiting period applicable under RCW 41.26.120~~) begin receiving his disability retirement allowance as of the expiration of his six month period of disability leave or, if his application was filed after the sixth month of disability but prior to the one year time limit, the member's disability retirement allowance shall be retroactive to the end of the sixth month.

(3) Benefits under this section will be payable until the member recovers from the disability or dies. If at the time that the disability ceases the member is over the age of fifty, he shall then receive either his disability retirement allowance or his retirement for service allowance, whichever is greater.

(4) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the member receives or is entitled to receive from workmen's compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability.

(5) A member retired for disability shall, at the discretion of the disability board, be subject to a semiannual medical examination by a physician approved by the disability board prior to his attainment of age fifty.

Sec. 9. Section 14, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.140 are each amended to read as follows:

(1) Upon the basis of a semiannual reexamination of (~~disabled~~) members on disability retirement, the disability board shall

determine whether such disability beneficiary is still unable to perform his duties either physically or mentally for service in the department where he was employed.

(2) If the disability board shall determine that the beneficiary is not so incapacitated his retirement allowance shall be canceled and he shall be restored to duty in the same civil service rank, if any, held by the beneficiary at the time of his retirement or if unable to perform the duties of said rank, then, at his request, in such other like or lesser rank as may be or become open and available, the duties of which he is then able to perform. In no event, shall a beneficiary previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than ~~((that received))~~ the current salary attached to the rank or position held by the said beneficiary at the date of his retirement for disability. If the disability board determines that the beneficiary is able to return to service he shall be entitled to notice and a hearing, both the notice and the hearing shall comply with the requirements of chapter 34.04 RCW, as now or hereafter amended. ~~((If the employer is unable to find employment for a disability beneficiary subsequently found to be able to perform his duties, the disability board shall continue the disability retirement allowance of the beneficiary until such time as employment is available.))~~

(3) Should a disability beneficiary reenter service and be eligible for membership in the retirement system, his retirement allowance shall be canceled and he shall immediately become a member of the retirement system. ~~((Such member shall receive credit for service in the same manner as if he had never been retired for disability.))~~

(4) Should any disability beneficiary under age fifty refuse to submit to medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year or more, his retirement allowance shall

be canceled.

(5) Should a (~~member~~) disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty engage in a gainful occupation, the disability board shall reduce the amount of his retirement allowance to an amount which when added to the compensation earned by him in such occupation shall not exceed the basic salary currently being paid for the rank the retired member held at the time he was disabled. All such disability beneficiaries under age fifty shall file with the disability board every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the disability board may further alter his retirement allowance as indicated above. The failure of any member to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(6) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he shall be paid (~~his accumulated contributions, less annuity payments made to him~~) the excess, if any, of his accumulated contributions at the time of his retirement over all payments made on his behalf under this 1970 amendatory act.

Sec. 10. Section 15, chapter 209, Laws of 1969 ex. sess. as amended by section 4, chapter 219, Laws of 1969 ex. sess. and RCW 41-.26.150 are each amended to read as follows:

(1) Whenever any active member, or any member hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in his home, and whether or not so confined, requires nursing, care, or attention, the employer shall pay for such active or retired member (~~and such member retired for disability~~) the necessary hospital, care, and nursing

~~expenses (of such member, and the employer shall pay for such member retired on account of service, hospital, care, and nursing expenses as are reasonable, in the disability board discretion,--The salary of such active member shall continue while he is necessarily confined to such hospital or home or elsewhere during the period of recuperation, as determined by the disability board, for a period not exceeding six months, after which period the other provisions of this chapter shall apply) not payable from some other source as provided for in subsection (2). In the case of active or retired fire fighters the employer may make the payments provided for in this section from the firemen's pension fund established pursuant to RCW 41.16.050 where such fund had been established prior to March 1, 1970: PROVIDED, That in the event the pension fund is depleted, the employer shall have the obligation to pay all retirement benefits payable under RCW 41.16 and 41.18: PROVIDED, That the disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all his rights to benefits under this section for the period of such refusal: PROVIDED FURTHER, That the disability board shall designate the hospital and medical services available to such sick or disabled member.~~

(2) The medical benefits payable under this section will be reduced by any amount received or eligible to be received by the member under workmen's compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 as now or hereafter amended

shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making such payments as are provided for in subsection (1), the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this 1970 amendatory act, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers and fire fighters retirement system, and/or retired former employees who were, before retirement, members of said retirement system, through contracts with regularly constituted insurance carriers or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under any such plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section.

Sec. 11. Section 16, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.200 are each amended to read as follows:

(1) Any person feeling aggrieved by any order or determination of a disability board denying an application for disability leave or disability retirement, or canceling a previously granted disability retirement allowance, shall have the right to appeal the said order or determination to the retirement board (~~designated-in-chapter 41-40-RCW~~). The said retirement board shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the said retirement board within thirty days following the rendition of the order by the applicable disability board. A copy of the notice of appeal shall be served upon the applicable disability board and,

within ninety days thereof, the disability board shall certify its decision and order, together with a transcript of all proceedings in connection therewith, to the retirement board for its review. Upon its review of the record, the retirement board may affirm the order of the disability board or it may remand the case for such further proceedings as it may direct, in accordance with such rules of procedure as the retirement board shall promulgate.

(2) The said appeal authorized by this section shall be governed by the provisions of RCW 41.26.210 and 41.26.220.

Sec. 12. Section 17, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.160 are each amended to read as follows:

(1) In the event of the death of any member who is in active service, or who is retired, his surviving spouse shall become entitled to receive a monthly allowance equal to fifty percent of his final average salary at the date of death if active, or the amount of the retirement allowance such retired member was receiving at the time of his death if retired for service or disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), subject to a maximum combined allowance of sixty percent of final average salary.

(2) If at the time of the death of a member retired for service or disability, the surviving spouse has not been lawfully married to the member for one year prior to his retirement, the surviving spouse shall not be eligible to receive the benefits under this section: PROVIDED, That if a member dies as a result of a disability incurred in the line of duty, then if he was married at the time he was disabled, his surviving spouse shall be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment,

under this subsection, of sixty percent of final average salary. When ~~((all-the))~~ there cease to be any eligible children ~~((each-the-age of-eighteen,-the-balance-of-employee-contributions,-if-any,))~~ as defined in RCW 41.26.030(7), there shall be paid to the legal heirs of said member the excess, if any, of accumulated contributions of said member at the time of his death over all payments made to his survivors on his behalf under this 1970 amendatory act.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the estate of said member.

(5) If a surviving spouse receiving benefits under the provisions of this section thereafter dies or remarries and there are children under eighteen years of age, payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) above.

~~((6)--If-a-surviving-spouse-receiving-benefits-under-the-provisions-of-this-section-thereafter-remarries-and-there-are-children under-eighteen-years-of-age,-the-benefit-payable-to-the-children-will be-twenty-percent-of-final-average-salary-for-each-child,-subject-to maximum-combined-payment-of-sixty-percent-of-final-average-salary. When-all-the-eligible-children-reach-the-age-of-eighteen-the-balance of-employee-contributions,-if-any,-shall-be-paid-to-the-legal-heirs of-said-member.))~~

Sec. 13. Section 18, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.190 are each amended to read as follows:

Each person affected by this chapter who at the time of entering the armed services was a member of this system, and has honorably served in the armed services of the United States, shall have added to his period of service as computed under this chapter, his period of service in the armed forces: PROVIDED, That such credited service shall not exceed five years ~~((--PROVIDED-FURTHER,-That~~

~~such period of service shall be automatically added to each member's service when he has paid into the fund an amount equal to his contributions for this period of service. The employer shall pay into the fund an amount equal to that paid by the member).~~

Sec. 14. Section 22, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.170 are each amended to read as follows:

(1) Should service of a member be discontinued except by death, disability or retirement, (~~within six months after the day of discontinuance,~~) he shall, upon application therefor, be paid his accumulated contributions ((7)) within sixty days after the day of application and his rights to all benefits as a member shall cease (~~without notice. The provisions of this section shall be inapplicable to a member who leaves the service and is later found to have left the service by reason of disability~~): PROVIDED, That any member with at least five years' service may elect the provisions of RCW 41.26.090(2).

(2) Any member whose contributions have been paid to him in accordance with subsection (1) of this section and who reenters the service of an employer within ten years of the date of his separation shall upon the restoration of all withdrawn contributions, which restoration must be completed within a total period of five years of ((membership)) service following resumption of employment, then receive credit toward retirement for the period of previous service which these contributions are to cover.

Sec. 15. Section 23, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.180 are each amended to read as follows:

The right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution,

garnishment, or any other process of law whatsoever.

Sec. 16. Section 24, chapter 209, Laws of 1969 ex. sess. and RCW 41.26.240 are each amended to read as follows:

For purposes of this section of this chapter:

(1) "Index" shall mean ((the)) , for any calendar year, that year's average Consumer Price Index--Seattle, Washington area for urban wage earners and clerical workers, all items (1957-1959 = 100), compiled by the bureau of labor statistics, United States department of labor;

(2) "Retirement allowance" shall mean the retirement allowance provided for in RCW 41.26.100 and 41.26.130, and the monthly allowance provided for in RCW 41.26.160.

~~((The retirement board, not later than April 1st of each year commencing with calendar year 1971, shall make a determination with respect to the percentage of increase or decrease, if any, in the index beginning with the period between January, 1970 and January, 1971 and for each such twelve month period subsequent thereto.~~

~~If the index indicates an increase or decrease between the month commencing and the month ending any such period, the amount of each retirement allowance shall be increased or decreased by the amount of such percentage increase or decrease, commencing upon April 1, 1971 if an increase or decrease is indicated for the period preceding such date, and upon April 1st of each year subsequent to each such period in which an increase or decrease is indicated,--No retirement allowance shall be increased or decreased unless it commenced prior to January 2nd of the year preceding any such April 1st date.~~

~~The total amount of each retirement allowance shall include and shall be increased or decreased by each such percentage increase or decrease which may be added thereto or subtracted therefrom from time to time.--Each subsequent percentage increase or decrease shall be calculated on the basis of the total amount of such retirement allowance as increased or decreased by any such percentage increases or~~

~~decreases.--No retirement allowance shall be decreased below the original amount of the retirement allowance granted under the provisions of this chapter.)~~

Effective April 1 of 1971, and of each succeeding year, every retirement allowance which has been in effect for more than one year shall be adjusted to that dollar amount which exceeds its original dollar amount by the percentage difference which the board finds to exist between the index for the previous calendar year and the index for the calendar year prior to the effective retirement date of the person to whom, or on behalf of whom, such retirement allowance is being paid: PROVIDED, That no retirement allowance shall in any event be reduced to a dollar amount less than its original dollar amount.

Whenever the amount of a benefit is to be recalculated because of a change in the number of children, the amount shall be calculated as if the new number of children had always been in existence.

Sec. 17. Section 44, chapter 209, Laws of 1969 ex. sess. (uncodified) is amended to read as follows:

There is appropriated and transferred to the Washington law enforcement officers' and fire fighters' retirement system fund from the general fund the sum of one million, seven hundred thousand dollars to carry out the purposes of this 1969 amendatory act. Of this amount two hundred fifty thousand dollars shall be available for costs of administration during the 1969-1971 fiscal biennium and said sum is hereby appropriated from the retirement fund for that purpose.

Sec. 18. Section 1, chapter 261, Laws of 1945 as amended by section 1, chapter 263, Laws of 1955 and RCW 41.24.010 are each amended to read as follows:

As used in this chapter:

"Municipal corporation" or "municipality" includes any city or town, fire protection district, or any water, irrigation, or other district, authorized by law to afford protection to life and property within its boundaries from fire.

"Fire department" means any regularly organized fire department

consisting wholly of volunteer firemen, or any part-paid and part-volunteer fire department duly organized and maintained by any municipality: PROVIDED, That any such municipality wherein a part-paid fire department is maintained may by appropriate legislation permit the full-paid members of its department to come under the provisions of chapter 41.16.

"Firemen" includes any fireman who is a member of any fire department of any municipality but shall not include full time, paid fire fighters who are members of the Washington law enforcement officers' and fire fighters' retirement system, with respect to periods of service rendered in such capacity.

"Performance of duty" shall be construed to mean and include any work in and about company quarters or any fire station or any other place under the direction or general orders of the chief or other officer having authority to order such member to perform such work; responding to, working at, or returning from an alarm of fire; drill; or any work performed of an emergency nature in accordance with the rules and regulations of the fire department.

"State board" means the state board for volunteer firemen created herein.

"Appropriate legislation" means an ordinance when an ordinance is the means of legislating by any municipality, and resolution in all other cases.

Sec. 19. Section 3, chapter 261, Laws of 1945, as last amended by section 2, chapter 160, Laws of 1967 and RCW 41.24.030 are each amended to read as follows:

There is created in the state treasury a trust fund for the benefit of the firemen of the state covered by this chapter, which shall be designated the volunteer firemen's relief and pension fund and shall consist of:

(1) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

(2) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as herein provided as follows:

(a) three dollars for each volunteer or part-paid member of its fire department;

(b) a sum equal to one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

(3) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as herein provided, an annual fee of twenty-two dollars for each of its firemen electing to enroll therein, ten dollars of which shall be paid by the municipality and twelve dollars of which shall be paid by the fireman.

(4) Forty percent of all moneys received by the state from its tax on fire insurance premiums shall be paid into the state treasury and credited to the fund.

(5) The state finance committee, upon request of the state treasurer shall invest such portion of the amounts credited to the fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments may be made in such bonds, notes or other obligations now or hereafter authorized as an investment for the funds of the state employees' retirement system.

(6) All bonds or other obligations purchased according to subdivision (5) shall be forthwith placed in the custody of the state treasurer, and he shall collect the principal thereof and interest thereon when due.

The state finance committee may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any

bonds or other obligations held by the fund shall be credited to and form a part of the fund.

All amounts credited to the fund shall be available for making the payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund.

Sec. 20. Section 4, chapter 86, Laws of 1965 and RCW 41.24-.031 are each amended to read as follows:

In addition to the fees prescribed in RCW 41.24.030(2) the following fees shall be collected to finance the additional benefits conferred by this 1965 amendatory act:

- (1) Two dollars per year for each volunteer or part-paid member of its fire department; and
- (2) A sum equal to one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department prorated for 1970 on the basis of services prior to March 1, 1970.

These fees shall be paid into the volunteer firemen's relief and pension fund by each municipal corporation on behalf of the members of its fire department.

NEW SECTION. Sec. 21. This 1970 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House January 23, 1970
Passed the Senate February 4, 1970
Approved by the Governor February 12, 1970
Filed in Office of Secretary of State February 12, 1970

CHAPTER 7
[Substitute House Bill No. 220]
PUBLIC HOSPITAL DISTRICTS--SALES AND
LEASES OF SURPLUS PROPERTY

AN ACT Relating to public hospital districts; and amending section 1, chapter 102, Laws of 1963 and RCW 70.44.061.

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