



2004 Interim Projects

Select Committee on Pension Policy

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Select Committee on Pension Policy

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Background

To start retirement benefits, an eligible member must separate from service and apply to the Department of Retirement Systems, regardless of age. Federal law for private plans, which does not apply to the Washington State Retirement Systems, allows distributions to begin at age 70½. For a period between 1988 and 1991 it was thought that the federal requirements applied to the state, and legislation was enacted allowing distribution at 70½ so long as the federal requirement was in place. The state law was repealed shortly thereafter.

Legislators can choose to begin membership upon entering office, but once they choose to participate their decision is irrevocable.

Committee Activity

Presentations:

August 17, 2004 - Executive Committee

November 9, 2004 - Full Committee

Subgroup Activity:

October 19, 2004 - Subgroup Meeting

Proposal:

November 9, 2004 - Full Committee

Recommendation to Legislature

Allow PERS, SERS, and TRS members who have reached age 70½ to retire and return to work without restriction, and allow members holding state elective office the option at the beginning of each term of office, to continue active membership or to retire and begin receiving their retirement allowance.

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Select Committee on Pension Policy

Age 70½ and Opt-in/Opt-out

(December 21, 2004)

Subgroup Proposal

Allow members of PERS, SERS, and TRS who have attained age 70½ to retire and return to work without restriction. Such individuals would continue to draw a salary but would cease active membership in their plans and would no longer accumulate service credit. The provision would not apply to state elected officials unless they leave elected office or are reelected after the effective date of the act.

Also allow members of TRS Plans 2 and 3, SERS, and PERS holding state elective office the option, at the beginning of each term of office, to continue active membership or to retire and begin receiving their retirement allowance

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Members Impacted

This proposal would impact all PERS, SERS, and TRS members who desire to work beyond age 70½, and all members of PERS, SERS, and TRS 2/3 who hold state elective office.

As of the 2003 valuation there were 502 vested members of PERS, SERS, and TRS who were still working at age 70½.

At last count there were 139 state elective officials who were plan members without other public employment.

Current Situation

After separating from employment for one month, PERS and SERS retirees may return to work for up to 867 hours in a calendar year before their benefit is suspended. PERS 1 retirees who separated for 3 months may return to work for up to 1,500 hours in a calendar year before their benefit is suspended.

After separating from employment for one month, TRS 1 retirees may return to work for up to 1,500 hours in a school year before their benefit is suspended. After separating from employment for one month, TRS 2/3 retirees may return to work for up to 867 hours in a school year before their benefit is suspended.

State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receiving their retirement benefits, regardless of age. TRS 1 is the exception in permitting state elected officials who are TRS 1 members, if otherwise eligible, to begin receiving their retirement benefit while serving in state elective office. The LEOFF 1 Plan also allows retired members to work for any non-LEOFF employer without a reduction of their benefits.

History

During the 2002 Interim, the Joint Committee on Pension Policy (JCPP) forwarded companion bills SB 5093 and HB 1209 to the 2003 legislature. These bills would have allowed members of PERS, SERS, and TRS Plans 1, 2 and 3 who have attained age 70½ and meet the vesting requirements of their plan to apply for retirement benefits without requiring that they separate from service. Such retirees would not be allowed to continue to make contributions and earn service credit. The bill passed in the Senate but did not receive a hearing in the House.

The JCPP also forwarded companion bills HB 1201 and SB 5095 to the 2003 legislature. This legislation would have allowed PERS, SERS, TRS 2/3, or LEOFF 2 members holding state elective office the option, at the beginning of each term of office, of continuing active membership or retiring and beginning their retirement allowance. SB 5095 passed the Senate. HB 1201 did not receive a hearing in the House.

Policy Analysis

The age 70½ issue was originally thought to involve compliance to federal rules mandating distribution of retirement allowances at age 70½. When it was discovered that those rules applied to private plans, the state provisions were repealed. This issue has now evolved from one in which older members may receive retirement benefits without separating from employment, to a post-retirement employment issue where members must separate from employment before being eligible for the benefit. This would establish a new policy in the post-retirement employment arena.

The opt-in/opt-out issue is one in which inconsistencies already exist in the provisions of the various systems and plans. This proposal would remove much of that inconsistency, and standardize the optional membership of elected officials in a manner similar to existing TRS 1 provisions.

Executive Committee Recommendation

Forward the subgroup proposal to the full committee for public hearing.

Bill (Draft)

Attached

Fiscal Note (Draft)

Attached

1 AN ACT Relating to allowing certain members of the teachers',
2 school employees', and public employees' retirement systems to return
3 to work without restrictions or begin receiving their retirement
4 allowance before separation from state elective office; amending RCW
5 41.32.010, 41.32.263, 41.35.030, and 41.40.023; adding a new section to
6 chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; and
7 adding a new section to chapter 41.40 RCW.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.32 RCW
10 to read as follows:

11 A member who retires on or after attainment of age seventy and one-
12 half and enters employment with an employer at least one month after
13 his or her accrual date may continue to receive pension payments while
14 engaged in such service without restriction. The retiree is no longer
15 an active member and may not make contributions, or receive service
16 credit, for future periods of employment while receiving his or her
17 retirement allowance. This section does not apply to any member who is
18 a state elected official unless that member leaves elected office or is
19 reappointed or reelected after the effective date of this act.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.35 RCW
2 to read as follows:

3 A member who retires on or after attainment of age seventy and one-
4 half and enters employment with an employer at least one month after
5 his or her accrual date may continue to receive pension payments while
6 engaged in such service without restriction. The retiree is no longer
7 an active member and may not make contributions, or receive service
8 credit, for future periods of employment while receiving his or her
9 retirement allowance. This section does not apply to any member who is
10 a state elected official unless that member leaves elected office or is
11 reappointed or reelected after the effective date of this act.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.40 RCW
13 to read as follows:

14 A member who retires on or after attainment of age seventy and one-
15 half and enters employment with an employer at least one month after
16 his or her accrual date may continue to receive pension payments while
17 engaged in such service without restriction. The retiree is no longer
18 an active member and may not make contributions, or receive service
19 credit, for future periods of employment while receiving his or her
20 retirement allowance. This section does not apply to any member who is
21 a state elected official unless that member leaves elected office or is
22 reappointed or reelected after the effective date of this act.

23 **Sec. 4.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read
24 as follows:

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

27 (1)(a) "Accumulated contributions" for plan 1 members, means the
28 sum of all regular annuity contributions and, except for the purpose of
29 withdrawal at the time of retirement, any amount paid under RCW
30 41.50.165(2) with regular interest thereon.

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

35 (2) "Actuarial equivalent" means a benefit of equal value when

1 computed upon the basis of such mortality tables and regulations as
2 shall be adopted by the director and regular interest.

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

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

7 (5)(a) "Beneficiary" for plan 1 members, means any person in
8 receipt of a retirement allowance or other benefit provided by this
9 chapter.

10 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
11 in receipt of a retirement allowance or other benefit provided by this
12 chapter resulting from service rendered to an employer by another
13 person.

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

16 (7) "Creditable service" means membership service plus prior
17 service for which credit is allowable. This subsection shall apply
18 only to plan 1 members.

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

21 (9) "Disability allowance" means monthly payments during
22 disability. This subsection shall apply only to plan 1 members.

23 (10)(a) "Earnable compensation" for plan 1 members, means:

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

29 (ii) For an employee member of the retirement system teaching in an
30 extended school year program, two consecutive extended school years, as
31 defined by the employer school district, may be used as the annual
32 period for determining earnable compensation in lieu of the two fiscal
33 years.

34 (iii) "Earnable compensation" for plan 1 members also includes the
35 following actual or imputed payments, which are not paid for personal
36 services:

37 (A) Retroactive payments to an individual by an employer on
38 reinstatement of the employee in a position, or payments by an employer

1 to an individual in lieu of reinstatement in a position which are
2 awarded or granted as the equivalent of the salary or wages which the
3 individual would have earned during a payroll period shall be
4 considered earnable compensation and the individual shall receive the
5 equivalent service credit.

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

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

33 (v) "Earnable compensation" does not include:

34 (A) Remuneration for unused sick leave authorized under RCW
35 41.04.340, 28A.400.210, or 28A.310.490;

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

1 (b) "Earnable compensation" for plan 2 and plan 3 members, means
2 salaries or wages earned by a member during a payroll period for
3 personal services, including overtime payments, and shall include wages
4 and salaries deferred under provisions established pursuant to sections
5 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
6 shall 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 2 and plan 3 members also includes
10 the 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 1 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 1 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 1 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 1 members.

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

35 (24)(a) "Retirement allowance" for plan 1 members, means monthly
36 payments based on the sum of annuity and pension, or any optional
37 benefits payable in lieu thereof.

1 (b) "Retirement allowance" for plan 2 and plan 3 members, means
2 monthly payments to a retiree or beneficiary as provided in this
3 chapter.

4 (25) "Retirement system" means the Washington state teachers'
5 retirement system.

6 (26)(a) "Service" for plan 1 members means the time during which a
7 member has been employed by an employer for compensation.

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

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

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

18 (b) "Service" for plan 2 and plan 3 members, means periods of
19 employment by a member for one or more employers for which earnable
20 compensation is earned subject to the following conditions:

21 (i) A member employed in an eligible position or as a substitute
22 shall receive one service credit month for each month of September
23 through August of the following year if he or she earns earnable
24 compensation for eight hundred ten or more hours during that period and
25 is employed during nine of those months, except that a member may not
26 receive credit for any period prior to the member's employment in an
27 eligible position except as provided in RCW 41.32.812 and
28 41.50.132((+))_.

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

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

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

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

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

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

12 (v) Any member of the teachers' retirement system plan 2 or plan 3
13 who is elected to the state legislature has the option during a ninety-
14 day period at the beginning of each term of office either to resume
15 membership or to end membership in the retirement system and if
16 otherwise eligible begin their retirement allowance. A state
17 legislator who chooses to end membership at the beginning of a term of
18 office and begin their retirement allowance shall neither make
19 contributions nor earn service credit for the duration of that term.

20 (vi) Any member of the teachers' retirement system plan 2 or plan
21 3 who is elected to a state elective position other than the state
22 legislature has the option during a ninety-day period at the beginning
23 of each term of office either to resume membership or to end membership
24 in the retirement system and if otherwise eligible begin their
25 retirement allowance. A state elected official other than a state
26 legislator who chooses to end membership at the beginning of a term of
27 office and begin their retirement allowance shall neither make
28 contributions nor earn service credit for the duration of that term.

29 (vii) When an individual is employed by two or more employers the
30 individual shall only receive one month's service credit during any
31 calendar month in which multiple service for ninety or more hours is
32 rendered.

33 ~~((vi))~~ (viii) As authorized by RCW 28A.400.300, up to forty-five
34 days of sick leave may be creditable as service solely for the purpose
35 of determining eligibility to retire under RCW 41.32.470. For purposes
36 of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is
37 equal to two service credit months. Use of less than forty-five days

1 of sick leave is creditable as allowed under this subsection as
2 follows:

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

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

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

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

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

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

15 (~~(viii)~~) (x) The department shall adopt rules implementing this
16 subsection.

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

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

21 (29) "Teacher" means any person qualified to teach who is engaged
22 by a public school in an instructional, administrative, or supervisory
23 capacity. The term includes state, educational service district, and
24 school district superintendents and their assistants and all employees
25 certificated by the superintendent of public instruction; and in
26 addition thereto any full time school doctor who is employed by a
27 public school and renders service of an instructional or educational
28 nature.

29 (30) "Average final compensation" for plan 2 and plan 3 members,
30 means the member's average earnable compensation of the highest
31 consecutive sixty service credit months prior to such member's
32 retirement, termination, or death. Periods constituting authorized
33 leaves of absence may not be used in the calculation of average final
34 compensation except under RCW 41.32.810(2).

35 (31) "Retiree" means any person who has begun accruing a retirement
36 allowance or other benefit provided by this chapter resulting from
37 service rendered to an employer while a member.

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

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

4 (34) "State elective position" means any position held by any
5 person elected or appointed to statewide office or elected or appointed
6 as a member of the legislature.

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

9 (36) "Substitute teacher" means:

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

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

16 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
17 through September 1, 1991, means a position which normally requires two
18 or more uninterrupted months of creditable service during September
19 through August of the following year.

20 (b) "Eligible position" for plan 2 and plan 3 on and after
21 September 1, 1991, means a position that, as defined by the employer,
22 normally requires five or more months of at least seventy hours of
23 earnable compensation during September through August of the following
24 year.

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

28 (d) The elected position of the superintendent of public
29 instruction is an eligible position.

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

33 (39) "Plan 2" means the teachers' retirement system, plan 2
34 providing the benefits and funding provisions covering persons who
35 first became members of the system on and after October 1, 1977, and
36 prior to July 1, 1996.

37 (40) "Plan 3" means the teachers' retirement system, plan 3

1 providing the benefits and funding provisions covering persons who
2 first become members of the system on and after July 1, 1996, or who
3 transfer under RCW 41.32.817.

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

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

10 (43) "Index B" means the index for the year prior to index A.

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

13 (45) "Adjustment ratio" means the value of index A divided by index
14 B.

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

18 (47) "Member account" or "member's account" for purposes of plan 3
19 means the sum of the contributions and earnings on behalf of the member
20 in the defined contribution portion of plan 3.

21 (48) "Separation from service or employment" occurs when a person
22 has terminated all employment with an employer.

23 (49) "Employed" or "employee" means a person who is providing
24 services for compensation to an employer, unless the person is free
25 from the employer's direction and control over the performance of work.
26 The department shall adopt rules and interpret this subsection
27 consistent with common law.

28 **Sec. 5.** RCW 41.32.263 and 1991 c 35 s 41 are each amended to read
29 as follows:

30 A member of the retirement system who is a member of the state
31 legislature or a state official eligible for the combined pension and
32 annuity provided by RCW 41.32.497((~~7~~)) or 41.32.498(~~(7) as now or~~
33 ~~hereafter amended~~)) shall have deductions taken from his or her salary
34 in the amount of seven and one-half percent of earnable compensation
35 and that service credit shall be established with the retirement system
36 while such deductions are reported to the retirement system, unless he
37 or she has by reason of his or her employment become a contributing

1 member of another public retirement system in the state of Washington.
2 Such elected official who has retired or otherwise terminated his or
3 her public school service may then elect to terminate his or her
4 membership in the retirement system and receive retirement benefits
5 while continuing to serve as an elected official. A member of the
6 retirement system who had previous service as an elected or appointed
7 official, for which he or she did not contribute to the retirement
8 system, may receive credit for such legislative service unless he or
9 she has received credit for that service in another state retirement
10 system, upon making contributions in such amounts as shall be
11 determined by the (~~board of trustees~~) director.

12 **Sec. 6.** RCW 41.35.030 and 2003 c 157 s 2 are each amended to read
13 as follows:

14 Membership in the retirement system shall consist of all regularly
15 compensated classified employees and appointive and elective officials
16 of employers, as defined in this chapter, with the following
17 exceptions:

18 (1) Persons in ineligible positions;

19 (2)(a) Persons holding elective offices or persons appointed
20 directly by the governor: PROVIDED, That such persons shall have the
21 option of applying for membership during such periods of employment:
22 AND PROVIDED FURTHER, That any persons holding or who have held
23 elective offices or persons appointed by the governor who are members
24 in the retirement system and who have, prior to becoming such members,
25 previously held an elective office, and did not at the start of such
26 initial or successive terms of office exercise their option to become
27 members, may apply for membership to be effective during such term or
28 terms of office, and shall be allowed to establish the service credit
29 applicable to such term or terms of office upon payment of the employee
30 contributions therefor by the employee with interest as determined by
31 the director and employer contributions therefor by the employer or
32 employee with interest as determined by the director: AND PROVIDED
33 FURTHER, That all contributions with interest submitted by the employee
34 under this subsection shall be placed in the employee's individual
35 account in the employee's savings fund and be treated as any other
36 contribution made by the employee, with the exception that any
37 contributions submitted by the employee in payment of the employer's

1 obligation, together with the interest the director may apply to the
2 employer's contribution, shall not be considered part of the member's
3 annuity for any purpose except withdrawal of contributions;

4 (b) A member holding elective office other than state elective
5 office who has elected to apply for membership pursuant to (a) of this
6 subsection and who later (~~wishes to be~~) is eligible for a retirement
7 allowance shall have the option of ending his or her membership in the
8 retirement system. A member (~~wishing to end~~) ending his or her
9 membership under this subsection must file on a form supplied by the
10 department a statement indicating that the member agrees to irrevocably
11 abandon any claim for service for future periods served as an elected
12 official. A member who receives more than fifteen thousand dollars per
13 year in compensation for his or her elective service, adjusted annually
14 for inflation by the director, is not eligible for the option provided
15 by this subsection (2)(b);

16 (c) Any member of the school employees' retirement system plan 2 or
17 plan 3 who is elected to the state legislature has the option during a
18 ninety-day period at the beginning of each term of office either to
19 resume membership or to end membership in the retirement system and if
20 otherwise eligible begin their retirement allowance. A state
21 legislator who chooses to end membership at the beginning of a term of
22 office and begin their retirement allowance shall neither make
23 contributions nor earn service credit for the duration of that term;

24 (d) Any member of the school employees' retirement system plan 2 or
25 plan 3 who is elected to a state elective position other than the state
26 legislature has the option during a ninety-day period at the beginning
27 of each term of office either to resume membership or to end membership
28 in the retirement system and if otherwise eligible begin their
29 retirement allowance. A state elected official other than a state
30 legislator who chooses to end membership at the beginning of a term of
31 office and begin their retirement allowance shall neither make
32 contributions nor earn service credit for the duration of that term;

33 (3) Retirement system retirees: PROVIDED, That following
34 reemployment in an eligible position, a retiree may elect to
35 prospectively become a member of the retirement system if otherwise
36 eligible;

37 (4) Persons enrolled in state-approved apprenticeship programs,
38 authorized under chapter 49.04 RCW, and who are employed by employers

1 to earn hours to complete such apprenticeship programs, if the employee
2 is a member of a union-sponsored retirement plan and is making
3 contributions to such a retirement plan or if the employee is a member
4 of a Taft-Hartley retirement plan;

5 (5) Persons rendering professional services to an employer on a
6 fee, retainer, or contract basis or when the income from these services
7 is less than fifty percent of the gross income received from the
8 person's practice of a profession;

9 (6) Substitute employees, except for the purposes of the purchase
10 of service credit under rcw 41.35.033. Upon the return or termination
11 of the absent employee a substitute employee is replacing, that
12 substitute employee shall no longer be ineligible under this
13 subsection;

14 (7) Employees who (a) are not citizens of the United States, (b) do
15 not reside in the United States, and (c) perform duties outside of the
16 United States;

17 (8) Employees who (a) are not citizens of the United States, (b)
18 are not covered by chapter 41.48 RCW, (c) are not excluded from
19 membership under this chapter or chapter 41.04 RCW, (d) are residents
20 of this state, and (e) make an irrevocable election to be excluded from
21 membership, in writing, which is submitted to the director within
22 thirty days after employment in an eligible position;

23 (9) Employees who are citizens of the United States and who reside
24 and perform duties for an employer outside of the United States:
25 PROVIDED, That unless otherwise excluded under this chapter or chapter
26 41.04 RCW, the employee may apply for membership (a) within thirty days
27 after employment in an eligible position and membership service credit
28 shall be granted from the first day of membership service, and (b)
29 after this thirty-day period, but membership service credit shall be
30 granted only if payment is made for the noncredited membership service
31 under RCW 41.50.165(2), otherwise service shall be from the date of
32 application.

33 **Sec. 7.** RCW 41.40.023 and 2001 c 37 s 1 are each amended to read
34 as follows:

35 Membership in the retirement system shall consist of all regularly
36 compensated employees and appointive and elective officials of
37 employers, as defined in this chapter, with the following exceptions:

1 (1) Persons in ineligible positions;

2 (2) Employees of the legislature except the officers thereof
3 elected by the members of the senate and the house and legislative
4 committees, unless membership of such employees be authorized by the
5 said committee;

6 (3)(a) Persons holding elective offices or persons appointed
7 directly by the governor: PROVIDED, That such persons shall have the
8 option of applying for membership during such periods of employment:
9 AND PROVIDED FURTHER, That any persons holding or who have held
10 elective offices or persons appointed by the governor who are members
11 in the retirement system and who have, prior to becoming such members,
12 previously held an elective office, and did not at the start of such
13 initial or successive terms of office exercise their option to become
14 members, may apply for membership to be effective during such term or
15 terms of office, and shall be allowed to establish the service credit
16 applicable to such term or terms of office upon payment of the employee
17 contributions therefor by the employee with interest as determined by
18 the director and employer contributions therefor by the employer or
19 employee with interest as determined by the director: AND PROVIDED
20 FURTHER, That all contributions with interest submitted by the employee
21 under this subsection shall be placed in the employee's individual
22 account in the employee's savings fund and be treated as any other
23 contribution made by the employee, with the exception that any
24 contributions submitted by the employee in payment of the employer's
25 obligation, together with the interest the director may apply to the
26 employer's contribution, shall not be considered part of the member's
27 annuity for any purpose except withdrawal of contributions;

28 (b) A member holding elective office other than state elective
29 office who has elected to apply for membership pursuant to (a) of this
30 subsection and who later (~~wishes to be~~) is eligible for a retirement
31 allowance shall have the option of ending his or her membership in the
32 retirement system. A member (~~wishing to end~~) ending his or her
33 membership under this subsection must file, on a form supplied by the
34 department, a statement indicating that the member agrees to
35 irrevocably abandon any claim for service for future periods served as
36 an elected official. A member who receives more than fifteen thousand
37 dollars per year in compensation for his or her elective service,

1 adjusted annually for inflation by the director, is not eligible for
2 the option provided by this subsection (3)(b);

3 (c) Any member of the public employees' retirement system who is
4 elected to the state legislature has the option during a ninety-day
5 period at the beginning of each term of office either to resume
6 membership or to end membership in the retirement system and if
7 otherwise eligible begin their retirement allowance. A state
8 legislator who chooses to end membership at the beginning of a term of
9 office and begin their retirement allowance shall neither make
10 contributions nor earn service credit for the duration of that term;

11 (d) Any member of the public employees' retirement system who is
12 elected to a state elective position other than the state legislature
13 has the option during a ninety-day period at the beginning of each term
14 of office either to resume membership or to end membership in the
15 retirement system and if otherwise eligible begin their retirement
16 allowance. A state elected official other than a state legislator who
17 chooses to end membership at the beginning of a term of office and
18 begin their retirement allowance shall neither make contributions nor
19 earn service credit for the duration of that term;

20 (4) Employees holding membership in, or receiving pension benefits
21 under, any retirement plan operated wholly or in part by an agency of
22 the state or political subdivision thereof, or who are by reason of
23 their current employment contributing to or otherwise establishing the
24 right to receive benefits from any such retirement plan except as
25 follows:

26 (a) In any case where the retirement system has in existence an
27 agreement with another retirement system in connection with exchange of
28 service credit or an agreement whereby members can retain service
29 credit in more than one system, such an employee shall be allowed
30 membership rights should the agreement so provide;

31 (b) An employee shall be allowed membership if otherwise eligible
32 while receiving survivor's benefits;

33 (c) An employee shall not either before or after June 7, 1984, be
34 excluded from membership or denied service credit pursuant to this
35 subsection solely on account of: (i) Membership in the plan created
36 under chapter 2.14 RCW; or (ii) enrollment under the relief and
37 compensation provisions or the pension provisions of the volunteer fire
38 fighters' relief and pension fund under chapter 41.24 RCW;

1 (d) Except as provided in RCW 41.40.109, on or after July 25, 1999,
2 an employee shall not be excluded from membership or denied service
3 credit pursuant to this subsection solely on account of participation
4 in a defined contribution pension plan qualified under section 401 of
5 the internal revenue code;

6 (e) Employees who have been reported in the retirement system prior
7 to July 25, 1999, and who participated during the same period of time
8 in a defined contribution pension plan qualified under section 401 of
9 the internal revenue code and operated wholly or in part by the
10 employer, shall not be excluded from previous retirement system
11 membership and service credit on account of such participation;

12 (5) Patient and inmate help in state charitable, penal, and
13 correctional institutions;

14 (6) "Members" of a state veterans' home or state soldiers' home;

15 (7) Persons employed by an institution of higher learning or
16 community college, primarily as an incident to and in furtherance of
17 their education or training, or the education or training of a spouse;

18 (8) Employees of an institution of higher learning or community
19 college during the period of service necessary to establish eligibility
20 for membership in the retirement plans operated by such institutions;

21 (9) Persons rendering professional services to an employer on a
22 fee, retainer, or contract basis or when the income from these services
23 is less than fifty percent of the gross income received from the
24 person's practice of a profession;

25 (10) Persons appointed after April 1, 1963, by the liquor control
26 board as agency vendors;

27 (11) Employees of a labor guild, association, or organization:
28 PROVIDED, That elective officials and employees of a labor guild,
29 association, or organization which qualifies as an employer within this
30 chapter shall have the option of applying for membership;

31 (12) Retirement system retirees: PROVIDED, That following
32 reemployment in an eligible position, a retiree may elect to
33 prospectively become a member of the retirement system if otherwise
34 eligible;

35 (13) Persons employed by or appointed or elected as an official of
36 a first class city that has its own retirement system: PROVIDED, That
37 any member elected or appointed to an elective office on or after April
38 1, 1971, shall have the option of continuing as a member of this system

1 in lieu of becoming a member of the city system. A member who elects
2 to continue as a member of this system shall pay the appropriate member
3 contributions and the city shall pay the employer contributions at the
4 rates prescribed by this chapter. The city shall also transfer to this
5 system all of such member's accumulated contributions together with
6 such further amounts as necessary to equal all employee and employer
7 contributions which would have been paid into this system on account of
8 such service with the city and thereupon the member shall be granted
9 credit for all such service. Any city that becomes an employer as
10 defined in RCW 41.40.010(4) as the result of an individual's election
11 under this subsection shall not be required to have all employees
12 covered for retirement under the provisions of this chapter. Nothing
13 in this subsection shall prohibit a city of the first class with its
14 own retirement system from: (a) Transferring all of its current
15 employees to the retirement system established under this chapter, or
16 (b) allowing newly hired employees the option of continuing coverage
17 under the retirement system established by this chapter.

18 Notwithstanding any other provision of this chapter, persons
19 transferring from employment with a first class city of over four
20 hundred thousand population that has its own retirement system to
21 employment with the state department of agriculture may elect to remain
22 within the retirement system of such city and the state shall pay the
23 employer contributions for such persons at like rates as prescribed for
24 employers of other members of such system;

25 (14) Employees who (a) are not citizens of the United States, (b)
26 do not reside in the United States, and (c) perform duties outside of
27 the United States;

28 (15) Employees who (a) are not citizens of the United States, (b)
29 are not covered by chapter 41.48 RCW, (c) are not excluded from
30 membership under this chapter or chapter 41.04 RCW, (d) are residents
31 of this state, and (e) make an irrevocable election to be excluded from
32 membership, in writing, which is submitted to the director within
33 thirty days after employment in an eligible position;

34 (16) Employees who are citizens of the United States and who reside
35 and perform duties for an employer outside of the United States:
36 PROVIDED, That unless otherwise excluded under this chapter or chapter
37 41.04 RCW, the employee may apply for membership (a) within thirty days
38 after employment in an eligible position and membership service credit

1 shall be granted from the first day of membership service, and (b)
2 after this thirty-day period, but membership service credit shall be
3 granted only if payment is made for the noncredited membership service
4 under RCW 41.50.165(2), otherwise service shall be from the date of
5 application;

6 (17) The city manager or chief administrative officer of a city or
7 town, other than a retiree, who serves at the pleasure of an appointing
8 authority: PROVIDED, That such persons shall have the option of
9 applying for membership within thirty days from date of their
10 appointment to such positions. Persons serving in such positions as of
11 April 4, 1986, shall continue to be members in the retirement system
12 unless they notify the director in writing prior to December 31, 1986,
13 of their desire to withdraw from membership in the retirement system.
14 A member who withdraws from membership in the system under this section
15 shall receive a refund of the member's accumulated contributions.

16 Persons serving in such positions who have not opted for membership
17 within the specified thirty days, may do so by paying the amount
18 required under RCW 41.50.165(2) for the period from the date of their
19 appointment to the date of acceptance into membership;

20 (18) Persons serving as: (a) The chief administrative officer of
21 a public utility district as defined in RCW 54.16.100; (b) the chief
22 administrative officer of a port district formed under chapter 53.04
23 RCW; or (c) the chief administrative officer of a county who serves at
24 the pleasure of an appointing authority: PROVIDED, That such persons
25 shall have the option of applying for membership within thirty days
26 from the date of their appointment to such positions. Persons serving
27 in such positions as of July 25, 1999, shall continue to be members in
28 the retirement system unless they notify the director in writing prior
29 to December 31, 1999, of their desire to withdraw from membership in
30 the retirement system. A member who withdraws from membership in the
31 system under this section shall receive a refund of the member's
32 accumulated contributions upon termination of employment or as
33 otherwise consistent with the plan's tax qualification status as
34 defined in internal revenue code section 401.

35 Persons serving in such positions who have not opted for membership
36 within the specified thirty days, may do so at a later date by paying
37 the amount required under RCW 41.50.165(2) for the period from the date
38 of their appointment to the date of acceptance into membership;

1 (19) Persons enrolled in state-approved apprenticeship programs,
2 authorized under chapter 49.04 RCW, and who are employed by local
3 governments to earn hours to complete such apprenticeship programs, if
4 the employee is a member of a union-sponsored retirement plan and is
5 making contributions to such a retirement plan or if the employee is a
6 member of a Taft-Hartley retirement plan;

7 (20) Beginning on July 22, 2001, persons employed exclusively as
8 trainers or trainees in resident apprentice training programs operated
9 by housing authorities authorized under chapter 35.82 RCW, (a) if the
10 trainer or trainee is a member of a union-sponsored retirement plan and
11 is making contributions to such a retirement plan or (b) if the
12 employee is a member of a Taft-Hartley retirement plan.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/03/2004	Z-0195.2/Z-0196.2

SUMMARY OF BILL:

This bill impacts the Public Employee's Retirement System, School Employee's Retirement System, and Teachers Retirement System Plans 2 and 3 by allowing members who retire on or after age seventy and one-half, and who fulfill the 1 month separation requirement, to return to work without restriction; upon receipt of retirement benefits such an individual would cease active membership and no longer make contributions nor receive service credit. Current state elected and appointed officials are exempt from this act unless they leave elected office, or are re-elected after the effective date of the act.

The bill also allows state elective officials the option to continue or resume membership, and if otherwise eligible, retire and receive their retirement allowance at the beginning of each term of office. A state elected official member who chooses to end membership at the beginning of a term of office shall neither make contributions nor earn service credit for the duration of that term.

Effective Date: 90 days after session.

CURRENT SITUATION:

After a one-month separation, PERS, SERS, and TRS 2/3 retirees may return to work for 867 hours per calendar year or school year before their benefit is suspended. PERS 1 members may return to work after a 3-month separation and work up to 1,500 hours per calendar year before their benefit is suspended. TRS 1 members may return to work after a one-month separation and work for up to 1,500 hours per school year before their benefit is suspended.

State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receipt of their retirement benefits regardless of age. While the rules for state elected officials vary by system and plan, the Teachers' Retirement System Plan 1 is a notable distinction in permitting state elected officials, if otherwise eligible, to begin their retirement benefit while serving in state elective office.

MEMBERS IMPACTED:

We estimate that potentially all active members in these systems could be affected by the age 70 1/2 portion of this bill. Active members currently over age 70 1/2 would be impacted on the effective date of the bill. This includes 342 out of 154,550 active members in PERS, 28 out of 66,075 in TRS, and 132 out of 49,214 in SERS.

We estimate that relatively few members in these systems could be affected by the opt in/opt out portion of this bill, although nearly all members could potentially become elected officials. The opt in/opt out portion of the bill would impact the current state elected officials in the systems if they are reelected following the effective date. This includes 129 active members in PERS, 1 in TRS (not including 4 in TRS 1 who already have the opt in/opt out provision), and 0 in SERS.

We estimate that a typical member impacted by the age 70 1/2 provision of this bill would receive a benefit of about \$11,700 per year, but would give up additional benefit accruals of about \$1,000 per year. For example, a PERS member who retired at age 74 with 19 years of service would receive an annual benefit of \$13,200; waiting one additional year to retire would result in an annual benefit of \$14,400. A typical SERS member who retired at age 74 with 12 years of service would receive an annual benefit of \$4,600; waiting one additional year to retire would result in an annual benefit of \$5,200. The impact on long service members over age 70 1/2, and not subject to the 30 year service cap, is greater than the impact on short service members.

ASSUMPTIONS:

Our current retirement rate assumptions have all members retiring at age 70 or earlier. The members over 70 1/2 who continue working after we have assumed they will retire typically produce an actuarial experience gain to the system. In general, the benefits earned for each year of additional service and increases in pay after age 70 are not as valuable as the retirement benefits that could have been received in the year. This is especially true for Plan 1 members who already have hit the 30 year maximum on service.

To determine the cost of the age 70 1/2 provision, we started with an assumption change for the retirement rates at age 70 and beyond. For PERS and SERS, we replaced our 100% retirement assumption at age 70 with 25% per year from age 70 to 81 and 100% at age 82. We did not change the rates before age 70. For TRS, we did not change our 100% assumption at age 70, because the number of active TRS members working past age 70 is not significant compared to PERS and SERS, and the oldest active TRS member is 77, compared to 87 in both PERS and SERS. So we would not expect any significant cost impact for TRS.

For PERS and SERS, we compared the costs of the plans with the new retirement assumption to the costs using an alternative retirement assumption. We increased the 25% rate to 37.5% as an estimate of how many more active members over age 70 1/2 would retire after the bill is effective.

FISCAL IMPACT:

Description:

The postponed retirements after age 70 1/2 currently produce actuarial gains to the affected systems. The age 70 1/2 portion of the bill would reduce these gains. We estimate that the reduction of these gains represents a cost of \$6.0 million in PERS 1, \$11.6 million in PERS 2/3 and \$1.4 million in SERS 2/3 (on a fully projected present value basis).

The opt in/opt out provision of this bill would apply to a small group of members and the associated cost would be insufficient to increase contribution rates in the affected systems.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the required actuarial contribution rate as shown below:

Increase in Contribution Rates: (Effective 9/1/2005)	PERS	TRS	SERS
Employee	0.02%	0.00%	0.02%
Employer	0.03%	0.00%	0.03%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2007				
State:				
General Fund	\$0.8	0.0	0.4	\$1.2
Non-General Fund	<u>1.3</u>	<u>0.0</u>	<u>0.0</u>	<u>1.3</u>
Total State	2.1	0.0	0.4	2.5
Local Government	1.9	0.0	0.4	2.3
Total Employer	4.0	0.0	0.8	4.8
Total Employee	\$1.8	0.0	0.2	\$2.0
2007-2009				
State:				
General Fund	\$1.0	0.0	0.4	\$1.4
Non-General Fund	<u>1.6</u>	<u>0.0</u>	<u>0.0</u>	<u>1.6</u>
Total State	2.6	0.0	0.4	3.0
Local Government	2.3	0.0	0.4	2.7
Total Employer	4.9	0.0	0.8	5.7
Total Employee	\$2.0	0.0	0.2	\$2.2

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2030				
State:				
General Fund	\$15.5	0.0	4.3	\$19.8
Non-General Fund	<u>25.5</u>	<u>0.0</u>	<u>0.0</u>	<u>25.5</u>
Total State	41.0	0.0	4.3	45.3
Local Government	36.3	0.0	3.8	40.1
Total Employer	77.3	0.0	8.1	85.4
Total Employee	\$28.7	0.0	1.3	\$30.0

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Washington Public Employees' Retirement System, the Teachers' Retirement system, and the Washington School Employees' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
 4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.
8. The entry age normal cost increase for the bill is 0.01% for PERS Plan 2 members, 0.01% for PERS employers, 0.00% for TRS employers, and 0.00% for SERS employers. The entry age normal cost increase was used to determine the increase in funding expenditures for future new entrants.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Deferred Rate Increases

Background

The Pension Funding Council (PFC) Subgroup of the SSCP originally proposed a 6-year phase-in of projected employer and plan 2 member contribution rates. Additionally, a permanent contribution rate floor would be established at the completion of the 6-year phase-in period.

Committee Activity

Presentations:

September 7, 2004 - Executive Committee
October 19, 2004 - Executive Committee
December 7, 2004 - Executive and Full Committee

Subgroup Activity:

August 31, 2004 - Subgroup Meeting
September 21, 2004 - Subgroup Meeting

Recommendation to Legislature

Establish a schedule of employer and plan 2 member contribution rates for the 2005-07 and 2007-09 biennia. At the completion of the 4-year schedule, establish permanent minimum contribution rates for employers and plan 2 members.

Staff Contact

Matthew M. Smith, State Actuary
(360) 753-9144 – smith.matt@leg.wa.gov

Select Committee on Pension Policy

Deferred Rate Increases

(December 15, 2004)

Issue	The Pension Funding Council (PFC) subgroup of the SPCP proposed a 6-year phase-in of projected employer and plan 2 member contribution rates. Additionally, a permanent contribution rate floor would be established at the completion of the 6-year phase-in period.
Staff	Matt Smith, State Actuary 360-753-9144
Members Impacted	All employers and plan 2 members of the Public Employees Retirement System (PERS), Teachers Retirement System (TRS) and the School Employees' Retirement System (SERS) would be impacted. As of September 30, 2003, there were 146,403 plan 2 members in PERS, TRS and SERS. Of this combined total, 117,262 are PERS Plan 2 members.
Current Situation	Provisions governing the current contribution rate setting process are codified under the Actuarial Funding Chapter - Chapter 41.45 RCW. In summary, these provisions provide for the systematic actuarial funding of the state retirement systems. Biennial actuarial valuations performed on odd-year valuation dates are the basis for contribution rate recommendations to the Pension Funding Council (PFC). Contribution rates adopted by the PFC in September of even-numbered years, referred to as "basic rates," are effective during

the ensuing biennium subject to revision by the Legislature. Temporary and “supplemental rates” are charged in addition to the basic rates to fund the cost of benefit enhancements that are granted by the Legislature in between the 2-year basic rate cycles.

History

The Pension Funding Reform Act, Chapter 273, Laws of 1989, established a systematic actuarial funding process for the state retirement systems. Contribution rates under the initial Funding Reform Act were scheduled to remain in place for a 6-year period. Additionally, the current funding policy was established including the goal to fully amortize the plan 1 unfunded liability by June 30, 2024. Prior to the Funding Reform Act, pension contributions were subject to a discretionary appropriation by the Legislature.

Projected Contribution Rates

Projected Employer Contribution Rates*

System	Current	2005-07	2007-09	2009-11
PERS	1.18%	5.73%	7.28%	8.44%
TRS	1.17%	6.74%	10.15%	12.73%
SERS	0.85%	7.56%	9.45%	10.69%

** Includes the cost of prefunding the liability for existing gain-sharing benefit provisions.*

Projected Plan 2 Member Contribution Rates*

System	Current	2005-07	2007-09	2009-11
PERS	1.18%	3.38%	4.27%	4.89%
TRS	0.87%	2.48%	4.01%	5.01%
SERS	0.85%	3.51%	4.68%	5.39%

** The member contribution rate in PERS and TRS Plan 1 is fixed at 6%. Plan 3 members do not contribute to the defined benefit portion of their plan.*

PFC Subgroup Proposal

The PFC subgroup of the SPCPP proposed a 6-year phase-in of projected employer and plan 2 member contribution rates. Additionally, a permanent contribution rate floor would be established at the completion of the 6-year phase-in period.

Proposed Employer Rates Under 6-Year Phase-In

Employer Rates With Phase-In

Period	PERS	TRS	SERS
2005-06	4.25%	5.00%	6.00%
2006-07	5.25%	6.75%	7.00%
2007-08	6.25%	8.75%	8.50%
2008-09	7.25%	10.75%	10.00%
2009-11	8.44%	12.73%	10.69%
Ultimate Rate*	9.47%	14.59%	11.71%

* The ultimate rate is the maximum projected employer contribution rate for the 25-year period.

Employer Rates Without Phase-In

Period	PERS	TRS	SERS
2005-06	5.73%	6.74%	7.56%
2006-07	5.73%	6.74%	7.56%
2007-08	7.28%	10.15%	9.45%
2008-09	7.28%	10.15%	9.45%
2009-11	8.44%	12.73%	10.69%
Ultimate Rate*	9.11%	14.28%	11.37%

* The ultimate rate is the maximum projected employer contribution rate for the 25-year period.

Proposed Plan 2 Member Rates Under 6-Year Phase-In

Plan 2 Member Rates With Phase-In

Period	PERS	TRS	SERS
2005-06	2.75%	2.00%	2.75%
2006-07	3.25%	2.75%	3.25%
2007-08	3.75%	3.50%	4.25%
2008-09	4.25%	4.25%	5.25%
2009-11	4.89%	5.01%	5.39%
Ultimate Rate*	5.35%	5.61%	5.83%

** The ultimate rate is the maximum projected member contribution rate for the 25-year period.*

Plan 2 Member Rates Without Phase-In

Period	PERS	TRS	SERS
2005-06	3.38%	2.48%	3.51%
2006-07	3.38%	2.48%	3.51%
2007-08	4.27%	4.01%	4.68%
2008-09	4.27%	4.01%	4.68%
2009-11	4.89%	5.01%	5.39%
Ultimate Rate*	5.18%	5.53%	5.68%

** The ultimate rate is the maximum projected member contribution rate for the 25-year period.*

Policy Analysis

The proposed phase-in of projected contribution rate increases would represent a temporary departure from existing funding policy and would require a statutory change to the existing funding policy defined under Chapter 41.45 RCW - Actuarial Funding of State Retirement Systems. Employer and plan 2 member contribution rates would drop below the amounts necessary to fully fund the plans 2/3 under the aggregate funding method during the phase-in period and then increase thereafter. Contributions to amortize the unfunded prior service costs in PERS 1 and TRS 1 during the phase-in period would also drop below the amounts that would otherwise be required and increase thereafter. The amortization date for the Plans 1, however, would remain unchanged.

This proposal is consistent with the existing policy that states that employer contribution rates should be predictable and remain a relatively constant proportion of future state budgets. This proposal would establish a fixed schedule of increasing contribution rates for a 6-year period, thereby increasing predictability, and would smooth out the impact of projected rate increases on future state and local government budgets. The addition of a permanent contribution rate floor at the completion of the phase-in period is also consistent with this policy – increasing the stability and predictability of future contribution rates.

This proposal is inconsistent with the existing policy to fund all Plan 2/3 benefits over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service, and would be a first-time departure from this policy. The proposal would effectively borrow plan assets in the short-term as a means of financing a schedule of deferred rate increases during the phase-in period - without permanently modifying existing funding policy. This would result in short-term savings, followed by a long-term cost.

Estimated Fiscal Impact

Increase in Projected Funding Expenditures

<i>(\$ in millions)</i>	GF-S	Non GF-S (State)	Local Government	Total Employer
2005-07				
PERS	\$ (35.8)	\$ (59.0)	\$ (84.0)	\$ (178.8)
TRS	(66.4)	0.0	(13.6)	(80.0)
SERS	(18.4)	0.0	(16.3)	(34.7)
Total Employer	\$ (120.6)	\$ (59.0)	\$ (113.9)	\$ (293.5)
2007-09				
PERS	\$ (19.6)	\$ (32.4)	\$ (46.1)	\$ (98.1)
TRS	(36.5)	0.0	(7.5)	(44.0)
SERS	(3.2)	0.0	(2.9)	(6.1)
Total Employer	\$ (59.3)	\$ (32.4)	\$ (56.5)	\$ (148.2)

<i>(\$ in millions)</i>	GF-S	Non GF-S (State)	Local Government	Total Employer
2009-11*				
PERS	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0
TRS	(4.0)	0.0	(0.8)	(4.8)
SERS	(0.5)	0.0	(0.4)	(0.9)
Total Employer	\$ (4.5)	\$ 0.0	\$ (1.2)	\$ (5.7)
25 Year				
PERS	\$ 73.1	\$ 120.7	\$ 171.9	\$ 365.7
TRS	143.0	0.0	29.3	172.3
SERS	35.2	0.0	31.2	66.4
Total Employer	\$ 251.3	\$ 120.7	\$ 232.4	\$ 604.3

*2007-09 rate increases for TRS and SERS are effective 9/1/2007 through 8/31/2009.

The proposed schedule of future rate increases should be adjusted for any significant divergence between actual and assumed experience - including the cost of any future benefit enhancements.

The estimated fiscal impact is based on the proposed schedule of rate increases presented in this paper. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2002 actuarial valuation report and using preliminary contribution rates from the 2003 actuarial valuation. The cost of adding a permanent contribution rate floor is not reflected.

The proposed schedule of future rate increases was developed under an actuarial projection of assets and liabilities. The emerging costs of the affected systems will vary from what is displayed in this paper to the extent that actual experience differs from that projected under the current actuarial assumptions.

This proposal assumes a fixed schedule of increasing contribution rates and a permanent contribution rate floor at the completion of the phase-in period. However a current Legislature cannot obligate a future Legislature for contribution rate increases that would impact a future biennial budget. The proposed schedule of future contribution rate increases, if approved by the 2005 Legislature, could be amended by a future Legislature. If the minimum funding requirements set forth in the schedule were not honored by future Legislatures, the costs in the tables above could be understated.

Revised Proposal (Amended)

The PFC subgroup directed the State Actuary to revise the original proposal to address the following concerns:

- the increases in the ultimate employer and member contribution rates caused by deferring contribution rate increases beyond the phase-in period; and
- the insufficient deferral of rate increases during the first year of the schedule for local government employers under PERS.

The revised proposal eliminates the increases in the ultimate employer and member rates by not deferring rate increases beyond the 4-year phase-in period. In other words, on a present value basis, the deferral of rate increases during the first biennium is offset by rate increases during the second biennium (for both employers and plan 2 members).

Additionally, the revised proposal provides a significant deferral of contribution rate increases for PERS employers and Plan 2 members during the first year of the proposed schedule. However, this significant deferral in year one is followed by significant increases during the third and fourth year of the schedule.

The revised proposal was amended for a .01% correction to the SERS employer contribution rate for 2008-09 and the plan 2 member rates for 2008-09 were adjusted to ensure that the present value of member contributions is equal under the “with” and “without” phase-in schedules.

Proposed Employer Rates Under 4-Year Phase-In

Employer Rates With Phase-In

Period	PERS	TRS	SERS
2005-06	2.50%	5.46%	4.70%
2006-07	5.50%	7.21%	7.45%
2007-08	8.25%	9.57%	10.01%
2008-09	9.96%	11.62%	12.04%
2009-11	8.44%	12.73%	10.69%
Ultimate Rate*	9.11%	14.28%	11.37%

** The ultimate rate is the maximum projected employer contribution rate for the 25-year period.*

Employer Rates Without Phase-In

Period	PERS	TRS	SERS
2005-06	5.73%	6.74%	7.56%
2006-07	5.73%	6.74%	7.56%
2007-08	7.28%	10.15%	9.45%
2008-09	7.28%	10.15%	9.45%
2009-11	8.44%	12.73%	10.69%
Ultimate Rate*	9.11%	14.28%	11.37%

* The ultimate rate is the maximum projected employer contribution rate for the 25-year period.

Proposed Plan 2 Member Rates Under 4-Year Phase-In

Plan 2 Member Rates With Phase-In

Period	PERS	TRS	SERS
2005-06	1.75%	1.75%	2.25%
2006-07	3.25%	2.75%	3.50%
2007-08	4.75%	3.75%	4.75%
2008-09	5.80%	4.91%	6.34%
2009-11	4.89%	5.01%	5.38%
Ultimate Rate*	5.18%	5.53%	5.68%

* The ultimate rate is the maximum projected member contribution rate for the 25-year period.

Plan 2 Member Rates Without Phase-In

Period	PERS	TRS	SERS
2005-06	3.38%	2.48%	3.51%
2006-07	3.38%	2.48%	3.51%
2007-08	4.27%	4.01%	4.68%
2008-09	4.27%	4.01%	4.68%
2009-11	4.89%	5.01%	5.38%
Ultimate Rate*	5.18%	5.53%	5.68%

* The ultimate rate is the maximum projected member contribution rate for the 25-year period.

Estimated Fiscal Impact - Revised Proposal

Increase in Projected Funding Expenditures

<i>(\$ in millions)</i>	GF-S	Non GF-S (State)	Local Government	Total Employer
2005-07				
PERS	\$ (55.9)	\$ (92.3)	\$ (131.5)	\$ (279.7)
TRS	(29.4)	0.0	(6.0)	(35.4)
SERS	(23.5)	0.0	(20.8)	(44.3)
Total Employer	\$ (108.8)	\$ (92.3)	\$ (158.3)	\$ (359.4)
2007-09				
PERS	\$ 68.6	\$ 113.2	\$ 161.3	\$ 343.1
TRS	27.6	0.0	5.7	33.3
SERS	24.3	0.0	21.5	45.8
Total Employer	\$ 120.5	\$ 113.2	\$ 188.5	\$ 422.2
2009-11*				
PERS	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0
TRS	11.5	0.0	2.3	13.8
SERS	4.9	0.0	4.3	9.2
Total Employer	\$ 16.4	\$ 0.0	\$ 6.6	\$ 23.0
25 Year				
PERS	\$ 12.7	\$ 20.9	\$ 29.8	\$ 63.4
TRS	9.8	0.0	2.0	11.8
SERS	5.6	0.0	5.0	10.6
Total Employer	\$ 28.1	\$ 20.9	\$ 36.8	\$ 85.8

*2007-09 rate increases for TRS and SERS are effective 9/1/2007 through 8/31/2009.

Contribution Rate Floor

The PFC subgroup recommended the adoption of a permanent contribution rate floor at the completion of any phase-in period. The following proposed contribution rate floor is consistent with, and could serve as an alternative to, the recommendation provided under the previous committee issue paper “Contribution Rate Setting - July 2, 2004.” The minimum Plan 2/3 normal cost rate would apply equally to both employers and Plan 2 employees, and once the Plan 1 UAAL is completely amortized, the Plan 2/3 normal cost would become the minimum contribution rate for employers as well.

Minimum Contribution Rates after June 30, 2009

System	Plan 2/3 Normal Cost	Plan 1 UAAL	Total Employer
PERS	4.00%	2.75%	6.75%
TRS	5.00%	5.75%	10.75%
SERS	4.25%	2.75%*	7.00%

* Contribution to the PERS 1 unfunded liability.

Executive Committee Recommendation

Staff was directed to prepare bill language for the November Executive Committee meeting and to prepare additional fiscal analysis for the December meeting.

Coordination with Other SCPP Proposals

This proposal was developed independent of the gain-sharing trade-off proposals from the Purchasing Power/Gain-Sharing subgroup. The deferred rate increases under the proposed schedule include gain-sharing costs for the employer. This schedule, and estimated fiscal impact, would require an amendment to exclude employer rate increases due to gain-sharing should another piece of legislation repeal or reduce future gain-sharing benefits.

Bill (Draft) - Amended

Attached. The revised proposal was amended for a .01% correction to the SERS employer contribution rate for 2008-09 and the plan 2 member rates for 2008-09 were adjusted to ensure that the present value of member contributions is equal under the “with” and “without” phase-in schedules.

Additional Fiscal Analysis

The proposed contribution rate schedule departs from the normal biennial rate-setting process by requiring four annual increases in rates. The rates are lower in the first two years than required by the 2003 actuarial valuation and higher in the second two years than required by the projected 2005 actuarial valuation. In other words, the proposal would effectively “borrow” plan assets in the 2005-07 biennium and repay the “borrowed” assets with 8% annual interest during the 2007-09 biennium.

This proposal can be thought of as generating a “short-term debt” to the pension system that would be repaid over the following biennium. The original proposal with a 6-year phase-in would not completely repay the debt over the phase-in period and, as a result, would create a “long-term debt” to the pension system. The payment of the long-term debt is reflected in the increase in the ultimate contribution rates for the affected systems.

Both schedules, whether they generate a short- or long-term debt, will be sensitive to experience that deviates from what is assumed over the phase-in period. Most significant will be the plan’s investment performance relative to the 8% assumption. We reviewed this sensitivity and determined it was minor. This is due in large part to the 13.73% preliminary investment rate of return for the plan year ending 9/30/2004 (source: WSIB) and the current asset smoothing method. The preliminary investment gain for the plan year ending 9/30/2004 is not reflected in the proposed schedule and, therefore, will be available to offset a significant portion of any investment loss that may occur during the plan year ending 9/30/2005. Furthermore, the current asset smoothing method dampens the short-term volatility of contribution rates. The results of the 9/30/2005 actuarial valuation will be the basis for the 2007-09 contribution rate recommendations and the basis for any adjustment to the rates in this proposed schedule if necessary.

It should also be noted that the proposed schedule of rate increases during the 2007-09 biennium, if approved by the 2005 Legislature, could be amended by a future Legislature. If the minimum funding requirements set forth in the schedule were not honored by future legislatures, the costs represented in this paper could be understated. For example, if the contribution savings during the 2005-07 biennium were not completely recouped with interest during the following biennium, and if they resulted in a permanent reduction of 2005-07 contributions, the short-term debt would effectively be restructured into a long-term debt that would increase the overall costs to the retirement system.

Fiscal Note (Draft)

A fiscal note on the revised proposal (amended) is attached.

1 AN ACT Relating to contribution rates for the public employees'
2 retirement system, the teachers' retirement system, the school
3 employees' retirement system, and the public safety employees'
4 retirement system; adding new sections to chapter 41.45 RCW;
5 decodifying RCW 41.45.054; providing effective dates; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.45 RCW
9 to read as follows:

10 The basic employer and state contribution rates and required plan
11 member contribution rates are changed to reflect the 2003 actuarial
12 valuation and actuarial projections of the 2005 actuarial valuation,
13 both of which incorporate the 2002 actuarial experience study conducted
14 by the office of the state actuary for 1995-2000. This contribution
15 rate schedule departs from the normal biennial process for setting
16 contribution rates by requiring four annual increases in rates. The
17 rates are lower in the first two years than required by the 2003
18 actuarial valuation and higher in the second two years than required by
19 the projected 2005 actuarial valuation. Upon completion of the 2005

1 actuarial valuation, the pension funding council and the state actuary
2 shall review the appropriateness of the contribution rates for 2007-
3 2008 and 2008-2009 and by September 30, 2006, the pension funding
4 council shall recommend to the legislature any adjustments as may be
5 needed due to material changes in benefits or actuarial assumptions,
6 methods, or experience. This contribution rate schedule also requires
7 a departure from the allocation formula for contributions in RCW
8 41.45.050.

9 (1) Beginning July 1, 2005, the following employer contribution
10 rate shall be charged: 2.50 percent for the public employees'
11 retirement system, of which .50 percent shall be allocated to the
12 unfunded actuarial accrued liability for the public employees'
13 retirement system plan 1.

14 (2) Beginning September 1, 2005, the following employer
15 contribution rates shall be charged:

16 (a) 4.70 percent for the school employees' retirement system, of
17 which .50 percent shall be allocated to the unfunded actuarial accrued
18 liability for the public employees' retirement system plan 1; and

19 (b) 5.46 percent for the teachers' retirement system, of which 2.25
20 percent shall be allocated to the unfunded actuarial accrued liability
21 for the teachers' retirement system plan 1.

22 (3) Beginning July 1, 2005, the following member contribution rate
23 shall be charged: 1.75 percent for the public employees' retirement
24 system plan 2.

25 (4) Beginning September 1, 2005, the following member contribution
26 rates shall be charged:

27 (a) 2.25 percent for the school employees' retirement system plan
28 2; and

29 (b) 1.75 percent for the teachers' retirement system plan 2.

30 (5) The contribution rates in subsections (1) through (4) of this
31 section shall be collected through June 30, 2006, for the public
32 employees' retirement system, and August 31, 2006, for the school
33 employees' retirement system and the teachers' retirement system.

34 (6) Beginning July 1, 2006, the following employer contribution
35 rate shall be charged: 5.50 percent for the public employees'
36 retirement system, of which 2.00 percent shall be allocated to the
37 unfunded actuarial accrued liability for the public employees'
38 retirement system plan 1.

1 (7) Beginning September 1, 2006, the following employer
2 contribution rates shall be charged:

3 (a) 7.45 percent for the school employees' retirement system, of
4 which 2.00 percent shall be allocated to the unfunded actuarial accrued
5 liability for the public employees' retirement system plan 1; and

6 (b) 7.21 percent for the teachers' retirement system, of which 3.00
7 percent shall be allocated to the unfunded actuarial accrued liability
8 for the teachers' retirement system plan 1.

9 (8) Beginning July 1, 2006, the following member contribution rate
10 shall be charged: 3.25 percent for the public employees' retirement
11 system plan 2.

12 (9) Beginning September 1, 2006, the following member contribution
13 rates shall be charged:

14 (a) 3.50 percent for the school employees' retirement system plan
15 2; and

16 (b) 2.75 percent for the teachers' retirement system plan 2.

17 (10) The contribution rates in subsections (6) through (9) of this
18 section shall be collected through June 30, 2007, for the public
19 employees' retirement system, and August 31, 2007, for the school
20 employees' retirement system and the teachers' retirement system.

21 (11) Beginning July 1, 2007, the following employer contribution
22 rate shall be charged: 8.25 percent for the public employees'
23 retirement system, of which 3.25 percent shall be allocated to the
24 unfunded actuarial accrued liability of the public employees'
25 retirement system plan 1.

26 (12) Beginning September 1, 2007, the following employer
27 contribution rates shall be charged:

28 (a) 10.01 percent for the school employees' retirement system, of
29 which 3.25 percent shall be allocated to the unfunded actuarial accrued
30 liability of the public employees' retirement system plan 1; and

31 (b) 9.57 percent for the teachers' retirement system, of which 4.45
32 percent shall be allocated to the unfunded actuarial accrued liability
33 of the teachers' retirement system plan 1.

34 (13) Beginning July 1, 2007, the following member contribution rate
35 shall be charged: 4.75 percent for the public employees' retirement
36 system plan 2.

37 (14) Beginning September 1, 2007, the following member contribution
38 rates shall be charged:

1 (a) 4.75 percent for the school employees' retirement system plan
2 2; and

3 (b) 3.75 percent for the teachers' retirement system plan 2.

4 (15) The contribution rates in subsections (11) through (14) of
5 this section shall be collected through June 30, 2008, for the public
6 employees' retirement system, and August 31, 2008, for the school
7 employees' retirement system and the teachers' retirement system.

8 (16) Beginning July 1, 2008, the following employer contribution
9 rate shall be charged: 9.96 percent for the public employees'
10 retirement system, of which 4.07 percent shall be allocated to the
11 unfunded actuarial accrued liability of the public employees'
12 retirement system plan 1.

13 (17) Beginning September 1, 2008, the following employer
14 contribution rates shall be charged:

15 (a) 12.04 percent for the school employees' retirement system, of
16 which 4.07 percent shall be allocated to the unfunded actuarial accrued
17 liability of the public employees' retirement system plan 1; and

18 (b) 11.62 percent for the teachers' retirement system, of which
19 5.48 percent shall be allocated to the unfunded actuarial accrued
20 liability of the teachers' retirement system plan 1.

21 (18) Beginning July 1, 2008, the following member contribution rate
22 shall be charged: 5.80 percent for the public employees' retirement
23 system plan 2.

24 (19) Beginning September 1, 2008, the following member contribution
25 rates shall be charged:

26 (a) 6.34 percent for the school employees' retirement system plan
27 2; and

28 (b) 4.91 percent for the teachers' retirement system plan 2.

29 (20) The contribution rates in subsections (16) through (19) of
30 this section shall be collected through June 30, 2009, for the public
31 employees' retirement system, and August 31, 2009, for the school
32 employees' retirement system and the teachers' retirement system.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.45 RCW
34 to read as follows:

35 Beginning July 1, 2009, for the public employees' retirement system
36 and the public safety employees' retirement system, and September 1,
37 2009, for the school employees' retirement system and the teachers'

1 retirement system, minimum basic employer and state contribution rates
2 and minimum required plan 2 member contribution rates are established.
3 In establishing these minimum rates, it is the intent of the
4 legislature to promote contribution rate stability over time. The
5 basic employer and state contribution rates and required plan 2 member
6 contribution rates as recommended by the pension funding council and
7 adopted by the legislature may exceed, but shall not drop below, these
8 minimum rates. Upon completion of each biennial actuarial valuation,
9 the pension funding council and the state actuary shall review the
10 appropriateness of the minimum contribution rates and the pension
11 funding council shall recommend to the legislature any adjustments as
12 may be needed due to material changes in benefits or actuarial
13 assumptions, methods, or experience.

14 (1) Beginning July 1, 2009, the following minimum employer
15 contribution rate shall be charged: 4.00 percent for the public
16 employees' retirement system.

17 (2) Beginning September 1, 2009, the following minimum employer
18 contribution rates shall be charged:

19 (a) 4.25 percent for the school employees' retirement system; and

20 (b) 5.00 percent for the teachers' retirement system.

21 (3) Beginning July 1, 2009, the following minimum member
22 contribution rate shall be charged: 4.00 percent for the public
23 employees' retirement system plan 2.

24 (4) Beginning September 1, 2009, the following minimum member
25 contribution rates shall be charged:

26 (a) 4.25 percent for the school employees' retirement system plan
27 2; and

28 (b) 5.00 percent for the teachers' retirement system plan 2.

29 (5) Beginning July 1, 2009, an additional minimum 2.75 percent is
30 added to the minimum employer contribution rate of 4.00 percent for the
31 public employees' retirement system until the actuarial value of assets
32 equals one hundred twenty-five percent of the actuarial accrued
33 liability for the public employees' retirement system plan 1 or June
34 30, 2024, whichever comes first.

35 (6) Beginning July 1, 2009, an additional minimum 2.75 percent is
36 added to the basic employer contribution rate for the public safety
37 employees' retirement system until the actuarial value of public
38 employees' retirement system plan 1 assets equals one hundred

1 twenty-five percent of the actuarial accrued liability for the public
2 employees' retirement system plan 1 or June 30, 2024, whichever comes
3 first.

4 (7) Beginning September 1, 2009, an additional minimum 2.75 percent
5 is added to the minimum employer contribution rate of 4.25 percent for
6 the school employees' retirement system until the actuarial value of
7 public employees' retirement system plan 1 assets equals one hundred
8 twenty-five percent of the actuarial accrued liability for the public
9 employees' retirement system plan 1 or June 30, 2024, whichever comes
10 first.

11 (8) Beginning September 1, 2009, an additional 5.75 percent is
12 added to the minimum employer contribution rate of 5.00 percent for the
13 teachers' retirement system until the actuarial value of assets equals
14 one hundred twenty-five percent of the actuarial accrued liability for
15 the teachers' retirement system plan 1 or June 30, 2024, whichever
16 comes first.

17 NEW SECTION. **Sec. 3.** RCW 41.45.054 is decodified, effective
18 September 1, 2005.

19 NEW SECTION. **Sec. 4.** Section 1 of this act is necessary for the
20 immediate preservation of the public peace, health, or safety, or
21 support of the state government and its existing public institutions,
22 and takes effect July 1, 2005.

23 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect July 1,
24 2009.

--- END ---

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/24/2004	Z-0208.2/ Z-0209.2

SUMMARY OF BILL:

This bill impacts the Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), School Employees' Retirement System (SERS), and Public Safety Employees' Retirement System (PSERS) by establishing required basic employer and state contribution rates and required Plan 2 member contribution rates. Section 1 of the bill establishes a four-year schedule for contribution rates that departs from the normal biennial process for setting rates. The schedule requires four **annual** increases in rates, and departs from the usual formula for allocating contributions among the plans. For PERS and SERS, the rates are lower in the first two years than required by the 2003 actuarial valuation and are higher in the second two years than required by the projected 2005 actuarial valuation. For TRS, the rates are lower in the first year of each biennium and higher in the second year. The schedule thus allows for a gradual phase-in of required increases in contribution rates.

Section 2 of the bill establishes **minimum** basic employer and state contribution rates and required Plan 2 member contribution rates to promote rate stability over time. These minimum rates function as a "floor" beneath which contribution rates are not intended to drop.

The pension funding council is required to review the appropriateness of these rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods or experience.

Effective Date: Section 1 of the bill is effective July 1, 2005. Section 2 of the bill is effective July 1, 2009.

CURRENT SITUATION:

The required employer contribution rates without the four-year phase-in are:

Period	PERS	TRS	SERS
2005-06	5.73%	6.74%	7.56%
2006-07	5.73%	6.74%	7.56%
2007-08	7.28%	10.15%	9.45%
2008-09	7.28%	10.15%	9.45%

Includes the cost of future gain-sharing benefits

The required Plan 2 member contribution rates without the four-year phase-in are:

Period	PERS	TRS	SERS
2005-06	3.38%	2.48%	3.51%
2006-07	3.38%	2.48%	3.51%
2007-08	4.27%	4.01%	4.68%
2008-09	4.27%	4.01%	4.68%

There is currently no contribution rate floor in effect for PERS, TRS, SERS or PSERS.

On September 24, 2004, the Pension Funding Council adopted the “without phase-in” contribution rates for 2005-07 effective July 1, 2005 only if affirmatively approved in advance by the Legislature.

MEMBERS IMPACTED:

We estimate that all active Plan 2 members of PERS, TRS, and SERS would be affected by this bill. This includes 117,262 out of 154,550 active members for PERS, 7,637 out of 66,075 for TRS, and 27,710 out of 49,214 for SERS.

We estimate that for a typical member impacted by this bill, there would be no increase in benefits, but there would be a deferral of contributions. The member contributions would be significantly lower in the first year and significantly higher in the fourth year. The member contributions in the first year would be lower by 0.73% to 1.63% of pay. The member contributions in years two and three would range from being lower by 0.26% of pay to being higher by 0.48% of pay. The member contributions in the fourth year would be higher by 0.90% to 1.66% of pay.

ASSUMPTIONS:

The actuarial present value of future contributions under the proposed schedule is equal to the present value of future contributions under the “without phase-in” schedule. This equivalency is based on an 8% assumed rate of return and the economic and demographic assumptions disclosed in the 2002 Actuarial Valuation Report.

FISCAL IMPACT:

Description:

While the actuarial present value of the change in rates is zero, there is a future value cost on a cash flow basis. The cost shown is the interest on the deferred contributions at the assumed rate of return of 8%.

The estimated fiscal impact does not include cost associated with the contribution rate floor established at July 1, 2009 since the floor rates would not impact contribution rates in the long run. The short-term increase in rates during years in which the floor applies would be offset by lower rates in subsequent years.

The contribution rate floor could result in long-term savings to the extent that investment earnings from the “extra” contributions due to the floor are used to reduce future contribution requirements. There would be a cost to establishing a floor if the extra contributions are used to fund future benefit improvements in lieu of reducing future contribution requirements.

We considered but did not include any cost impact associated with the timing of extra contributions due to the floor or when the extra contributions would be invested relative to investment market cycles.

Actuarial Determinations:

The bill would not change the present value of benefits payable under the Systems. The bill will impact the contribution rates effective for the four years beginning on July 1, 2005 for PERS and the four years beginning on September 1, 2005 for TRS and SERS as shown below:

System:	PERS	TRS	SERS
Increase (Decrease) in Contribution Rates:			
2005 - 2006 Employee	(1.63%)	(0.73%)	(1.26%)
2005 - 2006 Employer State	(3.23%)	(1.28%)	(2.86%)
2006 - 2007 Employee	(0.13%)	0.27%	(0.01%)
2006 - 2007 Employer State	(0.23%)	0.47%	(0.11%)
2007 - 2008 Employee	0.48%	(0.26%)	0.07%
2007 - 2008 Employer State	0.97%	(0.58%)	0.56%
2008 - 2009 Employee	1.53%	0.90%	1.66%
2008 - 2009 Employer State	2.68%	1.47%	2.59%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase (decrease) in funding expenditures is projected to be:

Costs (in Millions):	<u>PERS</u>	<u>TRS</u>	<u>SERS</u>	<u>Total</u>
2005-2007				
State:				
General Fund	(\$54.3)	(\$30.0)	(\$23.6)	(\$107.9)
Non-General Fund	<u>(\$89.6)</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>(\$89.6)</u>
Total State	(\$143.9)	(\$30.0)	(\$23.6)	(\$197.5)
Local Government	(\$127.7)	(\$6.1)	(\$20.9)	(\$154.7)
Total Employer	(\$271.6)	(\$36.1)	(\$44.5)	(\$352.2)
Total Employee	(\$95.3)	(\$2.2)	(\$5.8)	(\$103.3)
2007-2009				
State:				
General Fund	\$66.6	\$28.2	\$24.4	\$119.2
Non-General Fund	<u>\$110.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$110.0</u>
Total State	\$176.6	\$28.2	\$24.4	\$229.2
Local Government	\$156.6	\$5.8	\$21.6	\$184.0
Total Employer	\$333.2	\$34.0	\$46.0	\$413.2
Total Employee	\$117.2	\$2.2	\$5.9	\$125.3
2005-2030				
State:				
General Fund	\$12.3	\$10.0	\$5.7	\$28.0
Non-General Fund	<u>\$20.3</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$20.3</u>
Total State	\$32.6	\$10.0	\$5.7	\$48.3
Local Government	\$28.9	\$2.0	\$5.0	\$35.9
Total Employer	\$61.5	\$12.0	\$10.7	\$84.2
Total Employee	\$21.8	\$0.7	\$1.5	\$24.0

State Actuary's Comments:

The proposed schedule of deferred rate increases includes the cost of future gain-sharing benefits for the employer. This schedule and fiscal note would require amendment to exclude employer rate increases due to gain-sharing should another piece of Legislation repeal or reduce future gain-sharing benefits.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Public Employee's Retirement System, Teachers Retirement System and School Employee's Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
 4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Actuarial accrued liability: Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Interruptive Military Service

Background

The federal Uniformed Services Employment and Re-employment Rights Act (USERRA) provides for the restoration of retirement benefits for those whose public employment has been interrupted by military service. A veteran must be re-employed to trigger USERRA rights. Thus, USERRA does not address the retirement benefits that would have accrued to members who die while in active service or those who are unable to be re-employed due to a total disability.

Committee Activity

Presentations:

September 7, 2004 - Executive Committee
October 19, 2004 - Full Committee
November 9, 2004 - Executive Committee
December 7, 2004 - Full Committee

Proposal:

December 7, 2004 - Full Committee

Recommendation to Legislature

Allow the survivors of a member who dies while performing interruptive military service to pay the contributions that the member would have paid but for the military service, and allow the member's service credit to accrue to the date of death. Similarly, allow a member who becomes totally disabled while performing interruptive military service to pay the contributions the member would have paid but for the military service, and receive service credit up to the date of disability.

Staff Contact

Laura Harper, Senior Research Analyst/Legal
360-586-7616 – harper.laura@leg.wa.gov

Select Committee on Pension Policy

Interruptive Military Service Credit

(November 16, 2004)

Issue The issue before the Select Committee on Pension Policy is whether to expand opportunities for members of the Washington State Retirement Systems to acquire service credit for periods of interruptive military service.

Staff Laura Harper, Senior Research Analyst/Legal
360-586-7616

Members Impacted All members of Washington's retirement systems may avail themselves of some form of military service credit. "Interruptive" military service credit is available to those who interrupt public employment to serve in the uniformed military branches of the United States. This type of service is governed by the federal Uniformed Services Employment and Re-employment Rights Act (USERRA)¹. The act is described in more detail under the heading "Current Situation."

Current Situation

Interruptive military service is governed by federal law. At a minimum, public employers must provide the protections specified in the Uniformed Services Employment and Re-employment Rights Act (USERRA). USERRA was signed into law in 1994, with amendments made in 1996, 1998 and 2000. This law provides for the re-employment of individuals who leave employment to serve in the uniformed military branches. Included in USERRA's re-employment rights is the right to restoration of retirement plan benefits.

For employers, the fundamental requirement of USERRA as it relates to retirement plan benefits is to provide for recovery of the benefits that a re-employed participant did not receive due to qualifying military service. The employee must be treated for vesting and benefit accrual purposes as if he or she had remained continuously employed. Employers do not have to begin making up pension contributions until after the veteran returns to civilian employment with the same employer. Employers may fund makeup contributions over a period of three times the military service period, not to exceed five years. A rehired veteran is not entitled to missed allocations for any lost earnings on makeup contributions.

Generally, under USERRA, rehired veterans have up to three times the period of service - not to exceed five years - to make up missed employee contributions. The amount of makeup contributions is subject to the limits that would have applied during the military service period. No interest is charged on the contributions, because rehired veterans can only be charged the amount they would have been permitted or required to contribute had they remained continuously employed throughout the period of military service. The Washington State Retirement Systems allow a five-year payback period for employee contributions, regardless of the period of military service. Under USERRA there are exceptions to this general rule that may allow for a longer payback period.

The following hypothetical example illustrates how a member who is called into active duty may obtain service credit for interruptive military service. Consider a member of the Washington State Patrol Retirement System (WSPRS) who was hired July 1, 1999 and was called into active service from July 1, 2003 through June 30, 2004 after completing four years of service with WSPRS. This member's salary was \$40,000 when he left employment and he was required to make an employee contribution of 2% of salary during the period of active service. There was no required employer contribution. Assuming that the member is re-employed upon his return from active duty (according to the terms and conditions set forth in USERRA), the member has five years (more generous than USERRA's three years) to pay back the contributions he would have paid had he remained continuously employed. Therefore his total payment obligation is:

$$2\% \times \$40,000 \times 1 \text{ year} = \$800$$

Assuming repayment, the member is treated as if he had been continuously employed and his service credit had continued to accrue while away on active duty. The member's vesting date (based on a five-year vesting period for this plan) will be July 1, 2004. *Note:* the member's payback will vary from plan to plan, as member contribution rates differ throughout the Washington State Retirement Systems. Also, several of the Plans 1 (PERS 1, LEOFF 1 and Washington State Patrol "Plan 1") allow interruptive military service credit at no cost to the member if certain statutory conditions are met. See RCW 41.40.170, 41.46.190, 43.43.130(5) and 43.43.260(3)(a).

USERRA pre-empts state retirement policy in that all public employers must meet the minimum requirements of this federal law. However, states have the discretion to go beyond USERRA and grant benefits for the period of interruptive service that are more generous than those available under the act. The goal of USERRA is to treat employees who are called to active duty as if they had been continuously employed. Employers who choose to go beyond USERRA may reward active duty by paying all or part of the contributions that the member would have paid during the period of active duty. They may also provide all or part of the member's salary during the period of active service.

Options to Address Limitations of USERRA

1. Death in Service

While USERRA provides for the restoration of retirement benefits upon re-employment of a member whose public employment was interrupted by military service, it does not address the retirement benefits that would have accrued to members who die while in active service or those who are unable to be re-employed due to a disability. Thus, for example, if a PERS 2 member would have reached ten years of service during the period of interruptive military service and dies in action, but had only nine years of service credit prior to leaving for active duty, the surviving spouse would be limited to a refund (based on nine years of service credit) and would not be able to receive a survivor benefit in the nature of a pension payment (based on ten years of service credit). This could be remedied by allowing the surviving spouse to pay the contributions that the member would have paid but for the military service, and allowing the service credit to accrue to the date of death.

2. Total Disability in Service

Similarly, if the same member whose public employment was interrupted by military service becomes totally incapacitated for continued employment, that member's disability allowance would be based upon service credit up to the date he/she left employment for military service instead of to the date of disability. Allowing the disabled member to pay the member contributions and restore service credit up to the date of disability would be consistent with the federal policy of treating the veteran for vesting and benefit accrual purposes as if he/she had been continuously employed.

3. Employer Payments During Military Leave

Several Washington public employers (e.g. Pierce, Grant and King counties) have decided to voluntarily supplement the salary of members on military leave. Currently, such income cannot be reported to the Department of Retirement Systems (DRS). Also, federal law is currently unclear as to the status of such income under IRS rules, and federal legislation is pending to address this issue. Thus, at the present time, none of these members can continue to accrue service credit while on active duty. They are, however, relieved of paying employee contributions during the period of military leave. As provided in USERRA, such members must wait until re-employment and pay back the member contributions they would have made had they been continuously employed so that service credit can be awarded. For vesting and accrual purposes, such members will still be treated as if they had been continuously employed.

Allowing employers to report these voluntary payments to DRS would enable some members to continue to accrue service credit during periods of interruptive military service for as long as their pension contributions are being paid. In some instances, this approach could result in service credit being awarded for a period of military service that does not result in an honorable discharge. It could also allow for benefit accruals even when the member, for whatever reason, does not return to the retirement system. Thus some members who never would have qualified for interruptive military service credit at all may be awarded service credit under this kind of provision. While such service credit could later be

forfeited, DRS reportedly does not have a mechanism for tracking those who do not return from service and who are dishonorably discharged. In addition, OSA staff has been advised that DRS has no mechanism to forfeit service credit when contributions have already been paid.

The above-described options have been explored by the LEOFF 2 Board as possible legislative options for 2005, although no action has been taken by the Board as of the date of this report.

Executive Committee Recommendation

On September 7, 2005 the Executive Committee recommended that new legislation be presented to the full SCPP that would address the limitations of USERRA. These limitations have to do with the fact that under USERRA a veteran must be re-employed to trigger USERRA rights; and those who die or become totally disabled while in service are not able to reinstate service credit under USERRA because they are not re-employed. The Executive Committee also suggested that the SCPP consider amendments to existing law that would allow members whose public employment is interrupted by serving in the military and whose employers are voluntarily paying salary during military leave to accrue service credit while serving in the uniformed services. This would be accomplished by allowing such pay to be reported to the Department of Retirement Systems (DRS) for pension purposes, and allowing the accrual of corresponding service credit if the member and employer continue to pay the required pension contributions during the period of interruptive service.

A bill draft was prepared for the October 19, 2004 SCPP meeting and the full committee heard an updated report on this issue. The bill draft included three elements: one related to death in service, one related to total disability in service, and one related to voluntary employer payments during service. No action was taken by the full committee at that time. The Executive Committee, however, requested that the Department of Retirement Systems submit a memo to the full committee documenting its administrative and policy concerns with the third element of the bill draft, and that staff work with DRS to revise the draft legislation.

A second bill draft was presented to the Executive Committee on November 9, 2004. This draft included the death and disability elements, but deleted the employer pay element. The Executive Committee recommended that this second version of the bill be forwarded to the full committee.

Bill Draft

The proposed bill draft is attached. The draft addresses service credit for those who are not re-employed due to death or total disability while serving in the uniformed services. As in the prior draft, where interruptive military service credit is already available to members at no cost, the draft continues the no-cost policy for survivors of deceased veterans and members who become totally disabled. LEOFF 1 is not included in the draft because members of that plan already receive free interruptive military service credit and there is no re-employment requirement.

Fiscal Note (Draft)

A draft fiscal note is attached.

Administrative Impacts

The Department of Retirement Systems provided written documentation of its concerns with the original (first) draft of the proposed legislation in its letter to the Chair and Vice Chair dated October 28, 2004. A copy of the letter is attached.

1. For complete information about USERRA, see the USERRA Advisor, <http://www.dol.gov/elaws/userra.htm>.



STATE OF WASHINGTON
DEPARTMENT OF RETIREMENT SYSTEMS

PO Box 48380 • Olympia WA 98504-8380 • (360) 664-7000 • Toll Free 1-800-547-6657

October 28, 2004

The Honorable Karen Fraser, Chair
The Honorable Steve Conway, Vice-Chair
Select Committee on Pension Policy
Post Office Box 40914
Olympia, Washington 98504-0914

RECEIVED

OCT 28 2004

Office of
The State Actuary

Dear Senator Fraser and Representative Conway:

Subject: Purchase of Interruptive Military Service Credit

At the October 19, 2004 Select Committee on Pension Policy (SCPP) meeting, the Department of Retirement Systems (DRS) was asked to provide input on the proposal to allow the purchase of retirement service credit for service men and women on interruptive military leave. DRS supports the death and disability provisions of the proposal, but has concerns about the third provision which would allow employers to report as earnable compensation any offset salary being paid to the employee.

Current Federal and State law on interruptive military service is consistent in two areas:

- It requires that service be designated as honorable.
- It requires the employee to return to covered service if he or she is able.

The death and disability proposals also require the military service to be deemed as honorable. If however, employers are allowed to report a salary offset to DRS (the third provision), a situation exists where the member may earn partial or total service credit for periods where the nature of the military service could be dishonorable, and where a return to employment is not required or does not occur. This creates an inequity in the treatment of those members not receiving the pay offset who must serve honorably and return to covered employment in order to purchase their missing service.

As I mentioned at the October 19th meeting, the current process for purchasing service for interruptive leave is both easy and efficient. With an average cost of approximately \$1,700 for nine months of service credit, a member can initiate the purchase with a simple phone call and can take up to five years to pay with no interest. Members may pay in installments or with a lump sum at anytime during the five years. This same process would be utilized to implement the death and disability proposals. While reporting an offset salary creates no additional cost by itself, there would be increased administrative cost if DRS is required to begin tracking offset pay and related service credit.

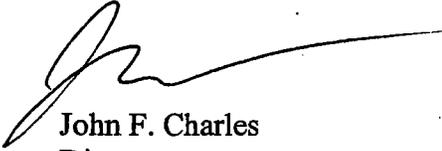


Senator Karen Fraser
Representative Steve Conway
October 28, 2004
Page 2

As noted above, the death and disability proposals are in alignment with Federal and State law and the existing policy and process for purchasing interruptive military service. However, allowing service to be earned due to reporting offset pay goes beyond the current policy and creates inequity in the treatment of members. Based on this information I encourage the removal of the reporting of offset salary from the proposal.

Please contact me at 664-7312 if you would like to discuss this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Charles", with a long horizontal flourish extending to the right.

John F. Charles
Director

1 AN ACT Relating to interruptive military service credit within the
2 public employees' retirement system, the school employees' retirement
3 system, the teachers' retirement system, the law enforcement officers'
4 and fire fighters' retirement system plan 2, the Washington state
5 patrol retirement system, and the public safety employees' retirement
6 system; amending RCW 41.40.170, 41.40.710, 41.40.805, 41.35.470,
7 41.35.650, 41.32.260, 41.32.810, 41.32.865, 41.26.520, 43.43.260, and
8 41.37.260; and providing an effective date.

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

10 **Sec. 1.** RCW 41.40.170 and 2002 c 27 s 2 are each amended to read
11 as follows:

12 (1) A member who has served or shall serve on active federal
13 service in the military or naval forces of the United States and who
14 left or shall leave an employer to enter such service shall be deemed
15 to be on military leave of absence if he or she has resumed or shall
16 resume employment as an employee within one year from termination
17 thereof.

18 (2) If he or she has applied or shall apply for reinstatement of
19 employment, within one year from termination of the military service,

1 and is refused employment for reasons beyond his or her control, he or
2 she shall, upon resumption of service within ten years have such
3 service credited to him or her.

4 (3) In any event, after completing twenty-five years of creditable
5 service, any member may have service in the armed forces credited to
6 him or her as a member whether or not he or she left the employ of an
7 employer to enter the armed service: PROVIDED, That in no instance,
8 described in this section, shall military service in excess of five
9 years be credited: AND PROVIDED FURTHER, That in each instance the
10 member must restore all withdrawn accumulated contributions, which
11 restoration must be completed within five years of membership service
12 following the first resumption of employment or complete twenty-five
13 years of creditable service: AND PROVIDED FURTHER, That this section
14 will not apply to any individual, not a veteran within the meaning of
15 RCW 41.04.005.

16 (4) The surviving spouse or eligible child or children of a member
17 who left the employ of an employer to enter the uniformed services of
18 the United States and died while serving in the uniformed services may,
19 on behalf of the deceased member, apply for retirement system service
20 credit under this subsection up to the date of the member's death in
21 the uniformed services. The department shall establish the deceased
22 member's service credit if the surviving spouse or eligible child or
23 children:

24 (a) Provides to the director proof of the member's death while
25 serving in the uniformed services; and

26 (b) Provides to the director proof of the member's honorable
27 service in the uniformed services prior to the date of death.

28 (5) A member who leaves the employ of an employer to enter the
29 uniformed services of the United States and becomes totally
30 incapacitated for continued employment by an employer while serving in
31 the uniformed services is entitled to retirement system service credit
32 under this subsection up to the date of discharge from the uniformed
33 services if:

34 (a) The member obtains a determination from the director that he or
35 she is totally incapacitated for continued employment due to conditions
36 or events that occurred while serving in the uniformed services; and

37 (b) The member provides to the director proof of honorable
38 discharge from the uniformed services.

1 **Sec. 2.** RCW 41.40.710 and 2000 c 247 s 1106 are each amended to
2 read as follows:

3 (1) A member who is on a paid leave of absence authorized by a
4 member's employer shall continue to receive service credit as provided
5 for under the provisions of RCW 41.40.610 through 41.40.740.

6 (2) A member who receives compensation from an employer while on an
7 authorized leave of absence to serve as an elected official of a labor
8 organization, and whose employer is reimbursed by the labor
9 organization for the compensation paid to the member during the period
10 of absence, may also be considered to be on a paid leave of absence.
11 This subsection shall only apply if the member's leave of absence is
12 authorized by a collective bargaining agreement that provides that the
13 member retains seniority rights with the employer during the period of
14 leave. The compensation earnable reported for a member who establishes
15 service credit under this subsection may not be greater than the salary
16 paid to the highest paid job class covered by the collective bargaining
17 agreement.

18 (3) Except as specified in subsection (4) of this section, a member
19 shall be eligible to receive a maximum of two years service credit
20 during a member's entire working career for those periods when a member
21 is on an unpaid leave of absence authorized by an employer. Such
22 credit may be obtained only if:

23 (a) The member makes both the plan 2 employer and member
24 contributions plus interest as determined by the department for the
25 period of the authorized leave of absence within five years of
26 resumption of service or prior to retirement whichever comes sooner; or

27 (b) If not within five years of resumption of service but prior to
28 retirement, pay the amount required under RCW 41.50.165(2).

29 The contributions required under (a) of this subsection shall be
30 based on the average of the member's compensation earnable at both the
31 time the authorized leave of absence was granted and the time the
32 member resumed employment.

33 (4) A member who leaves the employ of an employer to enter the
34 (~~armed forces~~) uniformed services of the United States shall be
35 entitled to retirement system service credit for up to five years of
36 military service. This subsection shall be administered in a manner
37 consistent with the requirements of the federal uniformed services
38 employment and reemployment rights act.

1 (a) The member qualifies for service credit under this subsection
2 if:

3 (i) Within ninety days of the member's honorable discharge from the
4 uniformed services of the United States ((armed forces)), the member
5 applies for reemployment with the employer who employed the member
6 immediately prior to the member entering the ((United States armed
7 forces)) uniformed services; and

8 (ii) The member makes the employee contributions required under RCW
9 41.45.061 and 41.45.067 within five years of resumption of service or
10 prior to retirement, whichever comes sooner; or

11 (iii) Prior to retirement and not within ninety days of the
12 member's honorable discharge or five years of resumption of service the
13 member pays the amount required under RCW 41.50.165(2).

14 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
15 or (e)(iii) of this subsection, the department shall establish the
16 member's service credit and shall bill the employer for its
17 contribution required under RCW 41.45.060, 41.45.061, and 41.45.067 for
18 the period of military service, plus interest as determined by the
19 department.

20 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
21 of this subsection shall be based on the compensation the member would
22 have earned if not on leave, or if that cannot be estimated with
23 reasonable certainty, the compensation reported for the member in the
24 year prior to when the member went on military leave.

25 (d) The surviving spouse or eligible child or children of a member
26 who left the employ of an employer to enter the uniformed services of
27 the United States and died while serving in the uniformed services may,
28 on behalf of the deceased member, apply for retirement system service
29 credit under this subsection up to the date of the member's death in
30 the uniformed services. The department shall establish the deceased
31 member's service credit if the surviving spouse or eligible child or
32 children:

33 (i) Provides to the director proof of the member's death while
34 serving in the uniformed services;

35 (ii) Provides to the director proof of the member's honorable
36 service in the uniformed services prior to the date of death; and

37 (iii) Pays the employee contributions required under chapter 41.45

1 RCW within five years of the date of death or prior to the distribution
2 of any benefit, whichever comes first.

3 (e) A member who leaves the employ of an employer to enter the
4 uniformed services of the United States and becomes totally
5 incapacitated for continued employment by an employer while serving in
6 the uniformed services is entitled to retirement system service credit
7 under this subsection up to the date of discharge from the uniformed
8 services if:

9 (i) The member obtains a determination from the director that he or
10 she is totally incapacitated for continued employment due to conditions
11 or events that occurred while serving in the uniformed services;

12 (ii) The member provides to the director proof of honorable
13 discharge from the uniformed services; and

14 (iii) The member pays the employee contributions required under
15 chapter 41.45 RCW within five years of the director's determination of
16 total disability or prior to the distribution of any benefit, whichever
17 comes first.

18 **Sec. 3.** RCW 41.40.805 and 2000 c 247 s 306 are each amended to
19 read as follows:

20 (1) A member who is on a paid leave of absence authorized by a
21 member's employer shall continue to receive service credit.

22 (2) A member who receives compensation from an employer while on an
23 authorized leave of absence to serve as an elected official of a labor
24 organization, and whose employer is reimbursed by the labor
25 organization for the compensation paid to the member during the period
26 of absence, may also be considered to be on a paid leave of absence.
27 This subsection shall only apply if the member's leave of absence is
28 authorized by a collective bargaining agreement that provides that the
29 member retains seniority rights with the employer during the period of
30 leave. The earnable compensation reported for a member who establishes
31 service credit under this subsection may not be greater than the salary
32 paid to the highest paid job class covered by the collective bargaining
33 agreement.

34 (3) Except as specified in subsection (4) of this section, a member
35 shall be eligible to receive a maximum of two years service credit
36 during a member's entire working career for those periods when a member

1 is on an unpaid leave of absence authorized by an employer. Such
2 credit may be obtained only if:

3 (a) The member makes the contribution on behalf of the employer,
4 plus interest, as determined by the department; and

5 (b) The member makes the employee contribution, plus interest, as
6 determined by the department, to the defined contribution portion.

7 The contributions required shall be based on the average of the
8 member's earnable compensation at both the time the authorized leave of
9 absence was granted and the time the member resumed employment.

10 (4) A member who leaves the employ of an employer to enter the
11 (~~armed forces~~) uniformed services of the United States shall be
12 entitled to retirement system service credit for up to five years of
13 military service if within ninety days of the member's honorable
14 discharge from the uniformed services of the United States (~~armed~~
15 ~~forces~~), the member applies for reemployment with the employer who
16 employed the member immediately prior to the member entering the
17 (~~United States armed forces~~) uniformed services. This subsection
18 shall be administered in a manner consistent with the requirements of
19 the federal uniformed services employment and reemployment rights act.

20 The department shall establish the member's service credit and
21 shall bill the employer for its contribution required under RCW
22 41.45.060 and 41.45.067 for the period of military service, plus
23 interest as determined by the department. Service credit under this
24 subsection may be obtained only if the member makes the employee
25 contribution to the defined contribution portion as determined by the
26 department.

27 The contributions required shall be based on the compensation the
28 member would have earned if not on leave, or if that cannot be
29 estimated with reasonable certainty, the compensation reported for the
30 member in the year prior to when the member went on military leave.

31 (a) The surviving spouse or eligible child or children of a member
32 who left the employ of an employer to enter the uniformed services of
33 the United States and died while serving in the uniformed services may,
34 on behalf of the deceased member, apply for retirement system service
35 credit under this subsection up to the date of the member's death in
36 the uniformed services. The department shall establish the deceased
37 member's service credit if the surviving spouse or eligible child or
38 children:

1 (i) Provides to the director proof of the member's death while
2 serving in the uniformed services;

3 (ii) Provides to the director proof of the member's honorable
4 service in the uniformed services prior to the date of death; and

5 (iii) Pays the employee contributions required under this
6 subsection within five years of the date of death or prior to the
7 distribution of any benefit, whichever comes first.

8 (b) A member who leaves the employ of an employer to enter the
9 uniformed services of the United States and becomes totally
10 incapacitated for continued employment by an employer while serving in
11 the uniformed services is entitled to retirement system service credit
12 under this subsection up to the date of discharge from the uniformed
13 services if:

14 (i) The member obtains a determination from the director that he or
15 she is totally incapacitated for continued employment due to conditions
16 or events that occurred while serving in the uniformed services;

17 (ii) The member provides to the director proof of honorable
18 discharge from the uniformed services; and

19 (iii) The member pays the employee contributions required under
20 this subsection within five years of the director's determination of
21 total disability or prior to the distribution of any benefit, whichever
22 comes first.

23 **Sec. 4.** RCW 41.35.470 and 1998 c 341 s 108 are each amended to
24 read as follows:

25 (1) A member who is on a paid leave of absence authorized by a
26 member's employer shall continue to receive service credit as provided
27 for under the provisions of RCW 41.35.400 through 41.35.599.

28 (2) A member who receives compensation from an employer while on an
29 authorized leave of absence to serve as an elected official of a labor
30 organization, and whose employer is reimbursed by the labor
31 organization for the compensation paid to the member during the period
32 of absence, may also be considered to be on a paid leave of absence.
33 This subsection shall only apply if the member's leave of absence is
34 authorized by a collective bargaining agreement that provides that the
35 member retains seniority rights with the employer during the period of
36 leave. The compensation earnable reported for a member who establishes

1 service credit under this subsection may not be greater than the salary
2 paid to the highest paid job class covered by the collective bargaining
3 agreement.

4 (3) Except as specified in subsection (4) of this section, a member
5 shall be eligible to receive a maximum of two years service credit
6 during a member's entire working career for those periods when a member
7 is on an unpaid leave of absence authorized by an employer. Such
8 credit may be obtained only if:

9 (a) The member makes both the plan 2 employer and member
10 contributions plus interest as determined by the department for the
11 period of the authorized leave of absence within five years of
12 resumption of service or prior to retirement whichever comes sooner; or

13 (b) If not within five years of resumption of service but prior to
14 retirement, pay the amount required under RCW 41.50.165(2).

15 The contributions required under (a) of this subsection shall be
16 based on the average of the member's compensation earnable at both the
17 time the authorized leave of absence was granted and the time the
18 member resumed employment.

19 (4) A member who leaves the employ of an employer to enter the
20 (~~(armed forces)~~) uniformed services of the United States shall be
21 entitled to retirement system service credit for up to five years of
22 military service. This subsection shall be administered in a manner
23 consistent with the requirements of the federal uniformed services
24 employment and reemployment rights act.

25 (a) The member qualifies for service credit under this subsection
26 if:

27 (i) Within ninety days of the member's honorable discharge from the
28 uniformed services of the United States (~~(armed forces)~~), the member
29 applies for reemployment with the employer who employed the member
30 immediately prior to the member entering the (~~(United States armed~~
31 ~~forces)~~) uniformed services; and

32 (ii) The member makes the employee contributions required under RCW
33 41.35.430 within five years of resumption of service or prior to
34 retirement, whichever comes sooner; or

35 (iii) Prior to retirement and not within ninety days of the
36 member's honorable discharge or five years of resumption of service the
37 member pays the amount required under RCW 41.50.165(2).

1 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
2 or (e)(iii) of this subsection, the department shall establish the
3 member's service credit and shall bill the employer for its
4 contribution required under RCW 41.35.430 for the period of military
5 service, plus interest as determined by the department.

6 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
7 of this subsection shall be based on the compensation the member would
8 have earned if not on leave, or if that cannot be estimated with
9 reasonable certainty, the compensation reported for the member in the
10 year prior to when the member went on military leave.

11 (d) The surviving spouse or eligible child or children of a member
12 who left the employ of an employer to enter the uniformed services of
13 the United States and died while serving in the uniformed services may,
14 on behalf of the deceased member, apply for retirement system service
15 credit under this subsection up to the date of the member's death in
16 the uniformed services. The department shall establish the deceased
17 member's service credit if the surviving spouse or eligible child or
18 children:

19 (i) Provides to the director proof of the member's death while
20 serving in the uniformed services;

21 (ii) Provides to the director proof of the member's honorable
22 service in the uniformed services prior to the date of death; and

23 (iii) Pays the employee contributions required under chapter 41.45
24 RCW within five years of the date of death or prior to the distribution
25 of any benefit, whichever comes first.

26 (e) A member who leaves the employ of an employer to enter the
27 uniformed services of the United States and becomes totally
28 incapacitated for continued employment by an employer while serving in
29 the uniformed services is entitled to retirement system service credit
30 under this subsection up to the date of discharge from the uniformed
31 services if:

32 (i) The member obtains a determination from the director that he or
33 she is totally incapacitated for continued employment due to conditions
34 or events that occurred while serving in the uniformed services;

35 (ii) The member provides to the director proof of honorable
36 discharge from the uniformed services; and

37 (iii) The member pays the employee contributions required under

1 chapter 41.45 RCW within five years of the director's determination of
2 total disability or prior to the distribution of any benefit, whichever
3 comes first.

4 **Sec. 5.** RCW 41.35.650 and 1998 c 341 s 206 are each amended to
5 read as follows:

6 (1) A member who is on a paid leave of absence authorized by a
7 member's employer shall continue to receive service credit.

8 (2) A member who receives compensation from an employer while on an
9 authorized leave of absence to serve as an elected official of a labor
10 organization, and whose employer is reimbursed by the labor
11 organization for the compensation paid to the member during the period
12 of absence, may also be considered to be on a paid leave of absence.
13 This subsection shall only apply if the member's leave of absence is
14 authorized by a collective bargaining agreement that provides that the
15 member retains seniority rights with the employer during the period of
16 leave. The earnable compensation reported for a member who establishes
17 service credit under this subsection may not be greater than the salary
18 paid to the highest paid job class covered by the collective bargaining
19 agreement.

20 (3) Except as specified in subsection (4) of this section, a member
21 shall be eligible to receive a maximum of two years service credit
22 during a member's entire working career for those periods when a member
23 is on an unpaid leave of absence authorized by an employer. Such
24 credit may be obtained only if:

25 (a) The member makes the contribution on behalf of the employer,
26 plus interest, as determined by the department; and

27 (b) The member makes the employee contribution, plus interest, as
28 determined by the department, to the defined contribution portion.

29 The contributions required shall be based on the average of the
30 member's earnable compensation at both the time the authorized leave of
31 absence was granted and the time the member resumed employment.

32 (4) A member who leaves the employ of an employer to enter the
33 (~~armed forces~~) uniformed services of the United States shall be
34 entitled to retirement system service credit for up to five years of
35 military service if within ninety days of the member's honorable
36 discharge from the uniformed services of the United States (~~armed~~
37 ~~forces~~)), the member applies for reemployment with the employer who

1 employed the member immediately prior to the member entering the
2 (~~United States armed forces~~) uniformed services. This subsection
3 shall be administered in a manner consistent with the requirements of
4 the federal uniformed services employment and reemployment rights act.

5 The department shall establish the member's service credit and
6 shall bill the employer for its contribution required under RCW
7 41.35.720 for the period of military service, plus interest as
8 determined by the department. Service credit under this subsection may
9 be obtained only if the member makes the employee contribution to the
10 defined contribution portion as determined by the department.

11 The contributions required shall be based on the compensation the
12 member would have earned if not on leave, or if that cannot be
13 estimated with reasonable certainty, the compensation reported for the
14 member in the year prior to when the member went on military leave.

15 (a) The surviving spouse or eligible child or children of a member
16 who left the employ of an employer to enter the uniformed services of
17 the United States and died while serving in the uniformed services may,
18 on behalf of the deceased member, apply for retirement system service
19 credit under this subsection up to the date of the member's death in
20 the uniformed services. The department shall establish the deceased
21 member's service credit if the surviving spouse or eligible child or
22 children:

23 (i) Provides to the director proof of the member's death while
24 serving in the uniformed services;

25 (ii) Provides to the director proof of the member's honorable
26 service in the uniformed services prior to the date of death; and

27 (iii) Pays the employee contributions required under this
28 subsection within five years of the date of death or prior to the
29 distribution of any benefit, whichever comes first.

30 (b) A member who leaves the employ of an employer to enter the
31 uniformed services of the United States and becomes totally
32 incapacitated for continued employment by an employer while serving in
33 the uniformed services is entitled to retirement system service credit
34 under this subsection up to the date of discharge from the uniformed
35 services if:

36 (i) The member obtains a determination from the director that he or
37 she is totally incapacitated for continued employment due to conditions
38 or events that occurred while serving in the uniformed services;

1 (ii) The member provides to the director proof of honorable
2 discharge from the uniformed services; and

3 (iii) The member pays the employee contributions required under
4 this subsection within five years of the director's determination of
5 total disability or prior to the distribution of any benefit, whichever
6 comes first.

7 **Sec. 6.** RCW 41.32.260 and 1992 c 212 s 8 are each amended to read
8 as follows:

9 Any member whose public school service is interrupted by active
10 service to the United States as a member of its (~~military, naval or~~
11 ~~air service~~) uniformed services, or to the state of Washington, as a
12 member of the legislature, may upon becoming reemployed in the public
13 schools, receive credit for that service upon presenting satisfactory
14 proof, and contributing to the member reserve, either in a lump sum or
15 installments, amounts determined by the director. Except that no
16 military service credit in excess of five years shall be established or
17 reestablished after July 1, 1961, unless the service was actually
18 rendered during time of war. This section shall be administered in a
19 manner consistent with the requirements of the federal uniformed
20 services employment and reemployment rights act.

21 (1) The surviving spouse or eligible child or children of a member
22 who left the employ of an employer to enter the uniformed services of
23 the United States and died while serving in the uniformed services may,
24 on behalf of the deceased member, apply for retirement system service
25 credit under this subsection up to the date of the member's death in
26 the uniformed services. The department shall establish the deceased
27 member's service credit if the surviving spouse or eligible child or
28 children:

29 (a) Provides to the director proof of the member's death while
30 serving in the uniformed services;

31 (b) Provides to the director proof of the member's honorable
32 service in the uniformed services prior to the date of death; and

33 (c) Pays the employee contributions required under chapter 41.45
34 RCW within five years of the date of death or prior to the distribution
35 of any benefit, whichever comes first.

36 (2) A member who leaves the employ of an employer to enter the
37 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in
2 the uniformed services is entitled to retirement system service credit
3 under this subsection up to the date of discharge from the uniformed
4 services if:

5 (a) The member obtains a determination from the director that he or
6 she is totally incapacitated for continued employment due to conditions
7 or events that occurred while serving in the uniformed services;

8 (b) The member provides to the director proof of honorable
9 discharge from the uniformed services; and

10 (c) The member pays the employee contributions required under
11 chapter 41.45 RCW within five years of the director's determination of
12 total disability or prior to the distribution of any benefit, whichever
13 comes first.

14 **Sec. 7.** RCW 41.32.810 and 1996 c 61 s 2 are each amended to read
15 as follows:

16 (1) A member who is on a paid leave of absence authorized by a
17 member's employer shall continue to receive service credit as provided
18 for under the provisions of RCW 41.32.755 through 41.32.825.

19 (2) A member who receives compensation from an employer while on an
20 authorized leave of absence to serve as an elected official of a labor
21 organization, and whose employer is reimbursed by the labor
22 organization for the compensation paid to the member during the period
23 of absence, may also be considered to be on a paid leave of absence.
24 This subsection shall only apply if the member's leave of absence is
25 authorized by a collective bargaining agreement that provides that the
26 member retains seniority rights with the employer during the period of
27 leave. The earnable compensation reported for a member who establishes
28 service credit under this subsection may not be greater than the salary
29 paid to the highest paid job class covered by the collective bargaining
30 agreement.

31 (3) Except as specified in subsection (6) of this section, a member
32 shall be eligible to receive a maximum of two years service credit
33 during a member's entire working career for those periods when a member
34 is on an unpaid leave of absence authorized by an employer. Such
35 credit may be obtained only if the member makes both the employer and
36 member contributions plus interest as determined by the department for

1 the period of the authorized leave of absence within five years of
2 resumption of service or prior to retirement whichever comes sooner.

3 (4) If a member fails to meet the time limitations of subsection
4 (3) of this section, the member may receive a maximum of two years of
5 service credit during a member's working career for those periods when
6 a member is on unpaid leave of absence authorized by an employer. This
7 may be done by paying the amount required under RCW 41.50.165(2) prior
8 to retirement.

9 (5) For the purpose of subsection (3) of this section, the
10 contribution shall not include the contribution for the unfunded
11 supplemental present value as required by RCW 41.32.775. The
12 contributions required shall be based on the average of the member's
13 earnable compensation at both the time the authorized leave of absence
14 was granted and the time the member resumed employment.

15 (6) A member who leaves the employ of an employer to enter the
16 (~~armed forces~~) uniformed services of the United States shall be
17 entitled to retirement system service credit for up to five years of
18 military service. This subsection shall be administered in a manner
19 consistent with the requirements of the federal uniformed services
20 employment and reemployment rights act.

21 (a) The member qualifies for service credit under this subsection
22 if:

23 (i) Within ninety days of the member's honorable discharge from the
24 uniformed services of the United States (~~armed forces~~), the member
25 applies for reemployment with the employer who employed the member
26 immediately prior to the member entering the (~~United States armed~~
27 ~~forces~~) uniformed services; and

28 (ii) The member makes the employee contributions required under RCW
29 41.32.775 within five years of resumption of service or prior to
30 retirement, whichever comes sooner; or

31 (iii) Prior to retirement and not within ninety days of the
32 member's honorable discharge or five years of resumption of service the
33 member pays the amount required under RCW 41.50.165(2).

34 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
35 or (e)(iii) of this subsection, the department shall establish the
36 member's service credit and shall bill the employer for its
37 contribution required under RCW 41.32.775 for the period of military
38 service, plus interest as determined by the department.

1 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
2 of this subsection shall be based on the compensation the member would
3 have earned if not on leave, or if that cannot be estimated with
4 reasonable certainty, the compensation reported for the member in the
5 year prior to when the member went on military leave.

6 (d) The surviving spouse or eligible child or children of a member
7 who left the employ of an employer to enter the uniformed services of
8 the United States and died while serving in the uniformed services may,
9 on behalf of the deceased member, apply for retirement system service
10 credit under this subsection up to the date of the member's death in
11 the uniformed services. The department shall establish the deceased
12 member's service credit if the surviving spouse or eligible child or
13 children:

14 (i) Provides to the director proof of the member's death while
15 serving in the uniformed services;

16 (ii) Provides to the director proof of the member's honorable
17 service in the uniformed services prior to the date of death; and

18 (iii) Pays the employee contributions required under chapter 41.45
19 RCW within five years of the date of death or prior to the distribution
20 of any benefit, whichever comes first.

21 (e) A member who leaves the employ of an employer to enter the
22 uniformed services of the United States and becomes totally
23 incapacitated for continued employment by an employer while serving in
24 the uniformed services is entitled to retirement system service credit
25 under this subsection up to the date of discharge from the uniformed
26 services if:

27 (i) The member obtains a determination from the director that he or
28 she is totally incapacitated for continued employment due to conditions
29 or events that occurred while serving in the uniformed services;

30 (ii) The member provides to the director proof of honorable
31 discharge from the uniformed services; and

32 (iii) The member pays the employee contributions required under
33 chapter 41.45 RCW within five years of the director's determination of
34 total disability or prior to the distribution of any benefit, whichever
35 comes first.

36 **Sec. 8.** RCW 41.32.865 and 1996 c 61 s 3 are each amended to read
37 as follows:

1 (1) A member who is on a paid leave of absence authorized by a
2 member's employer shall continue to receive service credit.

3 (2) A member who receives compensation from an employer while on an
4 authorized leave of absence to serve as an elected official of a labor
5 organization, and whose employer is reimbursed by the labor
6 organization for the compensation paid to the member during the period
7 of absence, may also be considered to be on a paid leave of absence.
8 This subsection shall only apply if the member's leave of absence is
9 authorized by a collective bargaining agreement that provides that the
10 member retains seniority rights with the employer during the period of
11 leave. The earnable compensation reported for a member who establishes
12 service credit under this subsection may not be greater than the salary
13 paid to the highest paid job class covered by the collective bargaining
14 agreement.

15 (3) Except as specified in subsection (4) of this section, a member
16 shall be eligible to receive a maximum of two years service credit
17 during a member's entire working career for those periods when a member
18 is on an unpaid leave of absence authorized by an employer. Such
19 credit may be obtained only if:

20 (a) The member makes the contribution on behalf of the employer,
21 plus interest, as determined by the department; and

22 (b) The member makes the employee contribution, plus interest, as
23 determined by the department, to the defined contribution portion.

24 The contributions required shall be based on the average of the
25 member's earnable compensation at both the time the authorized leave of
26 absence was granted and the time the member resumed employment.

27 (4) A member who leaves the employ of an employer to enter the
28 (~~armed forces~~) uniformed services of the United States shall be
29 entitled to retirement system service credit for up to five years of
30 military service if within ninety days of the member's honorable
31 discharge from the uniformed services of the United States (~~armed
32 forces~~), the member applies for reemployment with the employer who
33 employed the member immediately prior to the member entering the
34 (~~United States armed forces~~) uniformed services. This subsection
35 shall be administered in a manner consistent with the requirements of
36 the federal uniformed services employment and reemployment rights act.

37 The department shall establish the member's service credit and
38 shall bill the employer for its contribution required under chapter

1 239, Laws of 1995 for the period of military service, plus interest as
2 determined by the department. Service credit under this subsection may
3 be obtained only if the member makes the employee contribution to the
4 defined contribution portion as determined by the department.

5 The contributions required shall be based on the compensation the
6 member would have earned if not on leave, or if that cannot be
7 estimated with reasonable certainty, the compensation reported for the
8 member in the year prior to when the member went on military leave.

9 (a) The surviving spouse or eligible child or children of a member
10 who left the employ of an employer to enter the uniformed services of
11 the United States and died while serving in the uniformed services may,
12 on behalf of the deceased member, apply for retirement system service
13 credit under this subsection up to the date of the member's death in
14 the uniformed services. The department shall establish the deceased
15 member's service credit if the surviving spouse or eligible child or
16 children:

17 (i) Provides to the director proof of the member's death while
18 serving in the uniformed services;

19 (ii) Provides to the director proof of the member's honorable
20 service in the uniformed services prior to the date of death; and

21 (iii) Pays the employee contributions required under this
22 subsection within five years of the date of death or prior to the
23 distribution of any benefit, whichever comes first.

24 (b) A member who leaves the employ of an employer to enter the
25 uniformed services of the United States and becomes totally
26 incapacitated for continued employment by an employer while serving in
27 the uniformed services is entitled to retirement system service credit
28 under this subsection up to the date of discharge from the uniformed
29 services if:

30 (i) The member obtains a determination from the director that he or
31 she is totally incapacitated for continued employment due to conditions
32 or events that occurred while serving in the uniformed services;

33 (ii) The member provides to the director proof of honorable
34 discharge from the uniformed services; and

35 (iii) The member pays the employee contributions required under
36 this subsection within five years of the director's determination of
37 total disability or prior to the distribution of any benefit, whichever
38 comes first.

1 **Sec. 9.** RCW 41.26.520 and 2002 c 28 s 1 are each amended to read
2 as follows:

3 (1) A member who is on a paid leave of absence authorized by a
4 member's employer shall continue to receive service credit as provided
5 for under the provisions of RCW 41.26.410 through 41.26.550.

6 (2) A member who receives compensation from an employer while on an
7 authorized leave of absence to serve as an elected official of a labor
8 organization, and whose employer is reimbursed by the labor
9 organization for the compensation paid to the member during the period
10 of absence, may also be considered to be on a paid leave of absence.
11 This subsection shall only apply if the member's leave of absence is
12 authorized by a collective bargaining agreement that provides that the
13 member retains seniority rights with the employer during the period of
14 leave. The basic salary reported for a member who establishes service
15 credit under this subsection may not be greater than the salary paid to
16 the highest paid job class covered by the collective bargaining
17 agreement.

18 (3) Except as specified in subsection (7) of this section, a member
19 shall be eligible to receive a maximum of two years service credit
20 during a member's entire working career for those periods when a member
21 is on an unpaid leave of absence authorized by an employer. Such
22 credit may be obtained only if the member makes the employer, member,
23 and state contributions plus interest as determined by the department
24 for the period of the authorized leave of absence within five years of
25 resumption of service or prior to retirement whichever comes sooner.

26 (4) A law enforcement member may be authorized by an employer to
27 work part time and to go on a part-time leave of absence. During a
28 part-time leave of absence a member is prohibited from any other
29 employment with their employer. A member is eligible to receive credit
30 for any portion of service credit not earned during a month of part-
31 time leave of absence if the member makes the employer, member, and
32 state contributions, plus interest, as determined by the department for
33 the period of the authorized leave within five years of resumption of
34 full-time service or prior to retirement whichever comes sooner. Any
35 service credit purchased for a part-time leave of absence is included
36 in the two-year maximum provided in subsection (3) of this section.

37 (5) If a member fails to meet the time limitations of subsection
38 (3) or (4) of this section, the member may receive a maximum of two

1 years of service credit during a member's working career for those
2 periods when a member is on unpaid leave of absence authorized by an
3 employer. This may be done by paying the amount required under RCW
4 41.50.165(2) prior to retirement.

5 (6) For the purpose of subsection (3) or (4) of this section the
6 contribution shall not include the contribution for the unfunded
7 supplemental present value as required by RCW 41.45.060, 41.45.061, and
8 41.45.067. The contributions required shall be based on the average of
9 the member's basic salary at both the time the authorized leave of
10 absence was granted and the time the member resumed employment.

11 (7) A member who leaves the employ of an employer to enter the
12 (~~(armed forces)~~) uniformed services of the United States shall be
13 entitled to retirement system service credit for up to five years of
14 military service. This subsection shall be administered in a manner
15 consistent with the requirements of the federal uniformed services
16 employment and reemployment rights act.

17 (a) The member qualifies for service credit under this subsection
18 if:

19 (i) Within ninety days of the member's honorable discharge from the
20 uniformed services of the United States (~~(armed forces)~~), the member
21 applies for reemployment with the employer who employed the member
22 immediately prior to the member entering the (~~(United States armed~~
23 ~~forces)~~) uniformed services; and

24 (ii) The member makes the employee contributions required under RCW
25 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of
26 service or prior to retirement, whichever comes sooner; or

27 (iii) Prior to retirement and not within ninety days of the
28 member's honorable discharge or five years of resumption of service the
29 member pays the amount required under RCW 41.50.165(2).

30 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
31 or (e)(iii) of this subsection, the department shall establish the
32 member's service credit and shall bill the employer and the state for
33 their respective contributions required under RCW 41.26.450 for the
34 period of military service, plus interest as determined by the
35 department.

36 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
37 of this subsection shall be based on the compensation the member would

1 have earned if not on leave, or if that cannot be estimated with
2 reasonable certainty, the compensation reported for the member in the
3 year prior to when the member went on military leave.

4 (d) The surviving spouse or eligible child or children of a member
5 who left the employ of an employer to enter the uniformed services of
6 the United States and died while serving in the uniformed services may,
7 on behalf of the deceased member, apply for retirement system service
8 credit under this subsection up to the date of the member's death in
9 the uniformed services. The department shall establish the deceased
10 member's service credit if the surviving spouse or eligible child or
11 children:

12 (i) Provides to the director proof of the member's death while
13 serving in the uniformed services;

14 (ii) Provides to the director proof of the member's honorable
15 service in the uniformed services prior to the date of death; and

16 (iii) Pays the employee contributions required under chapter 41.45
17 RCW within five years of the date of death or prior to the distribution
18 of any benefit, whichever comes first.

19 (e) A member who leaves the employ of an employer to enter the
20 uniformed services of the United States and becomes totally
21 incapacitated for continued employment by an employer while serving in
22 the uniformed services is entitled to retirement system service credit
23 under this subsection up to the date of discharge from the uniformed
24 services if:

25 (i) The member obtains a determination from the director that he or
26 she is totally incapacitated for continued employment due to conditions
27 or events that occurred while serving in the uniformed services;

28 (ii) The member provides to the director proof of honorable
29 discharge from the uniformed services; and

30 (iii) The member pays the employee contributions required under
31 chapter 41.45 RCW within five years of the director's determination of
32 total disability or prior to the distribution of any benefit, whichever
33 comes first.

34 (8) A member receiving benefits under Title 51 RCW who is not
35 receiving benefits under this chapter shall be deemed to be on unpaid,
36 authorized leave of absence.

1 **Sec. 10.** RCW 43.43.260 and 2002 c 27 s 3 are each amended to read
2 as follows:

3 Upon retirement from service as provided in RCW 43.43.250, a member
4 shall be granted a retirement allowance which shall consist of:

5 (1) A prior service allowance which shall be equal to two percent
6 of the member's average final salary multiplied by the number of years
7 of prior service rendered by the member.

8 (2) A current service allowance which shall be equal to two percent
9 of the member's average final salary multiplied by the number of years
10 of service rendered while a member of the retirement system.

11 (3)(a) Any member commissioned prior to January 1, 2003, with
12 twenty-five years service in the Washington state patrol may have the
13 member's service in the (~~armed forces~~) uniformed services credited as
14 a member whether or not the individual left the employ of the
15 Washington state patrol to enter such (~~armed forces~~) uniformed
16 services: PROVIDED, That in no instance shall military service in
17 excess of five years be credited: AND PROVIDED FURTHER, That in each
18 instance, a member must restore all withdrawn accumulated
19 contributions, which restoration must be completed on the date of the
20 member's retirement, or as provided under RCW 43.43.130, whichever
21 occurs first: AND PROVIDED FURTHER, That this section shall not apply
22 to any individual, not a veteran within the meaning of RCW 41.06.150.

23 (b) A member who leaves the Washington state patrol to enter the
24 (~~armed forces~~) uniformed services of the United States shall be
25 entitled to retirement system service credit for up to five years of
26 military service. This subsection shall be administered in a manner
27 consistent with the requirements of the federal uniformed services
28 employment and reemployment rights act.

29 (i) The member qualifies for service credit under this subsection
30 if:

31 (A) Within ninety days of the member's honorable discharge from the
32 uniformed services of the United States (~~armed forces~~), the member
33 applies for reemployment with the employer who employed the member
34 immediately prior to the member entering the (~~United States armed~~
35 ~~forces~~) uniformed services; and

36 (B) The member makes the employee contributions required under RCW
37 41.45.0631 and 41.45.067 within five years of resumption of service or
38 prior to retirement, whichever comes sooner; or

1 (C) Prior to retirement and not within ninety days of the member's
2 honorable discharge or five years of resumption of service the member
3 pays the amount required under RCW 41.50.165(2).

4 (ii) Upon receipt of member contributions under (b)(i)(B),
5 (b)(iv)(C), and (b)(v)(C) of this subsection, the department shall
6 establish the member's service credit and shall bill the employer for
7 its contribution required under RCW 41.45.060 for the period of
8 military service, plus interest as determined by the department.

9 (iii) The contributions required under (b)(i)(B), (b)(iv)(C), and
10 (b)(v)(C) of this subsection shall be based on the compensation the
11 member would have earned if not on leave, or if that cannot be
12 estimated with reasonable certainty, the compensation reported for the
13 member in the year prior to when the member went on military leave.

14 (iv) The surviving spouse or eligible child or children of a member
15 who left the employ of an employer to enter the uniformed services of
16 the United States and died while serving in the uniformed services may,
17 on behalf of the deceased member, apply for retirement system service
18 credit under this subsection up to the date of the member's death in
19 the uniformed services. The department shall establish the deceased
20 member's service credit if the surviving spouse or eligible child or
21 children:

22 (A) Provides to the director proof of the member's death while
23 serving in the uniformed services;

24 (B) Provides to the director proof of the member's honorable
25 service in the uniformed services prior to the date of death; and

26 (C) If the member was commissioned on or after January 1, 2003,
27 pays the employee contributions required under chapter 41.45 RCW within
28 five years of the date of death or prior to the distribution of any
29 benefit, whichever comes first.

30 (v) A member who leaves the employ of an employer to enter the
31 uniformed services of the United States and becomes totally
32 incapacitated for continued employment by an employer while serving in
33 the uniformed services is entitled to retirement system service credit
34 under this subsection up to the date of discharge from the uniformed
35 services if:

36 (A) The member obtains a determination from the director that he or
37 she is totally incapacitated for continued employment due to conditions
38 or events that occurred while serving in the uniformed services;

1 (B) The member provides to the director proof of honorable
2 discharge from the uniformed services; and

3 (C) If the member was commissioned on or after January 1, 2003, the
4 member pays the employee contributions required under chapter 41.45 RCW
5 within five years of the director's determination of total disability
6 or prior to the distribution of any benefit, whichever comes first.

7 (4) In no event shall the total retirement benefits from
8 subsections (1), (2), and (3) of this section, of any member exceed
9 seventy-five percent of the member's average final salary.

10 (5) Beginning July 1, 2001, and every year thereafter, the
11 department shall determine the following information for each retired
12 member or beneficiary whose retirement allowance has been in effect for
13 at least one year:

14 (a) The original dollar amount of the retirement allowance;

15 (b) The index for the calendar year prior to the effective date of
16 the retirement allowance, to be known as "index A";

17 (c) The index for the calendar year prior to the date of
18 determination, to be known as "index B"; and

19 (d) The ratio obtained when index B is divided by index A.

20 The value of the ratio obtained shall be the annual adjustment to
21 the original retirement allowance and shall be applied beginning with
22 the July payment. In no event, however, shall the annual adjustment:

23 (i) Produce a retirement allowance which is lower than the original
24 retirement allowance;

25 (ii) Exceed three percent in the initial annual adjustment; or

26 (iii) Differ from the previous year's annual adjustment by more
27 than three percent.

28 For the purposes of this section, "index" means, for any calendar
29 year, that year's average consumer price index for the Seattle-Tacoma-
30 Bremerton Washington area for urban wage earners and clerical workers,
31 all items, compiled by the bureau of labor statistics, United States
32 department of labor.

33 The provisions of this section shall apply to all members presently
34 retired and to all members who shall retire in the future.

35 **Sec. 11.** RCW 41.37.260 and 2004 c 242 s 32 are each amended to
36 read as follows:

1 (1) A member who is on a paid leave of absence authorized by a
2 member's employer shall continue to receive service credit as provided
3 for under RCW 41.37.190 through 41.37.290.

4 (2) A member who receives compensation from an employer while on an
5 authorized leave of absence to serve as an elected official of a labor
6 organization, and whose employer is reimbursed by the labor
7 organization for the compensation paid to the member during the period
8 of absence, may also be considered to be on a paid leave of absence.
9 This subsection shall only apply if the member's leave of absence is
10 authorized by a collective bargaining agreement that provides that the
11 member retains seniority rights with the employer during the period of
12 leave. The compensation earnable reported for a member who establishes
13 service credit under this subsection may not be greater than the salary
14 paid to the highest paid job class covered by the collective bargaining
15 agreement.

16 (3) Except as specified in subsection (4) of this section, a member
17 shall be eligible to receive a maximum of two years service credit
18 during a member's entire working career for those periods when a member
19 is on an unpaid leave of absence authorized by an employer. This
20 credit may be obtained only if:

21 (a) The member makes both the employer and member contributions
22 plus interest as determined by the department for the period of the
23 authorized leave of absence within five years of resumption of service
24 or prior to retirement whichever comes sooner; or

25 (b) If not within five years of resumption of service but prior to
26 retirement, pay the amount required under RCW 41.50.165(2).

27 The contributions required under (a) of this subsection shall be
28 based on the average of the member's compensation earnable at both the
29 time the authorized leave of absence was granted and the time the
30 member resumed employment.

31 (4) A member who leaves the employ of an employer to enter the
32 (~~armed forces~~) uniformed services of the United States shall be
33 entitled to retirement system service credit for up to five years of
34 military service. This subsection shall be administered in a manner
35 consistent with the requirements of the federal uniformed services
36 employment and reemployment rights act.

37 (a) The member qualifies for service credit under this subsection
38 if:

1 (i) Within ninety days of the member's honorable discharge from the
2 uniformed services of the United States ((armed forces)), the member
3 applies for reemployment with the employer who employed the member
4 immediately prior to the member entering the ((United States armed
5 forces)) uniformed services; and

6 (ii) The member makes the employee contributions required under RCW
7 41.37.220 within five years of resumption of service or prior to
8 retirement, whichever comes sooner; or

9 (iii) Prior to retirement and not within ninety days of the
10 member's honorable discharge or five years of resumption of service the
11 member pays the amount required under RCW 41.50.165(2).

12 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
13 or (e)(iii) of this subsection, the department shall establish the
14 member's service credit and shall bill the employer for its
15 contribution required under RCW 41.37.220 for the period of military
16 service, plus interest as determined by the department.

17 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
18 of this subsection shall be based on the compensation the member would
19 have earned if not on leave, or if that cannot be estimated with
20 reasonable certainty, the compensation reported for the member in the
21 year prior to when the member went on military leave.

22 (d) The surviving spouse or eligible child or children of a member
23 who left the employ of an employer to enter the uniformed services of
24 the United States and died while serving in the uniformed services may,
25 on behalf of the deceased member, apply for retirement system service
26 credit under this subsection up to the date of the member's death in
27 the uniformed services. The department shall establish the deceased
28 member's service credit if the surviving spouse or eligible child or
29 children:

30 (i) Provides to the director proof of the member's death while
31 serving in the uniformed services;

32 (ii) Provides to the director proof of the member's honorable
33 service in the uniformed services prior to the date of death; and

34 (iii) Pays the employee contributions required under chapter 41.45
35 RCW within five years of the date of death or prior to the distribution
36 of any benefit, whichever comes first.

37 (e) A member who leaves the employ of an employer to enter the
38 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in
2 the uniformed services is entitled to retirement system service credit
3 under this subsection up to the date of discharge from the uniformed
4 services if:

5 (i) The member obtains a determination from the director that he or
6 she is totally incapacitated for continued employment due to conditions
7 or events that occurred while serving in the uniformed services;

8 (ii) The member provides to the director proof of honorable
9 discharge from the uniformed services; and

10 (iii) The member pays the employee contributions required under
11 chapter 41.45 RCW within five years of the director's determination of
12 total disability or prior to the distribution of any benefit, whichever
13 comes first.

14 NEW SECTION. Sec. 12. Section 11 of this act takes effect July 1,
15 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY: Office of the State Actuary	CODE: 035	DATE: 11/16/04	BILL NUMBER: Z-0177.1/Z-0227.1
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SUMMARY OF BILL:

This bill impacts the Public Employees' Retirement System, the School Employees' Retirement System, the Teachers' Retirement System, the Law Enforcement Officers' and Firefighters' Retirement System Plan 2, the Washington State Patrol Retirement System, and the Public Safety Employees' Retirement System by authorizing interruptive military service credit for employees who cannot return to public employment due to death or total disability while serving in the uniformed services. Service credit could be purchased by a disabled member or survivor(s) of a deceased member for interruptive military service credit up to the date of death or disability.

Effective Date: 90 days after session.

CURRENT SITUATION:

Interruptive military service is governed by the Uniformed Services Employment and Re-employment Rights Act (USERRA). At a minimum, public employers must provide the protections specified in the act. State law can provide for benefits that are more generous than those under USERRA, as long as the minimum requirements of the federal law are fully satisfied.

USERRA provides for the re-employment of individuals who leave employment to serve in the uniformed services of the United States. Included in USERRA's re-employment rights is the right to restoration of retirement plan benefits, and to that end, USERRA provides for reinstatement of retirement service credit after re-employment. USERRA does not, however, address the retirement benefits that would have accrued to members who are never re-employed because they died while in active service or became totally incapacitated for continued service with their employer.

MEMBERS IMPACTED:

We estimate that each year, 0 to 6 members out of the total members of all the systems would be affected by this bill.

We estimate that for a typical member impacted by this bill, the increase in benefits would be in the \$40 to \$50 per month range.

FISCAL IMPACT:

The cost of this bill is insufficient to increase contribution rates in any of the affected systems.

LEOFF 1 Benefit Cap

Background

When first founded, LEOFF 1 had no benefit cap. With the passage of Chapter 120, laws of 1974, members' benefits were capped at 60% of final average salary. Those hired into LEOFF 1 positions on or after February 19, 1974 -- the effective date of the act -- are subject to the 60% cap; those hired prior to that date are not.

Of the total 8,054 LEOFF 1 retirees, 2,344 became members prior to February 19, 1974. Of those, 659 had a benefit that was greater than 60% of their final average salary.

As of the 2003 valuation the LEOFF 1 plan has 991 active members and 8,054 retirees. Of the remaining active members, 507 are subject to the 60% benefit cap.

Committee Activity

Presentation:

December 7, 2004 - Executive Committee

Recommendation to Legislature

None.

Staff Contact

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237 – baker.robert@leg.wa.gov

Select Committee on Pension Policy

LEOFF 1 Benefit Cap

(December 21, 2004)

Proposal

Remove the 60% cap on final average salary (FAS) used in calculating the retirement benefits of Law Enforcement Officer's and Fire Fighter's Plan 1 members.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

As of the 2003 valuation the LEOFF 1 plan has 991 active members and 8,054 retirees. Of the remaining active members, 507 are subject to the 60% benefit cap.

Current Situation

When first founded, LEOFF 1 had no benefit cap. With the passage of Chapter 120, laws of 1974, members' benefits were capped at 60% of final average salary. Those hired into LEOFF 1 positions on or after February 19, 1974 -- the effective date of the act -- are subject to the 60% cap; those hired prior to that date are not.

Of the total 8,054 LEOFF 1 retirees, 2,344 became members prior to February 19, 1974. Of those, 659 had a benefit that was greater than 60% of their final average salary.

The Public Employees' Retirement System (PERS) Plan 1 and the Teachers' Retirement System (TRS) Plan 1 both have provisions capping retirement benefits at 60% of average final compensation (AFC).

The Plans 2/3, including LEOFF 2, have no benefit cap, but they are age-based plans as opposed to service-based plans. The School Employees' Retirement System (SERS), PERS and TRS 2/3 require members to be age 65 in order to receive an unreduced defined benefit. LEOFF 2 requires members to be age 53 to receive an unreduced benefit compared to age 50 in LEOFF 1.

History

Two bills were introduced during the last legislative session related to the 60% cap in LEOFF 1. HB 2416 proposed raising the limit to 70% of FAS, and HB 2914 proposed eliminating the cap entirely; both bills received a hearing but neither moved from committee.

Policy Analysis

One of the general policies found in the funding chapter (RCW 41.45) is "Fund, to the extent feasible, benefit increases for all plan members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service." The average age of remaining active LEOFF 1 members is 54 years, and their average member service is 29.3 years. For a plan that wasn't fully funded, there would be scant time to contribute to a benefit increase for an active membership that is already, on average, retirement eligible. Because LEOFF 1 is in surplus status at this time, any benefit increase would draw on that surplus.

Another policy issue to consider is the inconsistent treatment of members within the same plan. While the provisional differences in LEOFF 1 and LEOFF 2 are typical of closed and open plans, it is rare, however, for such differences to be present within the same Washington State retirement plan.

The other policy concern would be leapfrogging. One of the common criticisms of the Plan 1 design is the 30-year cap or 60% cap; member's benefits are maximized at 30 years of service ($2\% \times 30$ years of service = 60% of AFC). Were

the cap raised or eliminated in the LEOFF 1 plan, members of the Public Employee's Retirement System Plan 1 (PERS 1) and Teachers Retirement System Plan 1 (TRS 1) may request a similar benefit increase which would have a much higher cost.

Stakeholder Input

Richard Warbrouck
Retired Fire Fighters of Washington
See attached correspondence

Philip A. Talmadge
Talmadge Law Group PLLC
See attached correspondence

Executive Committee Recommendation

None.

Bill (Draft)

Bill Attached

Fiscal Note (Draft)

Fiscal note attached



Retired Firefighters of Washington

15310 163rd Ct. SE
Renton, WA 98058-8122
425-226-3793
rffow@attbi.com

RECEIVED

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Office of
The State Actuary

Richard Warbrouck
President

Bob Burtch
Secretary

November 2, 2004

The Honorable Senator Karen Fraser
Chair, Select Committee on Pension Policy
PO Box 40422
Olympia, WA 98504-0422

The Honorable Representative Steve Conway
Vice Chair, Select Committee on Pension Policy
PO Box 40600
Olympia, WA 98504-0600

Mr. Matt Smith, State Actuary
Office of the State Actuary
PO Box 40814
Olympia, WA 98504-0914

Dear Senator Fraser, Representative Conway and Mr. Smith,

I want to thank you for your consideration of the LEOFF 1 issues that were on the Select Committee on Pension Policy October 18, 2004 meeting agenda.

We are opposed to the request to remove the 60% CAP on LEOFF 1 service pensions. We testified in opposition of HB 2914 and HB 2416 when these bills were being considered by the House Appropriation Committee during the 2004 Legislative Session. It would be inappropriate to remove the CAP unless the full contributions as delineated in the statute are restored. This would include retroactive contributions as well.

We see this as a selfish request from a small group who are now benefiting from the contribution holiday and earning additional service credit without making a contribution. These same members have received a 6% increase in their take home pay for the last four years while earning service credit of 2% per year or 8% pension. Six percent of an annual salary of \$80,000 equals \$4,800 per year or \$19,200.00 for the four-year period. Eliminating the CAP would extend this existing inequity even further.

We feel it would be inappropriate for the Legislature to grant an additional benefit to a small group after the majority of the members in the plan have retired and especially

when it's being reported by the Actuary that the Fund could have an un-funded liability in 2011.

We also feel that there are some existing inequities as addressed in the letter to the Committee from Senator Morton that should be corrected before creating new benefits.

We have not taken a position on the problem outlined by Senator Morton at this time but we are very sympathetic to the women in this situation, especially when this problem was resolved for a select small group of women in ESB 6380.

Sincerely,

A handwritten signature in cursive script that reads "R.C. Warbrouck". The signature is written in black ink and is positioned below the word "Sincerely,".

Richard C. Warbrouck

TALMADGE LAW GROUP PLLC
18010 SOUTHCENTER PARKWAY
TUKWILA, WASHINGTON 98188
(206) 574-6661 (206) 575-1397 FAX

November 5, 2004

Senator Karen Fraser
Select Committee on Pension Policy
PO Box 40422
Olympia, WA 98504-0422

Re: LEOFF Plan 1 Benefit Cap

Dear Senator Fraser:

I am writing to you on behalf of the Retired Firefighters of Washington (RFFOW). RFFOW is aware that the Executive Committee of the Select Committee on Pension Policy has placed an item regarding a LEOFF Plan 1 Benefit Cap on its agenda for November 9, 2004. RFFOW opposes lifting the benefit cap for LEOFF Plan 1 retirees, particularly given the contribution holiday employers and members have enjoyed since June 30, 2000.

As the Committee knows, there have been a number of previous efforts to address the present 60% cap on service retirement benefit for LEOFF Plan 1 law enforcement officers and firefighters. HB 2416 (2004) proposed to increase that cap from 60% to 70%. HB 2914 (2004) proposed to delete the cap entirely. RFFOW believes various legislators will offer legislation to alter the cap in the 2005 session of the Legislature.

The most glaring flaw in such proposals is their significant impact on the funding of LEOFF Plan 1. The Committee has been briefed by the State Actuary's office on whether a surplus or deficit exists in LEOFF Plan 1. To some extent, this calculation depends on whether the value of the LEOFF Plan 1 assets are determined on the basis of market or actuarial value. As the briefing from the Office of State Actuary on May 12, 2004 indicated, as of September 30, 2002, there was a \$278 million deficit in LEOFF Plan 1 funds if the funds are valued on the basis of their market value. If the funds are valued on the basis of their actuarial value, the Actuary concluded that there could be a surplus of as much as \$757 million as of September 30, 2002. However, even under the rosier

actuarial value of the LEOFF Plan 1 funds, the Actuary concluded that the surplus will disappear and employer/member contributions must resume for the 2011-2013 biennium. The Actuary has recently opined that the LEOFF Plan 1 system may be a deficit position as early as 2008.

Given this uncertainty about the value of the LEOFF Plan 1 funds, the absence of employer/member contributions since June 30, 2000, and the impact of removal of the benefit cap, the enactment of legislation removing the cap for the LEOFF Plan 1 retirement benefits is extremely unwise.

RFFOW also believes that the removal of the benefit cap does not constitute good public policy. The LEOFF Plan 1 members who are likely to gain from the removal of the 60% cap on service pensions are probably serving in administrative positions. These individuals have had the benefit of the contribution holiday since June 30, 2000, a substantial financial benefit as they have not been required to contribute 6% of present salary annually to LEOFF Plan 1 since that date. Moreover, many of these individuals are receiving compensation for administrative work, as opposed to active police or fire work. Administrators tend to receive higher pay so that the removal of the cap will cost the system more.

The removal of the cap will offer a tempting target for abuse. Individuals could return to duty from disability status to substantially increase their pension. In Tacoma, an assistant chief of police returned to duty after 10 years of receiving disability payments. This individual worked a single day and then retired on a service pension. He gained two percent for each of the ten years he was on disability, and retired, not at the assistant chief's salary when he became disabled, but at the current assistant chief's salary.

In summary, RFFOW asks the Committee to carefully assess any proposed legislation to alter the cap on service retirements under LEOFF Plan 1. At a minimum, the Committee should receive the latest information from the Office of State Actuary regarding the present surplus/deficit in LEOFF Plan 1. The Committee should also have the best estimate from the Actuary regarding the fiscal impact of any alteration of the cap for service retirement benefits under LEOFF Plan 1.

RFFOW will continue to oppose legislation altering the service retirement benefit cap so long as the contribution holiday persists, and other more pressing needs for reform in the LEOFF Plan 1 benefit structure remain.

November 5, 2004
Page 3 of 3

If RFFOW can provide any additional information to the Committee regarding these matters, please do not hesitate to contact Richard C. Warbrouck or me.

Very truly yours,

Philip A. Talmadge

PAT:gab

cc: Richard C. Warbrouck
Executive Committee members
Matt Smith

1 AN ACT Relating to removing the cap on retirement benefits of
2 members of the law enforcement officers' and fire fighters' retirement
3 system plan 1; and amending RCW 41.26.100.

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

5 **Sec. 1.** RCW 41.26.100 and 1991 c 343 s 16 are each amended to read
6 as follows:

7 A member upon retirement for service shall receive a monthly
8 retirement allowance computed according to his or her completed
9 creditable service credit years of service as follows: Five years but
10 under ten years, one-twelfth of one percent of his or her final average
11 salary for each month of service; ten years but under twenty years,
12 one-twelfth of one and one-half percent of his or her final average
13 salary for each month of service; and twenty years and over one-twelfth
14 of two percent of his or her final average salary for each month of
15 service: PROVIDED, That the recipient of a retirement allowance who
16 shall return to service as a law enforcement officer or fire fighter
17 shall be considered to have terminated his or her retirement status and
18 he or she shall immediately become a member of the retirement system
19 with the status of membership he or she had as of the date of

1 retirement. Retirement benefits shall be suspended during the period
2 of his or her return to service and he or she shall make contributions
3 and receive service credit. Such a member shall have the right to
4 again retire at any time and his or her retirement allowance shall be
5 recomputed, and paid, based upon additional service rendered and any
6 change in final average salary(~~(: PROVIDED FURTHER, That no retirement~~
7 ~~allowance paid pursuant to this section shall exceed sixty percent of~~
8 ~~final average salary, except as such allowance may be increased by~~
9 ~~virtue of RCW 41.26.240, as now or hereafter amended)~~).

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/22/04	Z-0183.1/Z-0184.1

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by removing the provision that limits the retirement allowance for those who became members on or after February 19, 1974 to 60% of their final average salary.

Effective Date: 90 days after session

CURRENT SITUATION:

Currently, the maximum retirement allowance for a member of LEOFF 1 who became a member on or after February 19, 1974 is 60% of their final average salary. Those who became members before February 19, 1974 have no such limit on their retirement allowance.

MEMBERS IMPACTED:

We estimate that 529 active members hired on or after 2/19/1974 out of the total 991 active members of this plan could be affected by this bill. Additional members could be affected if they returned to work and earn over 30 years of service.

Each year of additional service credit beyond 30 years would result in an increase of about \$120 in monthly pension payments per person (based on a current annual salary of \$71,924).

ASSUMPTIONS:

We assumed that half of the future disabled retirees with at least 34 years of service will elect the proposed service retirement benefit (68% of pay before-tax) in lieu of the 50% of the pay tax-free disability benefit (maximum of 60% with 2 eligible dependents). We also assumed that this proposed benefit change would alter future service retirement behavior in the plan. We subtracted 0.01 from the retirement rates from age 50 to 54, and subtracted 0.02 from the rates from age 55 to 59. The impact of the disability and retirement assumption change is reflected in the cost of this proposal.

FISCAL IMPACT:

Description:

There is no immediate fiscal impact while the plan remains in a surplus or fully funded position. The current plan is projected to remain fully funded because the market value of assets exceeds the liabilities by \$39 million (at 9/30/2003). This proposal would reduce the surplus, but as long as a surplus remains on a market value basis, we would not project the plan to emerge from full funding under current long-term assumptions. However, if the plan experiences short-term actuarial losses, the plan would be more likely to emerge from full funding as a result of the proposed benefit increase. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

Law Enforcement Officers' and Police and Fire Fighters Retirement System:			
<i>(Dollars in Millions)</i>			
	Current	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	\$4,342	\$23	\$4,365
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	(\$462)	\$23	(\$439)
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	(\$521)	\$16	(\$505)
 Increase in Contribution Rates: (Effective 9/1/2005)			
Employee	0.00%		
Employer State	0.00%		

Fiscal Budget Determinations:

There is no projected increase in funding expenditures.

State Actuary's Comments:

We have projected that the cost of this bill would draw down a portion of the plan's current surplus, but would not increase the plan's future funding requirements. This projection reflects the future recognition of prior asset gains and losses not yet fully recognized under the asset smoothing method and reflects the cost of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Law Enforcement Officers' and Fire Fighters' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all Plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

LEOFF 1 Disability Boards

Background

Each city with a population of 20,000 or more has a LEOFF 1 disability board comprised of:

- 2 members of the city legislative body
- 1 active or retired fire fighter
- 1 active or retired law enforcement officer
- 1 member from the public at large.

Each county has a LEOFF 1 disability board for those members not covered by a city disability board. Each county disability board is comprised of:

- 1 member of the county legislative body
- 1 member of a city or town legislative body (under 20,000 population)
- 1 active or retired fire fighter
- 1 active or retired law enforcement officer
- 1 member from the public at large.

Current law requires LEOFF members of county disability boards to reside in the county.

The LEOFF 1 plan has been closed since 1977. The number of members will continue to decline resulting in the eventual consolidation and elimination of disability boards.

Committee Activity

Presentation:

November 9, 2004 - Executive Committee

Proposal:

November 9, 2004 - Executive Committee

Recommendation to Legislature

Remove the residency qualifications of active or retired LEOFF members eligible to serve on county disability boards and the LEOFF 1 members who are eligible to vote for those board members. And, if there are either no LEOFF 1 fire fighters or law enforcement officers qualified to vote in disability board elections, allow the remaining eligible law enforcement officers or fire fighters to elect a second board member.

Staff Contact

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237 – baker.robert@leg.wa.gov

Select Committee on Pension Policy

LEOFF 1 Disability Boards

(October 27, 2004)

Proposal

Clarify the qualifications of active or retired LEOFF members eligible to serve on county disability boards and the LEOFF 1 members who are eligible to vote for those board members. And if there are either no LEOFF 1 fire fighters or law enforcement officers qualified to vote, the remaining eligible law enforcement officers or fire fighters will elect a second board member.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

As of the 2003 valuation, there were 991 active members, 6,870 retirees, and 1,184 survivors in LEOFF 1.

Current Situation

Each city with a population of 20,000 or more has a LEOFF 1 disability board comprised of:

- 2 members of the city legislative body
- 1 active or retired fire fighter
- 1 active or retired law enforcement officer
- 1 member from the public at large.

Each county has a LEOFF 1 disability board for those members not covered by a city disability board. Each county disability board is comprised of:

- 1 member of the county legislative body
- 1 member of a city or town legislative body (under 20,000 population.)
- 1 active or retired fire fighter
- 1 active or retired law enforcement officer
- 1 member from the public at large.

History

Companion bills HB 3114 and SB 6355 were introduced in the 2004 legislative session. The bills would have clarified the qualifications of the active or retired LEOFF members eligible to serve on the county disability board and the LEOFF 1 members eligible to vote for those board members. The bills also provided that if there were either no LEOFF 1 fire fighters or law enforcement officers eligible to vote, the remaining eligible law enforcement officers or fire fighters would elect a second board member. Neither bill was forwarded from its respective fiscal committee.

Policy Analysis

Each LEOFF 1 disability board is required to have two LEOFF members - they do not have to be LEOFF 1 members. This legislation does not establish any new policies in regards to that membership but merely fine-tunes the disability board membership provisions in light of the declining number of eligible LEOFF 1 voting members.

Executive Committee Recommendation

Forward the bill to the full committee for consideration.

Bill (Draft)

Attached

Fiscal Note (Draft)

Attached

1 AN ACT Relating to city and county disability boards; amending RCW
2 41.26.110; and declaring an emergency.

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

4 **Sec. 1.** RCW 41.26.110 and 2003 c 30 s 3 are each amended to read
5 as follows:

6 (1) All claims for disability shall be acted upon and either
7 approved or disapproved by either type of disability board authorized
8 to be created in this section.

9 (a) Each city having a population of twenty thousand or more shall
10 establish a disability board having jurisdiction over all members
11 employed by those cities and composed of the following five members:
12 Two members of the city legislative body to be appointed by the mayor;
13 one active or retired fire fighter employed by or retired from the city
14 to be elected by the fire fighters employed by or retired from the city
15 who are subject to the jurisdiction of the board; one active or retired
16 law enforcement officer employed by or retired from the city to be
17 elected by the law enforcement officers employed by or retired from the
18 city who are subject to the jurisdiction of the board; and one member
19 from the public at large who resides within the city to be appointed by

1 the other four members designated in this subsection. Only those
2 active or retired fire fighters and law enforcement officers who are
3 subject to the jurisdiction of the board have the right to elect under
4 this section. All fire fighters and law enforcement officers employed
5 by or retired from the city are eligible for election. Each of the
6 elected members shall serve a two year term. The members appointed
7 pursuant to this subsection shall serve for two year terms: PROVIDED,
8 That cities of the first class only, shall retain existing firemen's
9 pension boards established pursuant to RCW 41.16.020 and existing
10 boards of trustees of the relief and pension fund of the police
11 department as established pursuant to RCW 41.20.010 which such boards
12 shall have authority to act upon and approve or disapprove claims for
13 disability by fire fighters or law enforcement officers as provided
14 under the Washington law enforcement officers' and fire fighters'
15 retirement system act.

16 (b) Each county shall establish a disability board having
17 jurisdiction over all members (~~((residing in the county))~~) employed by or
18 retired from an employer within the county and not employed by a city
19 in which a disability board is established. The county disability
20 board so created shall be composed of five members to be chosen as
21 follows: One member of the legislative body of the county to be
22 appointed by the county legislative body; one member of a city or town
23 legislative body located within the county which does not contain a
24 city disability board established pursuant to subsection (1)(a) of this
25 section to be chosen by a majority of the mayors of such cities and
26 towns within the county which does not contain a city disability board;
27 one active fire fighter or retired fire fighter employed by or retired
28 from an employer within the county to be elected by the fire fighters
29 employed or retired (~~((in))~~) from an employer within the county who are
30 not employed by or retired from a city in which a disability board is
31 established and who are subject to the jurisdiction of (~~((the))~~) that
32 board; one law enforcement officer or retired law enforcement officer
33 employed by or retired from an employer within the county to be elected
34 by the law enforcement officers employed in or retired from an employer
35 within the county who are not employed by or retired from a city in
36 which a disability board is established and who are subject to the
37 jurisdiction of (~~((the))~~) that board; and one member from the public at
38 large who resides within the county but does not reside within a city

1 in which a city disability board is established, to be appointed by the
2 other four members designated in this subsection. However, in counties
3 with a population less than sixty thousand, the member of the
4 disability board appointed by a majority of the mayors of the cities
5 and towns within the county that do not contain a city disability board
6 must be a resident of one of the cities and towns but need not be a
7 member of a city or town legislative body. Only those active or
8 retired fire fighters and law enforcement officers who are subject to
9 the jurisdiction of the board have the right to elect under this
10 section. All fire fighters and law enforcement officers employed by or
11 retired from an employer within the county who are not employed by or
12 retired from a city in which a disability board is established are
13 eligible for election. All members appointed or elected pursuant to
14 this subsection shall serve for two year terms. If there are no fire
15 fighters under the jurisdiction of the board eligible to vote, a second
16 eligible employee representative shall be elected by the law
17 enforcement officers eligible to vote. If there are no law enforcement
18 officers under the jurisdiction of the board eligible to vote, a second
19 eligible representative shall be elected by the fire fighters eligible
20 to vote.

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

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

28 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	10/27/04	Z-0198.1/ Z-0199.1

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Firefighters' Retirement System (LEOFF) Plan 1. The bill addresses jurisdiction, disability board membership and eligibility to vote for member representatives on the board. The proposed legislation provides that the jurisdiction of the county disability boards applies to all members employed by or retired from an employer within the county and not employed by a city in which a disability board is established. It also clarifies that to serve on the county disability board, a fire fighter or law enforcement officer must be employed by or retired from an employer within the county and not be employed by or retired from a city in which a disability board is established. Those voting for employee representatives on the county disability board must be employed by or retired from an employer within the county and not employed by or retired from a city in which a disability board is established. Finally, the bill addresses the election of the firefighter and law enforcement officer positions on the board and adds the following new provisions: a) if there are no firefighters eligible to vote, a second eligible member representative shall be elected by the law enforcement officers eligible to vote, and b) if there are no law enforcement officers eligible to vote, a second member representative shall be elected by the fire fighters eligible to vote.

Effective Date: Immediately upon passage.

CURRENT SITUATION:

Currently the county disability board's jurisdiction extends to "all members residing in the county" and not employed by a city in which a disability board is established. The provision that the members be employed by or retired from an employer within the county is not included in the current law. To serve on the disability board, the current law requires mere residence in the county for the firefighter and police officer representatives, whereas the proposed law requires that the employee representatives be "employed by or retired from an employer within the county", and that they not be "employed by or retired from a city in which a disability board is established."

The current law allows all fire fighters and law enforcement officers employed or retired from the county who are not employed by or retired from a city in which a disability board is established and who are subject to the jurisdiction of the board to vote for member representation on the boards. The proposed law adds the requirement that the voting member be employed by or retired from an employer within the county who are not employed by or retired from a city in which a disability board is established and who are subject to the jurisdiction of "that" board.

FISCAL IMPACT:

None.

LEOFF 1 Ex-spouse Survivor Benefits

Background

Benefits to many ex-spouses of LEOFF 1 members may cease after the member's death.

Under the most recent legislation, ex-spouses of LEOFF 1 members may qualify for survivor benefits if they divorced prior to the member's separation from service and entered into a court order or court approved property settlement after July 1, 2003. In such an instance, the ex-spouse may be awarded a portion of the member's benefit and survivor benefit if that benefit is so designated in the order or settlement.

Earlier provisions in LEOFF 1 required ex-spouses to meet stringent criteria to be eligible for survivor benefits. Prior to 1980, ex-spouses could only qualify if they had been married to the member for 30 years, 20 of which were before the member retired. More recently, an ex-spouse could qualify for survivor benefits if the member had 30 years of service and they had been married at least 25 years. Outside of those narrow parameters, the benefit for a spouse who divorced and entered into a property settlement prior to July 1, 2003 will cease upon the death of the member.

Committee Activity

Presentations:

November 9, 2004 - Executive Committee

December 7, 2004 - Full Committee

Proposal:

December 7, 2004 - Full Committee

Recommendation to Legislature

Allow all ex-spouses of LEOFF 1 members, who have been provided benefits under any court approved property settlement agreement incident to the divorce of the member and ex-spouse, to continue receiving those benefits after the death of the member. And allow those ex-spouses whose benefit was suspended upon the death of the member to resume their benefit.

Staff Contact

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237 – baker.robert@leg.wa.gov

Select Committee on Pension Policy

LEOFF 1 Ex-spouse Survivor Benefits

(November 22, 2004)

Proposal

Allow all ex-spouses of Law Enforcement Officer's and Fire Fighter's Retirement System Plan 1 (LEOFF 1) members, who have been provided benefits under any court approved property settlement agreement incident to the divorce of the member and ex-spouse, to continue receiving those benefits after the death of the member. And allow those ex-spouses whose benefit was suspended upon the death of the member to resume their benefit.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

As of the 2003 valuation, there were 991 active members, 6,870 retirees, and 1,184 survivors in LEOFF 1. Ex-spouses who may be pre-deceased or have been pre-deceased by members would be impacted; there are an estimated 250 ex-spouses who may be impacted by such change to survivor eligibility provisions.

Current Situation

Benefits to many ex-spouses of LEOFF 1 members may cease after the member's death.

Under the most recent legislation, ex-spouses of LEOFF 1 members may qualify for survivor benefits if they divorced prior to the member's separation from service and entered into a court

order or court approved property settlement after July 1, 2003. In such an instance, the ex-spouse may be awarded a portion of the member's benefit and survivor benefit if that benefit is so designated in the order or settlement.

Earlier provisions in LEOFF 1 required ex-spouses to meet stringent criteria to be eligible for survivor benefits. Prior to 1980, ex-spouses could only qualify if they had been married to the member for 30 years, 20 of which were before the member retired. More recently, an ex-spouse could qualify for survivor benefits if the member had 30 years of service and they had been married at least 25 years. Outside of those narrow parameters, the benefit for a spouse who divorced and entered into a property settlement prior to July 1, 2003 will cease upon the death of the member.

Policy Analysis

The recent expansion of benefits in LEOFF 1 allowing ex-spouses to receive survivor benefits established new policy in this area. Earlier retroactive remedies for ex-spouse survivor benefits were narrowly constructed, and benefitted very few individuals. As a result, earlier policies and statutes that govern the benefits of members who divorced and entered into a property settlement before July 1, 2003 are in conflict with the more current policy. Adding to the complexity of the issue is the difficulty of retroactively modifying court-approved property settlements, particularly after the death of one of the principals.

A retroactive benefit issue, such as this, also has funding policy implications. One of the general policies found in the funding chapter (RCW 41.45) is "Fund, to the extent feasible, benefit increases for all plan members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service." This policy is based on the concept of inter-generational equity. The average age of remaining active LEOFF 1 members is 54 years, and their average member service is 29.3 years. For a plan that wasn't fully funded, there would be scant

time for members who are already retirement eligible to contribute to a retroactive benefit increase. Because LEOFF 1 is in surplus status at this time, any benefit increase would draw on that surplus.

Stakeholder Input

Senator Bob Morton
7th Legislative District
See attached correspondence

Philip A. Talmadge
Talmadge Law Group PLLC
See attached correspondence

Executive Committee Recommendation

At the November meeting, the Executive Committee of the Select Committee on Pension Policy recommended forwarding the LEOFF 1 ex-spouse survivor benefits issue to the full committee for consideration.

Bill Draft

See attachment

Fiscal Note

See attachment



RECEIVED

MAY 21 2004

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Washington State Senate

Senator Bob Morton
7th Legislative District

**Office of
The State Actuary
District Office:**
3278 Pierre Lake Road
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Phone: (509) 684-5132

May 19, 2004

Dear Members of the Select Committee on Pension Policy:

During this past session, I was contacted by a former constituent, Sandra White, who is in dire financial circumstances because of the application of a survivor benefit statute. I would like to request that the Select Committee on Pension Policy ("SCPP") consider legislation that would remedy Ms. White's unfortunate plight.

Enclosed is Ms. White's correspondence, and following is a summary of her issue in the hope that the SCPP will find this useful in its consideration of this matter:

Issue

Ms. White was married to a LEOFF 1 member for 41 years. They divorced in 2000, some four years after he retired. The court order entitled her to half of his retirement benefit. Mr. White died one month after the divorce, thereby terminating Ms. White's retirement allowance. As a homemaker for all the years of their marriage, Ms. White has little money now.

2002 Legislative Change: Survivor Benefit for Ex-Spouses of LEOFF 1 Members

In the 2002 session, the legislature passed ESB 6380 which, among other things, granted a survivor benefit to ex-spouses of LEOFF 1 members, provided certain criteria were met.

The criteria included: (a) the member must have had 30 years of service, (b) the parties must have been married at least 25 years, and (c) the parties must have entered into a court-approved property settlement agreement awarding a portion of the member's benefits to the ex-spouse after June 13, 2002.

Under the bill as passed, Ms. White did not qualify for a survivor benefit. Her husband had 29 years & 10 months of service, not 30 years. And the court order entitling her to half of his retirement was entered in 2000, not after June 13, 2002.

Options to Solve Ms. White's Situation

There are several ways in which Ms. White's situation could be remedied and a survivor benefit could be obtained. Most notably, SB 6380 as it passed the Senate in 2002 would have solved Ms. White's problem, as it did not have the thirty year member requirement nor the time restriction on when the court order was entered into. Had that version not been subsequently amended, Ms. White would be receiving benefits now. I would ask the committee to consider this, or another alternative, as a solution to Ms. White's problem.

Thank you for your consideration.

Cordially yours,



BOB MORTON
State Senator

Enclosure

cc: Matthew Smith ✓

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November 5, 2004

Senator Karen Fraser
Select Committee on Pension Policy
PO Box 40422
Olympia, WA 98504-0422

Re: LEOFF Plan 1 Survivor Benefits

Dear Senator Fraser:

I am writing to you on behalf of the Retired Firefighters of Washington (RFFOW) regarding LEOFF Plan 1 survivor benefits, a topic that is on the agenda of the Executive Committee of the Select Committee on Pension Policy on November 9, 2004.

By way of background, the issue of how to fairly treat the ex-spouses of LEOFF Plan 1 members with respect to benefits has been a difficult one. For a service retirement under LEOFF Plan 1, a member received benefits until his or her death. The law allowed a survivorship benefit. RCW 41.26.160. However, the ex-spouse of the LEOFF Plan 1 member did not qualify for that benefit.

The Washington Supreme Court in *Arnold v. Dep't of Retirement Systems*, 128 Wn.2d 765, 912 P.2d 463 (1996), indicated that the Legislature's decision in RCW 41.26.160 to exclude ex-spouses of LEOFF members as beneficiaries of the LEOFF survivor benefit was constitutional. Moreover, the Court determined that statutory pension benefits could not be divided by a dissolution decree because the LEOFF Plan 1 benefits were personal to the firefighter or law enforcement officer and were not subject to community property law. The Court indicated, however, that a dissolution decree could address the concerns of a spouse not receiving the statutory benefits by a disproportionate award of other property, community and separate.

In 1999, the Legislature amended RCW 41.26.160 to differentiate between survivor benefits based on injuries or death incurred in the line of

duty and benefits occasioned by injuries or death not incurred in the line of duty. However, the Legislature did not address the question of the authority of the Department of Retirement Systems to split the benefit stream and allocate pension benefits between a firefighter and police officer and his or her spouse during the LEOFF Plan 1 member's lifetime in the dissolution decree. The Legislature also did not address the ex-spouse survivorship benefit issue.

These issues were finally addressed by the 2002 Legislature. The Legislature enacted ESB 6380 to permit the Department of Retirement Systems to separately pay retirement benefits to a LEOFF Plan 1 member and the member's divorced spouse pursuant to a dissolution decree. RCW 41.26.460.

The Legislature also redefined survivorship benefits for the former spouses of LEOFF Plan 1 members. RCW 41.26.162(2) indicated that former spouse of LEOFF Plan 1 member who divorced the member before the member retired, may qualify for the survivorship benefit of RCW 41.26.160 if a court order is entered in the dissolution after July 1, 2003. RCW 41.26.162(3) indicated that an ex-spouse of a LEOFF Plan 1 member with at least 30 years of service, who was married to the member for at least 25 years, and entered into a court-ordered property division after June 13, 2002, may also qualify for survivorship benefits.

The Legislature's treatment of eligibility of ex-spouses for survivorship benefits in RCW 41.26.162 creates serious inequities. The Committee received a May 19, 2004 letter from Senator Bob Morton (see attached) regarding one of his former constituents who was denied the LEOFF Plan 1 survivorship benefits because her husband, a LEOFF Plan 1 member, had 29 years and 10 months of service instead of 30 years, and the court order granting her a portion of his retirement benefit was entered in 2000 rather than after June 13, 2002.

RFFOW believe that eligibility standards of RCW 41.26.162(3) should be amended. This is a matter of simple equity for the former spouses of LEOFF Plan 1 members. These ex-spouses, mainly women, are severely financially impacted by their inability to receive benefits under LEOFF Plan 1. Many of the women so affected did not, and do not work, outside of the home. They do not have their own Social Security benefits. Moreover, most firefighters and law enforcement officers do not have Social Security benefits, and survivorship benefits under the Social Security Act are therefore not available to these women.

RFFOW would support legislation to broaden the eligibility of former spouses of LEOFF Plan 1 members for benefits under RCW 41.26.162(3).

Thank you for your attention to this very important issue. RFFOW hopes that the Committee will recommend changes in the eligibility standard for RCW 41.26.162(3) so that the ex-spouses of LEOFF Plan 1 members will be treated more fairly than is true under present law.

Very truly yours,

Philip A. Talmadge

PAT:gab

Attachment

cc: Richard C. Warbrouck
Executive Committee Members
Matt Smith

1 AN ACT Relating to survivor benefits for ex spouses in the law
2 enforcement officers' and fire fighters' retirement system, plan 1; and
3 amending RCW 41.26.160, 41.26.161, and 41.26.162.

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

5 **Sec. 1.** RCW 41.26.160 and 2002 c 158 s 1 are each amended to read
6 as follows:

7 (1) In the event of the duty connected death of any member who is
8 in active service, or who has vested under the provisions of RCW
9 41.26.090 with twenty or more service credit years of service, or who
10 is on duty connected disability leave or retired for duty connected
11 disability, the surviving spouse shall become entitled, subject to RCW
12 41.26.162(~~((+2))~~), to receive a monthly allowance equal to fifty percent
13 of the final average salary at the date of death if active, or the
14 amount of retirement allowance the vested member would have received at
15 age fifty, or the amount of the retirement allowance such retired
16 member was receiving at the time of death if retired for duty connected
17 disability. The amount of this allowance will be increased five
18 percent of final average salary for each child as defined in RCW
19 41.26.030(7), subject to a maximum combined allowance of sixty percent

1 of final average salary: PROVIDED, That if the child or children is or
2 are in the care of a legal guardian, payment of the increase
3 attributable to each child will be made to the child's legal guardian
4 or, in the absence of a legal guardian and if the member has created a
5 trust for the benefit of the child or children, payment of the increase
6 attributable to each child will be made to the trust.

7 (2) If at the time of the duty connected death of a vested member
8 with twenty or more service credit years of service as provided in
9 subsection (1) of this section or a member retired for duty connected
10 disability, the surviving spouse has not been lawfully married to such
11 member for one year prior to retirement or separation from service if
12 a vested member, the surviving spouse shall not be eligible to receive
13 the benefits under this section: PROVIDED, That if a member dies as a
14 result of a disability incurred in the line of duty, then if he or she
15 was married at the time he or she was disabled, the surviving spouse
16 shall be eligible to receive the benefits under this section.

17 (3) If there be no surviving spouse eligible to receive benefits at
18 the time of such member's duty connected death, then the child or
19 children of such member shall receive a monthly allowance equal to
20 thirty percent of final average salary for one child and an additional
21 ten percent for each additional child subject to a maximum combined
22 payment, under this subsection, of sixty percent of final average
23 salary. When there cease to be any eligible children as defined in RCW
24 41.26.030(7), there shall be paid to the legal heirs of the member the
25 excess, if any, of accumulated contributions of the member at the time
26 of death over all payments made to survivors on his or her behalf under
27 this chapter: PROVIDED, That payments under this subsection to
28 children shall be prorated equally among the children, if more than
29 one. If the member has created a trust for the benefit of the child or
30 children, the payment shall be made to the trust.

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

35 (5) If a surviving spouse receiving benefits under this section
36 remarries after June 13, 2002, the surviving spouse shall continue to
37 receive the benefits under this section.

1 (6) If a surviving spouse receiving benefits under the provisions
2 of this section thereafter dies and there are children as defined in
3 RCW 41.26.030(7), payment to the spouse shall cease and the child or
4 children shall receive the benefits as provided in subsection (3) of
5 this section.

6 (7) The payment provided by this section shall become due the day
7 following the date of death and payments shall be retroactive to that
8 date.

9 **Sec. 2.** RCW 41.26.161 and 2002 c 158 s 2 are each amended to read
10 as follows:

11 (1) In the event of the nonduty connected death of any member who
12 is in active service, or who has vested under the provisions of RCW
13 41.26.090 with twenty or more service credit years of service, or who
14 is on disability leave or retired, whether for nonduty connected
15 disability or service, the surviving spouse shall become entitled,
16 subject to RCW 41.26.162(~~((+2))~~), to receive a monthly allowance equal
17 to fifty percent of the final average salary at the date of death if
18 active, or the amount of retirement allowance the vested member would
19 have received at age fifty, or the amount of the retirement allowance
20 such retired member was receiving at the time of death if retired for
21 service or nonduty connected disability. The amount of this allowance
22 will be increased five percent of final average salary for each child
23 as defined in RCW 41.26.030(7), subject to a maximum combined allowance
24 of sixty percent of final average salary: PROVIDED, That if the child
25 or children is or are in the care of a legal guardian, payment of the
26 increase attributable to each child will be made to the child's legal
27 guardian or, in the absence of a legal guardian and if the member has
28 created a trust for the benefit of the child or children, payment of
29 the increase attributable to each child will be made to the trust.

30 (2) If at the time of the death of a vested member with twenty or
31 more service credit years of service as provided in subsection (1) of
32 this section or a member retired for service or disability, the
33 surviving spouse has not been lawfully married to such member for one
34 year prior to retirement or separation from service if a vested member,
35 the surviving spouse shall not be eligible to receive the benefits
36 under this section.

1 (3) If there be no surviving spouse eligible to receive benefits at
2 the time of such member's death, then the child or children of such
3 member shall receive a monthly allowance equal to thirty percent of
4 final average salary for one child and an additional ten percent for
5 each additional child subject to a maximum combined payment, under this
6 subsection, of sixty percent of final average salary. When there cease
7 to be any eligible children as defined in RCW 41.26.030(7), there shall
8 be paid to the legal heirs of the member the excess, if any, of
9 accumulated contributions of the member at the time of death over all
10 payments made to survivors on his or her behalf under this chapter:
11 PROVIDED, That payments under this subsection to children shall be
12 prorated equally among the children, if more than one. If the member
13 has created a trust for the benefit of the child or children, the
14 payment shall be made to the trust.

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

19 (5) If a surviving spouse receiving benefits under this section
20 remarries after June 13, 2002, the surviving spouse shall continue to
21 receive the benefits under this section.

22 (6) If a surviving spouse receiving benefits under the provisions
23 of this section thereafter dies and there are children as defined in
24 RCW 41.26.030(7), payment to the spouse shall cease and the child or
25 children shall receive the benefits as provided in subsection (3) of
26 this section.

27 (7) The payment provided by this section shall become due the day
28 following the date of death and payments shall be retroactive to that
29 date.

30 **Sec. 3.** RCW 41.26.162 and 2002 c 158 s 3 are each amended to read
31 as follows:

32 (1)((~~a~~)) An ex spouse of a law enforcement officers' and fire
33 fighters' retirement system retiree shall qualify as surviving spouse
34 under RCW 41.26.160 or 41.26.161 if the ex spouse(~~(~~

35 ~~i~~)) has been provided benefits under any currently effective
36 court decree of dissolution or legal separation or in any court order

1 or court-approved property settlement agreement incident to any court
2 decree of dissolution or legal separation (~~entered after the member's~~
3 ~~retirement and prior to December 31, 1979; and~~

4 ~~(ii) Was married to the retiree for at least thirty years,~~
5 ~~including at least twenty years prior to the member's retirement or~~
6 ~~separation from service if a vested member.~~

7 ~~(b) If two or more persons are eligible for a surviving spouse~~
8 ~~benefit under this subsection, benefits shall be divided between the~~
9 ~~surviving spouses based on the percentage of total service credit the~~
10 ~~member accrued during each marriage.~~

11 ~~(c) This subsection shall apply retroactively.~~

12 ~~(2)(a) An ex spouse of a law enforcement officers' and fire~~
13 ~~fighters' retirement system plan 1 retiree who:~~

14 ~~(i) Divorces the member before separation from service; and~~

15 ~~(ii) Entered into the court order or court approved property~~
16 ~~settlement agreement incident to the divorce of the member and ex~~
17 ~~spouse after July 1, 2003;~~

18 ~~may be awarded a portion of the member's benefit and a portion of any~~
19 ~~spousal survivor's benefit pursuant to RCW 41.26.160 or 41.26.161 after~~
20 ~~the member's death if specified in the court order or court approved~~
21 ~~property settlement.~~

22 ~~(b) This subsection shall not apply retroactively.~~

23 ~~(3)(a) An ex spouse of a law enforcement officers' and fire~~
24 ~~fighters' retirement system plan 1 member with at least thirty years of~~
25 ~~service who:~~

26 ~~(i) Divorced the member after being married to the member for at~~
27 ~~least twenty five years; and~~

28 ~~(ii) Entered into a court order or court approved property~~
29 ~~settlement agreement incident to the divorce that awarded a portion of~~
30 ~~the member's benefits to the ex spouse after June 13, 2002;)). Such an~~
31 ~~ex spouse shall continue to receive ((that)) the court-awarded portion~~
32 ~~of the member's benefit after the member's death as if the member was~~
33 ~~still alive.~~

34 ~~((b) This subsection shall apply only to a divorce entered into~~
35 ~~after January 1, 1997. However, no payments shall be made to an ex~~
36 ~~spouse of a deceased member qualifying under this subsection for any~~
37 ~~period prior to June 13, 2002.))~~

1 (2) An ex spouse whose benefit resumes as a result of this act
2 shall receive an initial payment equivalent to that portion of the
3 member's benefit received prior to its suspension. The benefit will
4 not be adjusted under RCW 41.26.240 for the period the allowance was
5 suspended.

6 (3) This act shall not result in the payment of benefits for the
7 period during which benefits were suspended.

8 (4) This section shall apply retroactively.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/30/2004	Z-0236.1/Z-0247.1

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officer's and Fire Fighter's Retirement System Plan 1 (LEOFF 1) by allowing all ex-spouses of LEOFF 1 members, who have been provided benefits under any court approved property settlement agreement incident to the divorce of the member and ex-spouse, to continue receiving those benefits after the death of the member. The bill will also allow those ex-spouses whose benefit was suspended upon a member's death to resume their benefit.

Effective Date: 90 days after session

CURRENT SITUATION:

Benefits to many ex-spouses of LEOFF 1 members cease after the member's death.

Under the most recent legislation, ex-spouses of LEOFF 1 members may qualify for survivor benefits if they divorced prior to the member's separation from service and entered into a court order or court approved property settlement after July 1, 2003. In such an instance, the ex-spouse may be awarded a portion of the member's benefit and survivor benefit if that benefit is so designated in the order or settlement.

Earlier provisions in LEOFF 1 required ex-spouses to meet stringent criteria to be eligible for survivor benefits. Prior to 1980, ex-spouses could only qualify if they had been married to the member for 30 years, 20 of which were before the member retired. More recently, an ex-spouse could qualify for survivor benefits if the member had 30 years of service and they had been married at least 25 years. Outside of those narrow parameters, the benefit for a spouse who divorced and entered into a property settlement prior to July 1, 2003 will cease upon the death of the member.

MEMBERS IMPACTED:

We estimate that 221 ex-spouses of members in a system with a total of 9,059 members would be affected by this bill. This includes 16 ex-spouses whose payments have already been stopped, and 205 ex-spouses whose benefits could potentially stop while they are still alive if the member dies first.

We estimate that for a typical ex-spouse of a member impacted by this bill whose benefits have already been stopped, the increase in benefits would be an immediate life annuity of about \$800 per month. For a typical ex-spouse of a member impacted by this bill whose benefits have could potentially stop in the future, the increase in benefits would be a continuation of a benefit of about \$1,040 per month for the life of the ex-spouse following the death of the member.

ASSUMPTIONS:

We relied on data from DRS regarding the ex-spouses who would be impacted by this bill, and the amount of their benefits. For the 10 ex-spouses with missing split amounts, we assumed that the ex-spouse would receive 50% of the member's benefit. For the ex-spouses whose benefits were already stopped, we assumed that the same amount that was stopped would be restarted as a life annuity, with no retroactive payments and no retroactive adjustments for COLAs. For the ex-spouses whose benefits could be stopped in the future, the value of the ex-spouse benefit was based on the difference between the member selecting a joint and 100% survivor benefit and the member selecting a life annuity, using the member's age at the valuation date. We used separate mortality table for healthy and disabled members, and used a healthy mortality table for ex-spouses. We did not factor in any possible difference in mortality rates based on marital status.

FISCAL IMPACT:

Description:

There is no immediate fiscal impact while the plan remains in a surplus or fully funded position. The current plan is projected to remain fully funded because the market value of assets exceeds the liabilities by \$39 million (at 9/30/2003). This proposal would reduce the surplus, but as long as a surplus remains on a market value basis, we would not project the plan to emerge from full funding under current long-term assumptions. However, if the plan experiences short-term actuarial losses, the plan would be more likely to emerge from full funding as a result of the proposed benefit increase. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

Law Enforcement Officers' and Police and Fire Fighters Retirement System:			
<i>(Dollars in Millions)</i>			
	Current	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	\$4,342	\$9	\$4,351
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	(\$462)	\$9	(\$453)
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	(\$521)	\$9	(\$512)
 Increase in Contribution Rates: (Effective 9/1/2005)			
Employee	0.00%		
Employer State	0.00%		

Fiscal Budget Determinations:

There is no projected increase in funding expenditures.

State Actuary's Comments:

We have projected that the cost of this bill would draw down a portion of the plan's current surplus, but would not increase the plan's future funding requirements. This projection reflects the future recognition of prior asset gains and losses not yet fully recognized under the asset smoothing method and reflects the cost of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Law Enforcement Officers' and Fire Fighters' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all Plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

LEOFF 1 Survivor Benefits

Background

LEOFF 1 members who marry after retirement may designate their new spouse as a beneficiary during a one-year window that begins one year after the date of marriage. To make such a designation, there may not be a qualified ex-spouse receiving a portion of the member's retirement benefit under a court approved property settlement. To receive this benefit the member's allowance is actuarially reduced.

Committee Activity

Presentation:

December 7, 2004 - Full Committee Hearing

Proposal:

December 7, 2004 - Full Committee

Recommendation to Legislature

Allow a LEOFF 1 member to designate a spouse from a post-retirement marriage as a beneficiary even if there is a qualified ex-spouse receiving a portion of the member's retirement benefit under a court approved property settlement.

Staff Contact

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237 – baker.robert@leg.wa.gov

Select Committee on Pension Policy

LEOFF 1 Survivor Benefits

(October 27, 2004)

Proposal

Allow a LEOFF 1 member to designate a spouse from a post-retirement marriage as a beneficiary even if there is a qualified ex-spouse receiving a portion of the member's retirement benefit under a court approved property settlement.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

As of the 2003 valuation, there were 991 active members, 6,870 retirees, and 1,184 survivors in LEOFF 1.

Current Situation

Members who marry after retirement may designate their new spouse as a beneficiary during a one-year window that begins one year after the date of marriage. To make such a designation, there may not be a qualified ex-spouse receiving a portion of the member's retirement benefit under a court approved property settlement. To receive this benefit the member's allowance is actuarially reduced.

History

HB 3173 was introduced in the 2004 legislative session. It would have allowed a spouse from a post-retirement marriage to receive survivor benefits even though there was a qualified ex-spouse already receiving benefits. The bill did not receive a hearing.

Policy Analysis

Implicit retirement policies outlined by the former Joint Committee on Pension Policy state that “Pension benefits should meet the needs of employees, retirees, and employers within available resources,” and “Retirees should have more flexibility in determining the form and timing of their benefit.” The provisions allowing ex-spouses and spouses from post-retirement marriages to receive survivor benefits are based on these policies. Any expansion of eligibility for multiple survivors to receive fractional benefits would be in keeping with these policies.

Executive Committee Recommendation

Forward the bill to the full committee for consideration.

Bill (Draft)

Attached

Fiscal Note (Draft)

Attached

1 AN ACT Relating to choosing a reduced retirement allowance under
2 the law enforcement officers' and fire fighters' retirement system,
3 plan 1; amending RCW 41.26.164; and declaring an emergency.

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

5 **Sec. 1.** RCW 41.26.164 and 2002 c 158 s 4 are each amended to read
6 as follows:

7 (1) No later than July 1, ~~((2003))~~ 2005, the department shall adopt
8 rules to allow a member who meets the criteria set forth in subsection
9 (2) of this section to choose an actuarially equivalent benefit that
10 pays the member a reduced retirement allowance and upon death, such
11 portion of the member's reduced retirement allowance as the department
12 by rule designates shall be continued throughout the life of a spouse
13 ineligible for survivor benefits under RCW 41.26.160 or 41.26.161.

14 (2) To choose an actuarially equivalent benefit according to
15 subsection (1) of this section, a member shall:

16 (a) Have a portion of the retirement allowance payable to the
17 retiree that is not subject to periodic payments pursuant to a property
18 division obligation as provided for in RCW 41.50.670; and

19 (b) ~~((Have no qualified ex spouse under RCW 41.26.162(1)); and~~

1 ~~(e))~~) Choose an actuarially reduced benefit during a one-year
2 period beginning one year after the date of marriage to the survivor
3 benefit-ineligible spouse.

4 (3) A member who married a spouse ineligible for survivor benefits
5 under RCW 41.26.160 or 41.26.161 prior to the effective date of the
6 rules adopted under this section and satisfies ~~((the conditions of))~~
7 subsection (2)(a) ~~((and (b)))~~ of this section has one year to designate
8 their spouse as a survivor beneficiary following the adoption of the
9 rules.

10 (4) No benefit provided to a child survivor beneficiary under RCW
11 41.26.160 or 41.26.161 is affected or reduced by the member's selection
12 of the actuarially reduced spousal survivor benefit provided by this
13 section.

14 (5)(a) Any member who chose to receive a reduced retirement
15 allowance under subsection (1) of this section is entitled to receive
16 a retirement allowance adjusted in accordance with (b) of this
17 subsection if:

18 (i) The retiree's survivor spouse designated in subsection (1) of
19 this section predeceases the retiree; and

20 (ii) The retiree provides to the department proper proof of the
21 designated beneficiary's death.

22 (b) The retirement allowance payable to the retiree from the
23 beginning of the month following the date of the ~~((beneficiaries~~
24 ~~{beneficiary's}))~~ beneficiary's death shall be increased by the
25 following:

26 (i) One hundred percent multiplied by the result of (b)(ii) of this
27 subsection converted to a percent;

28 (ii) Subtract one from the reciprocal of the appropriate joint and
29 survivor option factor.

30 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 immediately.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/22/04	Z-0200.2/Z-0201.2

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1. It amends the plan provision relating to survivor benefits under RCW 41.26.164, which provides an optional reduced retirement allowance with survivor benefits to spouses that are ineligible for survivor benefits under other plan provisions. The bill changes one of the criteria for allowing a member to choose this retirement option. Under this legislation, the member could select the option as long as there is some portion of his or her retirement benefit that is not subject to a property division pursuant to a domestic relations order. Currently, any division would defeat the member's ability to select this option.

Effective Date: Immediately upon passage.

CURRENT SITUATION:

Currently a member desiring to choose this option shall "have the retirement allowance payable to the retiree not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670." This language is broad enough to suggest that the presence of any such division would defeat the member's ability to choose this option. With the new language, the member could choose this option so long as there is a portion of the retirement allowance that is not subject to division.

MEMBERS IMPACTED:

This bill would impact LEOFF 1 members who have or will have a domestic relations order that applies to their benefit. We estimate that this bill could potentially affect all members of the LEOFF 1 system.

ASSUMPTIONS:

We assume that the value of the reduced benefit under this option will be actuarially equivalent to the unreduced benefit.

FISCAL IMPACT:

None.

Part-Time Education Staff Associates (ESAs)

Background

Current TRS 1 statutes allow less-than-full-time members who spend more than 75% of their time as classroom instructors, librarians or counselors to annualize their salaries upon retirement so as to receive proportionate retirement benefits. School counselors are certified ESAs and are the only category of ESAs allowed to annualize their salaries in the same manner as teachers and librarians. Other categories of ESAs include Psychologists, Social Workers, Nurses, Physical Therapists, Occupational Therapists and Speech Language Pathologists or Audiologists. None of these latter categories are currently allowed to annualize their salaries in order to receive proportionate retirement benefits for less-than-full-time service.

Committee Activity

Presentations:

June 15, 2004 - Executive Committee

November 9, 2004 - Full Committee

Proposal:

November 9, 2004 - Full Committee

Recommendation to Legislature

Permit all part-time ESAs in TRS 1 to annualize their salaries in order to receive proportionate retirement benefits for less-than-full-time service.

Staff Contact

Laura Harper, Senior Research Analyst/Legal
360-586-7616 – harper.laura@leg.wa.gov

Select Committee on Pension Policy

Part-time Educational Staff Associates

(October 26, 2004)

Issue	Allow Certified Educational Staff Associates (ESAs) in the Teachers Retirement System (TRS) Plan 1 to annualize their salaries when calculating their average final compensation so they may receive proportionate retirement benefits.
Staff	Laura Harper, Senior Research Analyst/Legal (360) 586-7616
Members Impacted	This proposal impacts part-time ESAs in Plan 1 of the Teachers' Retirement System (TRS). We estimate that there are 30 part-time ESAs out of 11,175 members in TRS 1.
Current Situation	Current TRS 1 statutes allow less-than-full-time members who spend more than seventy-five percent of their time as classroom instructors, librarians, or counselors to annualize their salaries upon retirement so as to receive proportionate retirement benefits. School Counselors are Certified ESAs, and are the only category of ESAs allowed to annualize their salaries in the same manner as teachers and librarians. Other categories of ESAs include Psychologists, Social Workers, Nurses, Physical Therapists, Occupational Therapists and Speech Language Pathologists or Audiologists. None of these latter categories are currently allowed to annualize their salaries in order to receive proportionate retirement benefits for less-than-full-time service.

Example

Under current law an ESA who is not a counselor and who works half-time for 30 years receives half the retirement benefit of a counselor despite making the same salary and contributions.

	Full-Time ESA	Half-Time Counselor	Half-Time Nurse
Salary	\$50,000	\$25,000	\$25,000
Annual Contributions	\$3,000	\$1,500	\$1,500
Retirement Benefit	\$30,000	\$15,000	\$7,500

History

This proposal was introduced to the Joint Committee on Pension Policy by correspondence from the Chair of the Professional Educator Standards Board dated October 29, 2002. The Joint Committee deferred consideration of this matter until 2003. At the end of 2003, the Select Committee on Pension Policy voted to recommend legislation for the 2004 session. SB 6250/HB 2542 passed in the House but stalled in Senate Rules.

Policy Analysis

There are seven Educational Staff Associate (ESA) positions employed by school districts: School Counselor, Psychologist, Social Worker, Nurse, Physical Therapist, Occupational Therapist, and Speech Language Pathologist or Audiologist. As in the case of teachers, those engaged in these activities must be certified.

According to the Superintendent of Public Instruction, the educational standards and certification course for these positions may be more rigorous than that of teachers. Counselors, psychologists, social workers and speech language pathologists/audiologists all require a Master's degree plus passage of a state-approved 30-hour certification course. Occupational therapists, physical therapists, and nurses require a Bachelor's degree plus the same 30-hour certification course.

The Legislative Evaluation and Accountability Program (LEAP) quantifies the education and training requirements for these positions in what is called a **mix factor**. A position with a mix factor of 1 requires a Bachelor's degree and no experience. In the latest School District Personnel Summary Profiles for the 2002-2003 school year, the mix factors for ESAs averaged 1.67 while the mix factor for teachers averaged 1.58.

There appears to be no particular reason why Counselors can annualize their salary in the same manner as teachers and librarians while other ESAs cannot. The proposal before the SCPP is to bring consistency to the treatment of part-time ESAs by allowing all of them to annualize their salaries so as to receive proportionate retirement benefits.

Stakeholder Input

See attachment from the Professional Educator Standards Board dated October 29, 2002.

Options

Only one option is proposed: to allow all currently excluded part-time ESAs in TRS 1 to annualize their salaries for determining their average final compensation and thus receive proportionate retirement benefits.

Bill Draft

A proposed bill draft is attached.

Fiscal Note (Draft)

A draft fiscal note on the proposed bill is attached.



STATE OF WASHINGTON

PROFESSIONAL EDUCATOR STANDARDS BOARD

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October 29, 2002

The Honorable Don Carlson
Washington State Senator
Chair, Joint Committee on Pension Policy
P. O. Box 40449
Olympia, WA 98504-0449

Dear Senator Carlson:

According to RCW 41.32.010, public school district or community college employees in an instructional position employed less than full-time and participating in the Teachers' Retirement System (TRS) may elect to have earnable compensation defined as the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period. This is for the purpose of calculating retirement benefits to ensure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit. The RCW defines "instructional position", however, as a position in which more than seventy-five percent of the member's time is spent as a classroom instructor, (including office hours), a librarian, or a school counselor. ESAs typically spend more than 75% of their day in direct contact with students, just not as "classroom instructors" as required by the current statute.

The Professional Educator Standards Board advises state policymakers on issues affecting certified Washington educators, including certified educational staff associates (ESAs). Through our work we've become keenly aware of the crucial role all ESAs play in supporting student learning. In addition to the role of school counselors referenced in RCW 41.32, certified ESAs also include school psychologists, social workers, speech and language pathologists, audiologists, school nurses, school occupational therapists, and school physical therapists.

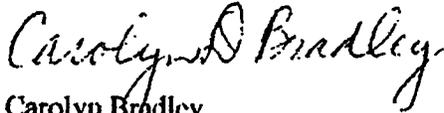
More than ever, children arrive at school doors with complex needs that are real barriers to learning. By addressing the physical, emotional, social and educational needs of the whole child, ESAs make it possible for learning to occur. We, along with the Washington Education Association, encourage the Joint Committee on Pension Policy to consider recommending to the legislature a change in current RCW that recognizes the contribution of these ESAs and expands the definition of members eligible for this provision to include all ESAs. We roughly estimate this provision would affect at the most 600 certified Educational Staff Associates, but recognize that the Office of the State Actuary is better positioned to determine the true fiscal impact of this policy change.



The Honorable Don Carlson
October 30, 2002
Page 2

We realize, and apologize, that this is quite late in the legislative interim process. We appreciate the workload the JCPP has taken upon itself this interim, and hope that you can find time to address this one small additional issue.

Sincerely,



Carolyn Bradley
Chair

cc: Members of the Joint Committee on Pension Policy

1 AN ACT Relating to allowing members of the teachers' retirement
2 system plan 1 who are employed less than full time as psychologists,
3 social workers, nurses, physical therapists, occupational therapists,
4 or speech language pathologists or audiologists to annualize their
5 salaries when calculating their average final compensation; and
6 amending RCW 41.32.010.

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

8 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read
9 as follows:

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

12 (1)(a) "Accumulated contributions" for plan 1 members, means the
13 sum of all regular annuity contributions and, except for the purpose of
14 withdrawal at the time of retirement, any amount paid under RCW
15 41.50.165(2) with regular interest thereon.

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

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

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

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

8 (5)(a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance or other benefit provided by this
10 chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

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

17 (7) "Creditable service" means membership service plus prior
18 service for which credit is allowable. This subsection shall apply
19 only to plan 1 members.

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

22 (9) "Disability allowance" means monthly payments during
23 disability. This subsection shall apply only to plan 1 members.

24 (10)(a) "Earnable compensation" for plan 1 members, means:

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

30 (ii) For an employee member of the retirement system teaching in an
31 extended school year program, two consecutive extended school years, as
32 defined by the employer school district, may be used as the annual
33 period for determining earnable compensation in lieu of the two fiscal
34 years.

35 (iii) "Earnable compensation" for plan 1 members also includes the
36 following actual or imputed payments, which are not paid for personal
37 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 (iv) 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, a
30 psychologist, a social worker, a nurse, a physical therapist, an
31 occupational therapist, a speech language pathologist or audiologist,
32 or a counselor. Earnable compensation shall be so defined only for the
33 purpose of the calculation of retirement benefits and only as necessary
34 to insure that members who receive fractional service credit under RCW
35 41.32.270 receive benefits proportional to those received by members
36 who have received full-time service credit.

37 (v) "Earnable compensation" does not include:

1 (A) Remuneration for unused sick leave authorized under RCW
2 41.04.340, 28A.400.210, or 28A.310.490;

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

5 (b) "Earnable compensation" for plan 2 and plan 3 members, means
6 salaries or wages earned by a member during a payroll period for
7 personal services, including overtime payments, and shall include wages
8 and salaries deferred under provisions established pursuant to sections
9 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
10 shall exclude lump sum payments for deferred annual sick leave, unused
11 accumulated vacation, unused accumulated annual leave, or any form of
12 severance pay.

13 "Earnable compensation" for plan 2 and plan 3 members also includes
14 the following actual or imputed payments which, except in the case of
15 (b)(ii)(B) of this subsection, are not paid for personal services:

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

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

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

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

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

36 (12) "Fiscal year" means a year which begins July 1st and ends June
37 30th of the following year.

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

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

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

11 (16) "Membership service" means service rendered subsequent to the
12 first day of eligibility of a person to membership in the retirement
13 system: PROVIDED, That where a member is employed by two or more
14 employers the individual shall receive no more than one service credit
15 month during any calendar month in which multiple service is rendered.
16 The provisions of this subsection shall apply only to plan 1 members.

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

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

23 (19) "Prior service" means service rendered prior to the first date
24 of eligibility to membership in the retirement system for which credit
25 is allowable. The provisions of this subsection shall apply only to
26 plan 1 members.

27 (20) "Prior service contributions" means contributions made by a
28 member to secure credit for prior service. The provisions of this
29 subsection shall apply only to plan 1 members.

30 (21) "Public school" means any institution or activity operated by
31 the state of Washington or any instrumentality or political subdivision
32 thereof employing teachers, except the University of Washington and
33 Washington State University.

34 (22) "Regular contributions" means the amounts required to be
35 deducted from the compensation of a member and credited to the member's
36 individual account in the member reserve. This subsection shall apply
37 only to plan 1 members.

1 (23) "Regular interest" means such rate as the director may
2 determine.

3 (24)(a) "Retirement allowance" for plan 1 members, means monthly
4 payments based on the sum of annuity and pension, or any optional
5 benefits payable in lieu thereof.

6 (b) "Retirement allowance" for plan 2 and plan 3 members, means
7 monthly payments to a retiree or beneficiary as provided in this
8 chapter.

9 (25) "Retirement system" means the Washington state teachers'
10 retirement system.

11 (26)(a) "Service" for plan 1 members means the time during which a
12 member has been employed by an employer for compensation.

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

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

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

23 (b) "Service" for plan 2 and plan 3 members, means periods of
24 employment by a member for one or more employers for which earnable
25 compensation is earned subject to the following conditions:

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

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

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

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

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

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

11 (iv) Any person who is a member of the teachers' retirement system
12 and who is elected or appointed to a state elective position may
13 continue to be a member of the retirement system and continue to
14 receive a service credit month for each of the months in a state
15 elective position by making the required member contributions.

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

20 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
21 sick leave may be creditable as service solely for the purpose of
22 determining eligibility to retire under RCW 41.32.470. For purposes of
23 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
24 to two service credit months. Use of less than forty-five days of sick
25 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

1 (viii) The department shall adopt rules implementing this
2 subsection.

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

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

7 (29) "Teacher" means any person qualified to teach who is engaged
8 by a public school in an instructional, administrative, or supervisory
9 capacity. The term includes state, educational service district, and
10 school district superintendents and their assistants and all employees
11 certificated by the superintendent of public instruction; and in
12 addition thereto any full time school doctor who is employed by a
13 public school and renders service of an instructional or educational
14 nature.

15 (30) "Average final compensation" for plan 2 and plan 3 members,
16 means the member's average earnable compensation of the highest
17 consecutive sixty service credit months prior to such member's
18 retirement, termination, or death. Periods constituting authorized
19 leaves of absence may not be used in the calculation of average final
20 compensation except under RCW 41.32.810(2).

21 (31) "Retiree" means any person who has begun accruing a retirement
22 allowance or other benefit provided by this chapter resulting from
23 service rendered to an employer while a member.

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

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

27 (34) "State elective position" means any position held by any
28 person elected or appointed to statewide office or elected or appointed
29 as a member of the legislature.

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

32 (36) "Substitute teacher" means:

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

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

1 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
2 through September 1, 1991, means a position which normally requires two
3 or more uninterrupted months of creditable service during September
4 through August of the following year.

5 (b) "Eligible position" for plan 2 and plan 3 on and after
6 September 1, 1991, means a position that, as defined by the employer,
7 normally requires five or more months of at least seventy hours of
8 earnable compensation during September through August of the following
9 year.

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

13 (d) The elected position of the superintendent of public
14 instruction is an eligible position.

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

18 (39) "Plan 2" means the teachers' retirement system, plan 2
19 providing the benefits and funding provisions covering persons who
20 first became members of the system on and after October 1, 1977, and
21 prior to July 1, 1996.

22 (40) "Plan 3" means the teachers' retirement system, plan 3
23 providing the benefits and funding provisions covering persons who
24 first become members of the system on and after July 1, 1996, or who
25 transfer under RCW 41.32.817.

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

30 (42) "Index A" means the index for the year prior to the
31 determination of a postretirement adjustment.

32 (43) "Index B" means the index for the year prior to index A.

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

35 (45) "Adjustment ratio" means the value of index A divided by index
36 B.

37 (46) "Annual increase" means, initially, fifty-nine cents per month

1 per year of service which amount shall be increased each July 1st by
2 three percent, rounded to the nearest cent.

3 (47) "Member account" or "member's account" for purposes of plan 3
4 means the sum of the contributions and earnings on behalf of the member
5 in the defined contribution portion of plan 3.

6 (48) "Separation from service or employment" occurs when a person
7 has terminated all employment with an employer.

8 (49) "Employed" or "employee" means a person who is providing
9 services for compensation to an employer, unless the person is free
10 from the employer's direction and control over the performance of work.
11 The department shall adopt rules and interpret this subsection
12 consistent with common law.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	10/27/04	Z-0178.1/Z-0179.1

SUMMARY OF BILL:

This bill impacts the Teachers' Retirement System (TRS) Plan 1 by allowing Certified Educational Staff Associates (ESAs) to annualize their salaries when calculating their average final compensation so they may receive proportionate retirement benefits.

Effective Date: 90 days after session

CURRENT SITUATION:

Current TRS 1 statutes allow less-than-full-time members who spend more than seventy-five percent of their time as classroom instructors, librarians or counselors to annualize their salaries upon retirement so as to receive proportionate retirement benefits. School counselors are Certified ESAs, and are the only category of ESAs allowed to annualize their salaries in the same manner as teachers and librarians. Other categories of ESAs (not allowed to annualize their salaries) include Psychologists, Social Workers, Nurses, Physical Therapists and Speech Language Pathologists or Audiologists.

MEMBERS IMPACTED:

We estimate that 30 TRS 1 active members out of the total 11,175 active members of this system would be affected by this bill because they are in the category of ESA that would be added and they earned less than a full year of service in the most recent year.

We estimate that for a typical member impacted by this bill, the increase in benefits would be to double their benefit (based on annualizing their pay using their service credit - the actual annualizing could be different). These 30 members currently have 14.0 years of service and estimated average final compensation of \$31,133 and a benefit of \$8,717 before this change. After this change their estimated average final compensation would be \$50,261 and their current benefit would increase to \$14,073.

ASSUMPTIONS:

In absence of individual member data we assumed that the member's pay would increase in proportion to their fractional service credit. In other words, a member who currently receives half a year of service credit would have their average final compensation doubled for this purpose. The average valuation years of service for the group was 0.62, so their average compensation would increase by $1/0.62$, or 61.29%.

FISCAL IMPACT:

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>	Teachers Retirement System Plan 1		
	Current	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	\$10,767	\$1.9	\$10,769
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	\$1,416	\$1.9	\$1,418
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	\$1,121	\$1.5	\$1,123

Increase in Contribution Rates:

Employee	N/A
Employer State	0.0037%

Fiscal Budget Determinations:

None. The estimated increase in the required employer contribution rate is less than .005% and therefore will not round up to the minimum increase of .01%.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following: None.
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Plan 1 COLA / Gain-sharing

Background

Currently, gain sharing in PERS 1 and TRS 1 occurs on even-numbered years. An extraordinary investment gain occurs when the average rate of return on assets for the previous 4-year period exceeds 10%. When this gain occurs, one-half of the gain for PERS 1 and TRS 1 is used to fund a permanent increase in the PERS 1 and TRS 1 Uniform COLA for current and future retirees.

PERS 1 and TRS 1 members with 25 years of service who have been retired 20 years are eligible for the \$1,000 alternative minimum benefit. The benefit has no automatic escalator and will effectively cease in 2010 when the original minimum benefit will provide a benefit greater than \$1,000 for a retiree with 25 years of service.

The current Uniform COLA provisions require PERS 1 and TRS 1 members to be retired one year and to be at least age 66 on July 1st to be eligible for the COLA.

Committee Activity

Presentation:

December 7, 2004 - Full Committee

Subgroup Activity:

September 7, 2004 - Subgroup Meeting
October 19, 2004 - Subgroup Meeting
November 9, 2004 - Subgroup Meeting

Proposal:

December 7, 2004 - Full Committee

Recommendation to Legislature

Repeal plan 1 gain-sharing and use approximately one-half of the long-term estimated cost to fund the following benefit improvements in PERS 1 and TRS 1:

- Enhance the annual increase amount by 20 cents, raising the July 1, 2005 amount from \$1.25 to \$1.45.
- Establish a \$1,000 alternative minimum benefit for members with 20 years of service who have been retired 25 years.
- Establish a 3% annual escalator for both \$1,000 alternative minimum benefit provisions (existing and proposed).
- Amend Uniform COLA eligibility to include all PERS 1 and TRS 1 retirees who have been retired one year and will have attained age 66 by December 31st of the calendar year in which the increase is given.

Staff Contact

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237 – baker.robert@leg.wa.gov

Select Committee on Pension Policy
Plan 1 COLA / Gain-sharing
Purchasing Power Subgroup Proposal
(December 1, 2004)

Proposal

Repeal plan 1 gain-sharing and use approximately one-half of the long-term estimated cost to fund the following benefit improvements in PERS 1 and TRS 1:

- Enhance the annual increase amount by 20 cents, raising the July 1, 2005 amount from \$1.25 to \$1.45.
- Establish a \$1,000 alternative minimum benefit for members with 20 years of service who have been retired 25 years.
- Establish a 3% annual escalator for both \$1,000 alternative minimum benefit provisions (existing and proposed).
- Amend Uniform COLA eligibility to include all PERS 1 and TRS 1 retirees who have been retired one year and will have attained age 66 by December 31st of the calendar year in which the increase is given.

This is an expansion and combination of several options presented during the “Purchasing Power Benefit Options” presentation to the SCPP on August 17, 2004.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

As of the 2003 valuation, there were 19,740 active and 54,372 retired PERS 1 members; and 11,175 active and 33,855 retired TRS 1 members.

The 20 cent COLA and the repeal of Plan 1 gain-sharing will impact all 77,254 members of PERS 1 and all 46,677 members of TRS 1. The new eligibility requirements for the \$1,000 minimum will impact 694 PERS 1 members and 461 TRS 1 members, and indexing the \$1,000 will impact an additional 391 PERS 1 members and 338 TRS 1 members. The age 66 COLA will impact half the members in PERS 1 and TRS 1 under age 65.

For a typical member impacted by this bill, the uncertain and irregular adjustment to the Annual Increase Amount provided by gain-sharing is exchanged for a definitely determinable increase. Instead of providing adjustments to the Annual Increase Amount with gain-sharing, the Annual Increase Amount would be increased by 20 cents. A retiree with 25 years of service would get an increase of \$5 per month.

Current Situation

The Annual Increase Amount is multiplied by each retirees' months of service to determine the annual Uniform increase retirees receive when they are COLA eligible. The most recent Annual Increase Amount was \$1.21. The Annual Increase Amount increases each year by at least 3 percent. Gain-sharing is also used to boost the Annual Increase Amount; 38 cents of the current amount is a result of gain-sharing. The Annual Increase Amount is scheduled to increase to \$1.25 on July 1, 2005.

The current \$1,000 alternative minimum benefit was established in 2004. Members with 25 years of service who have been retired 20 years are eligible for this benefit. The benefit has no automatic escalator and, as a result, will effectively cease in 2010 when the original minimum benefit, which increases each year by the Annual Increase Amount, will produce a benefit greater than \$1,000 for a retired member with 25 years of service.

The current Uniform COLA provisions require PERS 1 and TRS 1 members to have been retired one year and to be at least age 66 on July 1st to be eligible for the adjustment paid on July 1st.

Currently, gain sharing in PERS 1 and TRS 1 occurs on even-numbered years. An extraordinary investment gain occurs when the average rate of return on assets for the previous 4-year period exceeds 10%. When this gain occurs, one-half of the gain for PERS 1 and TRS 1 is used to fund a permanent increase in the PERS 1 and TRS 1 Uniform COLA for current and future retirees.

History

The Uniform COLA was established under Chapter 345 laws of 1995.

PERS 1 and TRS 1 gain-sharing was established under Chapter 340 laws of 1998.

The current \$1,000 alternative minimum benefit in PERS 1 and TRS 1 was established under Chapter 84 laws of 2004.

Benefit adequacy, particularly in regards to PERS 1 and TRS 1 inflation protection, was studied by the SCPP in the 2004 interim.

Bills to amend the Uniform COLA age eligibility requirements were introduced in the 2000, 2001, 2003, and 2004 legislative sessions. The most recent bills, HB 2539 and SB 6248, did not move from their respective fiscal committees.

Policy Analysis

The policy implications within this trade-off proposal deal with contractual rights of benefits whose statutory basis includes the “non-contractual right” clause, the nature of the benefits being traded, and the value of a certain benefit compared to an uncertain benefit. An informal advice request from the Attorney General’s Office on these subjects resulted in the following:

1. There isn’t a clear answer whether gain-sharing is a vested, contractual right. It might not be a vested, contractual right because of the reservation clause.
2. If the court believes gain-sharing is a vested, contractual right, it is more likely than not that a court would find that the right has not been substantially impaired because members and beneficiaries were “put on notice” that the legislature may amend or repeal gain-sharing in the future (via the reservation clause).
3. With regard to comparable benefits, if gain-sharing were repealed and replaced by another benefit, courts favor comparable benefits which are similar to the old benefit.
4. Under the context of gain-sharing, it is reasonable to adjust the value of an uncertain and unpredictable benefit when determining the value of a comparable replacement which has little or no uncertainty.

COLA for COLA

This advice frames the proposal by maintaining any benefit trade-off should remain within the retiree COLA/purchasing power arena. Since gain-sharing is used to boost the annual increase amount for calculating retirees’ uniform COLA, any alternative benefit(s) should then be so related. Enhancing the uniform increase amount, expanding the qualification requirements to receive

minimum benefits, indexing those alternative minimum benefits by 3% per year, and lowering the age eligibility requirements for receipt of the Uniform COLA are all related to the protection of retirees' purchasing power, and would thus appear to be appropriate trade-off alternatives.

Certainty for Uncertainty

In addition, by placing a higher value on certainty, an alternate benefit may be less costly. Gain-sharing is a benefit that can be given a long-term expected value, but because of the variability of investment markets, it cannot be given a specific value in the near-term with a high degree of certainty. As a result, for those desiring a benefit with near-term certainty, part of the value of a long-term uncertain benefit may be traded to acquire that certainty.

The Purchasing Power Subgroup proposed to enhance select PERS 1 and TRS 1 COLA provisions by a total amount approximately half the long-term cost of Gain-sharing, thus giving greater value to a certain benefit and lesser value to an uncertain benefit. This can be illustrated in the following contribution rate accounting of the Purchasing Power Subgroup proposal.

Plan 1 Gain-Sharing Trade-off		
% of Pay for Employers		
	PERS 1	TRS 1
Long-term Expected Gain-sharing Cost	0.40%	0.84%
1. 20¢ Increase in Annual Amount	0.18%	0.37%
2. Age 66 COLA Eligibility Changes	0.03%	0.04%
3. \$1,000 Minimum Expanded and Indexed at 3%	0.01%	0.01%
Total of Three Proposals	0.22%	0.42%

As seen in the above tabulation, were gain-sharing to be pre-funded, employer contributions in PERS 1 and TRS 1 would increase 0.40% and 0.84% respectively. However, even if it were pre-funded, retired members would not receive a benefit from gain-sharing in 2005 as distributions occur in even numbered years.

Stakeholder Input

Ed Gonion
Washington State School Retirees Association
See attached correspondence

Bill Draft

See attachment

Fiscal Note

See attachment



**Washington State
School Retirees Association**

4726 Pacific Ave. SE

Lacey, WA 98503-1216

PHONE (360) 413-5496

MEMORANDUM

November 24, 2004

RECEIVED

NOV 29 2004

Office of
The State Actuary

TO: Senator Karen Fraser
Chair, Select Committee on Pension Policy

Committee Members

FROM: Ed Gonion *EG*
Executive Director, Washington State School Retirees' Association

SUBJECT: Gain Sharing and Contribution Rate Deferral

Gain Sharing:

WSSRA is strongly opposed to the elimination of the Gain Sharing component of Washington's Retirement System. Plan 1 retirees depend on Gain Sharing to augment the Uniform Plan 1 COLA, and Plan 3 members depend on Gain Sharing to augment their Defined Contribution account.

Plan 1 and Plan 3 retirees/members only receive 50% of the extra ordinary gains when and if they occur. The pension system retains 50%.

WSSRA could support a REPLACEMENT of Plan 1 Gain Sharing only if the following package of benefits were enacted into law prior to eliminating Gain Sharing:

- Increasing the Annual Increase amount of the Uniform Plan 1 COLA by \$0.25.
- Adjusting eligibility for the Uniform Plan 1 COLA so that all retirees would begin receiving the COLA in July of the calendar year they turn age 66 rather than just those who have a birthday that falls between January and June. (Those who's birthday occurs between July and December must wait almost to age 67 to receive the age 66 COLA.)
- Increasing the \$1,000 "Minimum Benefit" enacted during the 2004 Session (SHB 2538) by 3% each year.

With respect to Plan 3 Gain Sharing, WSSRA believes that it is essential that any package of replacement benefits serve the interests of both current and future retirees.

Contribution Rate Deferral:

Plan 1 employees have continued to pay 6% of their salary into pension funds while the contribution rates paid by state and local government have been reduced over the last several years. Additionally, during the 2003-2005 Biennium, State and local governments have enjoyed a "contribution holiday" from payments to the Plan 1 unfunded liability to spend funds earmarked for pensions on other non-pension priorities. The employer contribution rate is not fair or adequate and creates unnecessary financial risk for the state retirement system and the retirees who depend upon it.

WSSRA is opposed to state and local government's continuing to under-fund the respective pension plans. It is essential that the rates be set at levels recommended by the State Actuary and endorsed earlier this Interim by the Select Committee on Pension Policy.

cc: Matt Smith, State Actuary

1 AN ACT Relating to the annual increase amount, alternate minimum
2 benefits, and age eligibility requirements for receipt of the uniform
3 increase in the public employees' retirement system plan 1 and the
4 teachers' retirement system plan 1; amending RCW 41.32.010, 41.32.4851,
5 41.32.489, 41.40.010, 41.40.010, 41.40.197, and 41.40.1984; repealing
6 RCW 41.31.010, 41.31.020, and 41.31.030; providing an effective date;
7 providing an expiration date; and declaring an emergency.

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

9 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read
10 as follows:

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

13 (1)(a) "Accumulated contributions" for plan 1 members, means the
14 sum of all regular annuity contributions and, except for the purpose of
15 withdrawal at the time of retirement, any amount paid under RCW
16 41.50.165(2) with regular interest thereon.

17 (b) "Accumulated contributions" for plan 2 members, means the sum
18 of all contributions standing to the credit of a member in the member's

1 individual account, including any amount paid under RCW 41.50.165(2),
2 together with the regular interest thereon.

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

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

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

10 (5)(a) "Beneficiary" for plan 1 members, means any person in
11 receipt of a retirement allowance or other benefit provided by this
12 chapter.

13 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
14 in receipt of a retirement allowance or other benefit provided by this
15 chapter resulting from service rendered to an employer by another
16 person.

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

19 (7) "Creditable service" means membership service plus prior
20 service for which credit is allowable. This subsection shall apply
21 only to plan 1 members.

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

24 (9) "Disability allowance" means monthly payments during
25 disability. This subsection shall apply only to plan 1 members.

26 (10)(a) "Earnable compensation" for plan 1 members, means:

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

32 (ii) For an employee member of the retirement system teaching in an
33 extended school year program, two consecutive extended school years, as
34 defined by the employer school district, may be used as the annual
35 period for determining earnable compensation in lieu of the two fiscal
36 years.

37 (iii) "Earnable compensation" for plan 1 members also includes the

1 following actual or imputed payments, which are not paid for personal
2 services:

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

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

22 (iv) For members employed less than full time under written
23 contract with a school district, or community college district, in an
24 instructional position, for which the member receives service credit of
25 less than one year in all of the years used to determine the earnable
26 compensation used for computing benefits due under RCW 41.32.497,
27 41.32.498, and 41.32.520, the member may elect to have earnable
28 compensation defined as provided in RCW 41.32.345. For the purposes of
29 this subsection, the term "instructional position" means a position in
30 which more than seventy-five percent of the member's time is spent as
31 a classroom instructor (including office hours), a librarian, or a
32 counselor. Earnable compensation shall be so defined only for the
33 purpose of the calculation of retirement benefits and only as necessary
34 to insure that members who receive fractional service credit under RCW
35 41.32.270 receive benefits proportional to those received by members
36 who have received full-time service credit.

37 (v) "Earnable compensation" does not include:

1 (A) Remuneration for unused sick leave authorized under RCW
2 41.04.340, 28A.400.210, or 28A.310.490;

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

5 (b) "Earnable compensation" for plan 2 and plan 3 members, means
6 salaries or wages earned by a member during a payroll period for
7 personal services, including overtime payments, and shall include wages
8 and salaries deferred under provisions established pursuant to sections
9 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
10 shall exclude lump sum payments for deferred annual sick leave, unused
11 accumulated vacation, unused accumulated annual leave, or any form of
12 severance pay.

13 "Earnable compensation" for plan 2 and plan 3 members also includes
14 the following actual or imputed payments which, except in the case of
15 (b)(ii)(B) of this subsection, are not paid for personal services:

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

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

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

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

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

36 (12) "Fiscal year" means a year which begins July 1st and ends June
37 30th of the following year.

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

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

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

11 (16) "Membership service" means service rendered subsequent to the
12 first day of eligibility of a person to membership in the retirement
13 system: PROVIDED, That where a member is employed by two or more
14 employers the individual shall receive no more than one service credit
15 month during any calendar month in which multiple service is rendered.
16 The provisions of this subsection shall apply only to plan 1 members.

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

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

23 (19) "Prior service" means service rendered prior to the first date
24 of eligibility to membership in the retirement system for which credit
25 is allowable. The provisions of this subsection shall apply only to
26 plan 1 members.

27 (20) "Prior service contributions" means contributions made by a
28 member to secure credit for prior service. The provisions of this
29 subsection shall apply only to plan 1 members.

30 (21) "Public school" means any institution or activity operated by
31 the state of Washington or any instrumentality or political subdivision
32 thereof employing teachers, except the University of Washington and
33 Washington State University.

34 (22) "Regular contributions" means the amounts required to be
35 deducted from the compensation of a member and credited to the member's
36 individual account in the member reserve. This subsection shall apply
37 only to plan 1 members.

1 (23) "Regular interest" means such rate as the director may
2 determine.

3 (24)(a) "Retirement allowance" for plan 1 members, means monthly
4 payments based on the sum of annuity and pension, or any optional
5 benefits payable in lieu thereof.

6 (b) "Retirement allowance" for plan 2 and plan 3 members, means
7 monthly payments to a retiree or beneficiary as provided in this
8 chapter.

9 (25) "Retirement system" means the Washington state teachers'
10 retirement system.

11 (26)(a) "Service" for plan 1 members means the time during which a
12 member has been employed by an employer for compensation.

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

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

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

23 (b) "Service" for plan 2 and plan 3 members, means periods of
24 employment by a member for one or more employers for which earnable
25 compensation is earned subject to the following conditions:

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

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

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

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

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

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

11 (iv) Any person who is a member of the teachers' retirement system
12 and who is elected or appointed to a state elective position may
13 continue to be a member of the retirement system and continue to
14 receive a service credit month for each of the months in a state
15 elective position by making the required member contributions.

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

20 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
21 sick leave may be creditable as service solely for the purpose of
22 determining eligibility to retire under RCW 41.32.470. For purposes of
23 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
24 to two service credit months. Use of less than forty-five days of sick
25 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

1 (viii) The department shall adopt rules implementing this
2 subsection.

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

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

7 (29) "Teacher" means any person qualified to teach who is engaged
8 by a public school in an instructional, administrative, or supervisory
9 capacity. The term includes state, educational service district, and
10 school district superintendents and their assistants and all employees
11 certificated by the superintendent of public instruction; and in
12 addition thereto any full time school doctor who is employed by a
13 public school and renders service of an instructional or educational
14 nature.

15 (30) "Average final compensation" for plan 2 and plan 3 members,
16 means the member's average earnable compensation of the highest
17 consecutive sixty service credit months prior to such member's
18 retirement, termination, or death. Periods constituting authorized
19 leaves of absence may not be used in the calculation of average final
20 compensation except under RCW 41.32.810(2).

21 (31) "Retiree" means any person who has begun accruing a retirement
22 allowance or other benefit provided by this chapter resulting from
23 service rendered to an employer while a member.

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

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

27 (34) "State elective position" means any position held by any
28 person elected or appointed to statewide office or elected or appointed
29 as a member of the legislature.

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

32 (36) "Substitute teacher" means:

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

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

1 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
2 through September 1, 1991, means a position which normally requires two
3 or more uninterrupted months of creditable service during September
4 through August of the following year.

5 (b) "Eligible position" for plan 2 and plan 3 on and after
6 September 1, 1991, means a position that, as defined by the employer,
7 normally requires five or more months of at least seventy hours of
8 earnable compensation during September through August of the following
9 year.

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

13 (d) The elected position of the superintendent of public
14 instruction is an eligible position.

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

18 (39) "Plan 2" means the teachers' retirement system, plan 2
19 providing the benefits and funding provisions covering persons who
20 first became members of the system on and after October 1, 1977, and
21 prior to July 1, 1996.

22 (40) "Plan 3" means the teachers' retirement system, plan 3
23 providing the benefits and funding provisions covering persons who
24 first become members of the system on and after July 1, 1996, or who
25 transfer under RCW 41.32.817.

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

30 (42) "Index A" means the index for the year prior to the
31 determination of a postretirement adjustment.

32 (43) "Index B" means the index for the year prior to index A.

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

35 (45) "Adjustment ratio" means the value of index A divided by index
36 B.

37 (46) "Annual increase" means(~~(, initially, fifty-nine)~~) one dollar

1 and forty-five cents per month per year of service which amount shall
2 be increased each July 1st by three percent, rounded to the nearest
3 cent.

4 (47) "Member account" or "member's account" for purposes of plan 3
5 means the sum of the contributions and earnings on behalf of the member
6 in the defined contribution portion of plan 3.

7 (48) "Separation from service or employment" occurs when a person
8 has terminated all employment with an employer.

9 (49) "Employed" or "employee" means a person who is providing
10 services for compensation to an employer, unless the person is free
11 from the employer's direction and control over the performance of work.
12 The department shall adopt rules and interpret this subsection
13 consistent with common law.

14 **Sec. 2.** RCW 41.32.4851 and 2004 c 85 s 1 are each amended to read
15 as follows:

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

20 (2) If the retirement allowance payable was adjusted at the time
21 benefit payments to the beneficiary commenced, the minimum allowance
22 provided in this section shall be adjusted in a manner consistent with
23 that adjustment.

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

27 (4) Those receiving a temporary disability benefit under RCW
28 41.32.540 shall not be eligible for the benefit provided by this
29 section.

30 (5) Beginning July 1, 2004, the minimum benefit set forth in
31 subsection (1) of this section, prior to adjustments set forth in
32 subsection (2) of this section, for a beneficiary with at least twenty-
33 five years of service and who has been retired at least twenty years
34 shall be one thousand dollars per month(~~(. The minimum benefit in this~~
35 ~~subsection shall not be adjusted by the annual increase provided in~~
36 ~~subsection (3) of this section)) which shall be increased each July 1st
37 by three percent, rounded to the nearest cent.~~

1 (6) Beginning July 1, 2005, the minimum benefit set forth in
2 subsection (1) of this section, prior to adjustments set forth in
3 subsection (2) of this section, for a beneficiary with at least twenty
4 years of service and who has been retired at least twenty-five years
5 shall be one thousand dollars per month which shall be increased each
6 July 1st by three percent, rounded to the nearest cent.

7 **Sec. 3.** RCW 41.32.489 and 1995 c 345 s 2 are each amended to read
8 as follows:

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

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

14 (a) A beneficiary who has received a retirement allowance for at
15 least one year by July 1st in the calendar year in which the annual
16 increase is given and has attained at least age sixty-six by (~~July~~
17 ~~1st~~) December 31st in the calendar year in which the annual increase
18 is given; or

19 (b) A beneficiary whose retirement allowance is lower than the
20 minimum benefit provided under RCW 41.32.4851.

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

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

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

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

31 (5) Those receiving a temporary disability benefit under RCW
32 41.32.540 shall not be eligible for the benefit provided by this
33 section.

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

1 **Sec. 4.** RCW 41.40.010 and 2003 c 412 s 4 are each amended to read
2 as follows:

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

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

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

9 (3) "State treasurer" means the treasurer of the state of
10 Washington.

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

22 (b) "Employer" for plan 2 and plan 3 members, means every branch,
23 department, agency, commission, board, and office of the state, and any
24 political subdivision and municipal corporation of the state admitted
25 into the retirement system, including public agencies created pursuant
26 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
27 31, 2000, school districts and educational service districts will no
28 longer be employers for the public employees' retirement system plan 2.

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

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

35 (a) Any person who became a member of the system prior to April 1,
36 1949;

37 (b) Any person who becomes a member through the admission of an

1 employer into the retirement system on and after April 1, 1949, and
2 prior to April 1, 1951;

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

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

12 (e) Any member who has restored all contributions that may have
13 been withdrawn as provided by RCW 41.40.150 and who on the effective
14 date of the individual's retirement becomes entitled to be credited
15 with ten years or more of membership service except that the provisions
16 relating to the minimum amount of retirement allowance for the member
17 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
18 apply to the member;

19 (f) Any member who has been a contributor under the system for two
20 or more years and who has restored all contributions that may have been
21 withdrawn as provided by RCW 41.40.150 and who on the effective date of
22 the individual's retirement has rendered five or more years of service
23 for the state or any political subdivision prior to the time of the
24 admission of the employer into the system; except that the provisions
25 relating to the minimum amount of retirement allowance for the member
26 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
27 apply to the member.

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

30 (8)(a) "Compensation earnable" for plan 1 members, means salaries
31 or wages earned during a payroll period for personal services and where
32 the compensation is not all paid in money, maintenance compensation
33 shall be included upon the basis of the schedules established by the
34 member's employer.

35 (i) "Compensation earnable" for plan 1 members also includes the
36 following actual or imputed payments, which are not paid for personal
37 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 and the individual shall receive the
7 equivalent service credit;

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

14 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
15 72.09.240;

16 (D) Compensation that a member would have received but for a
17 disability occurring in the line of duty only as authorized by RCW
18 41.40.038;

19 (E) Compensation that a member receives due to participation in the
20 leave sharing program only as authorized by RCW 41.04.650 through
21 41.04.670; and

22 (F) Compensation that a member receives for being in standby
23 status. For the purposes of this section, a member is in standby
24 status when not being paid for time actually worked and the employer
25 requires the member to be prepared to report immediately for work, if
26 the need arises, although the need may not arise.

27 (ii) "Compensation earnable" does not include:

28 (A) Remuneration for unused sick leave authorized under RCW
29 41.04.340, 28A.400.210, or 28A.310.490;

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

32 (b) "Compensation earnable" for plan 2 and plan 3 members, means
33 salaries or wages earned by a member during a payroll period for
34 personal services, including overtime payments, and shall include wages
35 and salaries deferred under provisions established pursuant to sections
36 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
37 shall exclude nonmoney maintenance compensation and lump sum or other

1 payments for deferred annual sick leave, unused accumulated vacation,
2 unused accumulated annual leave, or any form of severance pay.

3 "Compensation earnable" for plan 2 and plan 3 members also includes
4 the following actual or imputed payments, which are not paid for
5 personal services:

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

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

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

18 (B) Such member's actual compensation earnable received for
19 nonlegislative public employment and legislative service combined. Any
20 additional contributions to the retirement system required because
21 compensation earnable under (b)(ii)(A) of this subsection is greater
22 than compensation earnable under (b)(ii)(B) of this subsection shall be
23 paid by the member for both member and employer contributions;

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

26 (iv) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.40.038;

29 (v) Compensation that a member receives due to participation in the
30 leave sharing program only as authorized by RCW 41.04.650 through
31 41.04.670; and

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

37 (9)(a) "Service" for plan 1 members, except as provided in RCW
38 41.40.088, means periods of employment in an eligible position or

1 positions for one or more employers rendered to any employer for which
2 compensation is paid, and includes time spent in office as an elected
3 or appointed official of an employer. Compensation earnable earned in
4 full time work for seventy hours or more in any given calendar month
5 shall constitute one service credit month except as provided in RCW
6 41.40.088. Compensation earnable earned for less than seventy hours in
7 any calendar month shall constitute one-quarter service credit month of
8 service except as provided in RCW 41.40.088. Only service credit
9 months and one-quarter service credit months shall be counted in the
10 computation of any retirement allowance or other benefit provided for
11 in this chapter. Any fraction of a year of service shall be taken into
12 account in the computation of such retirement allowance or benefits.
13 Time spent in standby status, whether compensated or not, is not
14 service.

15 (i) Service by a state employee officially assigned by the state on
16 a temporary basis to assist another public agency, shall be considered
17 as service as a state employee: PROVIDED, That service to any other
18 public agency shall not be considered service as a state employee if
19 such service has been used to establish benefits in any other public
20 retirement system.

21 (ii) An individual shall receive no more than a total of twelve
22 service credit months of service during any calendar year. If an
23 individual is employed in an eligible position by one or more employers
24 the individual shall receive no more than one service credit month
25 during any calendar month in which multiple service for seventy or more
26 hours is rendered.

27 (iii) A school district employee may count up to forty-five days of
28 sick leave as creditable service solely for the purpose of determining
29 eligibility to retire under RCW 41.40.180 as authorized by RCW
30 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
31 28A.400.300 is equal to two service credit months. Use of less than
32 forty-five days of sick leave is creditable as allowed under this
33 subsection as follows:

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

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

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

1 (b) "Service" for plan 2 and plan 3 members, means periods of
2 employment by a member in an eligible position or positions for one or
3 more employers for which compensation earnable is paid. Compensation
4 earnable earned for ninety or more hours in any calendar month shall
5 constitute one service credit month except as provided in RCW
6 41.40.088. Compensation earnable earned for at least seventy hours but
7 less than ninety hours in any calendar month shall constitute one-half
8 service credit month of service. Compensation earnable earned for less
9 than seventy hours in any calendar month shall constitute one-quarter
10 service credit month of service. Time spent in standby status, whether
11 compensated or not, is not service.

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

14 (i) Service in any state elective position shall be deemed to be
15 full time service, except that persons serving in state elective
16 positions who are members of the Washington school employees'
17 retirement system, teachers' retirement system, or law enforcement
18 officers' and fire fighters' retirement system at the time of election
19 or appointment to such position may elect to continue membership in the
20 Washington school employees' retirement system, teachers' retirement
21 system, or law enforcement officers' and fire fighters' retirement
22 system.

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

29 (iii) Up to forty-five days of sick leave may be creditable as
30 service solely for the purpose of determining eligibility to retire
31 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
32 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
33 to two service credit months. Use of less than forty-five days of sick
34 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

11 (13) "Membership service" means:

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

13 (b) All service after October 1, 1947, to any employer prior to the
14 time of its admission into the retirement system for which member and
15 employer contributions, plus interest as required by RCW 41.50.125,
16 have been paid under RCW 41.40.056 or 41.40.057;

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

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

33 (14)(a) "Beneficiary" for plan 1 members, means any person in
34 receipt of a retirement allowance, pension or other benefit provided by
35 this chapter.

36 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
37 in receipt of a retirement allowance or other benefit provided by this

1 chapter resulting from service rendered to an employer by another
2 person.

3 (15) "Regular interest" means such rate as the director may
4 determine.

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

9 (17)(a) "Average final compensation" for plan 1 members, means the
10 annual average of the greatest compensation earnable by a member during
11 any consecutive two year period of service credit months for which
12 service credit is allowed; or if the member has less than two years of
13 service credit months then the annual average compensation earnable
14 during the total years of service for which service credit is allowed.

15 (b) "Average final compensation" for plan 2 and plan 3 members,
16 means the member's average compensation earnable of the highest
17 consecutive sixty months of service credit months prior to such
18 member's retirement, termination, or death. Periods constituting
19 authorized leaves of absence may not be used in the calculation of
20 average final compensation except under RCW 41.40.710(2).

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

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

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

29 (21) "Retirement allowance" means the sum of the annuity and the
30 pension.

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

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

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

3 (25) "Eligible position" means:

4 (a) Any position that, as defined by the employer, normally
5 requires five or more months of service a year for which regular
6 compensation for at least seventy hours is earned by the occupant
7 thereof. For purposes of this chapter an employer shall not define
8 "position" in such a manner that an employee's monthly work for that
9 employer is divided into more than one position;

10 (b) Any position occupied by an elected official or person
11 appointed directly by the governor, or appointed by the chief justice
12 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
13 compensation is paid.

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

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

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

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

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

27 (31) "State elective position" means any position held by any
28 person elected or appointed to statewide office or elected or appointed
29 as a member of the legislature.

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

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

35 (34) "Plan 2" means the public employees' retirement system, plan
36 2 providing the benefits and funding provisions covering persons who
37 first became members of the system on and after October 1, 1977, and
38 are not included in plan 3.

1 (35) "Plan 3" means the public employees' retirement system, plan
2 3 providing the benefits and funding provisions covering persons who:

3 (a) First become a member on or after:

4 (i) March 1, 2002, and are employed by a state agency or institute
5 of higher education and who did not choose to enter plan 2; or

6 (ii) September 1, 2002, and are employed by other than a state
7 agency or institute of higher education and who did not choose to enter
8 plan 2; or

9 (b) Transferred to plan 3 under RCW 41.40.795.

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

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

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

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

19 (40) "Adjustment ratio" means the value of index A divided by index
20 B.

21 (41) "Annual increase" means(~~(, initially, fifty-nine)~~) one dollar
22 and forty-five cents per month per year of service which amount shall
23 be increased each July 1st by three percent, rounded to the nearest
24 cent.

25 (42) "Separation from service" occurs when a person has terminated
26 all employment with an employer. Separation from service or employment
27 does not occur, and if claimed by an employer or employee may be a
28 violation of RCW 41.40.055, when an employee and employer have a
29 written or oral agreement to resume employment with the same employer
30 following termination.

31 (43) "Member account" or "member's account" for purposes of plan 3
32 means the sum of the contributions and earnings on behalf of the member
33 in the defined contribution portion of plan 3.

34 **Sec. 5.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to read
35 as follows:

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

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

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

5 (3) "State treasurer" means the treasurer of the state of
6 Washington.

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

18 (b) "Employer" for plan 2 and plan 3 members, means every branch,
19 department, agency, commission, board, and office of the state, and any
20 political subdivision and municipal corporation of the state admitted
21 into the retirement system, including public agencies created pursuant
22 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
23 31, 2000, school districts and educational service districts will no
24 longer be employers for the public employees' retirement system plan 2.

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

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

31 (a) Any person who became a member of the system prior to April 1,
32 1949;

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

36 (c) Any person who first becomes a member by securing employment
37 with an employer prior to April 1, 1951, provided the member has

1 rendered at least one or more years of service to any employer prior to
2 October 1, 1947;

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

8 (e) Any member who has restored all contributions that may have
9 been withdrawn as provided by RCW 41.40.150 and who on the effective
10 date of the individual's retirement becomes entitled to be credited
11 with ten years or more of membership service except that the provisions
12 relating to the minimum amount of retirement allowance for the member
13 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
14 apply to the member;

15 (f) Any member who has been a contributor under the system for two
16 or more years and who has restored all contributions that may have been
17 withdrawn as provided by RCW 41.40.150 and who on the effective date of
18 the individual's retirement has rendered five or more years of service
19 for the state or any political subdivision prior to the time of the
20 admission of the employer into the system; except that the provisions
21 relating to the minimum amount of retirement allowance for the member
22 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
23 apply to the member.

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

26 (8)(a) "Compensation earnable" for plan 1 members, means salaries
27 or wages earned during a payroll period for personal services and where
28 the compensation is not all paid in money, maintenance compensation
29 shall be included upon the basis of the schedules established by the
30 member's employer.

31 (i) "Compensation earnable" for plan 1 members also includes the
32 following actual or imputed payments, which are not paid for personal
33 services:

34 (A) Retroactive payments to an individual by an employer on
35 reinstatement of the employee in a position, or payments by an employer
36 to an individual in lieu of reinstatement in a position which are
37 awarded or granted as the equivalent of the salary or wage which the

1 individual would have earned during a payroll period shall be
2 considered compensation earnable and the individual shall receive the
3 equivalent service credit;

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

10 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
11 72.09.240;

12 (D) Compensation that a member would have received but for a
13 disability occurring in the line of duty only as authorized by RCW
14 41.40.038;

15 (E) Compensation that a member receives due to participation in the
16 leave sharing program only as authorized by RCW 41.04.650 through
17 41.04.670; and

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

23 (ii) "Compensation earnable" does not include:

24 (A) Remuneration for unused sick leave authorized under RCW
25 41.04.340, 28A.400.210, or 28A.310.490;

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

28 (b) "Compensation earnable" for plan 2 and plan 3 members, means
29 salaries or wages earned by a member during a payroll period for
30 personal services, including overtime payments, and shall include wages
31 and salaries deferred under provisions established pursuant to sections
32 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
33 shall exclude nonmoney maintenance compensation and lump sum or other
34 payments for deferred annual sick leave, unused accumulated vacation,
35 unused accumulated annual leave, or any form of severance pay.

36 "Compensation earnable" for plan 2 and plan 3 members also includes
37 the following actual or imputed payments, which are not paid for
38 personal services:

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

13 (B) 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)(A) of this subsection is greater
17 than compensation earnable under (b)(ii)(B) of this subsection shall be
18 paid by the member for both member and employer contributions;

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

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

24 (v) Compensation that a member receives due to participation in the
25 leave sharing program only as authorized by RCW 41.04.650 through
26 41.04.670; and

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

32 (9)(a) "Service" for plan 1 members, except as provided in RCW
33 41.40.088, means periods of employment in an eligible position or
34 positions for one or more employers rendered to any employer for which
35 compensation is paid, and includes time spent in office as an elected
36 or appointed official of an employer. Compensation earnable earned in
37 full time work for seventy hours or more in any given calendar month
38 shall constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for less than seventy hours in
2 any calendar month shall constitute one-quarter service credit month of
3 service except as provided in RCW 41.40.088. Only service credit
4 months and one-quarter service credit months shall be counted in the
5 computation of any retirement allowance or other benefit provided for
6 in this chapter. Any fraction of a year of service shall be taken into
7 account in the computation of such retirement allowance or benefits.
8 Time spent in standby status, whether compensated or not, is not
9 service.

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

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

22 (iii) A school district employee may count up to forty-five days of
23 sick leave as creditable service solely for the purpose of determining
24 eligibility to retire under RCW 41.40.180 as authorized by RCW
25 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
26 28A.400.300 is equal to two service credit months. Use of less than
27 forty-five days of sick leave is creditable as allowed under this
28 subsection as follows:

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

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

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

34 (b) "Service" for plan 2 and plan 3 members, means periods of
35 employment by a member in an eligible position or positions for one or
36 more employers for which compensation earnable is paid. Compensation
37 earnable earned for ninety or more hours in any calendar month shall
38 constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for at least seventy hours but
2 less than ninety hours in any calendar month shall constitute one-half
3 service credit month of service. Compensation earnable earned for less
4 than seventy hours in any calendar month shall constitute one-quarter
5 service credit month of service. Time spent in standby status, whether
6 compensated or not, is not service.

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

9 (i) Service in any state elective position shall be deemed to be
10 full time service, except that persons serving in state elective
11 positions who are members of the Washington school employees'
12 retirement system, teachers' retirement system, public safety
13 employees' retirement system, or law enforcement officers' and fire
14 fighters' retirement system at the time of election or appointment to
15 such position may elect to continue membership in the Washington school
16 employees' retirement system, teachers' retirement system, public
17 safety employees' retirement system, or law enforcement officers' and
18 fire fighters' retirement system.

19 (ii) A member shall receive a total of not more than twelve service
20 credit months of service for such calendar year. If an individual is
21 employed in an eligible position by one or more employers the
22 individual shall receive no more than one service credit month during
23 any calendar month in which multiple service for ninety or more hours
24 is rendered.

25 (iii) Up to forty-five days of sick leave may be creditable as
26 service solely for the purpose of determining eligibility to retire
27 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
28 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
29 to two service credit months. Use of less than forty-five days of sick
30 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

7 (13) "Membership service" means:

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

9 (b) All service after October 1, 1947, to any employer prior to the
10 time of its admission into the retirement system for which member and
11 employer contributions, plus interest as required by RCW 41.50.125,
12 have been paid under RCW 41.40.056 or 41.40.057;

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

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

29 (14)(a) "Beneficiary" for plan 1 members, means any person in
30 receipt of a retirement allowance, pension or other benefit provided by
31 this chapter.

32 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
33 in receipt of a retirement allowance or other benefit provided by this
34 chapter resulting from service rendered to an employer by another
35 person.

36 (15) "Regular interest" means such rate as the director may
37 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 1 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 2 and plan 3 members,
12 means the member's average compensation earnable of the highest
13 consecutive sixty months of service credit months prior to such
14 member's retirement, termination, or death. Periods constituting
15 authorized leaves of absence may not be used in the calculation of
16 average final 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" or "employed" means a person who is providing
28 services for compensation to an employer, unless the person is free
29 from the employer's direction and control over the performance of work.
30 The department shall adopt rules and interpret this subsection
31 consistent with common law.

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

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

37 (25) "Eligible position" means:

1 (a) Any position that, as defined by the employer, normally
2 requires five or more months of service a year for which regular
3 compensation for at least seventy hours is earned by the occupant
4 thereof. For purposes of this chapter an employer shall not define
5 "position" in such a manner that an employee's monthly work for that
6 employer is divided into more than one position;

7 (b) Any position occupied by an elected official or person
8 appointed directly by the governor, or appointed by the chief justice
9 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
10 compensation is paid.

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

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

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

20 (29) "Retiree" means any person who has begun accruing a retirement
21 allowance or other benefit provided by this chapter resulting from
22 service rendered to an employer while a member.

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

24 (31) "State elective position" means any position held by any
25 person elected or appointed to statewide office or elected or appointed
26 as a member of the legislature.

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

29 (33) "Plan 1" means the public employees' retirement system, plan
30 1 providing the benefits and funding provisions covering persons who
31 first became members of the system prior to October 1, 1977.

32 (34) "Plan 2" means the public employees' retirement system, plan
33 2 providing the benefits and funding provisions covering persons who
34 first became members of the system on and after October 1, 1977, and
35 are not included in plan 3.

36 (35) "Plan 3" means the public employees' retirement system, plan
37 3 providing the benefits and funding provisions covering persons who:

38 (a) First become a member on or after:

1 (i) March 1, 2002, and are employed by a state agency or institute
2 of higher education and who did not choose to enter plan 2; or

3 (ii) September 1, 2002, and are employed by other than a state
4 agency or institute of higher education and who did not choose to enter
5 plan 2; or

6 (b) Transferred to plan 3 under RCW 41.40.795.

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

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

13 (38) "Index B" means the index for the year prior to index A.

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

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

18 (41) "Annual increase" means(~~(, initially, fifty-nine)~~) one dollar
19 and forty-five cents per month per year of service which amount shall
20 be increased each July 1st by three percent, rounded to the nearest
21 cent.

22 (42) "Separation from service" occurs when a person has terminated
23 all employment with an employer. Separation from service or employment
24 does not occur, and if claimed by an employer or employee may be a
25 violation of RCW 41.40.055, when an employee and employer have a
26 written or oral agreement to resume employment with the same employer
27 following termination.

28 (43) "Member account" or "member's account" for purposes of plan 3
29 means the sum of the contributions and earnings on behalf of the member
30 in the defined contribution portion of plan 3.

31 **Sec. 6.** RCW 41.40.197 and 1995 c 345 s 5 are each amended to read
32 as follows:

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

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

1 (a) A beneficiary who has received a retirement allowance for at
2 least one year by July 1st in the calendar year in which the annual
3 increase is given and has attained at least age sixty-six by (~~July~~
4 ~~1st~~) December 31st in the calendar year in which the annual increase
5 is given; or

6 (b) A beneficiary whose retirement allowance is lower than the
7 minimum benefit provided under RCW 41.40.1984.

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

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

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

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

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

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

25 **Sec. 7.** RCW 41.40.1984 and 2004 c 85 s 2 are each amended to read
26 as follows:

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

32 (2) Where the retirement allowance payable was adjusted at the time
33 benefit payments to the beneficiary commenced, the minimum allowance
34 provided in this section shall be adjusted in a manner consistent with
35 that adjustment.

36 (3) Beginning July 1, 1996, the minimum benefit set forth in

1 subsection (1) of this section shall be adjusted annually by the annual
2 increase.

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

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

11 (6) Beginning July 1, 2004, the minimum benefit set forth in
12 subsection (1) of this section, prior to adjustments set forth in
13 subsection (2) of this section, for a beneficiary with at least twenty-
14 five years of service and who has been retired at least twenty years
15 shall be one thousand dollars per month(~~(. The minimum benefit in this~~
16 ~~subsection shall not be adjusted by the annual increase provided in~~
17 ~~subsection (3) of this section)) which shall be increased each July 1st
18 by three percent, rounded to the nearest cent.~~

19 (7) Beginning July 1, 2005, the minimum benefit set forth in
20 subsection (1) of this section, prior to adjustments set forth in
21 subsection (2) of this section, for a beneficiary with at least twenty
22 years of service and who has been retired at least twenty-five years
23 shall be one thousand dollars per month which shall be increased each
24 July 1st by three percent, rounded to the nearest cent.

25 NEW SECTION. Sec. 8. The following acts or parts of acts are each
26 repealed:

- 27 (1) RCW 41.31.010 (Annual pension increases--Increased by gain-
28 sharing increase amount) and 1998 c 340 s 1;
- 29 (2) RCW 41.31.020 (Gain-sharing increase amount calculated) and
30 1998 c 340 s 2; and
- 31 (3) RCW 41.31.030 (Contractual right to increase not granted) and
32 1998 c 340 s 3.

33 NEW SECTION. Sec. 9. Sections 1 through 4 and 6 through 8 of this
34 act are necessary for the immediate preservation of the public peace,
35 health, or safety, or support of the state government and its existing
36 public institutions, and take effect immediately.

1 NEW SECTION. **Sec. 10.** Section 4 of this act expires July 1, 2006.

2 NEW SECTION. **Sec. 11.** Section 5 of this act takes effect July 1,
3 2006.

--- END ---

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/01/2004	Z-0235.1/Z-0246.1

SUMMARY OF BILL:

This bill impacts the Public Employee's Retirement System plan 1 (PERS 1) and the Teachers Retirement System plan 1 (TRS 1) by:

- Enhancing the annual increase amount by 20 cents. This would raise the July 1, 2005 amount from \$1.25 to \$1.45.
- Establishing a \$1,000 alternative minimum benefit for members with 20 years of service who have been retired 25 years.
- Establishing a 3% annual escalator for both \$1,000 alternative minimum benefit provisions.
- Amending Uniform COLA eligibility requirements to include all retirees who have been retired one year and will have attained age 66 by December 31st of the calendar year in which the increase is given.
- Repealing plan 1 gain-sharing.

Effective Date: Immediately upon passage

CURRENT SITUATION:

The Annual Increase Amount is multiplied by each retirees' months of service to determine the annual uniform increase retirees receive when they are COLA eligible. The most recent Annual Increase Amount was \$1.21. The Annual Increase Amount increases each year by at least 3 percent. Gain-sharing is also used to boost the Annual Increase Amount; 38 cents of the current amount is a result of gain-sharing. The Annual Increase Amount is scheduled to increase to \$1.25 on July 1, 2005.

The current \$1,000 alternative minimum benefit was established in 2004. PERS 1 and TRS 1 members with 25 years of service who have been retired 20 years are eligible for this benefit. The benefit has no automatic escalator and, as a result, will effectively cease in 2010 when the original minimum benefit, which increases each year by the Annual Increase Amount, will produce a benefit greater than \$1,000 for a retired member with 25 years of service.

The current Uniform COLA provisions require PERS 1 and TRS 1 members to have been retired one year and to be at least age 66 on July 1st to be eligible for the adjustment paid on July 1st.

Gain sharing in PERS 1 and TRS 1 occurs on even-numbered years. An extraordinary investment gain occurs when the average rate of return on assets for the previous 4-year period exceeds 10%. When this gain occurs, one-half of the gain for PERS 1 and TRS 1 is used to fund a permanent increase in the PERS 1 and TRS 1 Uniform COLA for current and future retirees.

MEMBERS IMPACTED:

Actuarial Present Value of Projected Benefits	PERS 1	\$13,219	\$(237)	\$12,982
(The Value of the Total Commitment to all Current Members)	TRS 1	10,767	(219)	10,548
Unfunded Actuarial Accrued Liability	PERS 1	\$2,620	\$(237)	\$2,383
(The Portion of the Plan 1 Liability that is Amortized at 2024)	TRS 1	1,416	(219)	1,197
Unfunded Liability (PBO)	PERS 1	\$2,204	\$(202)	\$2,002
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	TRS 1	1,121	(195)	926

Increase in Contribution Rates:	PERS 1	TRS 1
Employee	0.00%	0.00%
Employer State:		
(Effective 7/1/2005):	(0.40%)	(0.84%)
Repeal Gain Sharing		
(Effective 9/1/2005):		
\$0.20 Uniform COLA Increase	0.18%	0.37%
\$1000 Minimum Benefit Enhancement	0.01%	0.01%
Age 66 Uniform COLA Improvement	<u>0.03%</u>	<u>0.04%</u>
Total Benefit Improvements	0.22%	0.42%
Net Employer State:	(0.18%)	(0.42%)

Fiscal Budget Determinations (Repeal Gain Sharing only):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2007				
State:				
General Fund	\$(12.9)	\$(57.8)	\$(6.5)	\$(77.2)
Non-General Fund	<u>(21.2)</u>	<u>0.0</u>	<u>0.0</u>	<u>(21.2)</u>
Total State	\$(34.1)	\$(57.8)	\$(6.5)	\$(98.4)
Local Government	\$(30.3)	\$(11.8)	\$(5.7)	\$(47.8)
Total Employer	\$(64.4)	\$(69.6)	\$(12.2)	\$(146.2)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
2007-2009				
State:				
General Fund	\$(14.4)	\$(64.3)	\$(7.2)	\$(85.9)
Non-General Fund	<u>(23.8)</u>	<u>0.0</u>	<u>0.0</u>	<u>(23.8)</u>
Total State	\$(38.2)	\$(64.3)	\$(7.2)	\$(109.7)
Local Government	\$(33.9)	\$(13.2)	\$(6.4)	\$(53.5)
Total Employer	\$(72.1)	\$(77.5)	\$(13.6)	\$(163.2)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
2005-2030				
State:				
General Fund	\$(207.1)	\$(898.6)	\$(103.9)	\$(1,209.6)
Non-General Fund	<u>(341.8)</u>	<u>0.0</u>	<u>0.0</u>	<u>(341.8)</u>
Total State	\$(548.9)	\$(898.6)	\$(103.9)	\$(1,551.4)
Local Government	\$(486.8)	\$(184.0)	\$(92.1)	\$(762.9)
Total Employer	\$(1,035.7)	\$(1,082.6)	\$(196.0)	\$(2,314.3)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0

Fiscal Budget Determinations (Benefit improvements only):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2007				
State:				
General Fund	\$6.5	\$28.9	\$3.3	\$38.7
Non-General Fund	<u>10.7</u>	<u>0.0</u>	<u>0.0</u>	<u>10.7</u>
Total State	\$17.2	\$28.9	\$3.3	\$49.4
Local Government	\$15.3	\$5.9	\$2.9	\$24.1
Total Employer	\$32.5	\$34.8	\$6.2	\$73.5
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
2007-2009				
State:				
General Fund	\$7.9	\$32.2	\$4.0	\$44.1
Non-General Fund	<u>13.1</u>	<u>0.0</u>	<u>0.0</u>	<u>13.1</u>
Total State	\$21.0	\$32.2	\$4.0	\$57.2
Local Government	\$18.6	\$6.6	\$3.5	\$28.7
Total Employer	\$39.6	\$38.8	\$7.5	\$85.9
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
2005-2030				
State:				
General Fund	\$113.3	\$449.2	\$56.9	\$619.4
Non-General Fund	<u>187.0</u>	<u>0.0</u>	<u>0.0</u>	<u>187.0</u>
Total State	\$300.3	\$449.2	\$56.9	\$806.4
Local Government	\$266.4	\$92.0	\$50.4	\$408.8
Total Employer	\$566.7	\$541.2	\$107.3	\$1,215.2
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0

Fiscal Budget Determinations (All Changes):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	<u>PERS</u>	<u>TRS</u>	<u>SERS</u>	<u>Total</u>
2005-2007				
State:				
General Fund	\$(6.4)	\$(28.9)	\$(3.2)	\$(38.5)
Non-General Fund	<u>(10.5)</u>	<u>0.0</u>	<u>0.0</u>	<u>(10.5)</u>
Total State	\$(16.9)	\$(28.9)	\$(3.2)	\$(49.0)
Local Government	\$(15.0)	\$(5.9)	\$(2.8)	\$(23.7)
Total Employer	\$(31.9)	\$(34.8)	\$(6.0)	\$(72.7)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
2007-2009				
State:				
General Fund	\$(6.5)	\$(32.1)	\$(3.2)	\$(41.8)
Non-General Fund	<u>(10.7)</u>	<u>0.0</u>	<u>0.0</u>	<u>(10.7)</u>
Total State	\$(17.2)	\$(32.1)	\$(3.2)	\$(52.5)
Local Government	\$(15.3)	\$(6.6)	\$(2.9)	\$(24.8)
Total Employer	\$(32.5)	\$(38.7)	\$(6.1)	\$(77.3)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
2005-2030				
State:				
General Fund	\$(93.8)	\$(449.4)	\$(47.0)	\$(590.2)
Non-General Fund	<u>(154.8)</u>	<u>0.0</u>	<u>0.0</u>	<u>(154.8)</u>
Total State	\$(248.6)	\$(449.4)	\$(47.0)	\$(745.0)
Local Government	\$(220.4)	\$(92.0)	\$(41.7)	\$(354.1)
Total Employer	\$(469.0)	\$(541.4)	\$(88.7)	\$(1,099.1)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Public Employees Retirement System and the Teachers' Retirement System, except for the cost of the \$1,000 minimum benefit, which was based on data from the September 30, 2002 actuarial valuation report.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
 4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Plan 3 Gain-Sharing

Background

In the Plans 3, active, retired and term-vested members receive gain-sharing distributions as lump sum dollar amounts deposited directly into their defined contribution accounts. The increases are contingent on the occurrence of extraordinary gains, which occur whenever the compound average of investment returns on pension fund assets exceeds 10% for the previous four state fiscal years. Since the implementation of gain-sharing in 1998 there have been two gain-sharing distributions.

Committee Activity

Subgroup Activity:

November 9, 2004 - Subgroup meeting
November 11, 2004 - Subgroup meeting
December 1, 2004 - Subgroup meeting

Presentation and Proposal:

December 7, 2004 - Executive Committee
December 7, 2004 - Full Committee

Recommendation to Legislature

Amend and replace Plan 3 gain-sharing, and remove the annual window for Plan 3 contribution rate changes, replacing them with the following:

1. A modified "rule of 90" for the Plans 2/3 that would allow all vested members with a minimum age of 60 to qualify for retirement if any combination of age and service equals 90, and with unreduced retirement benefits for prospective service credit;
2. Plan 2/3 choice for new members of TRS and SERS (using the same terms as currently exist for PERS); and
3. an annual employer contribution into the existing Plan 3 member accounts in SERS.

Staff Contact

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Select Committee on Pension Policy

Plan 3 Gain-Sharing

(December 6, 2004)

Issue

The issue before the SCPP is whether to recommend legislation that would amend and replace Plan 3 gain-sharing, and remove the annual window for Plan 3 member contribution rate changes, replacing them with the following:

- a modified “rule of 90” for vested members of the Plans 2/3 with prospective unreduced retirement benefits and a minimum age of 60;
- Plan 2/3 choice for new members of TRS and SERS (using the same terms as currently exist for PERS); and
- an annual employer contribution into the existing Plan 3 member accounts in SERS.

Staff

Laura Harper, Senior Research Analyst/Legal
360-586-7616

Subgroup Recommendation

At its meeting on November 9, 2004, the Purchasing Power/Gain-Sharing subgroup of the SCPP instructed the OSA staff to develop a proposal that would be brought to the December SCPP meeting. The proposal would involve a “tradeoff” of certain benefits that would replace Plan 3 gain-sharing benefits. Suggested components for the Plan 3 tradeoff included a rule of 90, five-year vesting for the Plans 3 and direct deposits into plan 3 member accounts. The target cost for the tradeoff package was to approximate half of the forecasted cost of future gain-sharing. No consensus was reached in the subgroup and staff was not given specific direction as to the elements of the tradeoff package.

Several draft proposals were outlined by staff for consideration by the subgroup. Staff provided a handout describing the draft proposals on November 11, 2004, and after additional feedback from several subgroup members, staff refined the package to include the three elements described above: modified rule of 90, Plan 2/3 choice and SERS 3 contributions.

On December 1, 2004, several subgroup members (Fromhold, Charles and Parr) met to consider the evaluation of two elements of the tradeoff package by tax counsel for DRS (Plan 2/3 choice and SERS 3 contributions). As the result of that meeting, it was determined that further negotiations were necessary among the affected member groups before a final proposal could come before the SCPP. On the afternoon of December 1, 2004, the OSA was given direction by Representative Fromhold (for the subgroup) to add a repeal of the annual member contribution rate flexibility in the Plans 3 in order to avoid problems with the IRS around the issue of Plan 2/3 choice.

The Executive Committee has not yet heard this proposal. This agenda item is to be considered by the Executive Committee prior to the full SCPP meeting on December 7, 2004.

Members Impacted

This proposal would impact the active, retired and terminated and vested (“term-vested”) members of the TRS, SERS and PERS Plans 2/3. As of September 30, 2003, there were 277,618 members among these three categories (all systems combined). For detailed information regarding members impacted, see the draft fiscal note which is provided as a handout for the December 7, 2004 meeting.

Current Situation

Retirement Eligibility

Currently, with respect to normal retirement, Plan 2/3 members of TRS, SERS and PERS are eligible to retire with unreduced benefits when they are vested and reach age 65. The vesting period for the Plans 2 is five years. The vesting period for the defined benefit component of the Plans 3 is ten years, or 5 years if 12 months of service were accrued after attaining age 54. (Plan 3 members are immediately vested in the defined contribution portion of their benefit.)

Plan 2/3 Choice

Currently, of the three systems, PERS is the only one that has Plan 2/3 choice. New PERS employees have a period of ninety days to make an irrevocable choice to become a member of Plan 2 or Plan 3. At the end of ninety days, if a member has not made a choice to become a member of Plan 2, he or she automatically becomes a member of Plan 3. In TRS and SERS, new employees automatically become members of Plan 3, and the Plans 2 are closed to new hires.

Plan 3 Gain-Sharing

Gain-sharing is a mechanism that increases benefits. The increases are not automatic, but are contingent on the occurrence of “extraordinary investment gains.” Extraordinary gains occur when the compound average of investment returns on pension fund assets exceeds 10% for the previous four state fiscal years. When this occurs, a calculation is performed to determine a dollar amount that will be distributed to eligible members. Gain-sharing calculations are currently made once each biennium with potential distributions occurring in January of even-numbered years. In the Plans 3 of PERS, SERS and TRS, active, retired and term-vested members receive distributions as lump sum dollar amounts deposited directly into their defined contribution accounts based on years of service credit. There have been two gain-sharing distributions since the inception of gain-sharing: one in 1998 and one in 2000.

Plan 3 Member Rate Flexibility

A current provision in the defined contribution portion of the hybrid Plans 3 allows members to change their contribution rate option annually by notifying their employer in writing during the month of January. This contribution rate flexibility has been implemented for TRS but has never been implemented for PERS and SERS because of its questionable status with the IRS. DRS has asked for IRS approval of this provision, but review has been pending for 2.5 years and no answer has been given.

Proposal

Modified Rule of 90 for Retirement Eligibility

With respect to retirement eligibility, the proposal would institute a modified "rule of 90" for vested members that uses an age 60 minimum, and that has unreduced benefits for prospective service only in TRS 2/3, SERS 2/3 and PERS 2/3. This modified rule of 90 means that a vested member who is at least 60 years old can retire when the sum of the member's age and the member's service credit years totals ninety or more. "Unreduced retirement for prospective service only" means that service credit accrued prior to the effective date of the bill, i.e. July 1, 2007, would be subject to any required reductions for early retirement. The portion of the benefit that is based on service credit accrued after July 1, 2007 would be unreduced. An example of the modified rule of 90 follows:

Example, Modified Rule of 90

Consider a Plan 2 member who is 60 years old and who earned the first half of his or her 30 years of service credit before July 1, 2007 and the second half of their service credit years after July 1, 2007. The member meets the minimum requirements for the rule of 90 because the member is vested, is at least 60 years old, and the sum of the member's age and the member's service credit years (60+30) equals 90.

Because the rule of 90 provides unreduced retirement benefits on a prospective basis only, then one-half of the member's benefit is unreduced (for the fifteen service credit years earned after July 1, 2007), and one-half is subject to the required reductions for early retirement (the fifteen service credit years earned before July 1, 2007). Generally, the applicable benefit reduction for retiring 5 years earlier than the Plan 2 normal retirement age of 65 with at least 30 years of service is 3% per year as provided in the alternate early retirement provisions of the Plans 2. This means that the member's benefit would be reduced by 15% (3% x 5 years) for retiring at age 60. Under the modified rule of 90, only one-half of the benefit would be subject to that reduction (i.e. that half that was earned prior to the effective date of the rule of 90). One-half of 15% is 7.5%, so the total reduction of the benefit would be 7.5%.

Assuming an monthly retirement benefit of \$1,000 (before reductions), the member that retires at age 60 without rule of 90 is subject to a 15% reduction, giving the member a monthly benefit of \$850. With the modified rule of 90, the member's benefit is reduced by 7.5% (which is one-half of 15%), giving the member a monthly benefit of \$925. For those hired after July 1, 2007, there will be no benefit reductions for retiring under the rule of 90.

Summary of Example - Modified Rule of 90:

	Percent Reduction	Monthly Benefit
Benefit Before Reductions	0 %	\$1,000
Benefit Without Rule of 90	15%	\$ 850
Benefit With Rule of 90	7.5%	\$ 925

Plan 2/3 Choice

As another element of the tradeoff proposal, Plan 2/3 choice would be added for TRS and SERS members hired on or after July 1, 2007 (using the same structure for choice as is currently in PERS). New hires would have a ninety-day window to make an irrevocable choice to become a member of Plan 2 or 3. At the end of ninety days, if the member has not made a choice to become a member of Plan 2, he or she would automatically become a member of Plan 3.

Tax counsel for DRS has expressed concern over multiple elections (or choices) by members in the Plans 2/3, as the IRS does not allow a high degree of choice or member flexibility in 401(a) plans. Washington's Plans 3 fall within this category, as they are 401(a) defined benefit plans with a defined contribution component. DRS was advised of possible problems with the provision allowing annual member contribution rate flexibility if the Plan 2/3 choice provision was added for all plans.

Plan 3 Member Rate Flexibility

After considering the tax advice, and in order to retain the Plan 2/3 choice element within the tradeoff proposal, the subgroup recommended removing the provision for annual member contribution rate flexibility in the Plans 3. This latter provision, found in RCW 41.34.040(4), allows members to change their contribution rate option annually by notifying their employer in writing during

the month of January. It should be noted that annual contribution rate flexibility has never been implemented for PERS and SERS because of its questionable status with the IRS.

Plan 3 Gain-Sharing

As the final element of the tradeoff, this proposal would eliminate Plan 3 gain-sharing for TRS and PERS, and retain an amended version of Plan 3 gain-sharing for existing SERS members. The SERS 3 provision was included because SERS 3 members get the least benefit of the three systems from a Rule of 90, and the provision would help provide more balance in the gain-sharing trade-off for all plan 3 members. Existing SERS 3 members (not new hires) would receive a uniform annual contribution of \$10 to their defined contribution accounts that is increased by three percent (3%) per year rounded to the nearest cent, which is then multiplied by service credit years. Thus, the benefit increases for each additional year of service credit earned by the member.

Example, SERS 3 Contribution

Regarding the \$10 SERS 3 contribution, the \$10 would increase at 3% per year and the contribution amount would increase for each additional year of service. The typical SERS 3 member would receive a benefit with a present value of \$2,200. A SERS 3 member with 11 years of service would receive an employer contribution of \$110 the first year, and if the member remained employed by SERS, the member would receive \$124 the second year and \$544 the twentieth year.

The \$10 per service credit year amount would continue to be deposited into each eligible SERS 3 member's defined contribution account for life, or until termination of employment if the member is not vested. Because this element of the tradeoff proposal applies to a closed group of existing employees (those hired prior to the effective date of the legislation), its cost will taper off in the future and eventually go away.

Policy Analysis

Modified Rule of 90 for Retirement Eligibility

A rule of 90 would move toward a more career-based retirement benefit for the Plans 2/3 in that younger workers would be rewarded for long-term public service by receiving an unreduced retirement benefit prior to the time at which they would normally be expected to leave the workforce. The cost of a life-time benefit for such individuals would be higher because the benefit would be paid over a longer period of time. Members who enter the workforce at age 40 and above would not benefit from the rule of 90 as there would be no combination of age and service that could result in a full retirement benefit earlier than age 65, the current normal retirement age for the Plans 2/3.

By making the rule apply prospectively only, the cost of this benefit is somewhat reduced. (Compare to the draft fiscal note for the “full” rule of 90, which is also part of the materials for the December 9, 2004 meeting.) Also, the minimum age of 60 lowers the cost of a rule of 90 and creates less departure from the age-based designs of the Plans 2/3. Finally, applying the rule of 90 prospectively avoids having new plan members pay for the past service of existing members, thus promoting inter-generational equity in funding the benefit.

For additional policy analysis, see the Age 65 Retirement Options report dated October 12, 2004 and the Age 65 Retirement Report dated September 1, 2004.

Plan 2/3 Choice

This element of the proposal would bring consistency for new hires in PERS, TRS and SERS. Currently, only those hired into a PERS position have Plan 2/3 choice. Generally, it is the legislature’s policy and intent to provide similar benefits within the retirement systems of the state wherever possible. See RCW 41.50.005(1). However, if the intended policy is to move toward a plan 3 hybrid pension model (defined benefit plus defined contribution) for all new hires, this element of the proposal would conflict with that policy.

Plan 3 Member Rate Flexibility

As mentioned above, the subgroup was informed of advice from tax counsel to DRS expressing concern over multiple elections (or opportunities for choice) in the Plans 2/3. DRS was advised of possible problems with annual member

contribution rate flexibility if the Plan 2/3 choice provision was added for all plans. It was also noted that contribution rate flexibility already has questionable tax status. The subgroup recommended elimination of contribution rate flexibility in the Plans 3 in order to avoid IRS problems. Plan 2/3 choice for new hires, on the other hand, is the type of benefit that has been approved in many other 401(a) plans, and is not viewed as problematic for the IRS in its own right.

Removal of contribution rate flexibility will not only eliminate IRS uncertainty, but it will also contribute to consistency among the plans, as this provision has been implemented in TRS but not in PERS or SERS. On the other hand, if the IRS approves member contribution rate flexibility for all the Plans 3, this element of the proposal would remove a significant benefit from the Plans 3.

Plan 3 Gain-Sharing

This final element of the proposal is the most complex from a policy perspective, and has implications for the entire tradeoff package. The proposal would eliminate Plan 3 gain-sharing for members of PERS and TRS, and would amend gain-sharing for SERS to provide a definite annual contribution into the Plan 3 member accounts. The entire benefit package identified in this proposal (including the modified rule of 90 and Plan 2/3 choice) is viewed as the tradeoff for the Plan 3 gain-sharing provisions in current law.

“No Contractual Right” Clause

The gain-sharing provisions in current law are subject to a “no contractual right” or “reservation” clause. This clause states that “no member or beneficiary has a contractual right to receive this distribution....” These kinds of clauses in plan provisions of the Washington State Retirement Systems have not been tested in the courts. This legal uncertainty lends an aspect of unpredictability to a benefit that is already unpredictable due to market volatility.

Recently the Attorney General’s Office provided informal advice that is relevant to whether gain-sharing could be repealed or amended and replaced with other benefits that are more certain. This advice was summarized to the Purchasing Power subgroup as follows:

1. There isn't a clear answer to whether gain-sharing is a vested, contractual right. It might not be a vested, contractual right because of the reservation clause.
2. If the court believes gain-sharing is a vested, contractual right, it is more likely than not that a court would find the right has not been substantially impaired because members and beneficiaries were "put on notice" that the legislature may amend or repeal gain-sharing in the future (via the reservation clause).
3. With regard to comparable benefits, if gain-sharing were repealed and replaced by another benefit, courts favor comparable benefits which are similar to the old benefit.
4. Under the context of gain-sharing, it is reasonable to adjust the value of an uncertain and unpredictable benefit when determining the value of a comparable replacement which has little or no uncertainty.

Trading Uncertainty for Certainty

Having received this informal advice, the Purchasing Power subgroup instructed staff to develop a tradeoff package with a target cost that would be approximately one-half of the forecasted cost of future gain-sharing. However this "tradeoff value" approach is not as simple for the Plans 3 as it was for the Plans 1. This is due largely to the fact that the Plans 1 are closed plans and the Plans 3 are not. The cost of future gain-sharing benefits is figured on a closed group valuation, that is the Plans 3 as of a certain date. In reality, the Plans 3 are not closed. Theoretically, lawmakers would trade a closed group liability for a closed group benefit, i.e. one that doesn't involve future hires. In practice, however, such an approach would lead to further inconsistencies between the retirement systems and additional administrative complexity.

Trading-Off Similar Benefits

The existing Plan 3 gain-sharing benefits involve direct contributions into the Plan 3 accounts of active, retired and term-vested members. These gain-sharing benefits are being traded in part for benefits related to retirement eligibility and plan choice that do not benefit current retirees or term-vested members in TRS and PERS. Also, in terms of the nature of the benefits being traded, the replacement benefits are not the same as those set forth in the gain-sharing chapter. Still, they are retirement benefits (as opposed to health

insurance benefits or other non-pension benefits). The SERS 3 benefit retained in the trade-off package is the most comparable to the original gain-sharing provisions.

Parity Among the Plans

As mentioned above, the SERS 3 provision was included because SERS 3 members get the least benefit of the three systems from a Rule of 90, and the provision would help provide more balance in the gain-sharing tradeoff for all plan 3 members. As can be seen in the draft fiscal note, the tradeoff package approximates forty-two percent (42%) of the expected long-term employer liability for gain-sharing for the three systems in total, but the cost varies by individual retirement system. The PERS cost is above the target cost of 50%, the TRS cost is below it, and the SERS cost is right at the 50% target.

Trading-off Plan 3 Benefits for Plan 2/3 Benefits

It should also be noted that Plan 2 members receive a benefit as part of the Plan 3 gain-sharing tradeoff package, yet they do not participate in gain-sharing. This aspect of the proposal may, however, help to address a past inconsistency. As pointed out in the August 30, 2004 Revised Gain-Sharing Report, Plan 2 members were left out of the original gain-sharing provisions. While Plan 2 members have been able to participate in past gains by having lower contribution rates, they are also required to participate in offsetting losses by having their contribution rate's increase. Thus, overall, no benefits were given to Plan 2 members via the gain-sharing provisions. On the other hand, Plan 1 and Plan 3 members participate in gains by getting permanent benefit increases. They do not, however, pay for offsetting losses as their member contribution rates are fixed.

Still, if the primary purpose of the tradeoff package is to replace gain-sharing with a more certain Plan 3 benefit, and gain-sharing does not apply to the Plans 2, it may not make sense to include a benefit in the proposal that enhances the Plans 2. Also, if the intent is for future employees to move to the Plan 3 hybrid pension model, then again, the proposal may be inconsistent with this policy, as it enhances Plan 2 benefits and would result in more new entrants into the Plans 2.

Administrative Impacts

On December 3, 2004, DRS Director John Charles indicated that there are no significant barriers to implementation, but an administrative fiscal note would be prepared on any final legislative proposal.

Bill (Draft)

The bill draft for this proposal is provided as a handout at the December 7, 2004 meeting.

Fiscal Note (Draft)

The draft fiscal note for this proposal is provided as a handout at the December 7, 2004 meeting.

1 AN ACT Relating to amending and replacing plan 3 gain-sharing
2 provisions with prospective unreduced retirement benefits in plans 2
3 and 3 of the public employees' retirement system, the teachers'
4 retirement system, and the school employees' retirement system; with a
5 ninety-day window for new members of the teachers' retirement system
6 and the school employees' retirement system to make a choice between
7 plan 2 and plan 3; and with an annual employer contribution into the
8 plan 3 member accounts of the school employees' retirement system;
9 amending RCW 41.40.630, 41.40.820, 41.32.765, 41.32.875, 41.35.420,
10 41.35.680, 41.32.835, 41.35.610, 41.31A.010, 41.31A.020, 41.45.061, and
11 41.34.040; decodifying RCW 41.31A.030 and 41.31A.040; and providing an
12 effective date.

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

14 **Sec. 1.** RCW 41.40.630 and 2000 c 247 s 901 are each amended to
15 read as follows:

16 (1) NORMAL RETIREMENT. Any member with at least five service
17 credit years who has attained at least age sixty-five shall be eligible
18 to retire and to receive a retirement allowance computed according to
19 the provisions of RCW 41.40.620.

1 (2) UNREDUCED RETIREMENT. Any member who has completed at least
2 five service credit years and has attained age sixty, and for whom the
3 sum of the number of years of the member's age and the number of years
4 of the member's service credit equals ninety or more, shall be eligible
5 to retire. For the portion of the member's benefit that is based on
6 service credit earned after July 1, 2007, the member shall receive an
7 unreduced retirement allowance computed according to the provisions of
8 RCW 41.40.620. For the portion of the member's benefit that is based
9 on service credit earned prior to July 1, 2007, the retirement
10 allowance shall be reduced under subsection (3) or (4) of this section
11 as applicable.

12 (3) EARLY RETIREMENT. Any member who has completed at least twenty
13 service credit years and has attained age fifty-five shall be eligible
14 to retire and to receive a retirement allowance computed according to
15 the provisions of RCW 41.40.620, except that a member retiring pursuant
16 to this subsection shall have the retirement allowance actuarially
17 reduced to reflect the difference in the number of years between age at
18 retirement and the attainment of age sixty-five.

19 (~~(3)~~) (4) ALTERNATE EARLY RETIREMENT. Any member who has
20 completed at least thirty service credit years and has attained age
21 fifty-five shall be eligible to retire and to receive a retirement
22 allowance computed according to the provisions of RCW 41.40.620, except
23 that a member retiring pursuant to this subsection shall have the
24 retirement allowance reduced by three percent per year to reflect the
25 difference in the number of years between age at retirement and the
26 attainment of age sixty-five.

27 **Sec. 2.** RCW 41.40.820 and 2000 c 247 s 309 are each amended to
28 read as follows:

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

31 (a) Completed ten service credit years; or

32 (b) Completed five service credit years, including twelve service
33 credit months after attaining age fifty-four; or

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

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

3 (2) UNREDUCED RETIREMENT. Any member who has completed the number
4 of service credit years required in subsection (1) of this section and
5 has attained age sixty, and for whom the sum of the number of years of
6 the member's age and the number of years of the member's service credit
7 equals ninety or more, shall be eligible to retire. For the portion of
8 the member's benefit that is based on service credit earned after July
9 1, 2007, the member shall receive an unreduced retirement allowance
10 computed according to the provisions of RCW 41.40.790. For the portion
11 of the member's benefit that is based on service credit earned prior to
12 July 1, 2007, the retirement allowance shall be reduced under
13 subsection (3) or (4) of this section as applicable.

14 (3) EARLY RETIREMENT. Any member who has attained at least age
15 fifty-five and has completed at least ten years of service shall be
16 eligible to retire and to receive a retirement allowance computed
17 according to the provisions of RCW 41.40.790, except that a member
18 retiring pursuant to this subsection shall have the retirement
19 allowance actuarially reduced to reflect the difference in the number
20 of years between age at retirement and the attainment of age sixty-
21 five.

22 ~~((+3))~~ (4) ALTERNATE EARLY RETIREMENT. Any member who has
23 completed at least thirty service credit years and has attained age
24 fifty-five shall be eligible to retire and to receive a retirement
25 allowance computed according to the provisions of RCW 41.40.790, except
26 that a member retiring pursuant to this subsection shall have the
27 retirement allowance reduced by three percent per year to reflect the
28 difference in the number of years between age at retirement and the
29 attainment of age sixty-five.

30 **Sec. 3.** RCW 41.32.765 and 2000 c 247 s 902 are each amended to
31 read as follows:

32 (1) NORMAL RETIREMENT. Any member with at least five service
33 credit years of service who has attained at least age sixty-five shall
34 be eligible to retire and to receive a retirement allowance computed
35 according to the provisions of RCW 41.32.760.

36 (2) UNREDUCED RETIREMENT. Any member who has completed at least
37 five service credit years and has attained age sixty, and for whom the

1 sum of the number of years of the member's age and the number of years
2 of the member's service credit equals ninety or more, shall be eligible
3 to retire. For the portion of the member's benefit that is based on
4 service credit earned after July 1, 2007, the member shall receive an
5 unreduced retirement allowance computed according to the provisions of
6 RCW 41.32.760. For the portion of the member's benefit that is based
7 on service credit earned prior to July 1, 2007, the retirement
8 allowance shall be reduced under subsection (3) or (4) of this section
9 as applicable.

10 (3) EARLY RETIREMENT. Any member who has completed at least twenty
11 service credit years of service who has attained at least age fifty-
12 five shall be eligible to retire and to receive a retirement allowance
13 computed according to the provisions of RCW 41.32.760, except that a
14 member retiring pursuant to this subsection shall have the retirement
15 allowance actuarially reduced to reflect the difference in the number
16 of years between age at retirement and the attainment of age sixty-
17 five.

18 ((+3)) (4) ALTERNATE EARLY RETIREMENT. Any member who has
19 completed at least thirty service credit years and has attained age
20 fifty-five shall be eligible to retire and to receive a retirement
21 allowance computed according to the provisions of RCW 41.32.760, except
22 that a member retiring pursuant to this subsection shall have the
23 retirement allowance reduced by three percent per year to reflect the
24 difference in the number of years between age at retirement and the
25 attainment of age sixty-five.

26 **Sec. 4.** RCW 41.32.875 and 2000 c 247 s 903 are each amended to
27 read as follows:

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

30 (a) Completed ten service credit years; or

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

33 (c) Completed five service credit years by July 1, 1996, under plan
34 2 and who transferred to plan 3 under RCW 41.32.817;

35 shall be eligible to retire and to receive a retirement allowance
36 computed according to the provisions of RCW 41.32.840.

1 (2) UNREDUCED RETIREMENT. Any member who has completed the number
2 of service credit years required in subsection (1) of this section and
3 has attained age sixty, and for whom the sum of the number of years of
4 the member's age and the number of years of the member's service credit
5 equals ninety or more, shall be eligible to retire. For the portion of
6 the member's benefit that is based on service credit earned after July
7 1, 2007, the member shall receive an unreduced retirement allowance
8 computed according to the provisions of RCW 41.32.840. For the portion
9 of the member's benefit that is based on service credit earned prior to
10 July 1, 2007, the retirement allowance shall be reduced under
11 subsection (3) or (4) of this section as applicable.

12 (3) EARLY RETIREMENT. Any member who has attained at least age
13 fifty-five and has completed at least ten years of service shall be
14 eligible to retire and to receive a retirement allowance computed
15 according to the provisions of RCW 41.32.840, except that a member
16 retiring pursuant to this subsection shall have the retirement
17 allowance actuarially reduced to reflect the difference in the number
18 of years between age at retirement and the attainment of age sixty-
19 five.

20 (~~(3)~~) (4) ALTERNATE EARLY RETIREMENT. Any member who has
21 completed at least thirty service credit years and has attained age
22 fifty-five shall be eligible to retire and to receive a retirement
23 allowance computed according to the provisions of RCW 41.32.840, except
24 that a member retiring pursuant to this subsection shall have the
25 retirement allowance reduced by three percent per year to reflect the
26 difference in the number of years between age at retirement and the
27 attainment of age sixty-five.

28 **Sec. 5.** RCW 41.35.420 and 2000 c 247 s 905 are each amended to
29 read as follows:

30 (1) NORMAL RETIREMENT. Any member with at least five service
31 credit years who has attained at least age sixty-five shall be eligible
32 to retire and to receive a retirement allowance computed according to
33 the provisions of RCW 41.35.400.

34 (2) UNREDUCED RETIREMENT. Any member who has completed at least
35 five service credit years and has attained age sixty, and for whom the
36 sum of the number of years of the member's age and the number of years
37 of the member's service credit equals ninety or more, shall be eligible

1 to retire. For the portion of the member's benefit that is based on
2 service credit earned after July 1, 2007, the member shall receive an
3 unreduced retirement allowance computed according to the provisions of
4 RCW 41.35.400. For the portion of the member's benefit that is based
5 on service credit earned prior to July 1, 2007, the retirement
6 allowance shall be reduced under subsection (3) or (4) of this section
7 as applicable.

8 (3) EARLY RETIREMENT. Any member who has completed at least twenty
9 service credit years and has attained age fifty-five shall be eligible
10 to retire and to receive a retirement allowance computed according to
11 the provisions of RCW 41.35.400, except that a member retiring pursuant
12 to this subsection shall have the retirement allowance actuarially
13 reduced to reflect the difference in the number of years between age at
14 retirement and the attainment of age sixty-five.

15 ~~((3))~~ (4) ALTERNATE EARLY RETIREMENT. Any member who has
16 completed at least thirty service credit years and has attained age
17 fifty-five shall be eligible to retire and to receive a retirement
18 allowance computed according to the provisions of RCW 41.35.400, except
19 that a member retiring pursuant to this subsection shall have the
20 retirement allowance reduced by three percent per year to reflect the
21 difference in the number of years between age at retirement and the
22 attainment of age sixty-five.

23 **Sec. 6.** RCW 41.35.680 and 2000 c 247 s 906 are each amended to
24 read as follows:

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

- 27 (a) Completed ten service credit years; or
- 28 (b) Completed five service credit years, including twelve service
29 credit months after attaining age fifty-four; or

30 (c) Completed five service credit years by September 1, 2000, under
31 the public employees' retirement system plan 2 and who transferred to
32 plan 3 under RCW 41.35.510;
33 shall be eligible to retire and to receive a retirement allowance
34 computed according to the provisions of RCW 41.35.620.

35 (2) UNREDUCED RETIREMENT. Any member who has completed the number
36 of service credit years required in subsection (1) of this section and
37 has attained age sixty, and for whom the sum of the number of years of

1 the member's age and the number of years of the member's service credit
2 equals ninety or more, shall be eligible to retire. For the portion of
3 the member's benefit that is based on service credit earned after July
4 1, 2007, the member shall receive an unreduced retirement allowance
5 computed according to the provisions of RCW 41.35.620. For the portion
6 of the member's benefit that is based on service credit earned prior to
7 July 1, 2007, the retirement allowance shall be reduced under
8 subsection (3) or (4) of this section as applicable.

9 (3) EARLY RETIREMENT. Any member who has attained at least age
10 fifty-five and has completed at least ten years of service shall be
11 eligible to retire and to receive a retirement allowance computed
12 according to the provisions of RCW 41.35.620, except that a member
13 retiring pursuant to this subsection shall have the retirement
14 allowance actuarially reduced to reflect the difference in the number
15 of years between age at retirement and the attainment of age sixty-
16 five.

17 ~~((+3))~~ (4) ALTERNATE EARLY RETIREMENT. Any member who has
18 completed at least thirty service credit years and has attained age
19 fifty-five shall be eligible to retire and to receive a retirement
20 allowance computed according to the provisions of RCW 41.35.620, except
21 that a member retiring pursuant to this subsection shall have the
22 retirement allowance reduced by three percent per year to reflect the
23 difference in the number of years between age at retirement and the
24 attainment of age sixty-five.

25 **Sec. 7.** RCW 41.32.835 and 1995 c 239 s 105 are each amended to
26 read as follows:

27 (1) All teachers who first become employed by an employer in an
28 eligible position on or after ~~((July 1, 1996, shall be members of plan~~
29 ~~3))~~ July 1, 2007, shall have a period of ninety days to make an
30 irrevocable choice to become a member of plan 2 or plan 3. At the end
31 of ninety days, if the member has not made a choice to become a member
32 of plan 2, he or she becomes a member of plan 3.

33 (2) For administrative efficiency, until a member elects to become
34 a member of plan 3, or becomes a member of plan 3 by default under
35 subsection (1) of this section, the member shall be reported to the
36 department in plan 2, with member and employer contributions. Upon
37 becoming a member of plan 3 by election or by default, all service

1 credit shall be transferred to the member's plan 3 defined benefit, and
2 all employee accumulated contributions shall be transferred to the
3 member's plan 3 defined contribution account.

4 **Sec. 8.** RCW 41.35.610 and 1998 c 341 s 202 are each amended to
5 read as follows:

6 (1) All classified employees who first become employed by an
7 employer in an eligible position on or after ((September 1, 2000, shall
8 be members of plan 3)) July 1, 2007, shall have a period of ninety days
9 to make an irrevocable choice to become a member of plan 2 or plan 3.
10 At the end of ninety days, if the member has not made a choice to
11 become a member of plan 2, he or she becomes a member of plan 3.

12 (2) For administrative efficiency, until a member elects to become
13 a member of plan 3, or becomes a member of plan 3 by default under
14 subsection (1) of this section, the member shall be reported to the
15 department in plan 2, with member and employer contributions. Upon
16 becoming a member of plan 3 by election or by default, all service
17 credit shall be transferred to the member's plan 3 defined benefit, and
18 all employee accumulated contributions shall be transferred to the
19 member's plan 3 defined contribution account.

20 **Sec. 9.** RCW 41.31A.010 and 2000 c 247 s 407 are each amended to
21 read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context requires otherwise.

24 (1) "Actuary" means the state actuary or the office of the state
25 actuary.

26 (2) "Department" means the department of retirement systems.

27 (3) (~~"Teacher" means any employee included in the membership of~~
28 ~~the teachers' retirement system as provided for in chapter 41.32 RCW.~~

29 ~~(4))~~ "Member account" or "member's account" means the sum of any
30 contributions as provided for in chapter 41.34 RCW and the earnings on
31 behalf of the member.

32 ~~((5))~~ (4) "Classified employee" means the same as in RCW
33 41.35.010.

34 ~~((6) "Public employee" means the same as "member" as defined in~~
35 ~~RCW 41.40.010(5).))~~

1 (5) "Terminated vested member" means a member who separates or has
2 separated from service after having completed enough service credit
3 years to be vested in the defined benefit portion of the members' plan
4 and who remains a member during the period of absence from service for
5 the exclusive purpose of receiving a future retirement allowance.

6 **Sec. 10.** RCW 41.31A.020 and 2003 c 294 s 4 are each amended to
7 read as follows:

8 (1) On January 1, ~~((2004))~~ 2008, and on January 1st of ~~((even-~~
9 ~~numbered years))~~ each year thereafter, the member account of a person
10 meeting the requirements of this section shall be credited by the
11 extraordinary investment gain amount.

12 ~~((The following persons))~~ Members, retirees, and terminated
13 vested members of the school employees' retirement system plan 3 as of
14 June 30, 2007, who also meet the criteria in any of (a) through (f) of
15 this subsection shall be eligible for the benefit provided in
16 subsection (1) of this section:

17 (a) Any member of the ~~((teachers' retirement system plan 3, the))~~
18 Washington school employees' retirement system plan 3 ~~((, or the public~~
19 ~~employees' retirement system plan 3))~~ who earned service credit during
20 the twelve-month period from September 1st to August 31st immediately
21 preceding the distribution and had a balance of at least one thousand
22 dollars in their member account on August 31st of the year immediately
23 preceding the distribution; or

24 (b) Any person in receipt of a benefit pursuant to RCW
25 ~~((41.32.875,))~~ 41.35.680 ~~((, or 41.40.820))~~; or

26 (c) Any person who is a retiree pursuant to RCW 41.34.020(8) and
27 who:

28 (i) Completed ten service credit years; or

29 (ii) Completed five service credit years, including twelve service
30 months after attaining age fifty-four; or

31 ~~((Any teacher who is a retiree pursuant to RCW 41.34.020(8) and~~
32 ~~who has completed five service credit years by July 1, 1996, under plan~~
33 ~~2 and who transferred to plan 3 under RCW 41.32.817; or~~

34 ~~(e))~~ Any classified employee who is a retiree pursuant to RCW
35 41.34.020(8) and who has completed five service credit years by
36 September 1, 2000, and who transferred to plan 3 under RCW 41.35.510;
37 or

1 ~~((f) Any public employee who is a retiree pursuant to RCW~~
2 ~~41.34.020(8) and who has completed five service credit years by March~~
3 ~~1, 2002, and who transferred to plan 3 under RCW 41.40.795; or~~

4 ~~(g))~~ (e) Any person who had a balance of at least one thousand
5 dollars in their member account on August 31st of the year immediately
6 preceding the distribution and who:

7 (i) Completed ten service credit years; or

8 (ii) Completed five service credit years, including twelve service
9 months after attaining age fifty-four; or

10 ~~((h) Any teacher who had a balance of at least one thousand~~
11 ~~dollars in their member account on August 31st of the year immediately~~
12 ~~preceding the distribution and who has completed five service credit~~
13 ~~years by July 1, 1996, under plan 2 and who transferred to plan 3 under~~
14 ~~RCW 41.32.817; or~~

15 ~~(i))~~ (f) Any classified employee who had a balance of at least one
16 thousand dollars in their member account on August 31st of the year
17 immediately preceding the distribution and who has completed five
18 service credit years by September 1, 2000, and who transferred to plan
19 3 under RCW 41.35.510(~~(i) or~~

20 ~~(j) Any public employee who had a balance of at least one thousand~~
21 ~~dollars in their member account on August 31st of the year immediately~~
22 ~~preceding the distribution and who has completed five service credit~~
23 ~~years by March 1, 2002, and who transferred to plan 3 under RCW~~
24 ~~41.40.795)).~~

25 (3) The extraordinary investment gain amount shall be calculated as
26 follows:

27 ~~((a) One half of the sum of the value of the net assets held in~~
28 ~~trust for pension benefits in the teachers' retirement system combined~~
29 ~~plan 2 and 3 fund, the Washington school employees' retirement system~~
30 ~~combined plan 2 and 3 fund, and the public employees' retirement system~~
31 ~~combined plan 2 and 3 fund at the close of the previous state fiscal~~
32 ~~year not including the amount attributable to member accounts;~~

33 ~~(b) Multiplied by the amount which the compound average of~~
34 ~~investment returns on those assets over the previous four state fiscal~~
35 ~~years exceeds ten percent;~~

36 ~~(c) Multiplied by the proportion of:~~

37 ~~(i) The sum of the service credit on August 31st of the previous~~

1 ~~year of all persons eligible for the benefit provided in subsection (1)~~
2 ~~of this section; to~~

3 ~~(ii) The sum of the service credit on August 31st of the previous~~
4 ~~year of:~~

5 ~~(A) All persons eligible for the benefit provided in subsection (1)~~
6 ~~of this section;~~

7 ~~(B) Any person who earned service credit in the teachers'~~
8 ~~retirement system plan 2, the Washington school employees' retirement~~
9 ~~system plan 2, or the public employees' retirement system plan 2 during~~
10 ~~the twelve month period from September 1st to August 31st immediately~~
11 ~~preceding the distribution;~~

12 ~~(C) Any person in receipt of a benefit pursuant to RCW 41.32.765,~~
13 ~~41.35.420, or 41.40.630; and~~

14 ~~(D) Any person with five or more years of service in the teachers'~~
15 ~~retirement system plan 2, the Washington school employees' retirement~~
16 ~~system plan 2, or the public employees' retirement system plan 2;~~

17 ~~(d) Divided proportionally among persons eligible for the benefit~~
18 ~~provided in subsection (1) of this section on the basis of their)) Ten~~
19 ~~dollars, which shall be increased by three percent per year rounded to~~
20 ~~the nearest cent, multiplied by the member's service credit total on~~
21 ~~August 31st of the previous year.~~

22 ~~((4) The legislature reserves the right to amend or repeal this~~
23 ~~section in the future and no member or beneficiary has a contractual~~
24 ~~right to receive this distribution not granted prior to that time.))~~

25 NEW SECTION. **Sec. 11.** RCW 41.31A.030 is decodified.

26 NEW SECTION. **Sec. 12.** RCW 41.31A.040 is decodified.

27 **Sec. 13.** RCW 41.45.061 and 2004 c 242 s 40 are each amended to
28 read as follows:

29 (1) The required contribution rate for members of the ((plan 2))
30 teachers' retirement system plan 2 shall be ((fixed at the rates in
31 effect on July 1, 1996, subject to the following:

32 (a) ~~Beginning September 1, 1997, except as provided in (b) of this~~
33 ~~subsection, the employee contribution rate shall not exceed the~~
34 ~~employer plan 2 and 3 rates adopted under RCW 41.45.060, 41.45.054, and~~
35 ~~41.45.070 for the teachers' retirement system;~~

1 ~~(b) In addition, the employee contribution rate for plan 2 shall be~~
2 ~~increased by fifty percent of the contribution rate increase caused by~~
3 ~~any plan 2 benefit increase passed after July 1, 1996;~~

4 ~~(c) In addition, the employee contribution rate for plan 2 shall~~
5 ~~not be increased as a result of any distributions pursuant to section~~
6 ~~309, chapter 341, Laws of 1998 and RCW 41.31A.020)) set at the same~~
7 ~~rate as the employer combined plan 2 and plan 3 rate.~~

8 (2) The required contribution rate for members of the school
9 employees' retirement system plan 2 shall ~~((equal the school employees'~~
10 ~~retirement system employer plan 2 and 3 contribution rate adopted under~~
11 ~~RCW 41.45.060, 41.45.054, and 41.45.070, except as provided in~~
12 ~~subsection (3) of this section.~~

13 ~~(3) The member contribution rate for the school employees'~~
14 ~~retirement system plan 2 shall be increased by fifty percent of the~~
15 ~~contribution rate increase caused by any plan 2 benefit increase passed~~
16 ~~after September 1, 2000)) be set at the same rate as the employer~~
17 ~~combined plan 2 and plan 3 rate.~~

18 ~~((4)) (3) The required contribution rate for members of the~~
19 ~~public employees' retirement system plan 2 shall be set at the same~~
20 ~~rate as the employer combined plan 2 and plan 3 rate.~~

21 ~~((5)) (4) The required contribution rate for members of the law~~
22 ~~enforcement officers' and fire fighters' retirement system plan 2 shall~~
23 ~~be set at fifty percent of the cost of the retirement system.~~

24 ~~((6)) (5) The ~~(employee)~~ required contribution rates for~~
25 ~~members of the school employees' retirement system plan 2 ~~((under~~~~
26 ~~subsections (3) and (4) of this section)) shall not include any~~
27 ~~increase as a result of any distributions pursuant to RCW 41.31A.020~~
28 ~~((and 41.31A.030)).~~

29 ~~((7)) (6) The required plan 2 and 3 contribution rates for~~
30 ~~employers shall be adopted in the manner described in RCW 41.45.060,~~
31 ~~41.45.054, and 41.45.070.~~

32 ~~((8)) (7) The required contribution rate for members of the~~
33 ~~public safety employees' retirement system plan 2 shall be set at fifty~~
34 ~~percent of the cost of the retirement system.~~

35 **Sec. 14.** RCW 41.34.040 and 2003 c 156 s 1 are each amended to read
36 as follows:

1 (1) A member shall contribute from his or her compensation
2 according to one of the following rate structures in addition to the
3 mandatory minimum five percent:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	0.0% fixed
<u>Option B</u>	
Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
<u>Option C</u>	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
<u>Option D</u>	
All Ages	2.0%
<u>Option E</u>	
All Ages	5.0%
<u>Option F</u>	
All Ages	10.0%

20 (2) The board shall have the right to offer contribution rate
21 options in addition to those listed in subsection (1) of this section,
22 provided that no significant additional administrative costs are
23 created. All options offered by the board shall conform to the
24 requirements stated in subsections (3) and (5) of this section.

25 (3)(a) For members of the teachers' retirement system entering plan
26 3 under RCW 41.32.835 or members of the school employees' retirement
27 system entering plan 3 under RCW 41.35.610, within ninety days of
28 becoming a member he or she has an option to choose one of the above
29 contribution rate structures. If the member does not select an option
30 within the ninety-day period, he or she shall be assigned option A.

31 (b) For members of the public employees' retirement system entering
32 plan 3 under RCW 41.40.785, within the ninety days described in RCW
33 41.40.785 an employee who irrevocably chooses plan 3 shall select one
34 of the above contribution rate structures. If the member does not
35 select an option within the ninety-day period, he or she shall be
36 assigned option A.

1 (c) For members of the teachers' retirement system transferring to
2 plan 3 under RCW 41.32.817, members of the school employees' retirement
3 system transferring to plan 3 under RCW 41.35.510, or members of the
4 public employees' retirement system transferring to plan 3 under RCW
5 41.40.795, upon election to plan 3 he or she must choose one of the
6 above contribution rate structures.

7 (d) Within ninety days of the date that an employee changes
8 employers, he or she has an option to choose one of the above
9 contribution rate structures. If the member does not select an option
10 within this ninety-day period, he or she shall be assigned option A.

11 ~~(4) ((Each year, members may change their contribution rate option
12 by notifying their employer in writing during the month of January.~~

13 ~~(5))~~ Contributions shall begin the first day of the pay cycle in
14 which the rate option is made, or the first day of the pay cycle in
15 which the end of the ninety-day period occurs.

16 NEW SECTION. **Sec. 15.** The benefits provided pursuant to this act
17 are not provided to employees as a matter of contractual right prior to
18 July 1, 2007. The legislature retains the right to alter or abolish
19 these benefits at any time prior to July 1, 2007.

20 NEW SECTION. **Sec. 16.** Except for section 15 of this act, this act
21 takes effect July 1, 2007.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/21/04	Z-0243.1/Z-0259.1

SUMMARY OF BILL:

This bill impacts the Plans 2 and 3 of the teachers' retirement system (TRS), the school employees' retirement system (SERS) and the public employees' retirement system (PERS). The bill eliminates Plan 3 gain-sharing for TRS and PERS. Existing Plan 3 gain-sharing provisions would be replaced with a rule of 90 that uses an age 60 minimum, and that has unreduced benefits for prospective service only in TRS 2/3, SERS 2/3 and PERS 2/3. In addition, Plan 2/3 choice would be added for new hires in TRS and SERS (same structure for choice as in PERS). The proposed legislation amends Plan 3 gain-sharing for SERS by providing an annual contribution to the defined contribution accounts of existing SERS 3 members. The SERS 3 contribution would be \$10 times years of service.

The trade-off package also removes the Plan 3 provision that allows members to change their employee contribution rate by notifying their employer in writing during the month of January. The bill also amends the section of the actuarial funding chapter addressing employee contributions in order to make it consistent with the changes to gain-sharing.

Effective Date: July 1, 2007

CURRENT SITUATION:

Currently, Plan 2/3 members of TRS, SERS and PERS are eligible to retire with unreduced benefits when they are vested and reach age 65. The vesting period for the Plans 2 is five years. The vesting period for the defined benefit component of the Plans 3 is ten years, or 5 years if 12 months of service were accrued after attaining age 54. (Plan 3 members are immediately vested in the defined contribution portion of their benefit, and Plan 3 members are vested if they were vested in Plan 2 when they transferred.)

Currently, of the three systems, PERS is the only one that has Plan 2/3 choice. New PERS employees have a period of ninety days to make an irrevocable choice to become a member of Plan 2 or Plan 3. At the end of ninety days, if the member has not made a choice to become a member of Plan 2, he or she automatically becomes a member of Plan 3. In TRS and SERS, new employees automatically become members of Plan 3, and the Plans 2 are closed to new hires.

Current law provides that members of the Plans 3 may change their contribution rate option by notifying their employer in writing during the month of January. In practice, this provision is only available to TRS 3 members, as the IRS has not yet approved contribution rate flexibility for PERS and SERS. An application for IRS approval has been pending for approximately 2.5 years.

Currently, gain-sharing applies to the Plans 1 and 3 of TRS, SERS and PERS. Gain-sharing is a mechanism that increases benefits. The increases are not automatic, but are contingent on the occurrence of "extraordinary investment gains." Extraordinary gains occur when the compound average of investment returns on pension fund assets exceeds 10% for the previous four state fiscal years. When this occurs, a calculation is performed to determine a dollar amount that will be distributed to eligible members. Gain-sharing calculations are currently made once each biennium with potential distributions occurring in January of even-numbered years. In the Plans 3, active, retired and terminated vested members receive distributions as a lump sum dollar amount that is deposited directly into their defined contribution accounts based on years of service credit. There have been two gain-sharing distributions since the inception of gain-sharing: one in 1998 and one in 2000.

MEMBERS IMPACTED:

The repeal of Plan 3 gain sharing for PERS and TRS and the modification of Plan 3 gain sharing for SERS could potentially impact all current and future members of PERS 3, TRS 3, and SERS 3, including all of the active Plan 3 members except those that would not meet the requirement of having a minimum \$1,000 balance in the member account, all of the Plan 3 annuitants, all of the Plan 3 terminated vested members meeting the minimum balance requirement, and any Plan 3 terminated non-vested members who are rehired.

<i>(As of September 30, 2003)</i>	PERS 3	TRS 3	SERS 3
Active	17,548	47,263	27,710
Annuitants	86	385	306
Terminated and Vested	<u>770</u>	<u>2,418</u>	<u>1,648</u>
Total	18,404	50,066	29,664

Rule of 90 Benefit

	PERS 2	PERS 3	TRS 2	TRS 3	SERS 2	SERS 3
Number of Affected Active	82,259	13,497	5,209	37,310	12,455	16,167
Total Active Members	117,262	17,548	7,637	47,263	21,504	27,710

Regarding the Plan 2 /3 choice, this will impact TRS and SERS members hired on or after July 1, 2007. We estimate that from October 1, 2007 to September 30, 2008, there will be a total of 4,492 new TRS members and 5,384 new SERS members. The number of new members is expected to increase each year. We estimate that 50% of these new members would elect to join Plan 2 and 50% would elect Plan 3.

Regarding the SERS contribution, this will impact 29,664 members of SERS 3, including 27,710 active SERS 3 members, 306 SERS 3 annuitants, and 1,648 SERS 3 terminated vested members. This is the same as the number of SERS 3 members impacted by the repeal of gain sharing. The only difference is that to receive the contribution at any time in the future, a member would need to meet the eligibility requirements on the effective date of the act and the eligibility requirements on the effective date of a future distribution.

Regarding the removal of the Plan 3 provision that allows members to change their employee contribution rate by notifying their employer in writing during the month of January, this would impact 17,548 active PERS 3 members, 47,263 active TRS 3 members, and 27,710 active SERS 3 members.

For a member impacted by the Rule of 90 portion of the bill, the increase in benefits would be the removal of benefit reduction for early retirement without the Rule of 90 for service accrued after the effective date of the act. For example, a member hired after the effective date retiring at age 60 with 30 years of service would be entitled to an unreduced benefit instead of a benefit with a 15% reduction. A member age 45 with 15 years of service as of the effective date retiring at age 60 with 30 years of service would be entitled to a benefit with a 7.5% reduction instead of a benefit with a 15% reduction (one-half of the 15% reduction, since 15 years out of 30, or one-half, of the service would have been credited before the effective date).

Regarding the \$10 SERS 3 contribution, the \$10 multiplier would increase at 3% per year and the contribution amount would increase for each additional year of service. The typical SERS 3 member would receive a benefit with a present value of \$2,200. A SERS 3 member with 11 years of service would receive an employer contribution of \$110 the first year, and if the member remained employed by SERS, the member would receive \$124 the second year and \$544 the twentieth year. The amount would continue to be deposited to the member's account for life, or until termination of employment if the member is non-vested.

Regarding the removal of the Plan 3 provision that allows members to change their employee contribution rate by notifying their employer in writing during the month of January, this would impact the defined contribution portion of the plan and would have no impact on benefits under the defined benefit plan.

ASSUMPTIONS:

We assumed that employer contribution rates would decrease after the proposed repeal of Plan 3 gain sharing because we started with rates that included the cost of future gain-sharing benefits. The cost impact was developed using the same logic as used for the valuation (rates were determined assuming a delayed effective date).

For pricing the Rule of 90 portion of the bill, we assumed that there would be an increase in retirement rates due to the Rule of 90. The additional rates or "kickers" are provided at the end of this fiscal note. The additional rates at age 60 are higher to reflect the pent-up demand for the benefit from the members who satisfy the rule of 90 before the minimum age of 60. Since the portion of the benefit without reduction for early commencement would apply to prospective service only, we determined the price of this benefit using the increase in the Entry Age Normal Cost rate (EANC) for current members and for new entrants.

For pricing the cost of choice, we determined the Entry Age Normal Cost rate (EANC) for Plan 2 as if every active Plan 2 and Plan 3 member were in Plan 2, and we determined the EANC for Plan 3 as if every active Plan 2 and Plan 3 member were in Plan 3. We calculated the excess of the employer portion of the EANC for Plan 2 over the EANC for Plan 3 and then took 50% of the difference to reflect our assumption that 50% of new members in TRS and SERS would elect to join Plan 2 and 50% would elect Plan 3. Since the choice would only apply to new members, we assumed no rate increase for choice for the current members, and applied the rate increase for choice to the projected payroll for the new members only.

We considered making an adjustment for the cost of choice based on the age of members who would elect Plan 2 compared to the age of members who would elect Plan 3, however, after reviewing the choices made by new members in PERS over an 18-month period, there was no significant difference in choice based on age.

For the SERS 3 contribution, we projected the total years of credited service for SERS 3 members, active and inactive, multiplied the service by the indexed benefit, and took the present value at 8%.

FISCAL IMPACT:

Description:

The decrease in contribution rates from the proposed repeal of future Plan 3 gain sharing is partially offset by the increase due to the proposed benefit improvements.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System (for existing members impacted by this bill) and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>		Current	Increase	Total
Actuarial Present Value of Projected Benefits	PERS 2/3	\$14,278	\$41	\$14,319
(The Value of the Total Commitment to all Current Members)	TRS 2/3	\$5,220	\$(236)	\$4,984
	SERS 2/3	\$2,138	\$(73)	\$2,065
Unfunded Actuarial Accrued Liability	PERS 1	\$2,620	\$3	\$2,623
(The Portion of the Plan 1 Liability that is Amortized at 2024)	TRS 1	\$1,416	\$16	\$1,432
Unfunded Liability (PBO)	PERS 2/3	\$(3,184)	\$34	\$(3,150)
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	TRS 2/3	\$(1,397)	\$(84)	\$(1,481)
	SERS 2/3	\$(425)	\$(25)	\$(450)

Increase in Contribution Rates:

	PERS	TRS	SERS
Employee (Effective 9/1/2005 unless indicated otherwise)			
Repeal Gain Sharing (effective 7/1/2005 for PERS)	0.00%	0.00%	0.00%
Modified Rule of 90	0.18%	0.34%	0.17%
Plan 2/3 Choice	0.00%	0.00%	0.00%
SERS 3 Contribution	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
Total Benefit Improvements	0.18%	0.34%	0.17%
Net Employee (Plan 2)	0.18%	0.34%	0.17%
Employer State (Effective 9/1/2005 unless indicated otherwise)			
Repeal Gain Sharing (effective 7/1/2005 for PERS)	-0.25%	-1.17%	-1.95%
Modified Rule of 90	0.18%	0.33%	0.17%
Plan 2/3 Choice*	0.00%	0.00%	0.00%
SERS 3 Contribution	<u>0.00%</u>	<u>0.00%</u>	<u>0.81%</u>
Total Benefit Improvements	0.18%	0.33%	0.98%
Net Employer State	-0.07%	-0.84%	-0.97%

The TRS Employer rate change of (1.17%) for the repeal of gain sharing is made up of a normal cost rate change of (1.21%) plus a change in the Plan 1 UAAL rate of 0.04%.

The TRS Employer rate change of 0.33% for the benefit improvements is made up of a normal cost rate change of 0.34% plus a change in the Plan 1 UAAL rate of (0.01%).

The net TRS Employer rate change of (0.84%) is made up of a normal cost rate change of (0.87%) plus a change in the Plan 1 UAAL rate of 0.03%.

**There is no impact on employer contribution rates for choice on behalf of existing members. A 0.14% increase for TRS and 0.16% increase for SERS is anticipated for future new entrants and reflected under the projected funding expenditures.*

Fiscal Budget Determinations (Repeal Plan 3 Gain Sharing only):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2007				
State:				
General Fund	\$(8.0)	\$(80.4)	\$(28.1)	\$(116.5)
Non-General Fund	<u>(13.3)</u>	<u>0.0</u>	<u>0.0</u>	<u>(13.3)</u>
Total State	\$(21.3)	\$(80.4)	\$(28.1)	\$(129.8)
Local Government	\$(18.9)	\$(16.5)	\$(25.0)	\$(60.4)
Total Employer	\$(40.2)	\$(96.9)	\$(53.1)	\$(190.2)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
2007-2009				
State:				
General Fund	\$(9.0)	\$(89.6)	\$(34.2)	\$(132.8)
Non-General Fund	<u>(14.9)</u>	<u>0.0</u>	<u>0.0</u>	<u>(14.9)</u>
Total State	\$(23.9)	\$(89.6)	\$(34.2)	\$(147.7)
Local Government	\$(21.2)	\$(18.3)	\$(30.3)	\$(69.8)
Total Employer	\$(45.1)	\$(107.9)	\$(64.5)	\$(217.5)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
2005-2030				
State:				
General Fund	\$(208.8)	\$(2,014.7)	\$(810.1)	\$(3,033.6)
Non-General Fund	<u>(344.5)</u>	<u>0.0</u>	<u>0.0</u>	<u>(344.5)</u>
Total State	\$(553.3)	\$(2,014.7)	\$(810.1)	\$(3,378.1)
Local Government	\$(490.6)	\$(412.6)	\$(718.4)	\$(1,621.6)
Total Employer	\$(1,043.9)	\$(2,427.3)	\$(1,528.5)	\$(4,999.7)
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0

Fiscal Budget Determinations (Benefit Improvements only):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2007				
State:				
General Fund	\$5.3	\$24.4	\$11.7	\$41.4
Non-General Fund	<u>8.8</u>	<u>0.0</u>	<u>0.0</u>	<u>8.8</u>
Total State	\$14.1	\$24.4	\$11.7	\$50.2
Local Government	\$12.5	\$5.0	\$10.4	\$27.9
Total Employer	\$26.6	\$29.4	\$22.1	\$78.1
Total Employee	\$18.1	\$6.4	\$2.6	\$27.1
2007-2009				
State:				
General Fund	\$6.5	\$28.2	\$12.8	\$47.5
Non-General Fund	<u>10.7</u>	<u>0.0</u>	<u>0.0</u>	<u>10.7</u>
Total State	\$17.2	\$28.2	\$12.8	\$58.2
Local Government	\$15.2	\$5.8	\$11.4	\$32.4
Total Employer	\$32.4	\$34.0	\$24.2	\$90.6
Total Employee	\$20.8	\$8.9	\$3.6	\$33.3
2005-2030				
State:				
General Fund	\$149.8	\$730.1	\$190.7	\$1,070.6
Non-General Fund	<u>247.2</u>	<u>0.0</u>	<u>0.0</u>	<u>247.2</u>
Total State	\$397.0	\$730.1	\$190.7	\$1,317.8
Local Government	\$352.1	\$149.5	\$169.1	\$670.7
Total Employer	\$749.1	\$879.6	\$359.8	\$1,988.5
Total Employee	\$401.2	\$356.9	\$114.7	\$872.8

Fiscal Budget Determinations (All Changes):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2007				
State:				
General Fund	\$(2.7)	\$(56.0)	\$(16.4)	\$(75.1)
Non-General Fund	<u>(4.5)</u>	<u>0.0</u>	<u>0.0</u>	<u>(4.5)</u>
Total State	\$(7.2)	\$(56.0)	\$(16.4)	\$(79.6)
Local Government	\$(6.4)	\$(11.5)	\$(14.6)	\$(32.5)
Total Employer	\$(13.6)	\$(67.5)	\$(31.0)	\$(112.1)
Total Employee	\$18.1	\$6.4	\$2.6	\$27.1
2007-2009				
State:				
General Fund	\$(2.5)	\$(61.4)	\$(21.4)	\$(85.3)
Non-General Fund	<u>(4.2)</u>	<u>0.0</u>	<u>0.0</u>	<u>(4.2)</u>
Total State	\$(6.7)	\$(61.4)	\$(21.4)	\$(89.5)
Local Government	\$(6.0)	\$(12.5)	\$(18.9)	\$(37.4)
Total Employer	\$(12.7)	\$(73.9)	\$(40.3)	\$(126.9)
Total Employee	\$20.8	\$8.9	\$3.6	\$33.3
2005-2030				
State:				
General Fund	\$(59.0)	\$(1,284.6)	\$(619.4)	\$(1,963.0)
Non-General Fund	<u>(97.3)</u>	<u>0.0</u>	<u>0.0</u>	<u>(97.3)</u>
Total State	\$(156.3)	\$(1,284.6)	\$(619.4)	\$(2,060.3)
Local Government	\$(138.5)	\$(263.1)	\$(549.3)	\$(950.9)
Total Employer	\$(294.8)	\$(1,547.7)	\$(1,168.7)	\$(3,011.2)
Total Employee	\$401.2	\$356.9	\$114.7	\$872.8

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers Retirement System, School Employee’s Retirement System, and Public Employee’s Retirement System. Costs for the repeal of gain sharing and the SERS 3 contribution were based on the Aggregate Cost Method. Costs for the Rule of 90 and Choice were based on the Entry Age Normal Cost Method.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

Rule of 90						
Kicker Added to Retirement Probability						
	PERS	PERS	SERS	SERS	TRS	TRS
	Male	Female	Male	Female	Male	Female
Age						
60	0.44	0.33	0.38	0.45	0.45	0.45
61	0.29	0.22	0.25	0.30	0.30	0.30
62	0.29	0.16	0.25	0.20	0.30	0.20
63	0.11	0.16	0.25	0.20	0.25	0.20
64	0.11	0.16	0.25	0.20	0.25	0.20

The kicker (additional retirement rate) is added to the retirement probability at the age when a member is first eligible for the Rule of 90. For each year after the year first eligible, 25% of the kicker is added.

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.
8. The cost increases/(decreases) for the bill used to determine the increase in funding expenditures for future new entrants are 0.18% for PERS Plan 2 members, (0.07%) for PERS employers, 0.48% for TRS Plan 2 members, (0.73%) for TRS employers, 0.33% for SERS Plan 2 members, and (1.62%)% for SERS employers. These includes a cost of 0.14% for TRS members and employers and 0.16% for SERS members and employers for choice.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Actuarial accrued liability: Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Background

New Plan 3 members of TRS, SERS, and PERS are vested in the defined benefit portion of their plan after 10 years of service or after 5 years of service if 12 months of that service is earned after attaining age 54. Plan 3 members are immediately vested in the defined contribution portion of their plan. Those who transferred from Plan 2 to Plan 3 were automatically vested if they had five years of service in Plan 2 as of July 1, 1996, September 1, 2000 and June 1, 2003, the initial transfer dates for TRS, SERS and PERS respectively.

Committee Activity

Presentations:

June 15, 2004 - Executive Committee
November 9, 2004 - Full Committee

Proposal:

November 9, 2004 - Full Committee

Recommendation to Legislature

Reduce the required length of service for defined benefit vesting in the PERS, SERS and TRS Plans 3 from 10 years to 5 years for all members.

Staff Contact

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Select Committee on Pension Policy

Plan 3 Vesting

(October 25, 2004)

Issue Reduce the required length of service for vesting in the defined benefit portion of the PERS, SERS and TRS Plans 3 from 10 years to 5 years.

Staff Laura Harper, Senior Research Analyst/Legal
(360) 586-7616

Members Impacted As of the most recent valuation, 53,500 Plan 3 members were not vested. Non-vested members included those who had less than 10 years of service; those who were not vested in Plan 2 on July 1, 1996 in TRS, September 1, 2000 in SERS or June 1, 2003 in PERS; and those who did not have 5 years of service including 12 months after age 54. Any of these non-vested members would be affected by this proposal unless they leave employment or become vested prior to the effective date of any legislation to change the vesting period.

Current Situation New Plan 3 members of TRS, SERS, and PERS are vested in the defined benefit portion of their Plan after 10 years of service, or after 5 years of service if 12 months of that service is earned after attaining age 54. Plan 3 members are immediately vested in the defined contribution portion of their Plan.

History SHB 1298 was introduced in the 2003 legislative session. The bill would have shortened the defined benefit vesting period in the Plans 3 from 10 years to 5 years. The bill passed the

House, but was not heard in the Senate. In 2004 similar legislation was introduced as SB 6247/HB 2540. It passed in the Senate but died in House Appropriations.

Policy Analysis

The Plans 3 are hybrid plans. The defined benefit portion of these plans (the portion to which the 10-year vesting period applies) uses a formula to determine the monthly retirement benefit that a member will receive for life: $1\% \times \text{Average Final Compensation (AFC)} \times \text{years of service credit}$. The defined benefit is funded entirely by employers. When members leave employment prior to becoming vested, they forfeit these employer contributions. On the other hand, the defined contribution portion of the Plans 3 is funded entirely by employees. Employees are immediately vested in their own contributions.

When the Plans 3 were on the drawing board, one of the concerns was the small size of the defined benefit that members would receive if they earned only a modest amount of service credit before full retirement. Plan 2 members receive 10% of average final compensation (AFC) upon vesting (5 years \times 2% per year). This 10% standard was used for the defined benefit portion of the Plans 3. Setting the vesting period in the Plans 3 to 10 years guaranteed vested members 10% of their AFC as a minimum defined benefit (10 years \times 1% per year).

In the design of the Plans 3, the long vesting period for the defined benefit portion of the pension was offset by the fact that Plan 3 members were immediately vested in the defined contribution portion of their benefit. Since the defined benefit would be such a small portion of the total benefit during the early years of employment, and since members were immediately vested in their employee contributions, it was felt that those who left employment before the end of the vesting period would not be losing such a significant amount of their total retirement benefit that the longer vesting period would adversely affect employment behavior.

The following table illustrates the value of the defined benefit (DB) portion of Plan 3 for members who entered the plan at various ages and separated from service after 5 years. These examples assume an average final compensation of \$30,000 and an annual inflation rate of 3.5%.

Future Value of Plan 3 Benefit, Adjusted for 3.5% Assumed Inflation
(Defined Benefit payable at 65 = 1% x \$30,000 x 5 years of service)

Entry Age	Age at Separation	DB Benefit at 65	Future Value*	% of DB
25	30	\$1,500	\$450	30%
35	40	\$1,500	\$635	42%
45	50	\$1,500	\$895	60%
55	60	\$1,500	\$1,263	84%

**Reduced for 3.5% assumed annual inflation from age at separation to age 65.*

The table illustrates that for those who are hired at earlier ages, the future benefit that is forfeited is smaller after adjustment for assumed inflation from age at separation to age 65. This is consistent with the rationale behind the 10-year vesting period, and the reason why the vesting period was lowered for older employees. The higher the plan entry age, the greater the percentage of the future benefit that would be forfeited at separation as the result of a failure to vest.

It is unknown whether members actually analyze their own retirement benefits at this level of detail, or how much the vesting period is a factor in employment decisions. Theoretically, shorter vesting periods support attraction of new employees. Longer vesting periods support retention of employees.

Another retention incentive in the Plans 3 is the provision that members who remain in the Plans 3 for at least twenty-service credit years receive the additional benefit of an “inflation protector.” These members receive an increase in the defined benefit portion of their retirement allowance of 3% per year, compounded for each month from the date of separation to the date that the retirement allowance commences.

Comparison with Washington Plans and Other States

The 10-year vesting period for the defined benefit portion of the Plans 3 is the longest among the plans administered by Washington State. The Plans 1 and 2, which are all defined benefit and not hybrid plans, have 5-year vesting periods.

The national trend in retirement plans is toward shorter vesting periods due to the increasing mobility of the workforce and the trend toward multiple careers. However, numerous state and municipal retirement plans still use a 10-year vesting period. In the 2002 survey from the Public Pension Coordinating Council covering 276 public retirement plans, a total of 96 plans had vesting requirements of 10 years or more. More than 40 of those plans were administered by twenty-five states or territories, in addition to Washington. In comparison, 132 plans had vesting requirements of 5 years or less. The survey results are attached.

Options

The proposal to lower the vesting period for the defined benefit portion of the Plans 3 from 10 to 5 years has been considered and rejected during the last two legislative sessions. With that in mind, the Committee may wish to consider alternative approaches to the issue. One possibility is that the proposal was rejected due to cost. An option for lowering the cost would be to develop proposals for 5-year vesting in the higher age brackets when the vesting period is more likely to affect employment behavior. Currently 5-year vesting is available in the Plans 3 if 12 months of a member's service is earned after attaining age 54. That age could be lowered.

If the SSCP wishes to pursue the issue of Plan 3 vesting, it might be useful to study the probability of member termination at various ages as well as the value of the defined benefit component of the Plans 3 at various ages in order to better assess whether any changes to the vesting period might affect employment behavior.

If the Committee determines that the cost of changing the vesting period is prohibitive at this time, another option would be to encourage additional member education. There may be a perception that the longer vesting period for the defined benefit portion of the Plans 3 is a detriment to those who might select Plan 3. However, through additional member education, more new hires may be able to better evaluate the financial implications of the vesting period and better understand the tradeoffs in the design of the Plans 3.

Stakeholder Input

While there has been no opportunity for specific stakeholder input on this issue during this interim, it should be noted that the following organizations have requested in writing that Plan 3 vesting be considered by the SCPP in 2004: the Washington Association of School Administrators, Association of Washington School Principals, and the Washington Education Association.

Executive Committee Recommendation

The Executive Committee heard a report on this issue on June 15, 2004. At that time it was decided that the full SCPP could hear the issue later in the interim, since the issue is not a new one.

Bill Draft

A copy of the draft bill is attached. This bill would reduce the required length of service for vesting in the defined benefit portion of PERS 3, SERS 3 and TRS 3 from 10 years to 5 years.

Fiscal Note

An updated draft fiscal note is attached. The bill would increase contribution rates in the PERS, TRS and SERS Plans 2 and Plans 3, as the cost of this Plan 3 benefit enhancement is shared equally among Plan 2/3 employers and Plan 2 employees. This cost-sharing approach is defined under state law in the actuarial funding chapter, Chapter 41.45 RCW.

Active Members and Vesting Requirements by Plan

Source: Public Pension Coordinating Council Survey 2002 (2000-2001 data)

ID#	PLAN NAME	Members	Vesting Requirement
0376G	West Virginia Teacher's Defined Contribution Plan	19,000	1/3 after 6 years; 2/3 after 9 years; 100% after 12 years
0020A	PARK EMPLOYEES & RET. BOARD EMPLOYEES ANNUITY AND BENEFIT FUND OF CHICAGO	3,639	10 YEARS
0247A	OAKLAND POLICE & FIRE RETIREMENT FUND	161	10 YEARS
0283A	City Pension Fund for Firefighters and Police Officers in the City of Pembroke Pines	364	10 years
0314C	BISMARCK FIREFIGHTERS RELIEF ASSOCIATION	62	10 YEARS
0376D	West Virginia State Police Retirement Plan (Trooper Plan B)	323	10 years
0497B	Macon Water Authority Employee Pension Plan	205	10 years
0672A	New York City Pension Fund -- Subchapter 2	11,477	10 years
0022A	Dukes County Contributory Retirement Plan	932	10 years at age 55
0083A	OKLAHOMA TEACHERS' RETIREMENT SYSTEM	83,024	10 YEARS OF OKLAHOMA SERVICE
0005C	RETIREMENT SYSTEMS OF ALABAMA TEACHERS' PLAN	126,558	10 YEARS OF SERVICE
0010A	TEACHERS' RETIREMENT SYSTEM OF LA - REGULAR EMPLOYEES	87,631	10 YEARS OF SERVICE
0010B	TEACHERS' RET. SYSTEM OF LA - SCHOOL FOOD SERVICE PLAN B	2,115	10 YEARS OF SERVICE
0010C	TEACHERS' RET. SYSTEM OF LA - SCHOOL FOOD SERVICE PLAN A	1,067	10 YEARS OF SERVICE
0038A	RETIREMENT SYSTEM FOR SWORN POLICE PERSONNEL	107	10 YEARS OF SERVICE
0015A	CONNECTICUT TEACHERS' RETIREMENT SYSTEM	46,500	10 YEARS OF SERVICE
0016A	PLYMOUTH COUNTY RETIREMENT ASSOCIATION	9,098	10 YEARS OF SERVICE
0017A	MIAMI FIRE FIGHTERS' AND POLICE OFFICERS' RETIREMENT TRUST	1,587	10 YEARS OF SERVICE
0024A	STERLING HEIGHTS POLICE AND FIRE RETIREMENT PLAN	261	10 YEARS OF SERVICE
0064B	EMPLOYEES' RETIREMENT SYSTEM OF GEORGIA - PUBLIC SCHOOL	32,864	10 YEARS OF SERVICE
0064C	EMPLOYEES' RETIREMENT SYSTEM OF GEORGIA - JUDICIAL	416	10 YEARS OF SERVICE
0004A	TEXAS MUNICIPAL RETIREMENT SYSTEM	86,203	10 YEARS OF SERVICE
0005A	RETIREMENT SYSTEMS OF ALABAMA EMPLOYEES	75,734	10 YEARS OF SERVICE
0064A	EMPLOYEES' RETIREMENT SYSTEM OF GEORGIA - GENERAL	72,176	10 YEARS OF SERVICE
0067A	TEACHERS' PENSION AND ANNUITY FUND OF NEW JERSEY	134,199	10 YEARS OF SERVICE
0068A	POLICE AND FIREMEN'S RETIREMENT SYSTEM OF NEW JERSEY	42,430	10 YEARS OF SERVICE
0069A	PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF NEW JERSEY	277,441	10 YEARS OF SERVICE
0146E	LOS ANGELES COUNTY EMPLOYEES' RET. ASSOC., PLAN E: GENERAL	31,088	10 YEARS OF SERVICE
0071A	LOUISIANA STATE EMPLOYEES' RETIREMENT SYSTEM	69,680	10 YEARS OF SERVICE
0087A	NEW HAMPSHIRE RETIREMENT SYSTEM - GENERAL PLAN/EMPLOYEES	20,262	10 YEARS OF SERVICE
0087C	NEW HAMPSHIRE RETIREMENT SYSTEM - POLICE PLAN	3,254	10 YEARS OF SERVICE
0087D	NEW HAMPSHIRE RETIREMENT SYSTEM - FIREFIGHTERS PLAN	1,269	10 YEARS OF SERVICE
0120A	CITY OF BOCA RATON GENERAL EMPLOYEES' TRUST	628	10 YEARS OF SERVICE
0131A	MWRD RETIREMENT FUND	2,084	10 years of service
0148A	TEACHERS RETIREMENT SYSTEM OF GEORGIA	191,908	10 YEARS OF SERVICE
0154B	NORTH DAKOTA HIGHWAY PATROL RETIREMENT PLAN	122	10 YEARS OF SERVICE
0156B	WICHITA POLICE AND FIRE RETIREMENT SYSTEM	993	10 YEARS OF SERVICE
0161A	INDIANA STATE TEACHERS' RETIREMENT PLAN	77,870	10 YEARS OF SERVICE
0163A	CHICOPEE RETIREMENT SYSTEM	1,140	10 YEARS OF SERVICE
0168A	FLORIDA RETIREMENT SYSTEM	597,823	10 YEARS OF SERVICE
0181A	MICHIGAN PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM	312,699	10 YEARS OF SERVICE
0182A	MICHIGAN STATE POLICE RETIREMENT SYSTEM	2,210	10 YEARS OF SERVICE
0185A	MICHIGAN STATE EMPLOYEES' RETIREMENT SYSTEM	47,778	10 YEARS OF SERVICE
0193A	KANSAS PUBLIC EMPLOYEES RETIREMENT PLAN	142,870	10 YEARS OF SERVICE
0223A	CITY OF ALPENA - GENERAL	48	10 YEARS OF SERVICE
0224A	LA COUNTY METRO TRANSIT AUTHORITY - UTU RIP	3,944	10 YEARS OF SERVICE
0224B	LA COUNTY METRO TRANSIT AUTHORITY - MAINTENANCE EMPLOYEES	2,023	10 YEARS OF SERVICE
0224C	LA COUNTY METRO TRANSIT AUTHORITY - TCU RIP	697	10 YEARS OF SERVICE
0226A	CITY OF MANISTEE EMPLOYEES RETIREMENT SYSTEM	62	10 YEARS OF SERVICE
0255A	OKLAHOMA POLICE PENSION AND RETIREMENT PLAN	3,778	10 YEARS OF SERVICE

0269A	KANSAS CITY (MO) FIREFIGHTERS' PENSION SYSTEM	761	10 YEARS OF SERVICE
0293A	CITY OF MILFORD - BENEFIT PLAN I	700	10 YEARS OF SERVICE
0314A	CITY OF BISMARCK CITY PENSION PLAN	307	10 YEARS OF SERVICE
0314B	CITY OF BISMARCK POLICE PENSION PLAN	143	10 YEARS OF SERVICE
0335A	LYNN HAVEN POLICE PENSION PLAN	27	10 YEARS OF SERVICE
0337A	LYNN HAVEN GENERAL EMPLOYEE PENSION PLAN	74	10 YEARS OF SERVICE
0340A	A.S.G GENERAL EMPLOYEES PLAN	4,050	10 YEARS OF SERVICE
0372A	EMPLOYEES RETIREMENT SYSTEM OF RHODE ISLAND	26,738	10 YEARS OF SERVICE
0372B	MUNICIPAL EMPLOYEES RETIREMENT SYSTEM	6,983	10 YEARS OF SERVICE
0372C	STATE POLICE RETIREMENT BENEFITS TRUST	130	10 YEARS OF SERVICE
0381A	CITY OF ALAMEDA POLICE AND FIRE RETIREMENT PLAN 1079 (CLOSED TO NEW MEMBERS)	0	10 YEARS OF SERVICE
0381B	CITY OF ALAMEDA POLICE & FIRE PLAN 1082 (CLOSED TO NEW MEMBERS)	0	10 YEARS OF SERVICE
0388A	TOWN OF AVON POLICE RETIREMENT PLAN	25	10 YEARS OF SERVICE
0406A	ROSEVILLE CITY EMPLOYEE'S RETIREMENT PLAN	308	10 YEARS OF SERVICE
0413A	CITY OF CADILLAC POLICEMEN AND FIREMENT RETIREMENT SYSTEM	29	10 YEARS OF SERVICE
0414A	CITY OF BIRMINGHAM (MI) EMPLOYEES RETIREMENT SYSTEM	197	10 YEARS OF SERVICE
0423A	STATE POLICE RETIREMENT SYSTEM OF NEW JERSEY	2,623	10 YEARS OF SERVICE
0425A	PRISON OFFICERS' PENSION FUND OF NEW JERSEY	0	10 YEARS OF SERVICE
0437A	CITY OF WHEELING EMPLOYEES' RETIREMENT AND BENEFIT FUND	240	10 YEARS OF SERVICE
0465A	LONG BEACH TRANSIT PENSION PLAN - SALARIED EMPLOYEES	117	10 YEARS OF SERVICE
0786A	VIRGIN ISLANDS GOVERNMENT EMPLOYEES' RETIREMENT PLAN	16,861	10 YEARS OF SERVICE
0072A	ARKANSAS TEACHERS' RETIREMENT SYSTEM	58,528	10 YEARS OF SERVICE (7/1/98 -5 YEARS)
0278A	CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM *	715,105	10 YEARS OF SERVICE FOR TIER 2/5 YEARS SERVICE FOR TIER 1
0121A	PENNSYLVANIA STATE EMPLOYEES' RETIREMENT SYSTEM	112,044	10 YEARS OF SERVICE OR 3 YEARS AT AGE 60
0235B	NEBRASKA PERS STATE PATROL RETIREMENT PLAN	386	10 YEARS OF SERVICE, SCHEDULE OF 20% PER YEAR FROM 6-10 YRS
0057C	WYOMING PAID FIREMEN'S PLAN	282	10 YEARS OF SERVICE FOR PLAN A; 4 YRS FOR PLAN B
0195H	MONTANA VOLUNTEER FIREFIGHTERS COMPENSATION ACT	2,537	10 YRS
0677A	Springfield Police & Fire Retirement System	500	10 YRS
0569A	City of Kingsford Police and Firemen Retirement System	20	10 yrs service
0174I	Washington Teachers' Retirement System -- Plan 3	35,284	age 65 with at least 10 years of service
0619A	Holyoke Contributory Retirement System	1,407	10 yrs srv/age 55 20 yrs srv/any age
0124A	CITY OF MIAMI BEACH FIRE & POLICE SUPPLEMENTAL PLAN CITY PENSION FUND.	486	100% AFTER 10 YEARS
0497A	Macon Water Authority Employee Pension Plan	200	vested with 10 yrs. service
0060B	STATE COLLEGE BOROUGH - POLICE PLAN	60	12 YEARS
0193B	KANSAS POLICE AND FIRE RETIREMENT SYSTEM	6,560	15 YEARS
0407D	FLINT EMPLOYEES RETIREMENT SYSTEM - MEDICAL CENTER	2,220	15 YEARS (10 AT AGE 55)
0174H	WASHINGTON JUDICIAL RETIREMENT SYSTEM	38	15 YEARS OF SERVICE
0418A	POLICE RETIREMENT SYSTEM OF KANSAS CITY, MISSOURI	1,263	15 YEARS OF SERVICE
0376A	West Virginia Judges Retirement System (JRS)	52	16 years service
0183B	State of Michigan Defined Contribution Retirement Plan	234	2 years = 50% , 3 years = 75%, 4 yrs = 100%
0185B	State of Michigan Defined Contribution Retirement Plan	12,635	2 YOS = 50%, 3 YOS = 75%, 4 YOS = 100%
0009A	THE POLICEMEN'S ANNUITY AND BENEFIT FUND OF CHICAGO	13,858	20 YEARS
0019A	OHIO STATE HIGHWAY PATROL RETIREMENT PLAN	1,545	20 YEARS
0759A	HOUSTON FIREFIGHTERS' RELIEF AND RETIREMENT FUND	3,276	20 YEARS
0372D	JUDICIAL RETIREMENT BENEFITS TRUST	29	20 YEARS AGE 65, OR 15 YEARS AGE 75
0025A	CLAIR T. SINGERMAN EMPLOYEE RETIREMENT SYSTEM	374	20 YEARS AND AGE 55
0092A	FIRE AND POLICE PENSION FUND, SAN ANTONIO	3,500	20 YEARS OF SERVICE
0190A	TEXAS COUNTY AND DISTRICT RETIREMENT PLAN	90,633	8, 10, OR 12 YEARS, AT PARTICIPATING EMPLOYER'S ELECTION
0386A	COLORADO COUNTY OFFICIALS & EMPLOYEES RET. ASSOC. PLANS	15,000	IMMEDIATE; 5 YR; 10 YR-AS ADOPTED BY COUNTIES, MUNICI., & SPEC. DISTRICTS
0043A	MN STATE RETIREMENT SYSTEM GENERAL EMPLOYEES' PLAN	47,920	3 YEARS
0043B	MN STATE RETIREMENT SYSTEM STATE TROOPERS' RETIREMENT PLAN	830	3 YEARS
0043C	MN STATE RETIREMENT SYSTEM CORRECTIONAL EMPLOYEES' PLAN	2,882	3 YEARS
0133A	MN PUBLIC EMPLOYEES' RETIREMENT ASSOC. - COORDINATED PLAN	135,560	3 YEARS
0133B	MN PUBLIC EMPLOYEES' RETIREMENT ASSOC. - POLICE & FIRE PLAN	9,627	3 YEARS
0462B	Employees' Retirement System of Montgomery County (DC Plan)Retirement Savings Plan	2,544	3 YEARS
0405A	MINNESOTA TEACHERS RETIREMENT ASSOCIATION	70,508	3 YEARS OF ALLOWABLE SERVICE

0023A	BURLINGTON EMPLOYEES' RET. SYSTEM FOR POLICE AND FIRE	165	3 YEARS OF SERVICE
0023B	BURLINGTON EMPLOYEES' RET. SYSTEM FOR GENERAL EMPLOYEES	534	3 YEARS OF SERVICE
0055A	NORTH DAKOTA TEACHERS' FUND FOR RETIREMENT	10,025	3 YEARS OF SERVICE
0178A	SOUTH DAKOTA RETIREMENT SYSTEM	34,180	3 YEARS OF SERVICE
0006A	PERS OF MISSISSIPPI GENERAL PLAN	151,790	4 YEARS
0057D	WYOMING PUBLIC EMPLOYEES' SYSTEM	31,492	4 YEARS
0165E	UTAH FIREFIGHTER'S RETIREMENT SYSTEM	1,452	4 YEARS
0165A	UTAH PUBLIC EMPLOYEES' CONTRIBUTORY RETIREMENT SYSTEM	3,972	4 YEARS OF SERVICE
0165B	UTAH PUBLIC EMPLOYEES' NON-CONTRIBUTORY RETIREMENT SYSTEM	81,894	4 YEARS OF SERVICE
0165C	UTAH PUBLIC SAFETY PLAN	6,839	4 YEARS OF SERVICE
0165F	UTAH GOVERNORS AND LEGISLATIVE PENSION PLAN	88	4 YEARS OF SERVICE
0452A	Municipal Fire & Police Retirement System of Iowa	3,843	4 years of service
0278B	CALIFORNIA LEGISLATORS' RETIREMENT SYSTEM	28	4 YEARS OF SERVICE CREDIT
0066A	EMPLOYEES' RETIREMENT SYSTEM OF TEXAS	152,167	5 YEARS
0376C	West Virginia Public Safety Death, Disability and Retirement Plan (Trooper Plan A)	360	5 years
0211A	MENDOCINO COUNTY ERA	1,347	5 YEARS
0278C	JUDGES' RETIREMENT SYSTEM I (JRS I)	1,091	5 YEARS
0376E	West Virginia Teacher's Retirement System (TRS)	25,278	5 years
0376F	West Virginia Public Employees Retirement System (PERS)	33,976	5 years contributory service
0013A	PA PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM	234,210	5 YEARS OF SERVICE
0043D	MN STATE RETIREMENT SYSTEM JUDGES' RETIREMENT PLAN	282	5 YEARS OF SERVICE
0048B	KENTUCKY COUNTY EMPLOYEES' RETIREMENT SYSTEM - NON HAZARDOUS	77,419	5 YEARS OF SERVICE
0048C	KENTUCKY EMPLOYEES' RETIRMENT SYSTEM - HAZARDOUS	4,007	5 YEARS OF SERVICE
0036A	MISSOURI LOCAL GOVERNMENT EMPLOYEES' RETIREMENT PLAN	28,491	5 YEARS OF SERVICE
0001A	PERS OF NEVADA GENERAL EMPLOYEES' PLAN	71,924	5 YEARS OF SERVICE
0001B	PERS OF NEVADA POLICE/FIRE EMPLOYEES' PLAN	8,910	5 YEARS OF SERVICE
0003A	SOUTH CAROLINA RETIREMENT SYSTEM - GENERAL PLAN	204,710	5 YEARS OF SERVICE
0003B	SOUTH CAROLINA RETIREMENT SYSTEM - POLICE OFFICERS' PLAN	24,827	5 YEARS OF SERVICE
0005B	RETIREMENT SYSTEMS OF ALABAMA JUDICIAL PLAN	351	5 YEARS OF SERVICE
0048D	KENTUCKY STATE POLICE RETIREMENT SYSTEM	1,023	5 YEARS OF SERVICE
0048E	KENTUCKY COUNTY EMPLOYEES' RETIREMENT SYSTEM - HAZARDOUS	7,951	5 YEARS OF SERVICE
0058A	CHATHAM COUNTH EMPLOYEES' RETIREMENT PLAN	1,613	5 YEARS OF SERVICE
0060A	STATE COLLEGE BOROUGH - GENERAL PLAN	126	5 YEARS OF SERVICE
0062A	PORTLAND FIRE AND POLICE DISABILITY AND RETIREMENT FUND	1,546	5 YEARS OF SERVICE
0147A	PERS OF IDAHO - GENERAL MEMBERS	55,297	5 YEARS OF SERVICE
0147B	PERS OF IDAHO - POLICE/FIRE MEMBERS	5,091	5 YEARS OF SERVICE
0195G	MONTANA FIREFIGHTERS UNIFIED RETIREMENT SYSTEM	419	5 YEARS OF SERVICE
0376B	West Virginia Deputy Sheriff's Retirement System (DSRS)	468	5 years of service
0070A	TACOMA EMPLOYEES' RETIREMENT SYSTEM	2,814	5 YEARS OF SERVICE
0075A	Defined Benefit Plan for City Employees	6,655	5 YEARS OF SERVICE
0075B	City of Cincinnati Employees Retirement System	6,655	5 YEARS OF SERVICE
0079A	OHIO SCHOOL EMPLOYEES' RETIREMENT SYSTEM	113,811	5 YEARS OF SERVICE
0095A	FT. LAUDERDALE GENERAL EMPLOYEES RETIREMENT SYSTEM	1,363	5 YEARS OF SERVICE
0096A	TEACHER RETIREMENT SYSTEM OF TEXAS	0	5 YEARS OF SERVICE
0097A	LONG BEACH TRANSIT PENSION PLAN - CONTRACT EMPLOYEES	495	5 YEARS OF SERVICE
0104A	TENNESSEE CONSOLIDATED RETIREMENT SYSTEM	190,344	5 YEARS OF SERVICE
0107A	CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM DEFINED BENEFIT PLAN	385,530	5 YEARS OF SERVICE
0109A	TUCSON SUPPLEMENTAL RETIREMENT SYSTEM	3,484	5 YEARS OF SERVICE
0111A	PUBLIC SCHOOL TEACHERS' PENSION & RETIREMENT FUND OF CHICAGO	35,400	5 YEARS OF SERVICE
0113A	VIRGINIA RETIREMENT SYSTEM	286,234	5 YEARS OF SERVICE
0125A	PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION OF COLORADO	162,106	5 YEARS OF SERVICE
0126A	FAIRFAX COUNTY UNIFORMED RETIREMENT SYSTEM	1,570	5 YEARS OF SERVICE
0127A	FAIRFAX COUNTY SUPPLEMENTAL RETIREMENT SYSTEM	13,044	5 YEARS OF SERVICE
0128A	FAIRFAX COUNTY POLICE OFFICERS' RETIREMENT SYSTEM	1,115	5 YEARS OF SERVICE
0137A	NEW YORK STATE TEACHERS' RETIREMENT SYSTEM	224,986	5 YEARS OF SERVICE
0138A	MISSOURI STATE EMPLOYEES' RETIREMENT PLAN	57,774	5 YEARS OF SERVICE

0138D	MISSOURI STATE EMPLOYEES' PLAN 2000	0	5 years of service
0143A	ST LOUIS COUNTY LIBRARY DISTRICT EMPLOYEES' PENSION PLAN	316	5 YEARS OF SERVICE
0144A	OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM	158,988	5 YEARS OF SERVICE
0146A	LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOC. PLAN A GENERAL	7,560	5 YEARS OF SERVICE
0147C	PERS OF IDAHO - FIREFIGHTERS RETIREMENT FUND (CLOSED PLAN)	129	5 YEARS OF SERVICE
0154A	NORTH DAKOTA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - GENERAL	17,231	5 YEARS OF SERVICE
0159A	FORT WORTH EMPLOYEES' RETIREMENT FUND	5,423	5 YEARS OF SERVICE
0174A	WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM - PLAN I	28,167	5 YEARS OF SERVICE
0174B	WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM - PLAN II	168,213	5 YEARS OF SERVICE
0174C	WASHINGTON TEACHERS' RETIREMENT SYSTEM - PLAN I	18,737	5 YEARS OF SERVICE
0174D	WASHINGTON TEACHERS' RETIREMENT SYSTEM - PLAN II/III	8,663	5 YEARS OF SERVICE
0174E	WASHINGTON LAW ENFORCEMENT AND FIRE FIGHTERS' PLAN I	1,743	5 YEARS OF SERVICE
0174F	WASHINGTON LAW ENFORCEMENT AND FIRE FIGHTERS' PLAN II	12,713	5 YEARS OF SERVICE
0174G	WASHINGTON STATE PATROL RETIREMENT SYSTEM	968	5 YEARS OF SERVICE
0177A	PUBLIC SCHOOL RETIREMENT SYSTEM OF THE CITY OF ST. LOUIS	6,100	5 YEARS OF SERVICE
0194A	CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT PLAN - GENERAL	7,436	5 YEARS OF SERVICE
0194B	CONTRA COSTA COUNTY RETIREMENT SYSTEM - POLICE AND FIRE	1,674	5 YEARS OF SERVICE
0195A	MONTANA PUBLIC EMPLOYEES' RETIREMENT SYSTEM	28,091	5 YEARS OF SERVICE
0195B	MONTANA GAME WARDENS AND PEACE OFFICERS RETIREMENT SYSTEM	494	5 YEARS OF SERVICE
0195C	MONTANA JUDGES RETIREMENT SYSTEM	46	5 YEARS OF SERVICE
0195D	MONTANA HIGHWAY PATROL OFFICERS RETIREMENT SYSTEM	190	5 YEARS OF SERVICE
0195E	MONTANA SHERIFFS RETIREMENT SYSTEM	611	5 YEARS OF SERVICE
0195F	MONTANA MUNICIPAL POLICE OFFICERS RETIREMENT SYSTEM	571	5 YEARS OF SERVICE
0202A	NEW YORK STATE & LOCAL EMPLOYEES' RET. SYSTEM - GENERAL	720,223	5 YEARS OF SERVICE
0202B	NEW YORK STATE & LOCAL POLICE AND FIRE RETIREMENT SYSTEM	31,955	5 YEARS OF SERVICE
0206A	MARIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION	2,968	5 YEARS OF SERVICE
0221A	EAST BAY MUNICIPAL UTILITY DISTRICT	1,853	5 YEARS OF SERVICE
0224D	LA COUNTY METRO TRANSIT AUTH. - NON-CONTRACT EMPLOYEE RIP	427	5 YEARS OF SERVICE
0231A	AURORA GENERAL EMPLOYEES RETIREMENT PLAN	1,493	5 YEARS OF SERVICE
0236A	NEBRASKA DEFINED CONTRIBUTION PLANS - STATE EMPLOYEES	14,689	5 YEARS OF SERVICE
0236B	NEBRASKA DEFINED CONTRIBUTION PLANS - COUNTY EMPLOYEES	6,872	5 YEARS OF SERVICE
0245A	STATE UNIVERSITIES RETIREMENT SYSTEM OF ILLINOIS	72,365	5 YEARS OF SERVICE
0245B	STATE UNIVERSITIES RETIREMENT SYSTEM OF ILLINOIS (DC PLAN)	5,680	5 YEARS OF SERVICE
0277A	CITY OF ST. LOUIS EMPLOYEE RETIREMENT PLAN	5,948	5 YEARS OF SERVICE
0278D	CALIFORNIA JUDGES RETIREMENT FUND (II)	445	5 YEARS OF SERVICE
0291A	MILWAUKEE COUNTY EMPLOYEES' RETIREMENT PLAN	7,246	5 YEARS OF SERVICE
0303A	ALASKA PUBLIC EMPLOYEES' RETIREMENT SYSTEM	0	5 YEARS OF SERVICE
0315A	LOS ANGELES CITY EMPLOYEES' RETIREMENT SYSTEM	24,234	5 YEARS OF SERVICE
0321A	SAN JOAQUIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION	5,231	5 YEARS OF SERVICE
0325A	CITY OF GERMANTOWN EMPLOYEE RETIREMENT PLAN	377	5 YEARS OF SERVICE
0353A	DENVER EMPLOYEES RETIREMENT PLAN	10,821	5 YEARS OF SERVICE
0368A	Denver Public Schools Retirement System	7,182	5 YEARS OF SERVICE
0373A	PERA OF NEW MEXICO	54,647	5 YEARS OF SERVICE
0374A	STATE EMPLOYEES RETIREMENT SYSTEM OF MARYLAND	178,456	5 YEARS OF SERVICE
0379A	Kern County Employees' Retirement Association	7,109	5 years of service
0387A	CITY OF ENGLEWOOD NON-EMERGENCY PENSION PLAN	231	5 YEARS OF SERVICE
0387B	CITY OF ENGLEWOOD POLICE PENSION PLAN	11	5 YEARS OF SERVICE
0387C	CITY OF ENGLEWOOD FIREFIGHTER'S PENSION PLAN	10	5 YEARS OF SERVICE
0388B	TOWN OF AVON PUBLIC WORKS RETIREMENT PLAN	14	5 YEARS OF SERVICE
0388C	TOWN OF AVON NON-ORGANIZED RETIREMENT PLAN	32	5 YEARS OF SERVICE
0388D	TOWN OF AVON BOARD OF EDUCATION RETIREMENT PLAN	38	5 YEARS OF SERVICE
0388E	Town of Avon 401(a) f.t.Employees' Plan	26	5 YEARS OF SERVICE
0419A	CIVILIAN EMPLOYEES' RETIREMENT SYSTEM OF THE POLICE DEPARTMENT OF K.C., MO.	583	5 YEARS OF SERVICE
0422A	MONTANA TEACHERS' RETIREMENT SYSTEM	18,205	5 YEARS OF SERVICE
0424A	JUDICIAL RETIREMENT SYSTEM OF NEW JERSEY	414	5 YEARS OF SERVICE
0449A	EMPLOYEES' RETIREMENT SYSTEM OF TULSA COUNTY, OKLAHOMA	1,389	5 YEARS OF SERVICE

0453A	CITY OF ARNOLD (MO) POLICE PENSION PLAN	46	5 YEARS OF SERVICE
0454A	SAN BERNARDINO COUNTY EMPLOYEES RETIREMENT ASSOCIATION	15,858	5 YEARS OF SERVICE
0462A	Employees' Retirement System of Montgomery County	6,396	5 YEARS OF SERVICE
0737A	Town of Suffield Pension Plan	138	5 years of service
0146D	LOS ANGELES COUNTY EMPLOYEES' RET. ASSOC., PLAN D: GENERAL	31,300	5 YEARS OF SERVICE AND 10 YEARS OF MEMBERSHIP
0146F	LOS ANGELES COUNTY EMPLOYEES' RET. ASSOC., PLAN A SAFETY	2,005	5 YEARS OF SERVICE AND 10 YEARS OF MEMBERSHIP
0146G	LOS ANGELES COUNTY EMPLOYEES' RET. ASSOC., PLAN B SAFETY	9,259	5 YEARS OF SERVICE AND 10 YEARS OF MEMBERSHIP
0146B	LOS ANGELES COUNTY EMPLOYEES' RET. ASSOC., PLAN B: GENERAL	556	5 YEARS OF SERVICE, 10 YEARS OF MEMBERSHIP
0146C	LOS ANGELES COUNTY EMPLOYEES' RET. ASSOC., PLAN C: GENERAL	413	5 YEARS OF SERVICE, 10 YEARS OF MEMBERSHIP
0063A	TEACHERS' RETIREMENT SYSTEMS OF ILLINOIS	144,975	5 YEARS OF SERVICE; ALSO SINGLE-SUM BENEFIT PAYABLE AT 65 IF < 5 YEARS
0034A	ARKANSAS LOCAL POLICE & FIRE RETIREMENT SYSTEM	7,983	5 YRS
0700A	Defined Benefit - Douglas County Employees Retirement Trust	0	5 yrs
0542A	City of St Petersburg Employee Retirement System	1,796	5 yrs of service
0160A	VIA METROPOLITAN TRANSIT RETIREMENT PLAN	1,409	50% VESTED AT 5 YEARS, GRADED TO 100% AT 10 YEARS OF SERVICE
0043E	MN STATE RETIREMENT SYSTEM LEGISLATORS' RETIREMENT PLAN	173	6 YEARS
0057A	WYOMING WARDEN AND PATROL RETIREMENT PLAN	260	6 YEARS
0165D	UTAH JUDGES' RETIREMENT SYSTEM	104	6 YEARS OF SERVICE
0310A	Iowa Judicial Retirement Fund	194	6 years of service
0007C	ILLINOIS JUDGES' RETIREMENT SYSTEM	908	6 YEARS OF SERVICE (AGE 62); 10 YEARS OF SERVICE (AGE 60); 2 YEARS OF SERVICE (AC
0145A	PERS OF OHIO - STATE AND LOCAL DIVISION	392,530	60 CONTRIBUTING MONTHS
0145B	PERS OF OHIO - LAW ENFORCEMENT DIVISION	7,389	60 CONTRIBUTING MONTHS
0156A	WICHITA EMPLOYEES' RETIREMENT PLAN	1,018	7 YEARS OF SERVICE
0156C	Wichita Employees' Retirement System Plan 3	878	7 years of service
0217A	LANSING BOARD OF WATER AND LIGHT EMPLOYEES'DEFINED BENEFIT PLAN	121	7 YEARS OF SERVICE
0217B	LANSING BOARD OF WATER AND LIGHT DEFINED CONTRIBUTION PENSION PLANS	636	7 YEARS OF SERVICE
0542B	City of St Petersburg Firefighters Retirement System	298	7 years of service
0542C	City of St Petersburg Police Officers Retirement System	457	7 years of service
0371A	SHELBY COUNTY RETIREMENT SYSTEM	6,271	7 1/2 YEARS OF SERVICE
0007A	ILLINOIS STATE EMPLOYEES' RETIREMENT SYSTEM	80,676	8 YEARS
0037A	KALAMAZOO COUNTY EMPLOYEES' RETIREMENT PLAN	1,064	8 YEARS
0043F	MN STATE RET. SYSTEM ELECTIVE OFFICERS' RET. PLAN	0	8 YEARS
0064D	EMPLOYEES' RETIREMENT SYSTEM OF GEORGIA - LEGISLATIVE	210	8 YEARS
0110A	ILLINOIS MUNICIPAL RETIREMENT FUND	157,816	8 YEARS
0169A	OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM	42,886	8 YEARS
0173A	WAYNE COUNTY EMPLOYEES' RETIREMENT SYSTEM	5,407	8 YEARS
0183A	MICHIGAN JUDGES RETIREMENT SYSTEM	399	8 YEARS
0007B	ILLINOIS GENERAL ASSEMBLY RETIREMENT SYSTEM	181	8 YEARS (AGE 55); 4 YEARS (AGE 62)
0289A	GOGEBIC COUNTY EMPLOYEES RETIREMENT PLAN	375	8 YEARS OF SERVICE
0304A	ALASKA TEACHERS' RETIREMENT SYSTEM	9,164	8 YEARS OF SERVICE
0329A	CITY OF GRAND RAPIDS GENERAL EMPLOYEES' RETIREMENT SYSTEM	1,176	8 YEARS OF SERVICE
0451A	ELK COUNTY EMPLOYEES' RETIREMENT PLAN	132	8 YEARS OF SERVICE
0474A	VILLAGE OF MOUNT PROSPECT-POLICE	82	8 YEARS OF SERVICE
0195I	MONTANA PUBLIC EMPLOYEES' RETIREMENT DEFERRED COMPENSATION	7,048	ACCOUNT BALANCES ARE FULLY VESTED AT TIME OF DEPOSIT
0087B	NEW HAMPSHIRE RETIREMENT SYSTEM - TEACHERS' PLAN	14,114	AGE 60 W/ ANY YEARS
0235A	NEBRASKA PERS SCHOOL PLAN	34,718	AGE 65 WITH 5 YEARS CREDITED SERVICE; AGE 65 REGARDLESS OF SERVICE
0426A	CONSOLIDATED POLICE & FIREMEN'S PENSION FUND OF NEW JERSEY (CPFPF)	43,331	CLOSED PLAN, NO ACTIVE MEMBERS
0098A	WISCONSIN RETIREMENT SYSTEM	258,195	IMMEDIATE VESTING
0107B	CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM CASH BALANCE PROGRAM	9,552	IMMEDIATE VESTING
0138B	MISSOURI ADMINISTRATIVE LAW JUDGES' RETIREMENT PLAN	52	IMMEDIATE VESTING
0138C	MISSOURI REGULAR JUDGES' RETIREMENT PLAN	375	IMMEDIATE VESTING
0235C	NEBRASKA PERS JUDGES' RETIREMENT PLAN	157	IMMEDIATE VESTING
0505A	VILLAGE OF BOLINGBROOK POLICE PENSION PLAN	86	IMMEDIATE VESTING
0542D	City of St Petersburg	100	immediate vesting
0057B	WYOMING VOLUNTEER FIREMEN'S PLAN	2,118	MUST BE VOLUNTEER UNTIL AGE 60
0090A	Charlotte Firefighters' Retirement Plan	0	
0534A	Miami Shores General Employees Retirement Plan	0	

0650A	Fairfax County Water Authority Retirement Plan	0
0655A	Spokane Employees' Retirement Plan	0
	Number of plans with vesting requirements of 10 or more years	96
	Active members of plans with vesting requirements of 10 or more years	3,662,540
	Number of plans with vesting requirements of less than 10 years	172
	Active members of plans with vesting requirements of less than 10 years	5,988,342
	Number of plans with vesting requirements of 5 years or less	132
	Active members of plans with vesting requirements of 5 years or less	4,908,400

* About 50,000 members in Tier 2

Select Committee on Pension Policy

Plan 3 Vesting

Supplemental Summary

(November 4, 2004)

Costs (in Millions):	Plan 3 Vesting Threshold age = 50				Plan 3 Vesting Threshold age = 45			
	PERS	TRS	SERS	Total	PERS	TRS	SERS	Total
Increase in Contribution Rates								
Employee Aggregate (Plan 2 only)	0.00%	0.01%	0.02%		0.00%	0.01%	0.04%	
Employer Aggregate	0.00%	0.01%	0.02%		0.00%	0.02%	0.04%	
New Entrants Employee (Plan 2 only)*	0.01%	N/A	N/A		0.01%	N/A	N/A	
New Entrants Employer *	0.01%	0.01%	0.06%		0.01%	0.03%	0.12%	
2005-2007								
State:								
General Fund	\$0.1	\$0.7	\$0.4	\$1.2	\$0.1	\$1.5	\$0.9	\$2.5
Non-General Fund	<u>\$0.1</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.1</u>	<u>\$0.1</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.1</u>
Total State	\$0.2	\$0.7	\$0.4	\$1.3	\$0.2	\$1.5	\$0.9	\$2.6
Local Government	\$0.2	\$0.1	\$0.4	\$0.7	\$0.2	\$0.3	\$0.8	\$1.3
Total Employer	\$0.4	\$0.8	\$0.8	\$2.0	\$0.4	\$1.8	\$1.7	\$3.9
Total Employee	\$0.2	\$0.1	\$0.2	\$0.5	\$0.2	\$0.1	\$0.3	\$0.6
2005-2030								
State:								
General Fund	\$6.3	\$17.0	\$21.6	\$44.9	\$6.3	\$45.7	\$43.3	\$95.3
Non-General Fund	<u>\$10.4</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$10.4</u>	<u>\$10.4</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$10.4</u>
Total State	\$16.7	\$17.0	\$21.6	\$55.3	\$16.7	\$45.7	\$43.3	\$105.7
Local Government	\$14.9	\$3.5	\$19.2	\$37.6	\$14.9	\$9.3	\$38.4	\$62.6
Total Employer	\$31.6	\$20.5	\$40.8	\$92.9	\$31.6	\$55.0	\$81.7	\$168.3
Total Employee	\$15.8	\$0.6	\$1.3	\$17.7	\$15.8	\$0.6	\$2.6	\$19.0

*The increases in contribution rates for future new entrants are based on the increase in the Entry Age Normal Cost.

Select Committee on Pension Policy

Plan 3 Vesting

Alternative Options

(November 8, 2004)

These alternative options would impact the Teachers Retirement System (TRS), School Employee's Retirement System (SERS), and Public Employee's Retirement System (PERS) Plans 3 by lowering the vesting period for the defined benefit portion of these plans from ten years to five for active members following the attainment of a certain age. The costs shown are for 5 year vesting if age 50 or over, and 5 year vesting if age 45 or over.

Estimated Fiscal Impact (in Millions):	Five Year Vesting If age 50+				Five Year Vesting If age 45+			
	PERS	TRS	SERS	Total	PERS	TRS	SERS	Total
Increase in Contribution Rates (Existing Members)								
Employee Aggregate (Plan 2 only)	0.00%	0.01%	0.02%		0.00%	0.01%	0.04%	
Employer Aggregate	0.00%	0.01%	0.02%		0.00%	0.02%	0.04%	
Increase in Contribution Rates (New Entrants)								
Employee (Plan 2 only)*	0.01%	N/A	N/A		0.01%	N/A	N/A	
Employer *	0.01%	0.01%	0.06%		0.01%	0.03%	0.12%	
2005-2007								
State:								
General Fund	\$0.1	\$0.7	\$0.4	\$1.2	\$0.1	\$1.5	\$0.9	\$2.5
Non-General Fund	<u>\$0.1</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.1</u>	<u>\$0.1</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$0.1</u>
Total State	\$0.2	\$0.7	\$0.4	\$1.3	\$0.2	\$1.5	\$0.9	\$2.6
Local Government	\$0.2	\$0.1	\$0.4	\$0.7	\$0.2	\$0.3	\$0.8	\$1.3
Total Employer	\$0.4	\$0.8	\$0.8	\$2.0	\$0.4	\$1.8	\$1.7	\$3.9
Total Employee	\$0.2	\$0.1	\$0.2	\$0.5	\$0.2	\$0.1	\$0.3	\$0.6

Estimated Fiscal Impact (in Millions):	Five Year Vesting If age 50+				Five Year Vesting If age 45+			
	PERS	TRS	SERS	Total	PERS	TRS	SERS	Total
2005-2030								
State:								
General Fund	\$6.3	\$17.0	\$21.6	\$44.9	\$6.3	\$45.7	\$43.3	\$95.3
Non-General Fund	<u>\$10.4</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$10.4</u>	<u>\$10.4</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$10.4</u>
Total State	\$16.7	\$17.0	\$21.6	\$55.3	\$16.7	\$45.7	\$43.3	\$105.7
Local Government	\$14.9	\$3.5	\$19.2	\$37.6	\$14.9	\$9.3	\$38.4	\$62.6
Total Employer	\$31.6	\$20.5	\$40.8	\$92.9	\$31.6	\$55.0	\$81.7	\$168.3
Total Employee	\$15.8	\$0.6	\$1.3	\$17.7	\$15.8	\$0.6	\$2.6	\$19.0

**The increases in contribution rates for future new entrants are based on the increase in the Entry Age Normal Cost.*

We assume that there would not be a modification of the employee/employer level of cost sharing as defined in the actuarial funding chapter - Chapter 41.45 RCW. As a result, the cost of either of these Plan 3 benefit enhancements would be shared equally among Plan 2/3 employers and Plan 2 employees.

1 AN ACT Relating to vesting after five years of service in the
2 defined benefit portion of the public employees' retirement system, the
3 school employees' retirement system, and the teachers' retirement
4 system plan 3; and amending RCW 41.32.875, 41.35.680, and 41.40.820.

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

6 **Sec. 1.** RCW 41.32.875 and 2000 c 247 s 903 are each amended to
7 read as follows:

8 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five
9 and who has(~~(+~~

10 ~~(a))~~) completed (~~(ten))~~) five service credit years(~~(+or~~

11 ~~(b) Completed five service credit years, including twelve service~~
12 ~~credit months after attaining age fifty four; or~~

13 ~~(c))~~) or completed five service credit years by July 1, 1996, under
14 plan 2 and who transferred to plan 3 under RCW 41.32.817(~~(+)~~)
15 shall be eligible to retire and to receive a retirement allowance
16 computed according to the provisions of RCW 41.32.840.

17 (2) EARLY RETIREMENT. Any member who has attained at least age
18 fifty-five and has completed at least ten years of service shall be
19 eligible to retire and to receive a retirement allowance computed

1 according to the provisions of RCW 41.32.840, except that a member
2 retiring pursuant to this subsection shall have the retirement
3 allowance actuarially reduced to reflect the difference in the number
4 of years between age at retirement and the attainment of age sixty-
5 five.

6 (3) ALTERNATE EARLY RETIREMENT. Any member who has completed at
7 least thirty service credit years and has attained age fifty-five shall
8 be eligible to retire and to receive a retirement allowance computed
9 according to the provisions of RCW 41.32.840, except that a member
10 retiring pursuant to this subsection shall have the retirement
11 allowance reduced by three percent per year to reflect the difference
12 in the number of years between age at retirement and the attainment of
13 age sixty-five.

14 **Sec. 2.** RCW 41.35.680 and 2000 c 247 s 906 are each amended to
15 read as follows:

16 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five
17 and who has((÷

18 ~~(a))~~ completed ~~((ten))~~ five service credit years~~((÷or~~

19 ~~(b) Completed five service credit years, including twelve service~~
20 ~~credit months after attaining age fifty four; or~~

21 ~~(c))~~ or completed five service credit years by September 1, 2000,
22 under the public employees' retirement system plan 2 and who
23 transferred to plan 3 under RCW 41.35.510((÷))

24 shall be eligible to retire and to receive a retirement allowance
25 computed according to the provisions of RCW 41.35.620.

26 (2) EARLY RETIREMENT. Any member who has attained at least age
27 fifty-five and has completed at least ten years of service shall be
28 eligible to retire and to receive a retirement allowance computed
29 according to the provisions of RCW 41.35.620, except that a member
30 retiring pursuant to this subsection shall have the retirement
31 allowance actuarially reduced to reflect the difference in the number
32 of years between age at retirement and the attainment of age sixty-
33 five.

34 (3) ALTERNATE EARLY RETIREMENT. Any member who has completed at
35 least thirty service credit years and has attained age fifty-five shall
36 be eligible to retire and to receive a retirement allowance computed
37 according to the provisions of RCW 41.35.620, except that a member

1 retiring pursuant to this subsection shall have the retirement
2 allowance reduced by three percent per year to reflect the difference
3 in the number of years between age at retirement and the attainment of
4 age sixty-five.

5 **Sec. 3.** RCW 41.40.820 and 2000 c 247 s 309 are each amended to
6 read as follows:

7 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five
8 and who has((÷

9 ~~(a))~~ completed ~~((ten))~~ five service credit years~~((÷ or~~

10 ~~(b) Completed five service credit years, including twelve service~~
11 ~~credit months after attaining age fifty four; or~~

12 ~~(c))~~ or completed five service credit years by the transfer
13 payment date specified in RCW 41.40.795, under the public employees'
14 retirement system plan 2 and who transferred to plan 3 under RCW
15 41.40.795((÷))

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

18 (2) EARLY RETIREMENT. Any member who has attained at least age
19 fifty-five and has completed at least ten years of service shall be
20 eligible to retire and to receive a retirement allowance computed
21 according to the provisions of RCW 41.40.790, except that a member
22 retiring pursuant to this subsection shall have the retirement
23 allowance actuarially reduced to reflect the difference in the number
24 of years between age at retirement and the attainment of age sixty-
25 five.

26 (3) ALTERNATE EARLY RETIREMENT. Any member who has completed at
27 least thirty service credit years and has attained age fifty-five shall
28 be eligible to retire and to receive a retirement allowance computed
29 according to the provisions of RCW 41.40.790, except that a member
30 retiring pursuant to this subsection shall have the retirement
31 allowance reduced by three percent per year to reflect the difference
32 in the number of years between age at retirement and the attainment of
33 age sixty-five.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/02/04	Z-0180.1/Z-0181.1

SUMMARY OF BILL:

This bill impacts the Teachers Retirement System (TRS), School Employee's Retirement System (SERS), and Public Employee's Retirement System (PERS) Plans 3 by lowering the vesting period for the defined benefit portion of these plans from ten years to five.

Effective Date: 90 days after session.

CURRENT SITUATION:

New Plan 3 members of TRS, SERS, and PERS are vested in the defined benefit portion of their Plan after ten years of service, or after five years of service if 12 months of that service is earned after attaining age 54. Plan 3 members are immediately vested in the defined contribution side of their Plan. Those who transferred from Plan 2 to Plan 3 were automatically vested if they had five years of service in Plan 2 as of July 1, 1996, September 1, 2000 and June 1, 2003, the initial transfer dates for TRS, SERS and PERS respectively.

MEMBERS IMPACTED:

The counts of active vested and non-vested members are shown below. Not included in these counts are terminated non-vested members who would add to the total should they become re-employed. As of the most recent valuation, 52,612 out of 92,521 Plan 3 members had less than 10 years of service or were not vested in Plan 2 on July 1, 1996 in TRS, September 1, 2000 in SERS or June 1, 2003 in PERS, or did not have 5 years of service including 12 months after age 54. Any of these non-vested members would be affected by this bill if they were to leave public employment with between 5 to 10 years of service and before they earned 12 months of service after age 54.

System/ Plan	Vested	Non-Vested
PERS 3	9,771	7,777
TRS 3	18,646	28,617
SERS 3	11,492	16,218

FISCAL IMPACT:

Actuarial Determinations:

The bill will impact the actuarial funding of the affected systems by increasing the present value of benefits payable under the System (for existing members impacted by this bill) and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>		Current	Increase	Total
Actuarial Present Value of Projected Benefits				
<i>(The Value of the Total Commitment to all Current Members)</i>				
	PERS 2/3	\$ 14,278	\$ 5	\$ 14,283
	TRS 2/3	\$ 5,220	\$ 12	\$ 5,232
	SERS 2/3	\$ 2,138	\$ 8	\$ 2,146
Unfunded Actuarial Accrued Liability				
<i>(The Portion of the Plan 1 Liability that is Amortized at 2024)</i>				
		NA	NA	NA
Unfunded Liability (PBO)				
<i>(The Value of the Total Commitment to all Current Members Attributable to Past Service)</i>				
	PERS 2/3	\$ (3,184)	\$ 2	\$ (3,182)
	TRS 2/3	\$ (1,397)	\$ 6	\$ (1,391)
	SERS 2/3	\$ (425)	\$ 4	\$ (421)

Increase in Contribution Rates:

(Effective 09/01/2005)

Employee (plan 2 members only)	PERS 2/3	0.01%
	TRS 2/3	0.03%
	SERS 2/3	0.05%
Employer State	PERS 2/3	0.01%
	TRS 2/3	0.03%
	SERS 2/3	0.06%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2007				
State:				
General Fund	\$0.5	\$2.4	\$1.5	\$4.4
Non-General Fund	<u>0.8</u>	<u>0.0</u>	<u>0.0</u>	<u>0.8</u>
Total State	1.3	2.4	1.5	5.2
Local Government	1.2	0.5	1.3	3.0
Total Employer	2.5	2.9	2.8	8.2
Total Employee	\$1.5	\$0.3	\$0.5	\$2.3
2007-2009				
State:				
General Fund	\$0.7	\$2.9	\$2.0	\$5.6
Non-General Fund	<u>1.2</u>	<u>0.0</u>	<u>0.0</u>	<u>1.2</u>
Total State	1.9	2.9	2.0	6.8
Local Government	1.7	0.6	1.8	4.1
Total Employer	3.6	3.5	3.8	10.9
Total Employee	\$2.1	\$0.3	\$0.4	\$2.8
2005-2030				
State:				
General Fund	\$27.3	\$85.9	\$71.7	\$184.9
Non-General Fund	<u>45.1</u>	<u>0.0</u>	<u>0.0</u>	<u>45.1</u>
Total State	72.4	85.9	71.7	230.0
Local Government	64.2	17.6	63.6	145.4
Total Employer	136.6	103.5	135.3	375.4
Total Employee	\$69.8	\$1.8	\$3.3	\$74.9

State Actuary's Comments:

This bill does not modify the employee/employer level of cost sharing as defined in the actuarial funding chapter - Chapter 41.45 RCW. As a result, the cost of this Plan 3 benefit enhancement is shared equally among Plan 2/3 employers and Plan 2 employees.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers Retirement System, School Employee's Retirement System, and Public Employee's Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following: None.
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.
8. The entry age normal cost increase for the bill is 0.04% for PERS Plan 2 members, 0.04% for PERS employers, 0.06% for TRS employers, and 0.20% for SERS employers. The entry age normal cost increase was used to determine the increase in funding expenditures for future new entrants.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all Plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by Plan assets.

Post-Retirement Employment

Background

PERS 1 retirees are currently subject to specific rules for post-retirement employment that do not apply to TRS 1 retirees. PERS 1 retirees seeking to return to work for 1,500 hours are subject to a 90-day waiting period. Also, these employees are subject to a 1,900-hour cumulative or "lifetime" limit on the number of hours that may be worked beyond 867 annually. Once the 1,900-hour limit is reached, PERS 1 retirees may work up to 867 hours in subsequent calendar years before their benefits are suspended. PERS 1 retirees are also subject to an amended definition of "separation of service" such that any written or verbal agreement to return to work with the same employer nullifies the separation and creates a potential violation of the statute entitled "Penalties for False Statements." Further, employers are subject to certain record-keeping requirements when they hire these retirees to work for 1,500 hours, including documentation of the need to hire the retirees and records of the actual hiring process.

Committee Activity

Presentations:

June 15, 2004 - Executive Committee
July 13, 2004 - Full Committee
September 7, 2004 - Executive Committee
October 19, 2004 - Full Committee

Proposal:

October 19, 2004 - Full Committee

Recommendation to Legislature

Add the same general hiring qualifications to TRS 1 retirees as currently exist for PERS 1 retirees who seek to work in excess of 867 hours annually (except that the TRS 1 waiting period is 45 days instead of 90 days). Require both PERS 1 and TRS 1 employers to hire retirees pursuant to a written policy. Create a new cumulative total limit of 3,165 hours worked in excess of 867 for both plans (from no cumulative total in TRS and from a 1,900 cumulative total in PERS 1). Expand the contractual right in PERS 1 from 525 hours to 867 hours per year.

Staff Contact

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Select Committee on Pension Policy

Post-Retirement Employment

(October 6, 2004)

Issue

This report is intended to supplement the in-depth report on this issue made to the Select Committee on Pension Policy in December 2003. This report will recap the issue in a simplified way, then discuss some of the more sensitive aspects of post-retirement employment. Post-retirement employment is a controversial subject, not only within the state of Washington but throughout the entire country. This paper will explore some of the difficult policy questions that arise in connection with this issue, as well as some of the legal constraints and technicalities that are applicable. It will also touch on some of the trends that are pressuring policy makers to continue to address the issue of post-retirement employment.

Staff

Laura Harper, Sr. Research Analyst/Legal
360-586-7616

Members Impacted

Recent legislative activity has focused on Plan 1 of the Teachers' Retirement System (TRS 1) and Plan 1 of the Public Employees' Retirement System (PERS 1). As of the most recent actuarial valuation (2002), there were 12,456 active members and 33,148 retirees in TRS 1. There were 21,737 active members and 54,006 retirees in PERS 1.

Current Situation

Generally, all retired members of PERS and TRS have a **waiting period** before they may return to employment. In most instances, the waiting period is thirty (30) days. If retirees return to work prior to completion of the waiting period, their benefits are effectively suspended due to mandatory reductions in the benefit amounts (5.5% for every eight hours worked during that month to a maximum of 160 hours in PERS, and 5.5% for every seven hours worked during the month to a maximum of 140 hours in TRS).

The PERS and TRS systems allow retirees to return to employment, but there are limits on the number of hours that may be worked without suspension of retirement benefits. The **hour limits** start over with each new calendar year and vary among the plans. Generally, for the Plans 2/3 the hour limit is 867 hours. For the Plans 1, retirees may work up to a limit of 1,500 hours without suspension of their pension benefits, however they are subject to limits on their **contractual** rights to return to work of 5 months in PERS 1 and 525 hours in TRS 1.

PERS 1 retirees are subject to more specific rules affecting waiting periods and hour limits. Those seeking to return to work for 1,500 hours are subject to a 90-day waiting period. Also, these employees are subject to a 1900-hour cumulative or "lifetime" limit on the number of hours that may be worked beyond 867 hours annually. Once the 1,900 hour limit is reached, PERS 1 retirees may work up to 867 hours in subsequent calendar years before their benefits are suspended. PERS 1 retirees are also subject to an amended definition of "separation from service" so that any written or verbal agreement to return to work with the same employer nullifies the separation and creates a potential violation of the statute entitled "Penalties for False Statements," RCW 41.40.55. Further, employers are subject to certain record-keeping requirements when they hire these retirees to work for 1,500 hours, including documentation of the need to hire the retirees and records of the actual hiring process.

Simplified History

The door to post-retirement employment was first opened in the mid-1960's. Since then, there have been numerous changes to the pertinent plan provisions, most of which involved the length of the waiting period and the

limits on the numbers of hours that may be worked before retirement benefits are suspended. A complete history is found in the December 2003 Post-Retirement Employment Report to the SPCP that is included with this report.

In 2001 Washington State pension law was changed to expand post-retirement employment opportunities for members of TRS 1 and PERS 1. The hour limits for these plans were increased to 1,500. The earlier limits had been 5 months for PERS 1; in TRS 1 the limits had been 525 hours for substitute teachers, 630 for substitute administrators and 840 for substitute teachers or principals in school districts with documented labor shortages. The new limits under the 2001 law translated to nine months in PERS 1 and a complete school year for TRS 1.

The 2001 law called for the Office of the State Actuary to study the fiscal and policy impacts of the act. If the State Actuary determined that the expansion of post-retirement employment options resulted in increased costs for the state retirement funds, the Actuary would propose a process to charge the employers for the costs incurred. The Select Committee on Pension Policy heard its first report in 2003. At its meeting on December 16, 2003, the SPCP decided to defer action until further data and study was available, as there was an insufficient amount of experience data to determine the cost.

Further legislative changes involving post-retirement employment occurred in 2003, and these changes only affected members of PERS 1. The changes were applicable to those PERS 1 retirees seeking to work up to the new limit of 1,500 hours, and they are described above under "Current Situation." Similar changes had been proposed in 2003 for TRS 1 but were vetoed. During the 2004 legislative session HB 2640 was introduced to reinstate most of the TRS 1 restrictions that had been vetoed by the Governor in 2003. This bill died in House Appropriations.

Fiscal Impact of 2001 Legislation: Indeterminable at This Time

One of the keys to determining cost is experience data. Typically actuaries study retirement plan experience every 5 to 6 years and adjust long-term retirement assumptions based on actual retirement experience.

Generally, post-retirement employment provisions generate a cost to the retirement system when they cause a significant increase in the number of retirements over what is assumed under normal long-term plan experience.

The 2001 legislation that expanded post-retirement employment opportunities for members of PERS 1 and TRS 1 included a study mandate directing the State Actuary to determine whether new provisions have resulted in increased costs for the state retirement funds, and if so, to propose a process to charge those employers who employ retirees pursuant to the new provisions.

As indicated in the Post-Retirement Employment Report dated November 24, 2003, there was an insufficient amount of experience data to reach a reliable conclusion on the question of cost at that point in time. At its December 16, 2003 meeting, the Select Committee decided to defer action until further data and study is available. As of the date of this report, the Office of the State Actuary has collected a total of nine quarters (2.25 years) of data. A minimum of five years of experience data is needed.

Current Data

While additional data has been gathered since the December 16, 2003 meeting, this data appears to be largely consistent with what had been gathered before. Again, the preliminary nature of the data should be emphasized. Nine quarters of data is not sufficient to reliably establish whether new employment trends or retirement patterns have been created as the result of the 2001 and 2003 legislation. For examples of the types of data that are being collected, see pages 13-17 of the December 2003 Report.

Policy Analysis

The following discussions were not highlighted in the December 2003 report. They include a review of policy and plan design issues, legal issues and trends.

Post-retirement employment is one of the most controversial issues that public pension policy-makers face. The controversy arises when the retired employee is allowed to draw a retirement benefit while earning a salary, and in some instances, while accruing another benefit. There are at least **two philosophies of post-retirement employment:**

- 1) "They earned it and the benefit is paid for, so why not?"
- 2) "If it's not restricted, it leads to double dipping and abuse."

Proponents of the first view tend to be those who favor a **service-based** retirement plan. Service-based retirement is not tied to age but to the number of years served. The philosophy is that once a public employee has reached a certain number of years of service, that employee should be able to retire regardless of how old the employee is. These plans may be funded based on the assumption that members will retire when they first become eligible, which may result in higher contribution rates. Average retirement ages for these kinds of plans will be slightly younger than for aged-based plans. Having retirees return to work without suspension of the pension benefit may not be considered objectionable because there is confidence that the retiree's pension has already been paid for.

Proponents of the second view tend to favor **age-based plans**. They prefer to avoid situations that involve the re-employment of public employees who have already retired, and often seek to retain workers in the system until they reach what is deemed to be an appropriate normal retirement age. Age-based plans tend to provide mechanisms for members to continue to accrue benefits for working more years and later in life. Such plans may even discourage or penalize those who seek to retire early. Proponents of the second view may seek to forbid post-retirement employment altogether unless the retirement benefit is suspended. Under the second view, if post-retirement employment is allowed, it may be restricted to part-time by imposing hour limits or earnings tests that trigger suspension of the retirement benefit.

A. *Plan Design in PERS and TRS*

There are significant differences in plan design between the TRS and PERS Plans 1 and the Plans 2/3. Generally speaking, the retirement provisions for the Plans 1 are more service-based, while the retirement provisions for the Plans 2/3 are more age-based.

Plan 1 retirees have a benefit formula that restricts benefit accruals after 30 years. Eligible Plan 1 retirees receive 2% of average final compensation (AFC) for each year of service credit to a maximum of 60% of AFC. There is less incentive for Plan 1 members to continue to work once they have reached thirty years of service. Furthermore, there are no early retirement provisions in TRS and PERS Plans 1, nor are there any reductions for retiring at earlier ages. Members are eligible for normal retirement at age 60 with five years of service, age 55 with 25 years of service, or at any age with 30 years of service. The plan design does not focus on or encourage working until age 65 and beyond.

Because retirement in the Plans 1 is more service-based, members tend to retire at earlier ages. Those who retire at earlier ages are more likely to seek opportunities to return to work. If they have already retired, they will prefer plan provisions that allow working **after** retirement, such as the post-retirement employment provisions that have been implemented for the Plans 1.

In contrast to the Plans 1, the Plans 2 have no cap on AFC. Members receive 2% of AFC for each year of service for as long as they continue to work. Thus a member who continues to work after qualifying for normal retirement will continue to accrue a significant increase in the monthly retirement benefit for working past age 65. In the Plans 2, members are eligible for normal retirement at age 65 with five years of service. The Plans 2 have provisions for early retirement, but the benefits are significantly reduced when members retire early. In summary, Plan 2 members are rewarded for working past age 65 by accruing additional benefits, while their benefits will be significantly reduced for retiring early. Plan provisions are aimed more at **retaining** older workers so they will retire later.

Similarly, in the defined benefit component of the Plans 3 there is no cap on the average final compensation. Eligible retirees receive 1% of AFC for each year of service, regardless of how long they work. Normal retirement is at age 65 with 10 years of service, and benefits are significantly reduced for retiring early. The vesting period is 5 years for those who complete 12 service credit months after attaining age 54. With respect to the defined contribution component, there is immediate vesting. Generally, under the Plans 3, members will accrue greater benefits by working until age 65 or longer.

B. *Legal/Technical Issues Arising in Connection with Post-Retirement Employment*

Policy makers who adopt post-retirement employment provisions for their plans that allow re-employed retirees to draw their retirement allowances while earning a salary and/or accruing additional benefits are faced with certain legal issues that arise in connection with the practice. They may also be challenged with public relations issues if there is any perception of potential or actual abuse.

1. Prohibition Against In-Service Distributions

A tax issue may arise in the context of retirees who return to work, especially those who return to the same position or to the same employer. Federal tax law prohibits qualified plans from distributing retirement income to members who are still “in service.” This rule is known as “prohibition against in-service distributions,” and is the genesis of the requirement that each employee have a bona fide termination of employment and actually retire prior to receiving a pension. Theoretically, a retirement plan can lose its qualified status under Section 401(a) of the Internal Revenue Code for violating this rule, resulting in significant tax liabilities for employers and employees.

The resolution of whether there is a true separation from service is to be based upon all the facts and circumstances in each individual case. There is no IRS guidance on what constitutes a sufficient “waiting period” between retirement and post-retirement employment. This is because the waiting period is only one of many facts relevant to the issue of whether the recipient of the retirement allowance has actually retired.

An employer and employee may violate the federal rule even when a statutory waiting period has been observed. For example, the employee may leave employment pursuant to a preexisting agreement that the employer will hire the employee back shortly after expiration of the waiting period. In such an instance, the rule would be violated. While a statutory waiting period can eliminate some compliance problems, it is not determinative of whether there has been a bona fide termination of employment.

DRS data for the last nine quarters shows that for both PERS 1 and TRS 1, roughly 70% of retirees are returning to work with the same employer. Thus, there is an increased possibility of violating this federal rule within the Plans 1. In Washington, only PERS 1 members are subject to a potential penalty for having a written or oral agreement that would negate a bona fide separation from service. Such an agreement could theoretically be prosecuted as a gross misdemeanor. As of the writing of this report, there does not appear to be any record of a successful prosecution under this provision.

Another approach to enforcement would be to adopt a model similar to that used by the California Public Employees' Retirement System (CalPERS). The CalPERS statute authorizes the retirement board to establish the criteria under which a bona fide separation from service is satisfied. If there is a failure to satisfy the criteria, the retired member is required to reimburse the retirement system for any retirement allowance received during the period of violation; pay the contributions that would have been required for the period, plus interest; and contribute toward reimbursement of the retirement system for administrative expenses incurred in responding to the violation, to the extent the member is determined to be at fault. Violations are handled as administrative, not criminal matters.

2. Inconsistencies in Statutory Framework

A technicality that creates inconsistencies in post-retirement employment practices has to do with membership eligibility. Generally, a retiree who becomes re-employed in an "eligible position" becomes subject to the post-retirement employment restrictions of that retirement system. Membership eligibility is a threshold determination, and in most cases, determining eligibility in the various retirement systems is a straightforward matter. When a person is working in a position that is membership-eligible, the person is reported by the employer to the Department of Retirement Systems. Pension benefits will be suspended when a retiree who is re-employed in an eligible position reaches the applicable hour limits.

Ineligible positions may include not only part time positions, but also certain full time public positions that are covered under another retirement system. Retirees may work as many hours as they want in this latter category without affecting their retirement allowances. For example, the **higher education institutions** are authorized by RCW 28B.10.400 to make separate retirement income plans available to their professional and academic employees instead of PERS or TRS. These institutions determine who is eligible to participate in their higher education retirement plans. An example is found in WAC 415-108-710, which provides that a PERS retiree may work after retirement and

continue to receive a retirement allowance if the member becomes an active member of a higher education retirement plan and is employed no sooner than one calendar month after the member's retirement benefit accrues.

This distinction may be seen by some as a legal "loophole." The practice was recently highlighted in the media as illustrated in the attached transcript entitled "Tripple dipping at UW," May 24, 2004, which may be found at www.king5.com (scroll down to Local News then King 5 Investigators). The story incorrectly attributed the retire-rehire activity at UW to "a 2001 state law."

The return-to-work legislation that was passed in 2001 did not create the ability for the employees identified in this media account to return to work without suspension of their retirement benefits. Instead, that ability is the result of the long-standing provisions in state law allowing higher education institutions to sponsor their own retirement plans and to promulgate their own rules determining who is eligible to participate in the plans. It is the statutory flexibility given to higher education plans that enables these re-employed retirees to begin accruing benefits in the higher education retirement plan while still receiving their pensions.

The operation of the estoppel statute further highlights this inconsistency with respect to post-retirement employment. **Estoppel** is an archaic term that simply means "stopped," "blocked" or "not allowed." It is derived from a doctrine of law that prevents a party from taking a certain action because it is not fair or just. Washington's retirement law includes a general estoppel rule related to post-retirement employment that was passed in 1976.

RCW 41.04.270 prohibits any member or former member from becoming a member or establishing any contractual rights in another public retirement system listed in RCW 41.50.030 (DRS-administered plans) or first class city systems if:

- the person is retired or eligible to retire (under normal, early and alternate early retirement provisions) from a public retirement system; or
- the person receives a disability allowance from a public retirement system.

The estoppel rule also provides that persons receiving a benefit or who are eligible to receive a benefit are not subject to the provisions of the statute if the person accumulated less than 15 years of service.

The higher education plan is not covered by this estoppel rule. The estoppel rule is found in the “General Provisions” of Chapter 41.04, RCW, and is not applicable to the higher education plan, which is found in Chapter 28B.10, RCW. By its terms, the estoppel rule is only applicable to DRS-administered plans and the city employee retirement systems of Seattle, Tacoma and Spokane. This means, for example, that a PERS 1 retiree who is rehired and becomes an active member of a higher education plan is not prohibited by the estoppel rule from earning additional benefits while drawing a PERS 1 retirement allowance.

3. Contractual Rights

A third area of legal concern to policy makers adopting post-retirement employment provisions into their retirement plans is the issue of vested or contractual rights. Expanding the opportunity to engage in post-retirement employment may be seen as an expanded benefit. As a general matter, once a new retirement benefit has been granted, it cannot be withdrawn without violating the principle set forth in Bakenhus v. City of Seattle, the Washington Supreme Court case that established pension provisions as an integral portion of the contemplated compensation set forth in the contract of employment.

The 2001 legislation that expanded the number of hours PERS and TRS Plan 1 retirees could work before having their benefits suspended included language to limit the affected employees’ ability to rely on the expansion as part of their

employment contract. The legislation included a “no contractual right” clause. This clause stated that the legislature reserved the right to amend or repeal the provision. The clause further provided that no member or beneficiary of PERS 1 has a contractual right to be employed more than five months in a calendar year without a reduction of his or her pension, and no TRS 1 member or beneficiary has a contractual right to be employed more than 525 hours per year without a reduction of his or her pension. The ability of the legislature to restrict employee reliance upon legislation expanding pension benefits by utilizing a “no contractual right” clause has not yet been tested in the Washington courts.

There are at least two approaches that may be used when lawmakers wish to provide a benefit that may be subsequently taken away. One is to use the “no contractual right” clause. The advantage is that employees are notified up front that they cannot rely on the newly created benefit. The disadvantages of this approach include legal uncertainty and a risk of litigation. In addition, by creating benefits with an uncertain legal status, there is the possibility of violating the federal tax rule requiring that benefits be “definitely determinable,” another plan qualification requirement of federal tax law.

An alternative approach is to create temporary pension rights, specifying a window of time within which the rights would be available and then expire. This approach has the advantage of being more certain, but a disadvantage is the need for the legislation to be amended or renewed over time. This approach also creates questions of equity, in that not all members have the opportunity to take advantage of the expanded benefit. Some members will fall within the window and some will not.

A recent U.S. Supreme Court case that was decided in June of this year is worthy of being mentioned, as it reiterates the point that currently accrued benefits must not be affected when post-retirement employment opportunities are expanded and then reduced. The case involved a private

plan rather than a public pension plan, and was decided under the “anti-cutback rule” of ERISA (Employee Retirement Income Security Act). ERISA is not applicable to governmental plans. The case is relevant, however, because ERISA cases may be used as persuasive authority in public pension cases when there is no public pension plan law that is directly on point. The anti-cutback rule is the private sector equivalent of Washington’s Bakenhus rule.

The case of Central Laborers’ Pension Fund v. Heinz, et al. involved a plan amendment that expanded the kinds of disqualifying employment that would trigger a suspension of benefit payments. In this case, the contested plan amendment was made subsequent to the early retirement of two participants. The court found that the retirees had justifiably relied on the terms of the plan at the time they retired, and that the subsequent plan amendment had effectively reduced their benefits. The Supreme Court cited as support Treasury regulations under Internal Revenue Code Section 411(d)(6) that flatly prohibit plans from attaching new limiting conditions to benefits that an employee has already earned.

C. Comparison with Other Retirement Systems

Many states have adopted a waiting period for post-retirement employment in order to minimize the possibility of making in-service distributions in violation of plan qualification guidelines. Ohio has a two-month waiting period, Colorado and Florida have a one-month waiting period, and Minnesota’s waiting period is 14 days. Not all retirement systems adopt a specific waiting period. For example, California PERS’ statute simply requires that there be a bona fide separation in service. A proposed administrative rule is pending that would require a 60-day waiting period.

The following table contains a more general description of post-retirement employment restrictions in other comparative retirement systems. Compared to the provisions in other states, Washington’s post-retirement employment rules are not atypical.

Rehire Provisions from Select Comparison Systems	
State / System	Post-Retirement Employment Restrictions
CalPERS	May work 960 hours; some positions without restriction
CalSTERS	May earn a maximum of \$25,740
Colorado PERA	May work 110 days or 720 hours; some positions without restriction
Florida (FRS)	May work 780 hours; some positions without restriction
Idaho PERSI	May work less than 20 hours/week or 5 consecutive months; less than one-half contract for teachers
Iowa PERS	Ages 55-65 may earn greater of \$30,000 or current SS limit; no limit after 65
Minnesota SRS	Under 65 may earn up to \$11,280 as indexed by SSA; no limit after 65.
Missouri (MOSERS)	May earn additional service credit but pension is suspended; some positions without restriction
Ohio PERS	Retiree becomes a contributing member; some positions are without restriction
Ohio STERS	Retiree becomes a contributing member and may receive contributions as a lump sum or an annuity
Oregon	May work 1,039 hours; no restriction for those over age 70; some positions without restriction
Seattle	May work 1,040 hours

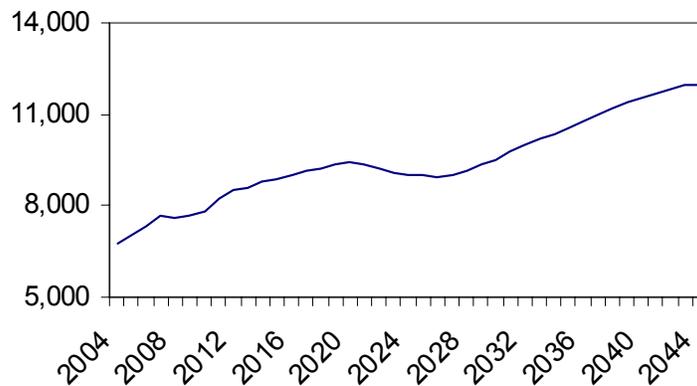
Within this comparison, some states allow retired members to return to work up to a maximum number of hours without having their pension suspended; others allow a member to earn a maximum dollar amount. Some allow members to return to work full time upon suspension of the retirement benefit, and contributions to the retirement system are required during the period of post-retirement employment. Some states have eliminated restrictions for older retirees. Most states have more liberal post-retirement employment provisions for teachers than for other public employees. In fact, according to National Council on Teacher Retirement, all 50 states allow some form of post-retirement employment for teachers.

D. Economic, Demographic and/or Social trends

Washington’s 2001 legislation that expanded post-retirement employment opportunities was largely in response to a shortage of experienced teachers and other employees that were in high demand during the most expansive point in the last business cycle. The following discussion is intended to highlight some of the current trends that continue to create pressure on policy makers as they address the issue of post-retirement employment. This is not to suggest that policy makers must respond to such pressures, or that there is a right or wrong way to respond. The purpose of this section is simply to highlight some of the developments that continue to bring the issue of post-retirement employment to the forefront.

In the State of Washington, the total number of retirements for all public employee retirement systems is projected to steadily increase over the next forty years. The following chart shows the projected retirements from active status based on data from the 2002 Actuarial Valuation:

**Figure 4
Projected Retirements, All Systems**



This steady projection does not portend a massive looming labor shortage in the government workforce. However there is some concern that imminent baby boomer retirements will create a shortage of experienced workers.

The Washington Department of Personnel's Task Force on the Impact of Aging Trends on the Washington State Government Workforce (June 2000) found the following:

- The state will experience significantly higher turnover due to increasing retirement rates, with some agencies and job categories impacted to a much greater extent than others.
- In 18 agencies, including some of the state's largest, 15-29% of the PERS Plan 1 workforce will be eligible to retire by 2005.
- More than 50% of executive level and 30% of mid-level managers will be eligible to retire by 2005.
- Over 50% of the state workforce is in the 40-54 age group and at the mid-career stage or more.

The 2000 Task Force had several recommendations that are relevant to the issue of post-retirement employment and the relatively recent expansion or post-retirement employment opportunities in the State of Washington:

- Hire retirees as a source of experienced workers.
- Eliminate barriers to using retirees as part-time workers by reducing restrictions on post-retirement employment and/or allowing exceptions so that agencies can provide health care coverage as an incentive for retirees to work part-time.
- Explore options to help retain experienced workers, such as scheduling flexibility, telecommuting, assignment or career changes, leave options and downshifting.

Whether older workers retire and return to work, or whether they are given incentives to remain within the workforce, the trend in Washington and throughout the country is toward an aging workforce. Both public and private employers are concerned with sector shortages that may result from an increase in the retirement

rate for baby boomers, and are looking for ways to keep experienced workers involved. See Adequacy of Retirement Benefit Report to the SSCP, June 2004.

Employees are also indicating a desire to work longer. Among 2,001 workers between the ages of 50 and 70 recently polled by AARP, nearly 70% said they planned to continue working past the age of 65, and almost half said they envisioned working into their 70s or beyond. Pre-retirees cited various reasons for believing they will continue to work, including needing money (22%), needing health benefits (17%), staying mentally active (15%), being productive or useful (14%), and remaining physically active (9%).

The changing workforce is further reflected in changes to the federal Social Security law as of January 2000 that eliminated the Retirement Earnings Test for individuals age 65-69. (It remains in effect for those ages 62-64). This test had required that if seniors continued to work from age 65 to 70, their benefits were reduced \$1 for every \$3 earned above \$17,000. The withheld benefits were then returned, in general with interest, in the form of higher benefits after stopping work, or at age 70.

The test was not eliminated because older Americans aren't working. Rather, the law eliminating the test - the Senior Citizens' Freedom to Work Act of 2000 - was touted as "an important step toward preparing the economy for the demographic challenge of the baby boom." At that time there were 9.6 million people between the ages of 65 and 69, of which 3.0 million were working in Social Security covered employment. The number of people in that age group was projected to double to 20.3 million by the year 2030. National Economic Council, April 6, 2000.

Finally, a recent Watson Wyatt study of workers at or near retirement age indicated that a majority of survey participants would like to work fewer hours later in their careers, but less than half of them expect their employer to offer this opportunity. When asked how they would like to phase into retirement, many older workers said they hope to work part-time (63%) or work more flexible hours (48%) before retiring completely. Nearly 2/3 (63%) of current workers aged 50 and older indicated that they would like to phase into an entirely different career. Among those currently

participating in phased retirement, 80% work flexible hours and 79% work part-time. Two-thirds (67%) have less responsibility in their current job compared with their career job. See “Older Workers Would Delay Retirement if Employers Offered Phasing,” Watson Wyatt Press Release, March 22, 2004.

E. Challenges in Responding to Trends

Most retirement experts agree that the aging workforce is a trend that is causing some to question how retirement plans and benefits programs are structured. The challenge for policy makers is to distinguish short-term cycles from long-term trends.

Public pension plans are designed and funded over multiple decades. Frequent changes in the benefit structure of public pension plans can contribute to contribution rate instability and inadequacy, as well as possible generational inequities in terms of taxpayer funding. Also, because of well-established legal principles recognizing the contractual nature of pension benefits, it is virtually impossible to take away benefits once they have been given. Even if benefit reductions are prospective and apply only to new hires, there is political difficulty in offering less to new employees than what has been previously offered.

Part of the philosophical debate surrounding post-retirement employment practices is whether retirement systems should be used as a tool in solving personnel issues. Proponents argue that retirement benefits are part of the total compensation package and should be used to address the needs of a changing workforce. Opponents argue that compensation issues should be addressed directly through salary increases, and retirement systems should be utilized only for retirement, i.e. providing security to employees who are no longer working.

F. Public Relations Issues

As one of the more controversial issues for public pension systems, “retire-rehire” has received considerable attention in the press. Washington is no exception. Washington’s expanded post-retirement employment opportunities have been the subject of analysis in Governing Magazine (July 2003). They have been highlighted in numerous newspaper articles and editorials, including those published by the Olympian (September 9, 2002 and August 1, 2004), Seattle Times (January 30, 2003 and February 1, 2002), the News Tribune (April 21, 2003), the Columbian (September 26, 2002), and the Daily of the University of Washington (May 7, 2004). They have also been the subject of a King5 Investigative Report (May 24, 2004, transcript attached). Managing public relations is another one of the many challenges for policy makers who tackle the controversial issue of post-retirement employment.

G. Conclusion to Policy Analysis

Retire/rehire provisions are used to attract retired workers back to the work force **after retirement**. They tend to be used with plans that have service-based retirement provisions as in the Plans 1 for TRS and PERS. Washington recently expanded opportunities for PERS and TRS Plan 1 retirees to return to work, and the State Actuary is monitoring the impacts of this legislation. Another category of tools is used to **retain** older workers who are still in the workforce. These types of provisions may involve increased benefit accruals for those working longer periods of years and later in life. Some of these kinds of provisions are already built into the Plans 2/3 of the Washington State Retirement Systems.

Executive Committee Recommendation

On September 7, 2004, the Executive Committee recommended that the attached bill draft be forwarded to the full committee for consideration. This draft was recommended by a subgroup headed by Representative Bill Fromhold. The subgroup considered five draft bills, and decided to recommend this version (“Draft E”) for consideration by the Executive Committee and full SCPP.

Bill (Draft)

The bill draft is attached. It adds the same general hiring qualifications to TRS 1 as currently exist for PERS 1 retirees who seek to work in excess of 867 hours annually. Those include a prohibition of any written or verbal agreement to return to work with the same employer. Under the legislation, a TRS 1 separation from service that is pursuant to such an agreement would be nullified and would constitute a potential misdemeanor violation of the statute entitled "Penalties for False Statements." Further, TRS 1 employers are subject to certain record-keeping requirements when they hire these retirees, including documentation of the need to hire the retirees and records of the actual hiring process. The language for these requirements largely tracks that of the existing PERS 1 statute.

The proposed draft also requires both PERS and TRS Plan 1 employers to hire retirees pursuant to a written policy. In the proposed legislation, the length of separation requirement (between retirement and re-employment) for working beyond 867 hours is specified for TRS 1 as 45 days (rather than the 90 days already in effect for PERS 1.) Also, this bill creates a new cumulative limit of 3165 hours worked over 867 for both plans (from no cumulative total limit in TRS 1 and from a 1900-hour cumulative total limit in PERS 1). The new cumulative limit starts anew as of the effective date of the bill, which is January 1, 2006. Finally, the contractual right to post-retirement employment in TRS 1 is expanded from 525 hours per year to 867 hours.

Fiscal Note (Draft)

The draft fiscal note is attached.

Administrative Impacts

The Department of Retirement System (DRS) was asked to comment on potential administrative impacts of the proposed legislation on September 17, 2004. Comments were given by telephone on September 27, 2004:

- This bill will create new tracking requirements for the Teachers' Retirement System Plan 1.
- The bill is not expected to generate a significant administrative impact, and it will achieve some consistency between TRS 1 and PERS 1.
- There will be a significant communications impact in that the changes will need to be communicated to affected members.



Investigators: Triple dipping at UW

09:11 AM PDT on Tuesday, May 25, 2004

By CHRIS INGALLS / KING 5 News



KING

They are some of the highest paid administrators at the University of Washington, and they've found a way to earn even more money. In some cases, much more.

It's legal, but is it right?

Earlier this year, the KING 5 Investigators reported on public school administrators accused of double dipping, earning their pensions and a salary at the same time.

After that story aired viewers' tips led us to the University of Washington and the phenomenon that critics call "triple dipping:" collecting their pensions, a salary and accumulating new retirement benefits, too.

Keeping the expertise

U.W. researcher Steven Domonkos has been retired for two years now, but still comes to the lab almost every day.

Domonkos designs and builds sophisticated instruments to measure atmospheric conditions.

It's highly specialized field, so replacing Domonkos might have been impossible if not for a law that allowed U.W. to rehire him while he continued to earn his retirement benefit.

"I've been around here for 34 years. I know the place. I know the people," he said.

There's not much question that the University benefits from having Domonkos around. He's part time and his salary is just \$26,000 a year.

But the law that allowed him to return has been used dozens of times by some of the U.W.'s highest paid administrators.

Retirement and \$318,000 a year

Among them is Edward Lightfoot, the University's information systems director, who earns a \$100,000 annual retirement benefit.

A month after retirement in 2001, he was hired back into the same \$218,000 a year job.

Total earnings now: \$318,000 a year.

Vice Provost Steven Olswang retired in 2002, earning a \$63,000 benefit.

But he was back on the Tacoma campus in a month, making \$174,000 a year.

Total annual earnings, \$237,000.

A 'cozy relationship'

State Sen. Karen Fraser, who helped write the law as a way to address a shortage of K-12 teachers, was surprised to learn of the trend.

"It looks like a huge salary increase rather than a retirement," she said

Fraser said she never imagined that university administrators, who share the same retirement plan, could benefit.

"It looks like a cozy relationship between people who are very well paid," she said.

The KING 5 Investigators have obtained the records of 52 U.W. administrators who retired after the new law took effect in 2001 and were immediately rehired, usually into the same job.

There was no competition for their job openings until Fraser authored a law in 2003 that now requires vacancies to be advertised and retirees to sit out three months before applying for their old job.

All of the rehired administrators the KING 5 Investigators looked at were are part of an old state retirement plan. After 30 years of contributions, their benefits stop growing. Many saw the new retirement policy as the best way to keep building their nest egg.

But why does the U.W. have far more retire/rehire administrators than any other large university in the state?

Spreading the word at U.W.

A spokesman admits the university spread the word and told administrators about the new retirement law.

"If you're implying that somehow the University shouldn't have made this information available, I think I would disagree with that," said U.W. spokesman Norm Arkans.

"The advantage to the university is that people could get the benefit to which they're entitled for all their years of hard work and we could keep their expertise here," he said.

Sen. Frazier says the University violated the intent of the law by offering it to people who may have had no intention of retiring anytime soon.

"The spirit of the law was to be a tool of last resort, and they apparently said 'if you're eligible, let's do it'," she said.

KING 5 Investigators contacted most of the 52 rehired administrators. Only two agreed to talk on camera, but many made the same point. This problem wouldn't exist if the legislature wrote the law clearly in the first place.

The University of Washington says the practice does not cost taxpayers any more money because it would have to hire someone and pay them a pension benefit as well.

But that argument doesn't fly if you assume that some of these people wouldn't have retired, if the university didn't prompt them.

K through 12 retirees are limited in the number of years they can return to work and they can't earn an additional retirement benefit.

But those rules don't apply at the University of Washington where administrators can join a new retirement plan and earn an additional retirement benefit at the same time they're receiving one from the state.

Fraser says that's unfair to all other state employees.

"I think because of the equities issue, the legislature will be addressing this next session," said Fraser.

THE ADMINISTRATORS

The following is a list provided by the University of Washington of those administrators who retired and were rehired within a matter of months, in most cases to the same job. Their monthly salary is also indicated:

Online at:

Kenneth Anderson, \$13,333	Mary Melanson, \$9,398
John S. Armstrong, \$4,236	Jane Meredith, \$5,585
Coralie Baker, \$3,656	Linda Milgrom, \$4,246
Edward Belcher, (separated)	Bruce F. Miller, \$5,267
Brian Boyle, \$5,000	Kou-Ying Moravan, \$7,824
Michael Bryant, \$11,282	Terry Nyman, \$2,550
Frank Davis, \$7,450	Steven G. Olswang, \$14,490
Steven Domonkos, \$2,210	Carl Osaki, \$3,173
Nancy Dosmann, \$4,295	Michael R. Peterson, \$5,436
Christian J. Eggen, \$9,018	Michael Pingree, \$16,115
Pamela Forbrush, \$3,060	Darcy Pollom, \$5,610
Loretta Geotsch, \$4,580	Carolyn Rasch, 4,424 (separated)
Arlene K. Hamilton, \$4,321	Michael G. Reagan, \$3,037
Dannis Hasko, \$2,550	Helen Remick, \$8,364
John H. Haukaas, \$3,994	William Rogers, \$3,313
Thomas Johnson, (separated)	Sharrie W. Shade, \$6,440
Sandra Kroupa, \$4,501	Richard F. Simmons, \$3,415
Carl Larson, \$2,237	Sharyl G. Smith, \$4,119
Diane Leigh, \$4,590	Daniel Stearns, \$5,021
Laurie B. Levy, \$6,739	Virginia Stimpson, \$4,842
Edward Lightfoot, \$18,165	Bruce Vik, \$6,508
Nancy L. Lin, \$2,802	John Watkins, \$4,292
Daniel Lotz, \$6,042	Gary Whisler, separated
Augustine McCaffery, \$4,539	Anita A. Whitney, \$9,834
Colleen McKay, \$5,520	Susan Williams, \$5,044
Judith M. McPhee, \$5,000	Lois J. Winters, \$5,484

http://www.king5.com/localnews/investigators/stories/NW_052404IN_KINGONLY_tripledippingJK.1f45f04a0.html

October 4, 2004

Chair, Select Committee on Pension Policy

Subject: The Rehire Waiting Period Provision of the draft RCW 41.32.570

The purpose of this letter is to provide input concerning the revision of RCW 41.32.570. Further refinement of the waiting period provision by the SPP is suggested as presented below.

Revised language (see subsection (3) of version "E" of the draft legislation) has provided an exception (one and one-half months) will ensure that retiring teachers that complete their employment contract prior to June 30 will have access to being rehired for the next full school year without penalty. However, the provision still excludes the retiring teachers that can not complete their employment contract prior to June 30. Their accrual date is August 1; and therefore, they would have to accept the 5.5 % per day penalty if employed prior to August 30. It should be noted that most school districts require work days in August in preparation for the start of the school year.

Consideration should be given to including provisions in the recommended legislation that will statutorily allow all retiring teachers to have equal access to the full year rehired process.

Inserting language within subsection (1) & (3), as indicated below, would do this.

Add a new subsection (1)(b) that reads; (1)(b) The one calendar month waiting period specified in subsection (1)(a) of this section may be reduced to one half of a calendar month if the retiring teacher has completed all contracted service in the school year in which retirement occurs.

(3) Any retired administrator who enters service in any public educational institution in Washington state one and one-half calendar months or more after his or her accrual date; or any teacher who enters similar service one-half of a month after the accrual date, and:
(a) Is hired pursuant to a written policy ...

The teacher who is required to complete the school year in July because of contracted service should have the same access to the rehired process as does the retiring TRS 1 teacher who completes contracted service in June. The trade off is that the one half month waiting period would apply to all retiring teachers, but not administrators, and the one half month period would not apply unless the teacher completes the school year.

This is a fairness and equality policy issue. If a provision can be made to accommodate some retiring TRS 1 teachers, than the provision should ensure that all of the TRS 1 teachers who complete their employment contract are also included.

Thank you for taking the time to review this matter which deserves current attention by the SPP.



Bobby J Woolley

October 1, 2004

Members, Select Committee on Pension Policy

Subject: Revision of RCW 41.32.570

The purpose of this letter is to provide written testimony to the SCPP concerning revision of RCW 41.32.570. The issue is the clarification of the term school year. The original language that was adopted in 2001 utilized the term school year to describe the period to which the 1500-hour limitation applies. Version "E" of the 2004 draft legislation (that is being currently considered) continues to use the term school year in reference to the 1500-hour provision.

DRS currently considers that this reference to school year is meant to mean the same twelve-month period as its fiscal year. The result is that WAC 415-112-541, which implements RCW 41.32.570, applies the 1500-hour limitation on the basis of DRS's fiscal year, not the State's school year. This confusion arises because the school year is not defined in WAC 41.32.010 (Definitions), nor in WAC 41.32.570 or the current draft legislation.

It should be further noted that DRS is currently in the process of revising WAC 415-112-541. In doing so, the Department has proposed language that continues to apply the 1500-hour limitation provision on the basis of its fiscal year. This DRS perspective ignores the specific statutory language. Certainly clarifying legislative intent as to the correct twelve-month period is merited; and should not be overlooked during the current SCPP considerations.

It is suggested that clarification should be provided in the SCPP's recommended revision of RCW 41.32.570. This can be done by adding a clarifying reference to the statutory definition of school year as contained in RCW 28A.150.040. This same format has also been utilized in RCW 41.32.013 to describe the school year as an annual period. The following wording could be inserted into the draft rehire legislation as indicated below.

See Draft Version "E", Section 3, RCW 41.32.570 (2003 C295 s 6),
next to last line of subsection (3)(d):

... "after the retiree has rendered service for more
than one thousand five hundred hours in a school year,
as defined in RCW 28A.150.040. The cumulative total" ...

I will be available to provide additional information during the verbal testimony during the SCPP's October 19, 2004 meeting. Thank you for reviewing and acting on this request.



Bobby J Woolley

1 AN ACT Relating to the public employment of retirees from the
2 teachers' retirement system and the public employees' retirement
3 system; amending RCW 41.32.010, 41.32.055, 41.32.570, 41.40.010,
4 41.40.010, and 41.40.037; reenacting and amending RCW 41.40.037;
5 prescribing penalties; providing effective dates; and providing an
6 expiration date.

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

8 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read
9 as follows:

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

12 (1)(a) "Accumulated contributions" for plan 1 members, means the
13 sum of all regular annuity contributions and, except for the purpose of
14 withdrawal at the time of retirement, any amount paid under RCW
15 41.50.165(2) with regular interest thereon.

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

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

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

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

8 (5)(a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance or other benefit provided by this
10 chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

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

17 (7) "Creditable service" means membership service plus prior
18 service for which credit is allowable. This subsection shall apply
19 only to plan 1 members.

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

22 (9) "Disability allowance" means monthly payments during
23 disability. This subsection shall apply only to plan 1 members.

24 (10)(a) "Earnable compensation" for plan 1 members, means:

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

30 (ii) For an employee member of the retirement system teaching in an
31 extended school year program, two consecutive extended school years, as
32 defined by the employer school district, may be used as the annual
33 period for determining earnable compensation in lieu of the two fiscal
34 years.

35 (iii) "Earnable compensation" for plan 1 members also includes the
36 following actual or imputed payments, which are not paid for personal
37 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 (iv) 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 (v) "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;

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

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

11 "Earnable compensation" for plan 2 and plan 3 members also includes
12 the following actual or imputed payments which, except in the case of
13 (b)(ii)(B) of this subsection, are not paid for personal services:

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

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

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

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

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

34 (12) "Fiscal year" means a year which begins July 1st and ends June
35 30th of the following year.

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

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

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

9 (16) "Membership service" means service rendered subsequent to the
10 first day of eligibility of a person to membership in the retirement
11 system: PROVIDED, That where a member is employed by two or more
12 employers the individual shall receive no more than one service credit
13 month during any calendar month in which multiple service is rendered.
14 The provisions of this subsection shall apply only to plan 1 members.

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

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

21 (19) "Prior service" means service rendered prior to the first date
22 of eligibility to membership in the retirement system for which credit
23 is allowable. The provisions of this subsection shall apply only to
24 plan 1 members.

25 (20) "Prior service contributions" means contributions made by a
26 member to secure credit for prior service. The provisions of this
27 subsection shall apply only to plan 1 members.

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

32 (22) "Regular contributions" means the amounts required to be
33 deducted from the compensation of a member and credited to the member's
34 individual account in the member reserve. This subsection shall apply
35 only to plan 1 members.

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

1 (24)(a) "Retirement allowance" for plan 1 members, means monthly
2 payments based on the sum of annuity and pension, or any optional
3 benefits payable in lieu thereof.

4 (b) "Retirement allowance" for plan 2 and plan 3 members, means
5 monthly payments to a retiree or beneficiary as provided in this
6 chapter.

7 (25) "Retirement system" means the Washington state teachers'
8 retirement system.

9 (26)(a) "Service" for plan 1 members means the time during which a
10 member has been employed by an employer for compensation.

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

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

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

21 (b) "Service" for plan 2 and plan 3 members, means periods of
22 employment by a member for one or more employers for which earnable
23 compensation is earned subject to the following conditions:

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

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

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

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

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

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

9 (iv) Any person who is a member of the teachers' retirement system
10 and who is elected or appointed to a state elective position may
11 continue to be a member of the retirement system and continue to
12 receive a service credit month for each of the months in a state
13 elective position by making the required member contributions.

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

18 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
19 sick leave may be creditable as service solely for the purpose of
20 determining eligibility to retire under RCW 41.32.470. For purposes of
21 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
22 to two service credit months. Use of less than forty-five days of sick
23 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

36 (viii) The department shall adopt rules implementing this
37 subsection.

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

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

5 (29) "Teacher" means any person qualified to teach who is engaged
6 by a public school in an instructional, administrative, or supervisory
7 capacity. The term includes state, educational service district, and
8 school district superintendents and their assistants and all employees
9 certificated by the superintendent of public instruction; and in
10 addition thereto any full time school doctor who is employed by a
11 public school and renders service of an instructional or educational
12 nature.

13 (30) "Average final compensation" for plan 2 and plan 3 members,
14 means the member's average earnable compensation of the highest
15 consecutive sixty service credit months prior to such member's
16 retirement, termination, or death. Periods constituting authorized
17 leaves of absence may not be used in the calculation of average final
18 compensation except under RCW 41.32.810(2).

19 (31) "Retiree" means any person who has begun accruing a retirement
20 allowance or other benefit provided by this chapter resulting from
21 service rendered to an employer while a member.

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

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

25 (34) "State elective position" means any position held by any
26 person elected or appointed to statewide office or elected or appointed
27 as a member of the legislature.

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

30 (36) "Substitute teacher" means:

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

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

37 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,

1 through September 1, 1991, means a position which normally requires two
2 or more uninterrupted months of creditable service during September
3 through August of the following year.

4 (b) "Eligible position" for plan 2 and plan 3 on and after
5 September 1, 1991, means a position that, as defined by the employer,
6 normally requires five or more months of at least seventy hours of
7 earnable compensation during September through August of the following
8 year.

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

12 (d) The elected position of the superintendent of public
13 instruction is an eligible position.

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

17 (39) "Plan 2" means the teachers' retirement system, plan 2
18 providing the benefits and funding provisions covering persons who
19 first became members of the system on and after October 1, 1977, and
20 prior to July 1, 1996.

21 (40) "Plan 3" means the teachers' retirement system, plan 3
22 providing the benefits and funding provisions covering persons who
23 first become members of the system on and after July 1, 1996, or who
24 transfer under RCW 41.32.817.

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

29 (42) "Index A" means the index for the year prior to the
30 determination of a postretirement adjustment.

31 (43) "Index B" means the index for the year prior to index A.

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

34 (45) "Adjustment ratio" means the value of index A divided by index
35 B.

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

1 (47) "Member account" or "member's account" for purposes of plan 3
2 means the sum of the contributions and earnings on behalf of the member
3 in the defined contribution portion of plan 3.

4 (48) "Separation from service or employment" occurs when a person
5 has terminated all employment with an employer. Separation from
6 service or employment does not occur, and if claimed by an employer or
7 employee may be a violation of RCW 41.32.055, when an employee and
8 employer have a written or oral agreement to resume employment with the
9 same employer following termination. Mere expressions or inquiries
10 about postretirement employment by an employer or employee that do not
11 constitute a commitment to reemploy the employee after retirement are
12 not an agreement under this subsection.

13 (49) "Employed" or "employee" means a person who is providing
14 services for compensation to an employer, unless the person is free
15 from the employer's direction and control over the performance of work.
16 The department shall adopt rules and interpret this subsection
17 consistent with common law.

18 **Sec. 2.** RCW 41.32.055 and 2003 c 53 s 218 are each amended to read
19 as follows:

20 (1) Any person who shall knowingly make false statements or shall
21 falsify or permit to be falsified any record or records of the
22 retirement system, except under subsection (2) of this section, in any
23 attempt to defraud such system as a result of such act, is guilty of a
24 class B felony punishable according to chapter 9A.20 RCW.

25 (2) Any person who shall knowingly make false statements or shall
26 falsify or permit to be falsified any record or records of the
27 retirement systems related to a member's separation from service and
28 qualification for a retirement allowance under RCW 41.32.480 in any
29 attempt to defraud such system as a result of such act, is guilty of a
30 gross misdemeanor.

31 **Sec. 3.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read
32 as follows:

33 (1)(a) If a retiree enters employment with an employer sooner than
34 one calendar month after his or her accrual date, the retiree's monthly
35 retirement allowance will be reduced by five and one-half percent for

1 every seven hours worked during that month. This reduction will be
2 applied each month until the retiree remains absent from employment
3 with an employer for one full calendar month.

4 (b) The benefit reduction provided in (a) of this subsection will
5 accrue for a maximum of one hundred forty hours per month. Any monthly
6 benefit reduction over one hundred percent will be applied to the
7 benefit the retiree is eligible to receive in subsequent months.

8 (2) Except under subsection (3) of this section, any retired
9 teacher or retired administrator who enters service in any public
10 educational institution in Washington state (~~and who has satisfied the~~
11 ~~break in employment requirement of subsection (1) of this section~~) at
12 least one calendar month after his or her accrual date shall cease to
13 receive pension payments while engaged in such service, after the
14 retiree has rendered service for more than (~~one thousand five~~
15 ~~hundred~~) eight hundred sixty-seven hours in a school year.

16 (3) Any retired teacher or retired administrator who enters service
17 in any public educational institution in Washington state one and one-
18 half calendar months or more after his or her accrual date and:

19 (a) Is hired pursuant to a written policy into a position for which
20 the school board has documented a justifiable need to hire a retiree
21 into the position;

22 (b) Is hired through the established process for the position with
23 the approval of the school board or other highest decision-making
24 authority of the prospective employer;

25 (c) The employer retains records of the procedures followed and the
26 decisions made in hiring the retired teacher or retired administrator
27 and provides those records in the event of an audit; and

28 (d) The employee has not already rendered a cumulative total of
29 more than three thousand one hundred sixty-five hours of service while
30 receiving pension payments beyond an annual threshold of eight hundred
31 sixty-seven hours;

32 shall cease to receive pension payments while engaged in that service
33 after the retiree has rendered service for more than one thousand five
34 hundred hours in a school year. The cumulative total limitations under
35 this subsection apply prospectively after the effective date of this
36 act.

37 (4) When a retired teacher or administrator renders service beyond

1 eight hundred sixty-seven hours, the department shall collect from the
2 employer the applicable employer retirement contributions for the
3 entire duration of the member's employment during that fiscal year.

4 ~~((+3))~~ (5) The department shall collect and provide the state
5 actuary with information relevant to the use of this section for the
6 select committee on pension policy.

7 ~~((+4))~~ (6) The legislature reserves the right to amend or repeal
8 this section in the future and no member or beneficiary has a
9 contractual right to be employed for more than ~~((five hundred twenty-~~
10 ~~five))~~ eight hundred sixty-seven hours per year without a reduction of
11 his or her pension.

12 **Sec. 4.** RCW 41.40.010 and 2003 c 412 s 4 are each amended to read
13 as follows:

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

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

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

20 (3) "State treasurer" means the treasurer of the state of
21 Washington.

22 (4)(a) "Employer" for plan 1 members, means every branch,
23 department, agency, commission, board, and office of the state, any
24 political subdivision or association of political subdivisions of the
25 state admitted into the retirement system, and legal entities
26 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
27 term shall also include any labor guild, association, or organization
28 the membership of a local lodge or division of which is comprised of at
29 least forty percent employees of an employer (other than such labor
30 guild, association, or organization) within this chapter. The term may
31 also include any city of the first class that has its own retirement
32 system.

33 (b) "Employer" for plan 2 and plan 3 members, means every branch,
34 department, agency, commission, board, and office of the state, and any
35 political subdivision and municipal corporation of the state admitted
36 into the retirement system, including public agencies created pursuant

1 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
2 31, 2000, school districts and educational service districts will no
3 longer be employers for the public employees' retirement system plan 2.

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

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

10 (a) Any person who became a member of the system prior to April 1,
11 1949;

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

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

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

24 (e) Any member who has restored all contributions that may have
25 been withdrawn as provided by RCW 41.40.150 and who on the effective
26 date of the individual's retirement becomes entitled to be credited
27 with ten years or more of membership service except that the provisions
28 relating to the minimum amount of retirement allowance for the member
29 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
30 apply to the member;

31 (f) Any member who has been a contributor under the system for two
32 or more years and who has restored all contributions that may have been
33 withdrawn as provided by RCW 41.40.150 and who on the effective date of
34 the individual's retirement has rendered five or more years of service
35 for the state or any political subdivision prior to the time of the
36 admission of the employer into the system; except that the provisions
37 relating to the minimum amount of retirement allowance for the member

1 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
2 apply to the member.

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

5 (8)(a) "Compensation earnable" for plan 1 members, means salaries
6 or wages earned during a payroll period for personal services and where
7 the compensation is not all paid in money, maintenance compensation
8 shall be included upon the basis of the schedules established by the
9 member's employer.

10 (i) "Compensation earnable" for plan 1 members also includes the
11 following actual or imputed payments, which are not paid for personal
12 services:

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

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

26 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
27 72.09.240;

28 (D) Compensation that a member would have received but for a
29 disability occurring in the line of duty only as authorized by RCW
30 41.40.038;

31 (E) Compensation that a member receives due to participation in the
32 leave sharing program only as authorized by RCW 41.04.650 through
33 41.04.670; and

34 (F) Compensation that a member receives for being in standby
35 status. For the purposes of this section, a member is in standby
36 status when not being paid for time actually worked and the employer
37 requires the member to be prepared to report immediately for work, if
38 the need arises, although the need may not arise.

1 (ii) "Compensation earnable" does not include:

2 (A) Remuneration for unused sick leave authorized under RCW
3 41.04.340, 28A.400.210, or 28A.310.490;

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

6 (b) "Compensation earnable" for plan 2 and plan 3 members, means
7 salaries or wages earned by a member during a payroll period for
8 personal services, including overtime payments, and shall include wages
9 and salaries deferred under provisions established pursuant to sections
10 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
11 shall exclude nonmoney maintenance compensation and lump sum or other
12 payments for deferred annual sick leave, unused accumulated vacation,
13 unused accumulated annual leave, or any form of severance pay.

14 "Compensation earnable" for plan 2 and plan 3 members also includes
15 the following actual or imputed payments, which are not paid for
16 personal services:

17 (i) Retroactive payments to an individual by an employer on
18 reinstatement of the employee in a position, or payments by an employer
19 to an individual in lieu of reinstatement in a position which are
20 awarded or granted as the equivalent of the salary or wage which the
21 individual would have earned during a payroll period shall be
22 considered compensation earnable to the extent provided above, and the
23 individual shall receive the equivalent service credit;

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

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

29 (B) Such member's actual compensation earnable received for
30 nonlegislative public employment and legislative service combined. Any
31 additional contributions to the retirement system required because
32 compensation earnable under (b)(ii)(A) of this subsection is greater
33 than compensation earnable under (b)(ii)(B) of this subsection shall be
34 paid by the member for both member and employer contributions;

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

37 (iv) Compensation that a member would have received but for a

1 disability occurring in the line of duty only as authorized by RCW
2 41.40.038;

3 (v) Compensation that a member receives due to participation in the
4 leave sharing program only as authorized by RCW 41.04.650 through
5 41.04.670; and

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

11 (9)(a) "Service" for plan 1 members, except as provided in RCW
12 41.40.088, means periods of employment in an eligible position or
13 positions for one or more employers rendered to any employer for which
14 compensation is paid, and includes time spent in office as an elected
15 or appointed official of an employer. Compensation earnable earned in
16 full time work for seventy hours or more in any given calendar month
17 shall constitute one service credit month except as provided in RCW
18 41.40.088. Compensation earnable earned for less than seventy hours in
19 any calendar month shall constitute one-quarter service credit month of
20 service except as provided in RCW 41.40.088. Only service credit
21 months and one-quarter service credit months shall be counted in the
22 computation of any retirement allowance or other benefit provided for
23 in this chapter. Any fraction of a year of service shall be taken into
24 account in the computation of such retirement allowance or benefits.
25 Time spent in standby status, whether compensated or not, is not
26 service.

27 (i) Service by a state employee officially assigned by the state on
28 a temporary basis to assist another public agency, shall be considered
29 as service as a state employee: PROVIDED, That service to any other
30 public agency shall not be considered service as a state employee if
31 such service has been used to establish benefits in any other public
32 retirement system.

33 (ii) An individual shall receive no more than a total of twelve
34 service credit months of service during any calendar year. If an
35 individual is employed in an eligible position by one or more employers
36 the individual shall receive no more than one service credit month
37 during any calendar month in which multiple service for seventy or more
38 hours is rendered.

1 (iii) A school district employee may count up to forty-five days of
2 sick leave as creditable service solely for the purpose of determining
3 eligibility to retire under RCW 41.40.180 as authorized by RCW
4 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
5 28A.400.300 is equal to two service credit months. Use of less than
6 forty-five days of sick leave is creditable as allowed under this
7 subsection as follows:

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

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

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

13 (b) "Service" for plan 2 and plan 3 members, means periods of
14 employment by a member in an eligible position or positions for one or
15 more employers for which compensation earnable is paid. Compensation
16 earnable earned for ninety or more hours in any calendar month shall
17 constitute one service credit month except as provided in RCW
18 41.40.088. Compensation earnable earned for at least seventy hours but
19 less than ninety hours in any calendar month shall constitute one-half
20 service credit month of service. Compensation earnable earned for less
21 than seventy hours in any calendar month shall constitute one-quarter
22 service credit month of service. Time spent in standby status, whether
23 compensated or not, is not service.

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

26 (i) Service in any state elective position shall be deemed to be
27 full time service, except that persons serving in state elective
28 positions who are members of the Washington school employees'
29 retirement system, teachers' retirement system, or law enforcement
30 officers' and fire fighters' retirement system at the time of election
31 or appointment to such position may elect to continue membership in the
32 Washington school employees' retirement system, teachers' retirement
33 system, or law enforcement officers' and fire fighters' retirement
34 system.

35 (ii) A member shall receive a total of not more than twelve service
36 credit months of service for such calendar year. If an individual is
37 employed in an eligible position by one or more employers the

1 individual shall receive no more than one service credit month during
2 any calendar month in which multiple service for ninety or more hours
3 is rendered.

4 (iii) Up to forty-five days of sick leave may be creditable as
5 service solely for the purpose of determining eligibility to retire
6 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
7 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
8 to two service credit months. Use of less than forty-five days of sick
9 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

24 (13) "Membership service" means:

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

26 (b) All service after October 1, 1947, to any employer prior to the
27 time of its admission into the retirement system for which member and
28 employer contributions, plus interest as required by RCW 41.50.125,
29 have been paid under RCW 41.40.056 or 41.40.057;

30 (c) Service not to exceed six consecutive months of probationary
31 service rendered after April 1, 1949, and prior to becoming a member,
32 in the case of any member, upon payment in full by such member of the
33 total amount of the employer's contribution to the retirement fund
34 which would have been required under the law in effect when such
35 probationary service was rendered if the member had been a member
36 during such period, except that the amount of the employer's
37 contribution shall be calculated by the director based on the first
38 month's compensation earnable as a member;

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

8 (14)(a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance, pension or other benefit provided by
10 this chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

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

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

21 (17)(a) "Average final compensation" for plan 1 members, means the
22 annual average of the greatest compensation earnable by a member during
23 any consecutive two year period of service credit months for which
24 service credit is allowed; or if the member has less than two years of
25 service credit months then the annual average compensation earnable
26 during the total years of service for which service credit is allowed.

27 (b) "Average final compensation" for plan 2 and plan 3 members,
28 means the member's average compensation earnable of the highest
29 consecutive sixty months of service credit months prior to such
30 member's retirement, termination, or death. Periods constituting
31 authorized leaves of absence may not be used in the calculation of
32 average final compensation except under RCW 41.40.710(2).

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

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

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

4 (21) "Retirement allowance" means the sum of the annuity and the
5 pension.

6 (22) "Employee" or "employed" means a person who is providing
7 services for compensation to an employer, unless the person is free
8 from the employer's direction and control over the performance of work.
9 The department shall adopt rules and interpret this subsection
10 consistent with common law.

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

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

16 (25) "Eligible position" means:

17 (a) Any position that, as defined by the employer, normally
18 requires five or more months of service a year for which regular
19 compensation for at least seventy hours is earned by the occupant
20 thereof. For purposes of this chapter an employer shall not define
21 "position" in such a manner that an employee's monthly work for that
22 employer is divided into more than one position;

23 (b) Any position occupied by an elected official or person
24 appointed directly by the governor, or appointed by the chief justice
25 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
26 compensation is paid.

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

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

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

36 (29) "Retiree" means any person who has begun accruing a retirement
37 allowance or other benefit provided by this chapter resulting from
38 service rendered to an employer while a member.

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

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

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

7 (33) "Plan 1" means the public employees' retirement system, plan
8 1 providing the benefits and funding provisions covering persons who
9 first became members of the system prior to October 1, 1977.

10 (34) "Plan 2" means the public employees' retirement system, plan
11 2 providing the benefits and funding provisions covering persons who
12 first became members of the system on and after October 1, 1977, and
13 are not included in plan 3.

14 (35) "Plan 3" means the public employees' retirement system, plan
15 3 providing the benefits and funding provisions covering persons who:
16 (a) First become a member on or after:
17 (i) March 1, 2002, and are employed by a state agency or institute
18 of higher education and who did not choose to enter plan 2; or
19 (ii) September 1, 2002, and are employed by other than a state
20 agency or institute of higher education and who did not choose to enter
21 plan 2; or
22 (b) Transferred to plan 3 under RCW 41.40.795.

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

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

29 (38) "Index B" means the index for the year prior to index A.

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

32 (40) "Adjustment ratio" means the value of index A divided by index
33 B.

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

37 (42) "Separation from service" occurs when a person has terminated
38 all employment with an employer. Separation from service or employment

1 does not occur, and if claimed by an employer or employee may be a
2 violation of RCW 41.40.055, when an employee and employer have a
3 written or oral agreement to resume employment with the same employer
4 following termination. Mere expressions or inquiries about
5 postretirement employment by an employer or employee that do not
6 constitute a commitment to reemploy the employee after retirement are
7 not an agreement under this subsection.

8 (43) "Member account" or "member's account" for purposes of plan 3
9 means the sum of the contributions and earnings on behalf of the member
10 in the defined contribution portion of plan 3.

11 **Sec. 5.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to read
12 as follows:

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

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

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

19 (3) "State treasurer" means the treasurer of the state of
20 Washington.

21 (4)(a) "Employer" for plan 1 members, means every branch,
22 department, agency, commission, board, and office of the state, any
23 political subdivision or association of political subdivisions of the
24 state admitted into the retirement system, and legal entities
25 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
26 term shall also include any labor guild, association, or organization
27 the membership of a local lodge or division of which is comprised of at
28 least forty percent employees of an employer (other than such labor
29 guild, association, or organization) within this chapter. The term may
30 also include any city of the first class that has its own retirement
31 system.

32 (b) "Employer" for plan 2 and plan 3 members, means every branch,
33 department, agency, commission, board, and office of the state, and any
34 political subdivision and municipal corporation of the state admitted
35 into the retirement system, including public agencies created pursuant
36 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August

1 31, 2000, school districts and educational service districts will no
2 longer be employers for the public employees' retirement system plan 2.

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

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

9 (a) Any person who became a member of the system prior to April 1,
10 1949;

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

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

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

23 (e) Any member who has restored all contributions that may have
24 been withdrawn as provided by RCW 41.40.150 and who on the effective
25 date of the individual's retirement becomes entitled to be credited
26 with ten years or more of membership service except that the provisions
27 relating to the minimum amount of retirement allowance for the member
28 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
29 apply to the member;

30 (f) Any member who has been a contributor under the system for two
31 or more years and who has restored all contributions that may have been
32 withdrawn as provided by RCW 41.40.150 and who on the effective date of
33 the individual's retirement has rendered five or more years of service
34 for the state or any political subdivision prior to the time of the
35 admission of the employer into the system; except that the provisions
36 relating to the minimum amount of retirement allowance for the member
37 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
38 apply to the member.

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

3 (8)(a) "Compensation earnable" for plan 1 members, means salaries
4 or wages earned during a payroll period for personal services and where
5 the compensation is not all paid in money, maintenance compensation
6 shall be included upon the basis of the schedules established by the
7 member's employer.

8 (i) "Compensation earnable" for plan 1 members also includes the
9 following actual or imputed payments, which are not paid for personal
10 services:

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

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

24 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
25 72.09.240;

26 (D) Compensation that a member would have received but for a
27 disability occurring in the line of duty only as authorized by RCW
28 41.40.038;

29 (E) Compensation that a member receives due to participation in the
30 leave sharing program only as authorized by RCW 41.04.650 through
31 41.04.670; and

32 (F) Compensation that a member receives for being in standby
33 status. For the purposes of this section, a member is in standby
34 status when not being paid for time actually worked and the employer
35 requires the member to be prepared to report immediately for work, if
36 the need arises, although the need may not arise.

37 (ii) "Compensation earnable" does not include:

1 (A) Remuneration for unused sick leave authorized under RCW
2 41.04.340, 28A.400.210, or 28A.310.490;

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

5 (b) "Compensation earnable" for plan 2 and plan 3 members, means
6 salaries or wages earned by a member during a payroll period for
7 personal services, including overtime payments, and shall include wages
8 and salaries deferred under provisions established pursuant to sections
9 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
10 shall exclude nonmoney maintenance compensation and lump sum or other
11 payments for deferred annual sick leave, unused accumulated vacation,
12 unused accumulated annual leave, or any form of severance pay.

13 "Compensation earnable" for plan 2 and plan 3 members also includes
14 the following actual or imputed payments, which are not paid for
15 personal services:

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

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

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

28 (B) Such member's actual compensation earnable received for
29 nonlegislative public employment and legislative service combined. Any
30 additional contributions to the retirement system required because
31 compensation earnable under (b)(ii)(A) of this subsection is greater
32 than compensation earnable under (b)(ii)(B) of this subsection shall be
33 paid by the member for both member and employer contributions;

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

36 (iv) Compensation that a member would have received but for a
37 disability occurring in the line of duty only as authorized by RCW
38 41.40.038;

1 (v) Compensation that a member receives due to participation in the
2 leave sharing program only as authorized by RCW 41.04.650 through
3 41.04.670; and

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

9 (9)(a) "Service" for plan 1 members, except as provided in RCW
10 41.40.088, means periods of employment in an eligible position or
11 positions for one or more employers rendered to any employer for which
12 compensation is paid, and includes time spent in office as an elected
13 or appointed official of an employer. Compensation earnable earned in
14 full time work for seventy hours or more in any given calendar month
15 shall constitute one service credit month except as provided in RCW
16 41.40.088. Compensation earnable earned for less than seventy hours in
17 any calendar month shall constitute one-quarter service credit month of
18 service except as provided in RCW 41.40.088. Only service credit
19 months and one-quarter service credit months shall be counted in the
20 computation of any retirement allowance or other benefit provided for
21 in this chapter. Any fraction of a year of service shall be taken into
22 account in the computation of such retirement allowance or benefits.
23 Time spent in standby status, whether compensated or not, is not
24 service.

25 (i) Service by a state employee officially assigned by the state on
26 a temporary basis to assist another public agency, shall be considered
27 as service as a state employee: PROVIDED, That service to any other
28 public agency shall not be considered service as a state employee if
29 such service has been used to establish benefits in any other public
30 retirement system.

31 (ii) An individual shall receive no more than a total of twelve
32 service credit months of service during any calendar year. If an
33 individual is employed in an eligible position by one or more employers
34 the individual shall receive no more than one service credit month
35 during any calendar month in which multiple service for seventy or more
36 hours is rendered.

37 (iii) A school district employee may count up to forty-five days of
38 sick leave as creditable service solely for the purpose of determining

1 eligibility to retire under RCW 41.40.180 as authorized by RCW
2 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
3 28A.400.300 is equal to two service credit months. Use of less than
4 forty-five days of sick leave is creditable as allowed under this
5 subsection as follows:

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

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

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

11 (b) "Service" for plan 2 and plan 3 members, means periods of
12 employment by a member in an eligible position or positions for one or
13 more employers for which compensation earnable is paid. Compensation
14 earnable earned for ninety or more hours in any calendar month shall
15 constitute one service credit month except as provided in RCW
16 41.40.088. Compensation earnable earned for at least seventy hours but
17 less than ninety hours in any calendar month shall constitute one-half
18 service credit month of service. Compensation earnable earned for less
19 than seventy hours in any calendar month shall constitute one-quarter
20 service credit month of service. Time spent in standby status, whether
21 compensated or not, is not service.

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

24 (i) Service in any state elective position shall be deemed to be
25 full time service, except that persons serving in state elective
26 positions who are members of the Washington school employees'
27 retirement system, teachers' retirement system, public safety
28 employees' retirement system, or law enforcement officers' and fire
29 fighters' retirement system at the time of election or appointment to
30 such position may elect to continue membership in the Washington school
31 employees' retirement system, teachers' retirement system, public
32 safety employees' retirement system, or law enforcement officers' and
33 fire fighters' retirement system.

34 (ii) A member shall receive a total of not more than twelve service
35 credit months of service for such calendar year. If an individual is
36 employed in an eligible position by one or more employers the
37 individual shall receive no more than one service credit month during

1 any calendar month in which multiple service for ninety or more hours
2 is rendered.

3 (iii) Up to forty-five days of sick leave may be creditable as
4 service solely for the purpose of determining eligibility to retire
5 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
6 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
7 to two service credit months. Use of less than forty-five days of sick
8 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

23 (13) "Membership service" means:

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

25 (b) All service after October 1, 1947, to any employer prior to the
26 time of its admission into the retirement system for which member and
27 employer contributions, plus interest as required by RCW 41.50.125,
28 have been paid under RCW 41.40.056 or 41.40.057;

29 (c) Service not to exceed six consecutive months of probationary
30 service rendered after April 1, 1949, and prior to becoming a member,
31 in the case of any member, upon payment in full by such member of the
32 total amount of the employer's contribution to the retirement fund
33 which would have been required under the law in effect when such
34 probationary service was rendered if the member had been a member
35 during such period, except that the amount of the employer's
36 contribution shall be calculated by the director based on the first
37 month's compensation earnable as a member;

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

8 (14)(a) "Beneficiary" for plan 1 members, means any person in
9 receipt of a retirement allowance, pension or other benefit provided by
10 this chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
12 in receipt of a retirement allowance or other benefit provided by this
13 chapter resulting from service rendered to an employer by another
14 person.

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

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

21 (17)(a) "Average final compensation" for plan 1 members, means the
22 annual average of the greatest compensation earnable by a member during
23 any consecutive two year period of service credit months for which
24 service credit is allowed; or if the member has less than two years of
25 service credit months then the annual average compensation earnable
26 during the total years of service for which service credit is allowed.

27 (b) "Average final compensation" for plan 2 and plan 3 members,
28 means the member's average compensation earnable of the highest
29 consecutive sixty months of service credit months prior to such
30 member's retirement, termination, or death. Periods constituting
31 authorized leaves of absence may not be used in the calculation of
32 average final compensation except under RCW 41.40.710(2).

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

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

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

4 (21) "Retirement allowance" means the sum of the annuity and the
5 pension.

6 (22) "Employee" or "employed" means a person who is providing
7 services for compensation to an employer, unless the person is free
8 from the employer's direction and control over the performance of work.
9 The department shall adopt rules and interpret this subsection
10 consistent with common law.

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

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

16 (25) "Eligible position" means:

17 (a) Any position that, as defined by the employer, normally
18 requires five or more months of service a year for which regular
19 compensation for at least seventy hours is earned by the occupant
20 thereof. For purposes of this chapter an employer shall not define
21 "position" in such a manner that an employee's monthly work for that
22 employer is divided into more than one position;

23 (b) Any position occupied by an elected official or person
24 appointed directly by the governor, or appointed by the chief justice
25 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
26 compensation is paid.

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

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

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

36 (29) "Retiree" means any person who has begun accruing a retirement
37 allowance or other benefit provided by this chapter resulting from
38 service rendered to an employer while a member.

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

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

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

7 (33) "Plan 1" means the public employees' retirement system, plan
8 1 providing the benefits and funding provisions covering persons who
9 first became members of the system prior to October 1, 1977.

10 (34) "Plan 2" means the public employees' retirement system, plan
11 2 providing the benefits and funding provisions covering persons who
12 first became members of the system on and after October 1, 1977, and
13 are not included in plan 3.

14 (35) "Plan 3" means the public employees' retirement system, plan
15 3 providing the benefits and funding provisions covering persons who:
16 (a) First become a member on or after:
17 (i) March 1, 2002, and are employed by a state agency or institute
18 of higher education and who did not choose to enter plan 2; or
19 (ii) September 1, 2002, and are employed by other than a state
20 agency or institute of higher education and who did not choose to enter
21 plan 2; or
22 (b) Transferred to plan 3 under RCW 41.40.795.

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

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

29 (38) "Index B" means the index for the year prior to index A.

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

32 (40) "Adjustment ratio" means the value of index A divided by index
33 B.

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

37 (42) "Separation from service" occurs when a person has terminated
38 all employment with an employer. Separation from service or employment

1 does not occur, and if claimed by an employer or employee may be a
2 violation of RCW 41.40.055, when an employee and employer have a
3 written or oral agreement to resume employment with the same employer
4 following termination. Mere expressions or inquiries about
5 postretirement employment by an employer or employee that do not
6 constitute a commitment to reemploy the employee after retirement are
7 not an agreement under this subsection.

8 (43) "Member account" or "member's account" for purposes of plan 3
9 means the sum of the contributions and earnings on behalf of the member
10 in the defined contribution portion of plan 3.

11 **Sec. 6.** RCW 41.40.037 and 2003 c 412 s 5 and 2003 c 295 s 7 are
12 each reenacted and amended to read as follows:

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

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

23 (2)(a) Except as provided in (b) of this subsection, a retiree from
24 plan 1 who enters employment with an employer at least one calendar
25 month after his or her accrual date may continue to receive pension
26 payments while engaged in such service for up to eight hundred sixty-
27 seven hours of service in a calendar year without a reduction of
28 pension.

29 (b) A retiree from plan 1 who enters employment with an employer at
30 least three calendar months after his or her accrual date and:

31 (i) Is hired pursuant to a written policy into a position for which
32 the employer has documented a justifiable need to hire a retiree into
33 the position;

34 (ii) Is hired through the established process for the position with
35 the approval of: A school board for a school district; the chief
36 executive officer of a state agency employer; the secretary of the
37 senate for the senate; the chief clerk of the house of representatives

1 for the house of representatives; the secretary of the senate and the
2 chief clerk of the house of representatives jointly for the joint
3 legislative audit and review committee, the legislative transportation
4 committee, the joint committee on pension policy, the legislative
5 evaluation and accountability program, the legislative systems
6 committee, and the statute law committee; or according to rules adopted
7 for the rehiring of retired plan 1 members for a local government
8 employer;

9 (iii) The employer retains records of the procedures followed and
10 decisions made in hiring the retiree, and provides those records in the
11 event of an audit; and

12 (iv) The employee has not already rendered a cumulative total of
13 more than (~~one thousand nine hundred~~) three thousand one hundred
14 sixty-five hours of service while in receipt of pension payments beyond
15 an annual threshold of eight hundred sixty-seven hours;

16 shall cease to receive pension payments while engaged in that service
17 after the retiree has rendered service for more than one thousand five
18 hundred hours in a calendar year. The (~~one thousand nine hundred~~
19 ~~hour~~) cumulative total limitations under this subsection (~~applies~~)
20 apply prospectively (~~to those retiring after July 27, 2003, and~~
21 ~~retroactively to those who retired prior to July 27, 2003, and shall be~~
22 ~~calculated from the date of retirement~~) after the effective date of
23 this act. Hours beyond the annual threshold of eight hundred sixty-
24 seven that have already been accrued by reemployed retirees prior to
25 the effective date of this act shall not count toward the three
26 thousand one hundred sixty-five hour cumulative total.

27 (c) When a plan 1 member renders service beyond eight hundred
28 sixty-seven hours, the department shall collect from the employer the
29 applicable employer retirement contributions for the entire duration of
30 the member's employment during that calendar year.

31 (d) A retiree from plan 2 or plan 3 who has satisfied the break in
32 employment requirement of subsection (1) of this section may work up to
33 eight hundred sixty-seven hours in a calendar year in an eligible
34 position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as
35 a fire fighter or law enforcement officer, as defined in RCW 41.26.030,
36 without suspension of his or her benefit.

37 (3) If the retiree opts to reestablish membership under RCW
38 41.40.023(12), he or she terminates his or her retirement status and

1 becomes a member. Retirement benefits shall not accrue during the
2 period of membership and the individual shall make contributions and
3 receive membership credit. Such a member shall have the right to again
4 retire if eligible in accordance with RCW 41.40.180. However, if the
5 right to retire is exercised to become effective before the member has
6 rendered two uninterrupted years of service, the retirement formula and
7 survivor options the member had at the time of the member's previous
8 retirement shall be reinstated.

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

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

16 **Sec. 7.** RCW 41.40.037 and 2004 c 242 s 63 are each amended to read
17 as follows:

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

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

28 (2)(a) Except as provided in (b) of this subsection, a retiree from
29 plan 1 who enters employment with an employer at least one calendar
30 month after his or her accrual date may continue to receive pension
31 payments while engaged in such service for up to eight hundred sixty-
32 seven hours of service in a calendar year without a reduction of
33 pension.

34 (b) A retiree from plan 1 who enters employment with an employer at
35 least three calendar months after his or her accrual date and:

36 (i) Is hired into a position for which the employer has documented
37 a justifiable need to hire a retiree into the position;

1 (ii) Is hired through the established process for the position with
2 the approval of: A school board for a school district; the chief
3 executive officer of a state agency employer; the secretary of the
4 senate for the senate; the chief clerk of the house of representatives
5 for the house of representatives; the secretary of the senate and the
6 chief clerk of the house of representatives jointly for the joint
7 legislative audit and review committee, the legislative transportation
8 committee, the joint committee on pension policy, the legislative
9 evaluation and accountability program, the legislative systems
10 committee, and the statute law committee; or according to rules adopted
11 for the rehiring of retired plan 1 members for a local government
12 employer;

13 (iii) The employer retains records of the procedures followed and
14 decisions made in hiring the retiree, and provides those records in the
15 event of an audit; and

16 (iv) The employee has not already rendered a cumulative total of
17 more than (~~one thousand nine hundred~~) three thousand one hundred
18 sixty-five hours of service while in receipt of pension payments beyond
19 an annual threshold of eight hundred sixty-seven hours;
20 shall cease to receive pension payments while engaged in that service
21 after the retiree has rendered service for more than one thousand five
22 hundred hours in a calendar year. The (~~one thousand nine hundred~~
23 ~~hour~~) cumulative total limitations under this subsection (~~applies~~)
24 apply prospectively (~~to those retiring after July 27, 2003, and~~
25 ~~retroactively to those who retired prior to July 27, 2003, and shall be~~
26 ~~calculated from the date of retirement~~) after the effective date of
27 this act. Hours beyond the annual threshold of eight hundred sixty-
28 seven that have already been accrued by reemployed retirees prior to
29 the effective date of this act shall not count toward the three
30 thousand one hundred sixty-five hour cumulative total.

31 (c) When a plan 1 member renders service beyond eight hundred
32 sixty-seven hours, the department shall collect from the employer the
33 applicable employer retirement contributions for the entire duration of
34 the member's employment during that calendar year.

35 (d) A retiree from plan 2 or plan 3 who has satisfied the break in
36 employment requirement of subsection (1) of this section may work up to
37 eight hundred sixty-seven hours in a calendar year in an eligible

1 position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or
2 41.40.010, or as a fire fighter or law enforcement officer, as defined
3 in RCW 41.26.030, without suspension of his or her benefit.

4 (3) If the retiree opts to reestablish membership under RCW
5 41.40.023(12), he or she terminates his or her retirement status and
6 becomes a member. Retirement benefits shall not accrue during the
7 period of membership and the individual shall make contributions and
8 receive membership credit. Such a member shall have the right to again
9 retire if eligible in accordance with RCW 41.40.180. However, if the
10 right to retire is exercised to become effective before the member has
11 rendered two uninterrupted years of service, the retirement formula and
12 survivor options the member had at the time of the member's previous
13 retirement shall be reinstated.

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

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

21 NEW SECTION. **Sec. 8.** Sections 1 through 4 and 6 of this act take
22 effect January 1, 2006.

23 NEW SECTION. **Sec. 9.** Sections 5 and 7 of this act take effect
24 July 1, 2006.

25 NEW SECTION. **Sec. 10.** Sections 4 and 6 of this act expire July 1,
26 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY: Office of the State Actuary	CODE: 035	DATE: 10/5/04	BILL NUMBER: Z-0157/05 / Z-0141/05
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SUMMARY OF BILL:

This bill impacts the Teachers' Retirement System (TRS) Plan 1 and the Public Employees' Retirement System (PERS) Plan 1. It adds the same general hiring qualifications to TRS 1 as currently exist for PERS 1 retirees who seek to work in excess of 867 hours annually. Those include a prohibition of any written or verbal agreement to return to work with the same employer. Under the legislation, a TRS 1 separation from service that is pursuant to such an agreement would be nullified and would constitute a potential misdemeanor violation of the statute entitled "Penalties for False Statements." Further, TRS 1 employers are subject to certain record-keeping requirements when they hire these retirees, including documentation of the need to hire the retirees and records of the actual hiring process. The language for these requirements largely tracks that of the existing PERS 1 statute.

The proposed draft also requires both PERS and TRS Plan 1 employers to hire retirees pursuant to a written policy. In the proposed legislation, the length of separation requirement (between retirement and re-employment) for working beyond 867 hours is specified for TRS 1 as 45 days (rather than the 90 days already in effect for PERS 1.) Also, this bill creates a new cumulative limit of 3165 hours worked over 867 for both plans (from no cumulative total limit in TRS 1 and from a 1900-hour cumulative total limit in PERS 1). The new cumulative limit starts anew as of the effective date of the bill, which is January 1, 2006. Finally, the contractual right to post-retirement employment in TRS 1 is expanded from 525 hours per year to 867 hours.

Effective Date: January 1, 2006.

CURRENT SITUATION:

Generally, all retired members of PERS and TRS have a **waiting period** before they may return to employment. In most instances, the waiting period is thirty (30) days. If retirees return to work prior to completion of the waiting period, their benefits are effectively suspended due to mandatory reductions in the benefit amounts (5.5% for every eight hours worked during that month to a maximum of 160 hours in PERS, and 5.5% for every seven hours worked during the month to a maximum of 140 hours in TRS).

The PERS and TRS systems allow retirees to return to employment, but there are limits on the number of hours that may be worked without suspension of retirement benefits. The **hour limits** start over with each new calendar year and vary among the plans. For the Plans 1, retirees may work up to a limit of 1,500 hours without suspension of their pension benefits, however they are subject to limits on their **contractual** rights to return to work of 5 months in PERS 1 and 525 hours in TRS 1.

PERS 1 retirees are subject to more specific rules affecting waiting periods and hour limits. Those seeking to return to work for 1,500 hours are subject to a 90-day waiting period. Also, these employees are subject to a 1900-hour cumulative or "lifetime" limit on the number of hours that may be worked beyond 867 hours annually. Once the 1,900 hour limit is reached, PERS 1 retirees may work up to 867 hours in subsequent calendar years before their benefits are suspended. PERS 1 retirees are also subject to an amended definition of "separation from service" so that any written or verbal agreement to return to work with the same employer nullifies the separation and creates a potential violation of the statute entitled "Penalties for False Statements," RCW 41.40.55. Further, employers are subject to certain record-keeping requirements when they hire these retirees to work for 1,500 hours, including documentation of the need to hire the retirees and records of the actual hiring process.

FISCAL IMPACT:

The fiscal impact of this proposal to the affected retirement systems is indeterminate. During the 2003 interim, the Select Committee on Pension Policy studied this issue and recommended that a proposal to charge individual employers for the cost of the expansion of the post-retirement employment provisions be deferred until further data and study is available. Further data and study is not available at this time. Therefore, the cost of the original legislation and any modifications to that legislation is indeterminate at this time.

Background

This proposal is an outgrowth of the Age 65 study and was presented as one of the Age 65 Retirement Options. A rule of 90 would provide unreduced retirement benefits to vested members of the TRS, SERS and PERS Plans 2/3 for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more.

Committee Activity

Presentations:

October 19, 2004 - Full Committee
November 9, 2004 - Executive Committee
December 7, 2004 - Full Committee

Subgroup Activity:

October 14, 2004 - Subgroup meeting
November 5, 2004 - Subgroup meeting

Proposal:

December 7, 2004 - Full Committee

Recommendation to Legislature

A "modified" (or more restrictive) rule of 90 was recommended as part of the Plan 3 Gain-Sharing proposal. See the specific tab entitled Plan 3 Gain-Sharing.

Staff Contact

Laura Harper, Senior Research Analyst/Legal
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Select Committee on Pension Policy

Rule of 90 Proposal

(November 29, 2004)

Issue

The issue before the full SCPP is whether to propose legislation to provide unreduced retirement to vested members of the TRS, SERS and PERS Plans 2/3 for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more.

Staff

Laura Harper, Senior Research Analyst/Legal
(360) 586-7616

Members Impacted

It is estimated that the following members would be impacted by this bill: 82,259 out of 117,262 active members in PERS 2; 13,497 out of 17,548 active members in PERS 3; 5,209 out of 7,637 active members in TRS 2; 37,310 out of 47,263 active members in TRS 3; 12,455 out of 21,504 active members in SERS 2; and 16,167 out of 27,710 active members in SRS 3.

Current Situation

Currently, in the PERS, TRS and SERS Plans 2/3, a vested member is eligible for either normal, early or alternate early retirement. The early retirement provisions involve reduced benefits. Normal retirement is a full, unreduced benefit. In the Plans 2 normal retirement is currently available to any member who is at least age sixty-five and who has completed five service credit years. In the Plans 3 normal retirement (for the defined benefit portion of the plan) is currently available to any member who is at least age 65 and who has completed ten service credit years, or who has completed five service years including twelve service credit

months after attaining age 54. This bill would provide an unreduced retirement benefit to any vested Plan 2/3 member who satisfies the rule of 90.

Proposal

A “rule of 90” would allow vested members to receive an unreduced retirement benefit when they reach any combination of age and service that totals ninety. For example, an employee who became a plan member at age 20 could retire at age 55 with 35 years of service. Similarly, a plan member who began working at age 30 could retire at age 60 with a full benefit. Those who become plan members at age 40 or later would not benefit from the rule of 90, as there would be no combination of age and service that could result in a full retirement benefit earlier than age 65, the current normal retirement age for the Plans 2/3.

The following table illustrates the operation of a rule of 90 for any retirement system:

Illustration of Rule of 90			
Age of Hire	Years of Service	Retire Age	Age Plus Years of Service
20	35	55	90
22	34	56	90
24	33	57	90
26	32	58	90
28	31	59	90
30	30	60	90
32	29	61	90
24	28	62	90
36	27	63	90
38	26	64	90
40	25	65	90

Members of the TRS would benefit more from a Rule of 90 than members of PERS or SERS because they have lower entry ages and longer service years.

Relative Value of Rule of 90 Among Retirement Systems				
System	Average Age	Average Service	Average Age at Hire	"Rule of 90" Age
TRS	44	11	33	61.5
PERS	45	10	35	62.5
SERS	46	7	39	64.5

Policy Analysis

A rule of 90 would move toward a more career-based retirement benefit for the Plans 2/3 in that younger workers would be rewarded for long-term public service by receiving an unreduced retirement benefit prior to the time at which they would normally be expected to leave the workforce. The cost of a life-time benefit for such individuals would be higher because the benefit would be paid over a longer period of time.

It should be noted that the SSCP is also considering a modified rule of 90 as part of a Plan 3 gain-sharing trade-off proposal. This modified rule of 90 would apply only to vested members who are at least age sixty. Under the modified rule, the unreduced retirement benefit would be available only for service credit earned after the effective date of the bill (July 1, 2007). The portion of the benefit attributed to service credit earned before the effective date of the bill would be subject to the usual required reductions for early retirement. The modifications to the rule of 90 found in the Plan 3 gain-sharing trade-off proposal have been included to lower the cost of the rule of 90. Also, the minimum age of 60 creates less departure from the age-based designs of the Plans 2/3.

For additional policy analysis, see the Age 65 Retirement Options report dated October 12, 2004 and the Age 65 Retirement Report dated September 1, 2004.

Procedural Posture/Executive Committee Recommendation

As the result of the September 7, 2004 briefing of the Select Committee on Pension Policy (SCPP) on the issue of Age 65 Retirement, an “age 65 subgroup” was formed to make specific recommendations to the SCPP. Last month the Age 65 subgroup recommended to the Executive Committee that the SCPP consider legislation to provide unreduced retirement according to a “Rule of 90” for members of the TRS, SERS and PERS Plans 2/3. On November 9, 2004, the Executive Committee directed staff to prepare a bill draft and fiscal note on the Rule of 90 proposal for the December meeting.

Bill (Draft)

The bill draft for this proposal is attached.

Fiscal Note (Draft)

The fiscal note for this proposal is attached.

1 AN ACT Relating to providing unreduced retirement benefits in plans
2 2 and 3 of the public employees' retirement system, the teachers'
3 retirement system, and the school employees' retirement system;
4 amending RCW 41.40.630, 41.40.820, 41.32.765, 41.32.875, 41.35.420, and
5 41.35.680; and providing an effective date.

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

7 **Sec. 1.** RCW 41.40.630 and 2000 c 247 s 901 are each amended to
8 read as follows:

9 (1) NORMAL RETIREMENT. Any member with at least five service
10 credit years who has attained at least age sixty-five shall be eligible
11 to retire and to receive a retirement allowance computed according to
12 the provisions of RCW 41.40.620.

13 (2) UNREDUCED RETIREMENT. Any member who has completed at least
14 five service credit years and for whom the sum of the number of years
15 of the member's age and the number of years of the member's service
16 credit equals ninety or more shall be eligible to retire and receive a
17 retirement allowance computed according to the provisions of RCW
18 41.40.620.

1 (3) EARLY RETIREMENT. Any member who has completed at least twenty
2 service credit years and has attained age fifty-five shall be eligible
3 to retire and to receive a retirement allowance computed according to
4 the provisions of RCW 41.40.620, except that a member retiring pursuant
5 to this subsection shall have the retirement allowance actuarially
6 reduced to reflect the difference in the number of years between age at
7 retirement and the attainment of age sixty-five.

8 (~~(3)~~) (4) ALTERNATE EARLY RETIREMENT. Any member who has
9 completed at least thirty service credit years and has attained age
10 fifty-five shall be eligible to retire and to receive a retirement
11 allowance computed according to the provisions of RCW 41.40.620, except
12 that a member retiring pursuant to this subsection shall have the
13 retirement allowance reduced by three percent per year to reflect the
14 difference in the number of years between age at retirement and the
15 attainment of age sixty-five.

16 **Sec. 2.** RCW 41.40.820 and 2000 c 247 s 309 are each amended to
17 read as follows:

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

20 (a) Completed ten service credit years; or

21 (b) Completed five service credit years, including twelve service
22 credit months after attaining age fifty-four; or

23 (c) Completed five service credit years by the transfer payment
24 date specified in RCW 41.40.795, under the public employees' retirement
25 system plan 2 and who transferred to plan 3 under RCW 41.40.795;
26 shall be eligible to retire and to receive a retirement allowance
27 computed according to the provisions of RCW 41.40.790.

28 (2) UNREDUCED RETIREMENT. Any member who has completed the number
29 of service credit years required in subsection (1) of this section and
30 for whom the sum of the number of years of the member's age and the
31 number of years of the member's service credit equals ninety or more
32 shall be eligible to retire and receive a retirement allowance computed
33 according to the provisions of RCW 41.40.790.

34 (3) EARLY RETIREMENT. Any member who has attained at least age
35 fifty-five and has completed at least ten years of service shall be
36 eligible to retire and to receive a retirement allowance computed
37 according to the provisions of RCW 41.40.790, except that a member

1 retiring pursuant to this subsection shall have the retirement
2 allowance actuarially reduced to reflect the difference in the number
3 of years between age at retirement and the attainment of age sixty-
4 five.

5 ~~((+3))~~ (4) ALTERNATE EARLY RETIREMENT. Any member who has
6 completed at least thirty service credit years and has attained age
7 fifty-five shall be eligible to retire and to receive a retirement
8 allowance computed according to the provisions of RCW 41.40.790, except
9 that a member retiring pursuant to this subsection shall have the
10 retirement allowance reduced by three percent per year to reflect the
11 difference in the number of years between age at retirement and the
12 attainment of age sixty-five.

13 **Sec. 3.** RCW 41.32.765 and 2000 c 247 s 902 are each amended to
14 read as follows:

15 (1) NORMAL RETIREMENT. Any member with at least five service
16 credit years of service who has attained at least age sixty-five shall
17 be eligible to retire and to receive a retirement allowance computed
18 according to the provisions of RCW 41.32.760.

19 (2) UNREDUCED RETIREMENT. Any member who has completed at least
20 five service credit years and for whom the sum of the number of years
21 of the member's age and the number of years of the member's service
22 credit equals ninety or more shall be eligible to retire and receive a
23 retirement allowance computed according to the provisions of RCW
24 41.32.760.

25 (3) EARLY RETIREMENT. Any member who has completed at least twenty
26 service credit years of service who has attained at least age fifty-
27 five shall be eligible to retire and to receive a retirement allowance
28 computed according to the provisions of RCW 41.32.760, except that a
29 member retiring pursuant to this subsection shall have the retirement
30 allowance actuarially reduced to reflect the difference in the number
31 of years between age at retirement and the attainment of age sixty-
32 five.

33 ~~((+3))~~ (4) ALTERNATE EARLY RETIREMENT. Any member who has
34 completed at least thirty service credit years and has attained age
35 fifty-five shall be eligible to retire and to receive a retirement
36 allowance computed according to the provisions of RCW 41.32.760, except
37 that a member retiring pursuant to this subsection shall have the

1 retirement allowance reduced by three percent per year to reflect the
2 difference in the number of years between age at retirement and the
3 attainment of age sixty-five.

4 **Sec. 4.** RCW 41.32.875 and 2000 c 247 s 903 are each amended to
5 read as follows:

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

8 (a) Completed ten service credit years; or

9 (b) Completed five service credit years, including twelve service
10 credit months after attaining age fifty-four; or

11 (c) Completed five service credit years by July 1, 1996, under plan
12 2 and who transferred to plan 3 under RCW 41.32.817;

13 shall be eligible to retire and to receive a retirement allowance
14 computed according to the provisions of RCW 41.32.840.

15 (2) UNREDUCED RETIREMENT. Any member who has completed the number
16 of service credit years required in subsection (1) of this section and
17 for whom the sum of the number of years of the member's age and the
18 number of years of the member's service credit equals ninety or more
19 shall be eligible to retire and receive a retirement allowance computed
20 according to the provisions of RCW 41.32.840.

21 (3) EARLY RETIREMENT. Any member who has attained at least age
22 fifty-five and has completed at least ten years of service shall be
23 eligible to retire and to receive a retirement allowance computed
24 according to the provisions of RCW 41.32.840, except that a member
25 retiring pursuant to this subsection shall have the retirement
26 allowance actuarially reduced to reflect the difference in the number
27 of years between age at retirement and the attainment of age sixty-
28 five.

29 ((+3)) (4) ALTERNATE EARLY RETIREMENT. Any member who has
30 completed at least thirty service credit years and has attained age
31 fifty-five shall be eligible to retire and to receive a retirement
32 allowance computed according to the provisions of RCW 41.32.840, except
33 that a member retiring pursuant to this subsection shall have the
34 retirement allowance reduced by three percent per year to reflect the
35 difference in the number of years between age at retirement and the
36 attainment of age sixty-five.

1 **Sec. 5.** RCW 41.35.420 and 2000 c 247 s 905 are each amended to
2 read as follows:

3 (1) NORMAL RETIREMENT. Any member with at least five service
4 credit years who has attained at least age sixty-five shall be eligible
5 to retire and to receive a retirement allowance computed according to
6 the provisions of RCW 41.35.400.

7 (2) UNREDUCED RETIREMENT. Any member who has completed at least
8 five service credit years and for whom the sum of the number of years
9 of the member's age and the number of years of the member's service
10 credit equals ninety or more shall be eligible to retire and receive a
11 retirement allowance computed according to the provisions of RCW
12 41.35.400.

13 (3) EARLY RETIREMENT. Any member who has completed at least twenty
14 service credit years and has attained age fifty-five shall be eligible
15 to retire and to receive a retirement allowance computed according to
16 the provisions of RCW 41.35.400, except that a member retiring pursuant
17 to this subsection shall have the retirement allowance actuarially
18 reduced to reflect the difference in the number of years between age at
19 retirement and the attainment of age sixty-five.

20 (~~(3)~~) (4) ALTERNATE EARLY RETIREMENT. Any member who has
21 completed at least thirty service credit years and has attained age
22 fifty-five shall be eligible to retire and to receive a retirement
23 allowance computed according to the provisions of RCW 41.35.400, except
24 that a member retiring pursuant to this subsection shall have the
25 retirement allowance reduced by three percent per year to reflect the
26 difference in the number of years between age at retirement and the
27 attainment of age sixty-five.

28 **Sec. 6.** RCW 41.35.680 and 2000 c 247 s 906 are each amended to
29 read as follows:

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

32 (a) Completed ten service credit years; or

33 (b) Completed five service credit years, including twelve service
34 credit months after attaining age fifty-four; or

35 (c) Completed five service credit years by September 1, 2000, under
36 the public employees' retirement system plan 2 and who transferred to
37 plan 3 under RCW 41.35.510;

1 shall be eligible to retire and to receive a retirement allowance
2 computed according to the provisions of RCW 41.35.620.

3 (2) UNREDUCED RETIREMENT. Any member who has completed the number
4 of service credit years required in subsection (1) of this section and
5 for whom the sum of the number of years of the member's age and the
6 number of years of the member's service credit equals ninety or more
7 shall be eligible to retire and receive a retirement allowance computed
8 according to the provisions of RCW 41.35.620.

9 (3) EARLY RETIREMENT. Any member who has attained at least age
10 fifty-five and has completed at least ten years of service shall be
11 eligible to retire and to receive a retirement allowance computed
12 according to the provisions of RCW 41.35.620, except that a member
13 retiring pursuant to this subsection shall have the retirement
14 allowance actuarially reduced to reflect the difference in the number
15 of years between age at retirement and the attainment of age sixty-
16 five.

17 ~~((+3))~~ (4) ALTERNATE EARLY RETIREMENT. Any member who has
18 completed at least thirty service credit years and has attained age
19 fifty-five shall be eligible to retire and to receive a retirement
20 allowance computed according to the provisions of RCW 41.35.620, except
21 that a member retiring pursuant to this subsection shall have the
22 retirement allowance reduced by three percent per year to reflect the
23 difference in the number of years between age at retirement and the
24 attainment of age sixty-five.

25 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2007.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/01/04	Z-0241.1/Z-0253.1

SUMMARY OF BILL:

This bill impacts the Plans 2 and 3 of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS) and the School Employees' Retirement System (SERS) by offering unreduced retirement to any vested member for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more ("rule of 90").

Effective Date: July 1, 2007

CURRENT SITUATION:

Currently, in the PERS, TRS and SERS Plans 2/3, a member is eligible for either normal, early or alternate early retirement. The early retirement provisions involve reduced benefits. Normal retirement is a full benefit.

In the Plans 2, normal retirement is available to those who have earned at least five years of service credit and who have attained age 65. This bill would add another category of retirement that involves a full or "unreduced" benefit. It would apply to any vested member for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more ("rule of 90").

In the Plans 3, normal retirement is currently available to any member who is at least age 65 and who has completed ten service credit years, or who has completed five service years including twelve service credit months after attaining age 54. This bill would provide an unreduced retirement benefit to any vested Plan 3 member who satisfies the rule of 90.

MEMBERS IMPACTED:

We estimate that 82,259 members out of 117,262 active members in PERS 2, 13,497 out of 17,548 active members in PERS 3, 5,209 out of 7,637 active members in TRS 2, 37,310 members out of 47,263 active members in TRS 3, 12,455 out of 21,504 active members in SERS 2, and 16,167 members out of 27,710 active members in SERS 3 would be affected by this bill.

For a member impacted by this bill, the increase in benefits would be the removal of benefit reduction for early retirement without the Rule of 90. For example, a member retiring at age 60 with 30 years of service would be entitled to an unreduced benefit instead of a benefit with a 15% reduction.

ASSUMPTIONS:

We assumed that there would be an increase in retirement rates due to the rule of 90. The additional rates or “kickers” are provided at the end of this fiscal note.

FISCAL IMPACT:

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System (for existing members impacted by this bill) and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>		Current	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	PERS 2/3	\$ 14,278	\$ 762	\$ 15,040
	TRS 2/3	\$ 5,220	\$ 383	\$ 5,603
	SERS 2/3	\$ 2,138	\$ 83	\$ 2,221
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	PERS 1	\$ 2,620	\$ (25)	\$ 2,595
	TRS 1	\$ 1,416	\$ (24)	\$ 1,392
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	PERS 2/3	\$ (3,184)	\$ 402	\$ (2,782)
	TRS 2/3	\$ (1,397)	\$ 183	\$ (1,214)
	SERS 2/3	\$ (425)	\$ 46	\$ (379)

Increase in Contribution Rates: (Effective 9/1/2005)

Employee (plan 2 only)	PERS 2	0.73%
	TRS 2	1.00%
	SERS 2	0.57%
Employer	PERS	0.73%
	TRS	1.04%
	SERS 2/3	0.63%

The PERS Employer rate increase of 0.73% is made up of a normal cost rate increase of 0.75% minus a Plan 1 UAAL rate decrease of 0.02%.

The TRS Employer rate increase of 1.04% is made up of a normal cost rate increase of 1.10% minus a Plan 1 UAAL rate decrease of 0.06%.

The SERS Employer rate increase of 0.63% is made up of a normal cost rate increase of 0.65% minus a Plan 1 UAAL rate decrease of 0.02%.

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2005-2007				
State:				
General Fund	\$18.3	\$65.3	\$8.0	\$91.6
Non-General Fund	<u>30.2</u>	<u>0.0</u>	<u>0.0</u>	<u>30.2</u>
Total State	48.5	65.3	8.0	121.8
Local Government	43.0	13.4	7.1	63.5
Total Employer	91.5	78.7	15.1	185.3
Total Employee	\$65.3	\$8.6	\$4.8	\$78.7
2007-2009				
State:				
General Fund	\$20.5	\$69.0	\$8.7	\$98.2
Non-General Fund	<u>33.8</u>	<u>0.0</u>	<u>0.0</u>	<u>33.8</u>
Total State	54.3	69.0	8.7	132.0
Local Government	48.2	14.1	7.7	70.0
Total Employer	102.5	83.1	16.4	202.0
Total Employee	\$70.3	\$8.6	\$4.9	\$83.8
2005-2030				
State:				
General Fund	\$316.5	\$1,213.6	\$130.0	\$1,660.1
Non-General Fund	<u>522.1</u>	<u>0.0</u>	<u>0.0</u>	<u>522.1</u>
Total State	838.6	1,213.6	130.0	2,182.2
Local Government	743.6	248.5	115.2	1,107.3
Total Employer	1,582.2	1,462.1	245.2	3,289.5
Total Employee	\$898.9	\$61.4	\$36.6	\$996.9

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers Retirement System, School Employee's Retirement System, and Public Employee's Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

Rule of 90

Kicker Added to Retirement Probability						
	PERS Male	PERS Female	SERS Male	SERS Female	TRS Male	TRS Female
Age						
55	0.35	0.29	0.30	0.30	0.30	0.30
56	0.35	0.29	0.30	0.30	0.30	0.30
57	0.35	0.29	0.30	0.30	0.30	0.30
58	0.29	0.22	0.30	0.30	0.30	0.30
59	0.29	0.22	0.30	0.30	0.30	0.30
60	0.29	0.22	0.30	0.30	0.30	0.30
61	0.29	0.22	0.25	0.30	0.30	0.30
62	0.29	0.16	0.25	0.20	0.30	0.20
63	0.11	0.16	0.25	0.20	0.25	0.20
64	0.11	0.16	0.25	0.20	0.25	0.20

The kicker (additional retirement rate) is added to the retirement probability at the age when a member is first eligible for the Rule of 90. For each year after the year first eligible, 25% of the kicker is added.

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. The entry age normal cost increase for the bill is 0.27% for PERS Plan 2 members, 0.28% for PERS employers, 0.59% for TRS employers, and 0.24% for SERS employers. The entry age normal cost increase was used to determine the increase in funding expenditures for future new entrants.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Actuarial accrued liability: Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

SCPP Executive Committee Membership

Background

The composition of the Executive Committee of the Select Committee on Pension Policy is governed by statute, and requires a committee of five members, including the following: the chairperson (a Senator in even-numbered years and a member of the House in odd-numbered years); the vice-chairperson (a member of the House in even-numbered years and a Senator in odd-numbered years); one active member or representative from an organization of active members of the state retirement systems; one employer representative or member of the state retirement systems; and one member from the directors of the department of retirement systems and office of financial management, serving in alternate years.

Committee Activity

Presentations:

September 7, 2004 - Executive Committee

October 19, 2004 - Full Committee

Proposal:

October 19, 2004 - Full Committee

Recommendation to Legislature

Add a sixth member to the Executive Committee who is a retiree or representative of a retiree organization of the state retirement systems, and delete the provision requiring the director of the office of financial management to serve on the Executive Committee in alternate years.

Staff Contact

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Select Committee on Pension Policy

SCPP Executive Committee

Membership

(October 12, 2004)

Issue	The issue addressed in this report is whether a retiree representative should be added to the Executive Committee of the Select Committee on Pension Policy (SCPP).
Staff	Laura C. Harper, Senior Research Analyst/Legal 360-586-7616
Current Situation	<p>The composition of the Executive Committee is governed by statute. RCW 41.04.276(4) requires the SCPP to establish an Executive Committee of five members, including:</p> <ol style="list-style-type: none">1. the chairperson (a Senator in even-numbered years and a member of the House in odd-numbered years);2. the vice-chairperson (a member of the House in even-numbered years and a Senator in odd-numbered years);3. one active member or representative from an organization of active members of the state retirement systems;4. one employer representative or member of the state retirement systems; and5. one member from the directors of the department of retirement systems and office of financial management, serving in alternate years.

History

The original legislation creating the SCPP and requiring the establishment of an Executive Committee was passed in 2003, and has not been amended since that time.

Analysis

The SCPP consists of twenty members coming from six categories of membership: (1) four members of the senate, (2) four members of the house, (3) four active members, (4) two retired members, (5) four employer members and (6) the directors of the department of retirement systems and office of financial management.

The Executive Committee is a five-member body of the SCPP. As provided in SCPP Rule of Procedure No. 8, the Executive Committee sets the agendas for SCPP meetings, recommends actions to be taken by the full SCPP and performs all duties assigned to it by the SCPP. Currently, five of the six categories of SCPP membership are represented on the Executive Committee. There is no member of the Executive Committee from the sixth category, i.e. that of retirees.

Adding a retiree representative to the Executive Committee would require legislation due to the fact that the composition of the Executive Committee is governed by statute. See the attached copy of RCW 41.04.276 (4). If such legislation were to pass, the Executive Committee would then have six members. While there is a potential for deadlock in any body consisting of an even number of members, the Executive Committee has tended so far to act largely by consensus in making its recommendations to the SCPP. In any event, final actions are taken by the SCPP at large, which also has an even number of members.

Supporting Information

A copy of the statute setting forth the current membership of the Executive Committee is attached.

Executive Committee Recommendation

At its meeting on September 7, 2004, the Executive Committee recommended that a draft bill be prepared for the full SCPP that adds one retiree to the Executive Committee.

Draft Bill

A draft bill amending the statute governing Executive Committee membership is attached.

Fiscal Impact (Draft)

None.

RCW 41.04.276

Select committee on pension policy -- Creation -- Membership -- Terms of office -- Staff support.

(1) The select committee on pension policy is created. The select committee consists of:

(a) Four members of the senate appointed by the president of the senate, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the senate ways and means committee;

(b) Four members of the house of representatives appointed by the speaker, two of whom are members of the majority party and two of whom are members of the minority party. At least three of the appointees shall be members of the house of representatives appropriations committee;

(c) Four active members or representatives from organizations of active members of the state retirement systems appointed by the governor for staggered three-year terms, with no more than two appointees representing any one employee retirement system;

(d) Two retired members or representatives of retired members' organizations of the state retirement systems appointed by the governor for staggered three-year terms, with no two members from the same system;

(e) Four employer representatives of members of the state retirement systems appointed by the governor for staggered three-year terms; and

(f) The directors of the department of retirement systems and office of financial management.

(2)(a) The term of office of each member of the house of representatives or senate serving on the committee runs from the close of the session in which he or she is appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term continues until the member is reappointed or a successor is appointed. The term of office for a committee member who is a member of the house of representatives or the senate who does not continue as a member of the senate or house of representatives ceases upon the convening of the next session of the legislature during the odd-numbered year following the member's appointment, or upon the member's resignation, whichever is earlier. All vacancies of positions held by members of the legislature must be filled from the same political party and from the same house as the member whose seat was vacated.

(b) Following the terms of members and representatives appointed under subsection (1)(d) of this section, the retiree positions shall be rotated to ensure that each system has an opportunity to have a retiree representative on the committee.

(3) The committee shall elect a chairperson and a vice-chairperson. The chairperson shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years and the vice-chairperson shall be a member of the house of representatives in even-numbered years and a member of the senate in odd-numbered years.

(4) The committee shall establish an executive committee of five members, including the chairperson, the vice-chairperson, one member from subsection (1)(c) of this section, one member from subsection (1)(e) of this section, and one member from subsection (1)(f) of this section, with the directors of the department of retirement systems and the office of financial management serving in alternate years.

(5) Nonlegislative members of the select committee serve without compensation, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(6) The office of state actuary under chapter 44.44 RCW shall provide staff and technical support to the committee.

[2003 c 295 § 1.]

1 AN ACT Relating to the membership of the executive committee of the
2 select committee on pension policy; and amending RCW 41.04.276.

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

4 **Sec. 1.** RCW 41.04.276 and 2003 c 295 s 1 are each amended to read
5 as follows:

6 (1) The select committee on pension policy is created. The select
7 committee consists of:

8 (a) Four members of the senate appointed by the president of the
9 senate, two of whom are members of the majority party and two of whom
10 are members of the minority party. At least three of the appointees
11 shall be members of the senate ways and means committee;

12 (b) Four members of the house of representatives appointed by the
13 speaker, two of whom are members of the majority party and two of whom
14 are members of the minority party. At least three of the appointees
15 shall be members of the house of representatives appropriations
16 committee;

17 (c) Four active members or representatives from organizations of
18 active members of the state retirement systems appointed by the

1 governor for staggered three-year terms, with no more than two
2 appointees representing any one employee retirement system;

3 (d) Two retired members or representatives of retired members'
4 organizations of the state retirement systems appointed by the governor
5 for staggered three-year terms, with no two members from the same
6 system;

7 (e) Four employer representatives of members of the state
8 retirement systems appointed by the governor for staggered three-year
9 terms; and

10 (f) The directors of the department of retirement systems and
11 office of financial management.

12 (2)(a) The term of office of each member of the house of
13 representatives or senate serving on the committee runs from the close
14 of the session in which he or she is appointed until the close of the
15 next regular session held in an odd-numbered year. If a successor is
16 not appointed during a session, the member's term continues until the
17 member is reappointed or a successor is appointed. The term of office
18 for a committee member who is a member of the house of representatives
19 or the senate who does not continue as a member of the senate or house
20 of representatives ceases upon the convening of the next session of the
21 legislature during the odd-numbered year following the member's
22 appointment, or upon the member's resignation, whichever is earlier.
23 All vacancies of positions held by members of the legislature must be
24 filled from the same political party and from the same house as the
25 member whose seat was vacated.

26 (b) Following the terms of members and representatives appointed
27 under subsection (1)(d) of this section, the retiree positions shall be
28 rotated to ensure that each system has an opportunity to have a retiree
29 representative on the committee.

30 (3) The committee shall elect a chairperson and a vice-chairperson.
31 The chairperson shall be a member of the senate in even-numbered years
32 and a member of the house of representatives in odd-numbered years and
33 the vice-chairperson shall be a member of the house of representatives
34 in even-numbered years and a member of the senate in odd-numbered
35 years.

36 (4) The committee shall establish an executive committee of
37 (~~five~~) six members, including the chairperson, the vice-chairperson,
38 one member from subsection (1)(c) of this section, one member from

1 subsection (1)(d) of this section, one member from subsection (1)(e) of
2 this section, and ~~((one member from subsection (1)(f) of this section,~~
3 ~~with))~~ the director(~~(s)~~) of the department of retirement systems ~~((and~~
4 ~~the office of financial management serving in alternate years))~~.

5 (5) Nonlegislative members of the select committee serve without
6 compensation, but shall be reimbursed for travel expenses under RCW
7 43.03.050 and 43.03.060.

8 (6) The office of state actuary under chapter 44.44 RCW shall
9 provide staff and technical support to the committee.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY: Office of the State Actuary	CODE: 035	DATE: 10/25/04	BILL NUMBER: Z-0158.2/Z-0151.1
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SUMMARY OF BILL:

This bill would add one retiree representative to the Executive Committee of the Select Committee on Pension Policy. In addition, this bill would delete from statute the provision requiring the director of the office of financial management to serve as a member of the Executive Committee in alternate years.

Effective Date: 90 days after session.

CURRENT SITUATION:

Currently there are five members of the Executive Committee of the Select Committee on Pension Policy representing five of the six categories of SCPP membership. The category of SCPP membership that is not currently represented on the Executive Committee is that of "retired members or representatives of retired members' organizations of the state retirement systems." The proposed legislation would add one additional member to the Executive Committee from this category.

Currently, one position on the Executive Committee is shared in that the director of the department of retirement systems and the director of the office of financial management serve on the Executive Committee in alternate years. The proposed legislation would strike references to the director of the office of financial management such that the director of the department of retirement systems would be the only executive branch member serving on the Executive Committee.

FISCAL IMPACT:

There is no fiscal impact.

Technical Corrections

Background

Periodically it is necessary to make technical corrections to retirement statutes to correct errors in cross-references, inadvertent omissions of necessary references, and accidental duplication of statutory language. Technical corrections also codify current administrative practices, and repeal obsolete or unnecessary sections.

Committee Activity

Presentation:

December 7, 2004 - Full Committee

Proposal:

December 7, 2004 - Full Committee

Recommendation to Legislature

Forward to the full legislature for their consideration.

Staff Contact

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Select Committee on Pension Policy

Technical Corrections

(December 15, 2004)

Proposal

This bill makes necessary technical corrections to retirement statutes including incorrect cross-references, inadvertent omissions of necessary references, and accidental duplication of statutory language. The bill also codifies current administrative practices, and repeals obsolete or unnecessary sections.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Sectional Analysis

Section 1 - Amends the estoppel language in the general retirement provisions that could prevent retirees from rejoining membership.

Sections 2 and 9 - Add cross references in PERS and TRS chapters for retirees returning to work in PSERS.

Section 3 - Adds language to the Plan 3 Defined Contribution chapter that expressly provides for payment to the member's estate in the event that the member dies without a surviving spouse or naming a beneficiary.

Sections 4 and 5 - Amend the definition section and membership sections in PSERS to allow members appointed to a state elective positions to retain their PSERS membership.

Section 6 - Amends the post-retirement employment section in PSERS to assure members are required to separate for 30 days before returning to work in a PERS, TRS or SERS position.

Section 7 - Amends PSERS death benefits section because certain benefit adjustments are not actuarial but instead a fixed 3% per year.

Section 8 - Removes a subsection of the PERS 1 annual increase section that references subsections that have since been repealed.

Section 10 - Reenacts and amends a section in the funding chapter that had been amended twice in the 2003 session without reference to each other resulting in both sections being codified.

Section 11 - Repeal sections in PERS, SERS, and PSERS that require written information that is now being provided electronically. Also repeals DRS section that is no longer applicable since the formation of the Pension Funding Council. And repeals the section in the funding chapter that is also reenacted in the bill.

Bill (Draft)

See attachment

Fiscal Note (Draft)

See attachment

1 AN ACT Relating to technical corrections in the general retirement
2 provisions estoppel section, teachers' retirement system, public safety
3 employees' retirement system, the school employees' retirement system,
4 the public employees' retirement system, and the actuarial funding
5 chapter; amending RCW 41.04.270, 41.32.860, 41.34.070, 41.37.010,
6 41.37.020, 41.37.050, 41.37.250, 41.40.197, and 41.40.850; reenacting
7 RCW 41.45.070; repealing RCW 41.35.050, 41.37.040, 41.40.032, and
8 41.50.067; providing an effective date; and providing an expiration
9 date.

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

11 **Sec. 1.** RCW 41.04.270 and 2001 c 180 s 4 are each amended to read
12 as follows:

13 (1) (~~Notwithstanding any provision of~~) Except as provided in
14 chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.35, 41.40, or 43.43 RCW
15 (~~to the contrary~~), on and after March 19, 1976, any member or former
16 member who (a) receives a retirement allowance earned by said former
17 member as deferred compensation from any public retirement system
18 authorized by the general laws of this state, or (b) is eligible to
19 receive a retirement allowance from any public retirement system listed

1 in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary
2 of a disability allowance from any public retirement system listed in
3 RCW 41.50.030 shall be estopped from becoming a member of or accruing
4 any contractual rights whatsoever in any other public retirement system
5 listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection
6 shall not apply to persons who have accumulated less than fifteen years
7 service credit in any such system.

8 (2) Nothing in this section is intended to apply to any retirement
9 system except those listed in RCW 41.50.030 and the city employee
10 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)
11 of this section does not apply to a dual member as defined in RCW
12 41.54.010.

13 **Sec. 2.** RCW 41.32.860 and 2001 2nd sp.s. c 10 s 9 are each amended
14 to read as follows:

15 (1) Except under RCW 41.32.862, no retiree shall be eligible to
16 receive such retiree's monthly retirement allowance if he or she is
17 employed in an eligible position as defined in RCW 41.40.010,
18 41.32.010, (~~or~~) 41.35.010, or 41.37.010, or as a law enforcement
19 officer or fire fighter as defined in RCW 41.26.030.

20 (2) If a retiree's benefits have been suspended under this section,
21 his or her benefits shall be reinstated when the retiree terminates the
22 employment that caused the suspension of benefits. Upon reinstatement,
23 the retiree's benefits shall be actuarially recomputed pursuant to the
24 rules adopted by the department.

25 **Sec. 3.** RCW 41.34.070 and 1998 c 117 s 1 are each amended to read
26 as follows:

27 (1) If the member retires, becomes disabled, or otherwise
28 terminates employment, the balance in the member's account may be
29 distributed in accordance with an option selected by the member either
30 as a lump sum or pursuant to other options authorized by the board.

31 (2) If the member dies while in service, the balance of the
32 member's account may be distributed in accordance with an option
33 selected by the member either as a lump sum or pursuant to other
34 options authorized by the board. The distribution is as follows:

35 (a) The distribution shall be made to such person or persons as the

1 member shall have nominated by written designation duly executed and
2 filed with the department(~~(-)~~);

3 (b) If there be no such designated person or persons still living
4 at the time of the member's death, the balance of the member's account
5 in the retirement system, less any amount identified as owing to an
6 obligee upon withdrawal of such account balance pursuant to a court
7 order filed under RCW 41.50.670, shall be paid to the member's
8 surviving spouse as if in fact such spouse had been nominated by
9 written designation(~~(-or)~~);

10 (c) If there is no surviving spouse, then to such person or
11 persons, trust, or organization as the member shall have nominated by
12 written designation duly executed and filed with the department; or

13 (d) If there is no such designated person or persons still living
14 at the time of the member's death, then to the member's legal
15 representatives.

16 (3) If a member has a terminal illness and terminates from
17 employment, the member may choose to have the balance in the member's
18 account distributed as a lump sum payment based on the most recent
19 valuation in order to expedite the distribution. The department shall
20 make this payment within ten working days after receipt of notice of
21 termination of employment, documentation verifying the terminal
22 illness, and an application for payment.

23 (4) The distribution under subsections (1), (2), or (3) of this
24 section shall be less any amount identified as owing to an obligee upon
25 withdrawal pursuant to a court order filed under RCW 41.50.670.

26 **Sec. 4.** RCW 41.37.010 and 2004 c 242 s 2 are each amended to read
27 as follows:

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

30 (1) "Retirement system" means the Washington public safety
31 employees' retirement system provided for in this chapter.

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

34 (3) "State treasurer" means the treasurer of the state of
35 Washington.

36 (4) "Employer" means the Washington state department of
37 corrections, the Washington state parks and recreation commission, the

1 Washington state gambling commission, the Washington state patrol, the
2 Washington state liquor control board, county corrections departments,
3 (~~and~~) city corrections departments not covered under chapter 41.28
4 RCW, or other employers employing statewide elective officials.

5 (5) "Member" means any employee employed by an employer on a full-
6 time, fully compensated basis within the following job classes in
7 effect as of January 1, 2004: City corrections officers, jailers,
8 police support officers, custody officers, and bailiffs; county
9 corrections officers, jailers, custody officers, and sheriffs
10 corrections officers; county probation officers and probation
11 counselors; state correctional officers, correctional sergeants, and
12 community corrections officers; liquor enforcement officers; park
13 rangers; commercial vehicle enforcement officers; and gambling special
14 agents.

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

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

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

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

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

37 (B) Such member's actual compensation earnable received for
38 nonlegislative public employment and legislative service combined. Any

1 additional contributions to the retirement system required because
2 compensation earnable under (b)(ii)(A) of this subsection is greater
3 than compensation earnable under (b)(ii)(B) of this subsection shall be
4 paid by the member for both member and employer contributions;

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

7 (iv) Compensation that a member would have received but for a
8 disability occurring in the line of duty only as authorized by RCW
9 41.37.070;

10 (v) Compensation that a member receives due to participation in the
11 leave sharing program only as authorized by RCW 41.04.650 through
12 41.04.670; and

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

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

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

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

32 (b) A member shall receive a total of not more than twelve service
33 credit months of service for such calendar year. If an individual is
34 employed in an eligible position by one or more employers the
35 individual shall receive no more than one service credit month during
36 any calendar month in which multiple service for ninety or more hours
37 is rendered.

- 1 (8) "Service credit year" means an accumulation of months of
2 service credit which is equal to one when divided by twelve.
- 3 (9) "Service credit month" means a month or an accumulation of
4 months of service credit which is equal to one.
- 5 (10) "Membership service" means all service rendered as a member.
- 6 (11) "Beneficiary" means any person in receipt of a retirement
7 allowance or other benefit provided by this chapter resulting from
8 service rendered to an employer by another person.
- 9 (12) "Regular interest" means such rate as the director may
10 determine.
- 11 (13) "Accumulated contributions" means the sum of all contributions
12 standing to the credit of a member in the member's individual account,
13 including any amount paid under RCW 41.50.165(2), together with the
14 regular interest thereon.
- 15 (14) "Average final compensation" means the member's average
16 compensation earnable of the highest consecutive sixty months of
17 service credit months prior to such member's retirement, termination,
18 or death. Periods constituting authorized leaves of absence may not be
19 used in the calculation of average final compensation except under RCW
20 41.37.290.
- 21 (15) "Final compensation" means the annual rate of compensation
22 earnable by a member at the time of termination of employment.
- 23 (16) "Annuity" means payments for life derived from accumulated
24 contributions of a member. All annuities shall be paid in monthly
25 installments.
- 26 (17) "Pension" means payments for life derived from contributions
27 made by the employer. All pensions shall be paid in monthly
28 installments.
- 29 (18) "Retirement allowance" means monthly payments to a retiree or
30 beneficiary as provided in this chapter.
- 31 (19) "Employee" or "employed" means a person who is providing
32 services for compensation to an employer, unless the person is free
33 from the employer's direction and control over the performance of work.
34 The department shall adopt rules and interpret this subsection
35 consistent with common law.
- 36 (20) "Actuarial equivalent" means a benefit of equal value when
37 computed upon the basis of such mortality and other tables as may be
38 adopted by the director.

1 (21) "Retirement" means withdrawal from active service with a
2 retirement allowance as provided by this chapter.

3 (22) "Eligible position" means any permanent, full-time, fully
4 compensated position included in subsection (5) of this section.

5 (23) "Ineligible position" means any position which does not
6 conform with the requirements set forth in subsection (22) of this
7 section.

8 (24) "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 (25) "Retiree" means any person who has begun accruing a retirement
12 allowance or other benefit provided by this chapter resulting from
13 service rendered to an employer while a member.

14 (26) "Director" means the director of the department.

15 (27) "State elective position" means any position held by any
16 person elected or appointed to statewide office or elected or appointed
17 as a member of the legislature.

18 (28) "State actuary" or "actuary" means the person appointed
19 pursuant to RCW 44.44.010(2).

20 (29) "Plan" means the Washington public safety employees'
21 retirement system plan 2.

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

26 (31) "Index A" means the index for the year prior to the
27 determination of a postretirement adjustment.

28 (32) "Index B" means the index for the year prior to index A.

29 (33) "Adjustment ratio" means the value of index A divided by index
30 B.

31 (34) "Separation from service" occurs when a person has terminated
32 all employment with an employer.

33 **Sec. 5.** RCW 41.37.020 and 2004 c 242 s 4 are each amended to read
34 as follows:

35 Membership in the retirement system shall consist of all regularly
36 compensated public safety employees who are members as defined in RCW
37 41.37.010(5), with the following exceptions:

1 (1) Persons in ineligible positions;

2 (2)(a) Persons holding elective offices or persons appointed
3 directly by the governor to statewide elective offices: PROVIDED, That
4 such persons shall have the option of (~~applying for~~) continuing
5 membership during such periods of employment: AND PROVIDED FURTHER,
6 That any persons holding or who have held elective offices or persons
7 appointed by the governor who are members in the retirement system and
8 who have, prior to becoming such members, previously held an elective
9 office, and did not at the start of such initial or successive terms of
10 office exercise their option to become members, may apply for
11 membership to be effective during such term or terms of office, and
12 shall be allowed to establish the service credit applicable to such
13 term or terms of office upon payment of the employee contributions
14 therefor by the employee with interest as determined by the director
15 and employer contributions therefor by the employer or employee with
16 interest as determined by the director: AND PROVIDED FURTHER, That all
17 contributions with interest submitted by the employee under this
18 subsection shall be placed in the employee's individual account in the
19 employee's savings fund and be treated as any other contribution made
20 by the employee, with the exception that any contributions submitted by
21 the employee in payment of the employer's obligation, together with the
22 interest the director may apply to the employer's contribution, shall
23 not be considered part of the member's annuity for any purpose except
24 withdrawal of contributions;

25 (b) A member holding elective office who has elected to apply for
26 membership pursuant to (a) of this subsection and who later wishes to
27 be eligible for a retirement allowance shall have the option of ending
28 his or her membership in the retirement system. A member wishing to
29 end his or her membership under this subsection must file on a form
30 supplied by the department a statement indicating that the member
31 agrees to irrevocably abandon any claim for service for future periods
32 served as an elected official. A member who receives more than fifteen
33 thousand dollars per year in compensation for his or her elective
34 service, adjusted annually for inflation by the director, is not
35 eligible for the option provided by this subsection (2)(b);

36 (3) Retirement system retirees: PROVIDED, That following
37 reemployment in an eligible position, a retiree may elect to

1 prospectively become a member of the retirement system if otherwise
2 eligible;

3 (4) Persons enrolled in state-approved apprenticeship programs,
4 authorized under chapter 49.04 RCW, and who are employed by employers
5 to earn hours to complete such apprenticeship programs, if the employee
6 is a member of a union-sponsored retirement plan and is making
7 contributions to such a retirement plan or if the employee is a member
8 of a Taft-Hartley retirement plan;

9 (5) Persons rendering professional services to an employer on a
10 fee, retainer, or contract basis or when the income from these services
11 is less than fifty percent of the gross income received from the
12 person's practice of a profession; and

13 (6) Employees who (a) are not citizens of the United States, (b)
14 are not covered by chapter 41.48 RCW, (c) are not excluded from
15 membership under this chapter or chapter 41.04 RCW, (d) are residents
16 of this state, and (e) make an irrevocable election to be excluded from
17 membership, in writing, which is submitted to the director within
18 thirty days after employment in an eligible position.

19 **Sec. 6.** RCW 41.37.050 and 2004 c 242 s 8 are each amended to read
20 as follows:

21 (1)(a) If a retiree enters employment in an eligible position with
22 an employer as defined in this chapter sooner than one calendar month
23 after his or her accrual date, the retiree's monthly retirement
24 allowance will be reduced by five and one-half percent for every eight
25 hours worked during that month. This reduction will be applied each
26 month until the retiree remains absent from employment with an employer
27 for one full calendar month.

28 (b) If a retiree enters employment in an eligible position with an
29 employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner than
30 one calendar month after his or her accrual date, the retiree's monthly
31 retirement allowance will be reduced by five and one-half percent for
32 every eight hours worked during that month. This reduction will be
33 applied each month until the retiree remains absent from employment
34 with an employer for one full calendar month.

35 (c) The benefit reduction provided in (a) and (b) of this
36 subsection will accrue for a maximum of one hundred sixty hours per

1 month. Any benefit reduction over one hundred percent will be applied
2 to the benefit the retiree is eligible to receive in subsequent months.

3 (2) A retiree who has satisfied the break in employment requirement
4 of subsection (1) of this section may work up to eight hundred sixty-
5 seven hours per calendar year in an eligible position as defined in RCW
6 41.32.010, 41.35.010, or 41.40.010, without suspension of his or her
7 benefit.

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

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

21 **Sec. 7.** RCW 41.37.250 and 2004 c 242 s 31 are each amended to read
22 as follows:

23 (1) Except as provided in RCW 11.07.010, if a member or a vested
24 member who has not completed at least ten years of service dies, the
25 amount of the accumulated contributions standing to that member's
26 credit in the retirement system at the time of the member's death, less
27 any amount identified as owing to an obligee upon withdrawal of
28 accumulated contributions pursuant to a court order filed under RCW
29 41.50.670, shall be paid to the member's estate, or the person or
30 persons, trust, or organization as the member shall have nominated by
31 written designation duly executed and filed with the department. If
32 there is no designated person or persons still living at the time of
33 the member's death, the member's accumulated contributions standing to
34 the member's credit in the retirement system, less any amount
35 identified as owing to an obligee upon withdrawal of accumulated
36 contributions pursuant to a court order filed under RCW 41.50.670,

1 shall be paid to the member's surviving spouse as if in fact that
2 spouse had been nominated by written designation, or if there is no
3 surviving spouse, then to the member's legal representatives.

4 (2) If a member who is eligible for retirement or a member who has
5 completed at least ten years of service dies, the surviving spouse or
6 eligible child or children shall elect to receive either:

7 (a) A retirement allowance computed as provided for in RCW
8 41.37.210, actuarially reduced by the amount of any lump sum benefit
9 identified as owing to an obligee upon withdrawal of accumulated
10 contributions pursuant to a court order filed under RCW 41.50.670 and
11 actuarially adjusted to reflect a joint and one hundred percent
12 survivor option under RCW 41.37.170 and, except under subsection (4) of
13 this section, if the member was not eligible for normal retirement at
14 the date of death a further reduction as described in RCW 41.37.210; if
15 a surviving spouse who is receiving a retirement allowance dies leaving
16 a child or children of the member under the age of majority, then the
17 child or children shall continue to receive an allowance in an amount
18 equal to that which was being received by the surviving spouse, share
19 and share alike, until the child or children reach the age of majority;
20 if there is no surviving spouse eligible to receive an allowance at the
21 time of the member's death, the member's child or children under the
22 age of majority shall receive an allowance, share and share alike,
23 calculated under this section making the assumption that the ages of
24 the spouse and member were equal at the time of the member's death; or

25 (b) The member's accumulated contributions, less any amount
26 identified as owing to an obligee upon withdrawal of accumulated
27 contributions pursuant to a court order filed under RCW 41.50.670.

28 (3) If a member who is eligible for retirement or a member who has
29 completed at least ten years of service dies and is not survived by a
30 spouse or an eligible child, then the accumulated contributions
31 standing to the member's credit, less any amount identified as owing to
32 an obligee upon withdrawal of accumulated contributions pursuant to a
33 court order filed under RCW 41.50.670, shall be paid:

34 (a) To a person or persons, estate, trust, or organization as the
35 member shall have nominated by written designation duly executed and
36 filed with the department; or

37 (b) If there is no designated person or persons still living at the
38 time of the member's death, then to the member's legal representatives.

1 (4) A member who is killed in the course of employment, as
2 determined by the director of the department of labor and industries,
3 is not subject to (~~(an actuarial)~~) reduction under RCW 41.37.210. The
4 member's retirement allowance is computed under RCW 41.37.190.

5 **Sec. 8.** RCW 41.40.197 and 1995 c 345 s 5 are each amended to read
6 as follows:

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

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

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

15 (b) A beneficiary whose retirement allowance is lower than the
16 minimum benefit provided under RCW 41.40.1984.

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

19 ~~(a) A beneficiary receiving the minimum benefit on June 30, 1995,
20 under RCW 41.40.198; or~~

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

23 ~~(4))~~ If otherwise eligible, those receiving an annual adjustment
24 under RCW 41.40.188(1)(c) shall be eligible for the annual increase
25 adjustment in addition to the benefit that would have been received
26 absent this section.

27 ~~((5))~~ (4) Those receiving a benefit under RCW 41.40.220(1), or a
28 survivor of a disabled member under RCW 41.44.170(5) shall be eligible
29 for the benefit provided by this section.

30 ~~((6))~~ (5) The legislature reserves the right to amend or repeal
31 this section in the future and no member or beneficiary has a
32 contractual right to receive this postretirement adjustment not granted
33 prior to that time.

34 **Sec. 9.** RCW 41.40.850 and 2000 c 247 s 315 are each amended to
35 read as follows:

36 (1) Except as provided in RCW 41.40.037, no retiree under the

1 provisions of plan 3 shall be eligible to receive such retiree's
2 monthly retirement allowance if he or she is employed in an eligible
3 position as defined in RCW 41.40.010, 41.32.010, (~~(or)~~) 41.35.010, or
4 41.37.010, or as a law enforcement officer or fire fighter as defined
5 in RCW 41.26.030, except that a retiree who ends his or her membership
6 in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject
7 to this section if the retiree's only employment is as an elective
8 official of a city or town.

9 (2) If a retiree's benefits have been suspended under this section,
10 his or her benefits shall be reinstated when the retiree terminates the
11 employment that caused his or her benefits to be suspended. Upon
12 reinstatement, the retiree's benefits shall be actuarially recomputed
13 pursuant to the rules adopted by the department.

14 (3) The department shall adopt rules implementing this section.

15 **Sec. 10.** RCW 41.45.070 and 2003 c 92 s 5 are each reenacted to
16 read as follows:

17 (1) In addition to the basic employer contribution rate established
18 in RCW 41.45.060 or 41.45.054, the department shall also charge
19 employers of public employees' retirement system, teachers' retirement
20 system, school employees' retirement system, or Washington state patrol
21 retirement system members an additional supplemental rate to pay for
22 the cost of additional benefits, if any, granted to members of those
23 systems. Except as provided in subsections (6) and (7) of this
24 section, the supplemental contribution rates required by this section
25 shall be calculated by the state actuary and shall be charged
26 regardless of language to the contrary contained in the statute which
27 authorizes additional benefits.

28 (2) In addition to the basic member, employer, and state
29 contribution rate established in RCW 41.45.0604 for the law enforcement
30 officers' and fire fighters' retirement system plan 2, the department
31 shall also establish supplemental rates to pay for the cost of
32 additional benefits, if any, granted to members of the law enforcement
33 officers' and fire fighters' retirement system plan 2. Except as
34 provided in subsection (6) of this section, these supplemental rates
35 shall be calculated by the actuary retained by the law enforcement
36 officers' and fire fighters' board and the state actuary through the
37 process provided in RCW 41.26.720(1)(a) and the state treasurer shall

1 transfer the additional required contributions regardless of language
2 to the contrary contained in the statute which authorizes the
3 additional benefits.

4 (3) The supplemental rate charged under this section to fund
5 benefit increases provided to active members of the public employees'
6 retirement system plan 1, the teachers' retirement system plan 1, and
7 Washington state patrol retirement system, shall be calculated as the
8 level percentage of all members' pay needed to fund the cost of the
9 benefit not later than June 30, 2024.

10 (4) The supplemental rate charged under this section to fund
11 benefit increases provided to active and retired members of the public
12 employees' retirement system plan 2 and plan 3, the teachers'
13 retirement system plan 2 and plan 3, or the school employees'
14 retirement system plan 2 and plan 3 shall be calculated as the level
15 percentage of all members' pay needed to fund the cost of the benefit,
16 as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

17 (5) The supplemental rate charged under this section to fund
18 postretirement adjustments which are provided on a nonautomatic basis
19 to current retirees shall be calculated as the percentage of pay needed
20 to fund the adjustments as they are paid to the retirees. The
21 supplemental rate charged under this section to fund automatic
22 postretirement adjustments for active or retired members of the public
23 employees' retirement system plan 1 and the teachers' retirement system
24 plan 1 shall be calculated as the level percentage of pay needed to
25 fund the cost of the automatic adjustments not later than June 30,
26 2024.

27 (6) A supplemental rate shall not be charged to pay for the cost of
28 additional benefits granted to members pursuant to chapter 340, Laws of
29 1998.

30 (7) A supplemental rate shall not be charged to pay for the cost of
31 additional benefits granted to members pursuant to chapter 41.31A RCW;
32 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,
33 Laws of 1998.

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

36 (1) RCW 41.35.050 (Information furnished by employees, appointive
37 and elective officials) and 1998 c 341 s 6;

1 (2) RCW 41.37.040 (Employee information--Required) and 2004 c 242
2 s 7;

3 (3) RCW 41.40.032 (Information furnished by employees, appointive
4 and elective officials) and 1991 c 35 s 76, 1949 c 240 s 8, & 1947 c
5 274 s 1;

6 (4) 2003 1st sp.s. c 11 s 3; and

7 (5) RCW 41.50.067 (Adopted employer rates--Notification to
8 employers) and 1993 c 519 s 21.

9 NEW SECTION. **Sec. 12.** Sections 4 through 7 of this act take
10 effect July 1, 2006.

11 NEW SECTION. **Sec. 13.** Section 10 of this act expires July 1,
12 2006.

--- END ---

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/15/04	Z-0237.2/Z-0254.2

SUMMARY OF BILL:

This bill impacts the Teacher's, Public Safety Employee's (PSERS), School Employee's, and Public Employee's Retirement Systems by making technical corrections to incorrect cross-references, inadvertent omissions of necessary references, and accidental duplication of statutory language. The bill also codifies current administrative practices, and repeals obsolete or unnecessary sections. The bill:

- Amends the estoppel language in the general retirement provisions that could prevent retirees from rejoining membership.
- Add cross references in PERS and TRS chapters for retirees returning to work in PSERS.
- Adds language to the Plan 3 Defined Contribution chapter that expressly provides for payment to the member's estate in the event that the member dies without a surviving spouse or naming a beneficiary.
- Amends the definition section and membership sections in PSERS to allow members appointed to a state elective positions to retain their PSERS membership.
- Amends the post-retirement employment section in PSERS to assure members are required to separate for 30 days before returning to work in a PERS, TRS or SERS position.
- Amends PSERS death benefits section because certain benefit adjustments are not actuarial but instead a fixed 3% per year.
- Removes a subsection of the PERS 1 annual increase section that references subsections that have since been repealed.
- Reenacts and amends a section in the funding chapter that had been amended twice in the 2003 session without reference to each other resulting in both sections being codified.
- Repeal sections in PERS, SERS, and PSERS that require written information that is now being provided electronically. Also repeals DRS section that is no longer applicable since the formation of the Pension Funding Council. And repeals the section in the funding chapter that is also reenacted in the bill.

Effective Date: 90 days after session

FISCAL IMPACT:

None.

TRS Out-of-State Service Credit

Background

This proposal is an outgrowth of the Age 65 study and was presented as one of the Age 65 Retirement Options. Currently members of TRS may use out-of-state service credit solely for the purpose of determining the time at which they may retire. (Such service credit is not purchased and it is not membership service.) This proposal focuses on acquiring out-of-state service credit that can be used not only for retirement eligibility, but also to increase the member's retirement benefit.

Committee Activity

Presentations:

September 7, 2004 - Full Committee
October 19, 2004 - Full Committee
November 9, 2004 - Executive Committee

Subgroup Activity:

October 14, 2004 - Subgroup meeting
November 5, 2004 - Subgroup meeting

Proposal:

December 7, 2004 - Full Committee

Recommendation to Legislature

Allow eligible members of the TRS Plans 2/3 to make a one-time purchase of up to seven years of membership service credit for public education experience as a teacher in a public school in another state or with the federal government. The member must have at least five and less than ten years of service credit in TRS to be eligible. The member pays an amount that includes applicable employer and employee contribution rates plus interest.

Staff Contact

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360-586-7616 – harper.laura@leg.wa.gov

Select Committee on Pension Policy

TRS Out-of-State Service Credit

(November 30, 2004)

Issue	The issue before the SCPP is whether to propose legislation allowing eligible members of the Teachers' Retirement System (TRS) Plans 2 and 3 to purchase up to seven years of membership service credit for public education experience as a teacher in a public school in another state or with the federal government.
Staff	Laura Harper, Senior Research Analyst/Legal (360) 586-7616
Members Impacted	This proposal impacts eligible members of TRS Plans 2 and 3. We estimate that 1,371 TRS 2 members out of 7,637 active TRS 2 members, and 26,038 TRS 3 members out of 47,263 active TRS 3 members would be affected by this bill.
Current Situation	Currently members of TRS may use out-of-state service credit solely for the purpose of determining the time at which the member may retire. The service credit is not purchased and it is not membership service. The member's benefit is actuarially reduced to recognize the difference between the age a member would have first been able to retire based on service in the State of Washington and the member's retirement age using the out-of-state service credit.

Proposal

This bill impacts the Teachers' Retirement System (TRS) by allowing members of Plans 2 and 3 to make a one-time purchase of up to seven years of service credit for public education experience (state and federal) outside the Washington State Retirement System. The public education experience claimed must have been covered by a governmental retirement or pension plan, and the member must not be receiving or eligible to receive an unreduced retirement benefit that includes the service to be purchased. To take advantage of this provision, a member must have at least five and less than ten years of service credit in TRS. The purchase cannot result in the purchase of service credit that is greater than the member's total years of creditable service in the retirement system. The service credit purchased is membership service and may be used to qualify the member for retirement.

The member pays the product of the sum of the applicable employer and employee contribution rates multiplied by the member's salary at the time of purchase, and further multiplied by the total number of years of service credit to be purchased, plus compounded interest for the period for which the service credit is purchased at a rate equal to the investment rate of return assumption set forth in the actuarial funding chapter, Chapter 41.45 RCW. The applicable employer and employee contribution rates are based on the member's age at entry into TRS and calculated under the entry age normal cost method. All or part of the cost may be paid by a rollover or transfer from an eligible retirement plan, and the employer may pay all or a portion of the member's cost.

Policy Analysis

This proposal provides a benefit to the TRS Plans 2 and 3 that is not available in the SERS or PERS Plans 2/3. This proposal is inconsistent with the legislative policy that the retirement systems of the state shall provide similar benefits wherever possible. See RCW 41.50.005(1). If passed this proposal could lead to "leapfrogging" in that members of other retirement systems may seek similar or improved service credit purchase opportunities in the future. Proponents of this legislation have argued that the teaching profession has a unique need for this benefit in order to assist in recruitment and retention of teachers.

It should be noted that TRS members have another service credit option that PERS and SERS members do not have: the ability to elect to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. See RCW 41.32.065. TRS members are not required to pay for the out-of-state credit, as it is not used to increase the amount of their benefit.

On the other hand TRS Plan 2/3 members do not have a service credit option that PERS and SERS Plan 2/3 members have, which is the ability at retirement to make a one-time purchase of up to five years of additional service credit (or “air time”) in order to offset the required benefit reductions for early retirement. The SCPP is considering a proposal this interim that would extend this option to TRS Plan 2/3 members. There is no cost for this proposal because the purchase price for “air time” is the actuarial cost, which is paid in full by the member.

Procedural Posture/Executive Committee Recommendation

As the result of the September 7, 2004 briefing of the SCPP on the issue of Age 65 Retirement, an “age 65 subgroup” was formed to make specific recommendations to the SCPP. Last month, the subgroup recommended to the Executive Committee that the SCPP consider legislation to provide eligible members of TRS Plans 2/3 the opportunity to purchase up to seven years of out-of-state service credit as membership service. On November 9, 2004, the Executive Committee directed staff to prepare a bill draft and fiscal note on the out-of-state service credit proposal.

Bill (Draft)

The bill draft for this proposal is attached.

Fiscal Note (Draft)

The draft fiscal note for this proposal is attached.

1 AN ACT Relating to purchasing service credit in plan 2 and plan 3
2 of the teachers' retirement system for public education experience
3 performed as a teacher in a public school in another state or with the
4 federal government; adding new sections to chapter 41.32 RCW; and
5 providing an effective date.

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

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

9 (1) An active member who has completed a minimum of five years of
10 creditable service in the teachers' retirement system may, upon written
11 application to the department, make a one-time purchase of up to seven
12 years of service credit for public education experience outside the
13 Washington state retirement system, subject to the following
14 limitations:

15 (a) The public education experience being claimed must have been
16 performed as a teacher in a public school in another state or with the
17 federal government;

18 (b) The public education experience being claimed must have been

1 covered by a retirement or pension plan provided by a state or
2 political subdivision of a state, or by the federal government;

3 (c) The member is not currently receiving a benefit or currently
4 eligible to receive an unreduced retirement benefit from a retirement
5 or pension plan of a state or political subdivision of a state or the
6 federal government that includes the service credit to be purchased;

7 (d) The member has less than ten years of creditable service in the
8 retirement system; and

9 (e) The purchase will not result in the purchase of service credit
10 years that exceed the member's total years of creditable service in the
11 retirement system at the time of purchase.

12 (2) The service credit purchased shall be membership service, and
13 may be used to qualify the member for retirement.

14 (3) The member shall pay the product of the sum of the employer and
15 employee contribution rates multiplied by the member's annualized
16 salary at the time of purchase and further multiplied by the total
17 number of years of service credit to be purchased, plus compounded
18 interest for the period for which the service credit is purchased at a
19 rate equal to the investment rate of return assumption set forth in
20 chapter 41.45 RCW. Compounded interest shall be applied to each year
21 of service credit purchased as follows: No interest for the first
22 year, one years' interest for the second year, two years' interest for
23 the third year, three years' interest for the fourth year, four years'
24 interest for the fifth year, five years' interest for the sixth year,
25 and six years' interest for the seventh year. The applicable employer
26 and employee contribution rates shall be based on the member's age at
27 entry into the retirement system and calculated under the entry age
28 normal cost method.

29 (4) The member may pay all or part of the cost of the service
30 credit to be purchased with a lump sum payment, eligible rollover,
31 direct rollover, or trustee-to-trustee transfer from an eligible
32 retirement plan. The department shall adopt rules to ensure that all
33 lump sum payments, rollovers, and transfers comply with the
34 requirements of the internal revenue code and regulations adopted by
35 the internal revenue service. The rules adopted by the department may
36 condition the acceptance of a rollover or transfer from another plan on
37 the receipt of information necessary to enable the department to

1 determine the eligibility of any transferred funds for tax-free
2 rollover treatment or other treatment under federal income tax law.

3 (5) The employer may pay all or a portion of the member's cost of
4 the service credit purchased under this section.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW
6 under the subchapter heading "plan 3" to read as follows:

7 (1) An active member who has completed a minimum of five years of
8 creditable service in the teachers' retirement system may, upon written
9 application to the department, make a one-time purchase of up to seven
10 years of service credit for public education experience outside the
11 Washington state retirement system, subject to the following
12 limitations:

13 (a) The public education experience being claimed must have been
14 performed as a teacher in a public school in another state or with the
15 federal government;

16 (b) The public education experience being claimed must have been
17 covered by a retirement or pension plan provided by a state or
18 political subdivision of a state, or by the federal government;

19 (c) The member is not currently receiving a benefit or currently
20 eligible to receive an unreduced retirement benefit from a retirement
21 or pension plan of a state or political subdivision of a state or the
22 federal government that includes the service credit to be purchased;

23 (d) The member has less than ten years of creditable service in the
24 retirement system; and

25 (e) The purchase will not result in the purchase of service credit
26 years that exceed the member's total years of creditable service in the
27 retirement system at the time of purchase.

28 (2) The service credit purchased shall be membership service, and
29 may be used to qualify the member for retirement.

30 (3) The member shall pay the product of the employer contribution
31 rate multiplied by the member's annualized salary at the time of
32 purchase and further multiplied by the total number of years of service
33 credit to be purchased, plus compounded interest for the period for
34 which the service credit is purchased at a rate equal to the investment
35 rate of return assumption set forth in chapter 41.45 RCW. Compounded
36 interest shall be applied to each year of service credit purchased as
37 follows: No interest for the first year, one years' interest for the

1 second year, two years' interest for the third year, three years'
2 interest for the fourth year, four years' interest for the fifth year,
3 five years' interest for the sixth year, and six years' interest for
4 the seventh year. The total amount paid by the member shall be deemed
5 a contribution on behalf of the employer for the purpose of RCW
6 41.32.867, and shall not be refundable. The applicable employer
7 contribution rate shall be based on the member's age at entry into the
8 retirement system and calculated under the entry age normal cost
9 method.

10 (4) The member may pay all or part of the cost of the service
11 credit to be purchased with a lump sum payment, eligible rollover,
12 direct rollover, or trustee-to-trustee transfer from an eligible
13 retirement plan. The department shall adopt rules to ensure that all
14 lump sum payments, rollovers, and transfers comply with the
15 requirements of the internal revenue code and regulations adopted by
16 the internal revenue service. The rules adopted by the department may
17 condition the acceptance of a rollover or transfer from another plan on
18 the receipt of information necessary to enable the department to
19 determine the eligibility of any transferred funds for tax-free
20 rollover treatment or other treatment under federal income tax law.

21 (5) The employer may pay all or a portion of the member's cost of
22 the service credit purchased under this section.

23 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/16/04	Z-0242.1/Z-0252.1

SUMMARY OF BILL:

This bill impacts the Teachers' Retirement System (TRS) by allowing members of Plans 2 and 3 to make a one-time purchase of up to seven years of service credit for public education experience (state and federal) outside the Washington State Retirement System. The public education experience claimed must have been covered by a governmental retirement or pension plan, and the member must not be receiving a benefit or eligible to receive an unreduced retirement benefit that includes the service to be purchased. To take advantage of this provision, a member must have at least five and less than ten years of service credit in TRS. The purchase cannot result in the purchase of service credit that is greater than the member's total years of creditable service in the retirement system.

The member pays the product of the sum of the applicable employer and employee contribution rates multiplied by the member's salary at the time of purchase, and further multiplied by the total number of years of service credit to be purchased, plus compounded interest for the period for which the service credit is purchased at a rate equal to the investment rate of return assumption set forth in the actuarial funding chapter, Chapter 41.45 RCW. The applicable employer and employee contribution rates are based on the member's age at entry into TRS and calculated under the entry age normal cost method. All or part of the cost may be paid by a rollover or transfer from an eligible retirement plan, and the employer may pay all or a portion of the member's cost. The service credit purchased is membership service and may be used to qualify the member for retirement.

Effective Date: January 1, 2006.

CURRENT SITUATION:

Currently members of TRS may use out-of-state service credit solely for the purpose of determining the time at which the member may retire. The service credit is not purchased and it is not membership service. The member's benefit is actuarially reduced to recognize the difference between the age the member would have first been able to retire based on service in the State of Washington and the member's retirement age using the out-of-state service credit.

MEMBERS IMPACTED:

We estimate that 1,371 TRS 2 members out of 7,637 active TRS 2 members, and 26,038 TRS 3 members out of 47,263 active TRS 3 members would be affected by this bill.

We estimate that a typical member impacted by this bill would purchase 1.15 years of out-of-state service. The entry age normal cost rate used to determine the purchase price would vary by the member's entry age. The cost of purchasing 1.15 years of service for a typical member with a salary of \$50,000 would be as follows:

Plan 2 Member: $\$50,000 \times 11.80\% \times (1 + 1.08(.15)) = \$6,856$

Plan 3 Member: $\$50,000 \times 5.90\% \times (1 + 1.08(.15)) = \$3,428$

ASSUMPTIONS:

We estimated that the average member would buy 1.15 years of service based on a sample of out-of-state service for 6,850 members. These members had a total of 10,815 years of out-of-state service, or an average of 1.58 years per member. When the service was limited to 7 years, the members in the sample had a total of 7,910 years, or an average of 1.15 years.

Plan 2 members pay both the member and the employer rate. Plan 3 members pay the employer rate only. The contributions to purchase Plan 2 service would be included with the regular and refundable Plan 2 member contributions. The contributions to purchase Plan 3 service would not be refundable but would be used to determine the Plan 3 defined benefit. The purchase of the first year has no interest. The second year interest rate is 8%.

We included the out-of-state service for the benefit calculation, retirement eligibility, and vesting service. Some of our demographic assumptions such as turnover and step salary increases are service based. Our experience studies to determine these rates are based on TRS service only. For estimating the cost of this bill, we assumed that a member's turnover and merit increases would be based on service with TRS only.

FISCAL IMPACT:

Description:

The member would pay for the cost of the additional service, but the plan would be would partially subsidizing the cost because the interest is based on the date of purchase, not on the adjusted date of hire.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>	Current	TRS 2/3 Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	\$5,220	\$19	\$5,239
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	N/A	N/A	N/A
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	\$(1,397)	\$15	\$(1,382)
Increase in Contribution Rates: (Effective 9/1/2005)			
Employee (Plan 2)	0.05%		
Employer State	0.05%		

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	<u>TRS 2/3</u>
2005-2007	
State:	
General Fund	\$3.7
Non-General Fund	<u>0.0</u>
Total State	\$3.7
Local Government	\$0.8
Total Employer	\$4.5
Total Employee	\$0.4
2007-2009	
State:	
General Fund	\$4.2
Non-General Fund	<u>0.0</u>
Total State	\$4.2
Local Government	\$0.9
Total Employer	\$5.1
Total Employee	\$0.4
2005-2030	
State:	
General Fund	\$108.2
Non-General Fund	<u>0.0</u>
Total State	\$108.2
Local Government	\$22.2
Total Employer	\$130.4
Total Employee	\$3.1

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
 4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.
8. The entry age normal cost increase for the bill is 0.07% for TRS employers. The entry age normal cost increase was used to determine the increase in funding expenditures for future new entrants.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Actuarial accrued liability: Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

TRS Service Credit Purchase

Background

This proposal is an outgrowth of the Age 65 study. While it was not formally included within the Age 65 Retirement Options studied by the full committee, it was acknowledged by the Age 65 subgroup, the Executive Committee and the full Committee to be appropriate for the SCPP's 2005 legislative package in order to bring consistency with the PERS and SERS Plans 2/3. In those plans, members who qualify for early retirement or alternate early retirement can make a one-time purchase of up to five years of additional service credit in order to offset the required benefit reductions for early retirement.

Committee Activity

Presentations:

September 7, 2004 - Full Committee
October 19, 2004 - Full Committee
November 9, 2004 - Executive Committee

Subgroup Activity:

October 14, 2004 - Subgroup meeting
November 5, 2004 - Subgroup Meeting

Proposal:

December 7, 2004 - Full Committee

Recommendation to Legislature

Provide eligible members of the TRS Plans 2 and 3 with an opportunity, at the time of retirement, to make a one-time purchase of up to five years of additional service credit in order to offset the required benefit reductions for early retirement.

Staff Contact

Laura Harper, Senior Research Analyst/Legal
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Select Committee on Pension Policy

TRS Service Credit Purchase

(November 22, 2004)

Issue	The issue before the full SCPP is whether to propose legislation to provide eligible members of the TRS Plans 2 and 3 the opportunity, at the time of retirement, to make a one-time purchase of up to five years of additional service credit in order to offset the required benefit reductions for early retirement.
Staff	Laura Harper, Senior Research Analyst/Legal (360) 586-7616
Members Impacted	This bill impacts members of the TRS Plans 2/3. Any future retiree from TRS Plans 2 and 3 could potentially be impacted by this bill. As of our latest actuarial valuation, there were 54,900 active members in TRS Plans 2 and 3.
Current Situation	This option is not currently available for members of TRS. Eligible members of TRS Plans 2/3, however, could purchase an equivalent annuity through a private sector annuity provider. The cost of an annuity will vary from provider to provider and will vary based on the particular annuity product offered. Members of PERS and SERS will have the option to purchase this kind of service credit as of July 1, 2006.

Proposal

This proposal would provide eligible members of the TRS Plans 2 and 3 the opportunity, at the time of retirement, to make a one-time purchase of up to five years of service or additional service credit. The service credit purchased would not need to correspond to any actual service within a Washington or any other retirement system, hence the term “air time.” The service credit can be used to increase early and alternate early retirement benefits by offsetting the required reductions for early retirement.

Eligible members would include only members who are eligible for early retirement or alternate early retirement under the provisions of TRS. The service credit purchased under this bill would not be membership service and could not be used to qualify for retirement. The member would pay the full actuarial cost of the service credit with a lump sum payment, eligible rollover, direct rollover, and/or trustee-to-trustee transfer from an eligible retirement plan at the time of retirement.

Policy Analysis

This proposal creates consistency with PERS and SERS 2/3 with respect to “air time” and promotes the legislative policy that the retirement systems of the state shall provide similar benefits wherever possible. See RCW 41.50.005(1). The five-year limit on “air time” is required by federal law.

It should be noted that TRS members have another service credit option that PERS and SERS members do not have: the ability to elect to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. See RCW 41.32.065. TRS members are not required to pay for the out-of-state service credit, as it is not used to increase the member’s benefits.

It should also be noted that the SCPP is considering another proposal that would allow members of TRS Plans 2/3 to purchase up to seven years of service credit earned as a teacher in a public school in another state or with the federal government. This latter form of service credit would be treated as membership service for all purposes. This means that it can be used to qualify for retirement and to increase benefits.

Procedural Posture/Executive Committee Recommendation

As the result of the September 7, 2004 briefing of the SCPP on the issue of Age 65 Retirement, an “age 65 subgroup” was formed to make specific recommendations to the SCPP. Last month, the subgroup recommended to the Executive Committee that the SCPP consider legislation to provide TRS 2/3 members with the opportunity to purchase up to five years of “air time” in order to offset reductions for early retirement. On November 9, 2004, the Executive Committee directed staff to prepare a bill draft and fiscal note on the TRS “air time” proposal.

Bill (Draft)

The bill draft for this proposal is attached.

Fiscal Note (Draft)

The draft fiscal note for this proposal is attached.

1 AN ACT Relating to permitting members of the teachers' retirement
2 system plan 2 and plan 3 who qualify for early retirement or alternate
3 early retirement to make a one-time purchase of additional service
4 credit; adding new sections to chapter 41.32 RCW; and providing an
5 effective date.

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

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

9 (1) A member eligible to retire under RCW 41.32.765 (2) or (3) may,
10 at the time of filing a written application for retirement with the
11 department, apply to the department to make a one-time purchase of up
12 to five years of additional service credit.

13 (2) To purchase additional service credit under this section, a
14 member shall pay the actuarial equivalent value of the resulting
15 increase in the member's benefit.

16 (3) Subject to rules adopted by the department, a member purchasing
17 additional service credit under this section may pay all or part of the
18 cost with a lump sum payment, eligible rollover, direct rollover, or
19 trustee-to-trustee transfer from an eligible retirement plan. The

1 department shall adopt rules to ensure that all lump sum payments,
2 rollovers, and transfers comply with the requirements of the internal
3 revenue code and regulations adopted by the internal revenue service.
4 The rules adopted by the department may condition the acceptance of a
5 rollover or transfer from another plan on the receipt of information
6 necessary to enable the department to determine the eligibility of any
7 transferred funds for tax-free rollover treatment or other treatment
8 under federal income tax law.

9 (4) Additional service credit purchased under this section is not
10 membership service, and may not be used to qualify a member for
11 retirement under RCW 41.32.765.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW
13 under the subchapter heading "plan 3" to read as follows:

14 (1) A member eligible to retire under RCW 41.32.875 (2) or (3) may,
15 at the time of filing a written application for retirement with the
16 department, apply to the department to make a one-time purchase of up
17 to five years of additional service credit.

18 (2) To purchase additional service credit under this section, a
19 member shall pay the actuarial equivalent value of the resulting
20 increase in the member's benefit.

21 (3) Subject to rules adopted by the department, a member purchasing
22 additional service credit under this section may pay all or part of the
23 cost with a lump sum payment, eligible rollover, direct rollover, or
24 trustee-to-trustee transfer from an eligible retirement plan. The
25 department shall adopt rules to ensure that all lump sum payments,
26 rollovers, and transfers comply with the requirements of the internal
27 revenue code and regulations adopted by the internal revenue service.
28 The rules adopted by the department may condition the acceptance of a
29 rollover or transfer from another plan on the receipt of information
30 necessary to enable the department to determine the eligibility of any
31 transferred funds for tax-free rollover treatment or other treatment
32 under federal income tax law.

33 (4) Additional service credit purchased under this section is not
34 membership service, and may not be used to qualify for retirement under
35 RCW 41.32.875.

1 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:

CODE: DATE:

BILL NUMBER:

Office of the State Actuary

035 11/18/2004

Z-0202.1/Z-0203.1

SUMMARY OF BILL:

This bill impacts the Teachers' Retirement System (TRS) Plans 2 and 3 by allowing eligible members, at the time of retirement, to purchase up to five years of additional service credit. The service credit can be used to help offset the benefit reductions for early retirement.

Eligible members would include only members who are eligible for early retirement under the provisions of the system. Additional service credit purchased under this bill does not constitute membership service and, therefore, could not be used to qualify for retirement.

A member purchasing additional service credit under this bill would pay the full actuarial cost of the service credit with a lump sum payment, eligible rollover, direct rollover, and/or trustee-to-trustee transfer from an eligible retirement plan (at the time of retirement).

Effective Date: 7/1/2006

CURRENT SITUATION:

This option is not currently available through the Department of Retirement Systems. Current members, however, could purchase an equivalent annuity through a private sector annuity provider. The cost of an annuity will vary from provider to provider and will vary based on the particular annuity product offered.

MEMBERS IMPACTED:

Any future retiree from TRS Plans 2 and 3 could potentially be impacted by this bill. As of our latest actuarial valuation, there were 54,900 active members in TRS Plans 2 and 3.

FISCAL IMPACT:

None.

We have assumed that this benefit proposal will not change future retirement behavior in the affected retirement systems since existing members currently have access to private-sector annuity providers that currently provide similar annuity products. We have also assumed that the full actuarial cost will include the cost of any adverse selection that may develop due to mortality experience and/or interest rate timing by the member.

Washington State Patrol Rate Stability

Background

As of the most recent forecast, member contribution rates in the WSPRS are expected to increase from the current 2.00% minimum to 7.97% during the 2007-2009 biennium, and to 8.93% in the 2009-2011 biennium. Historically, the WSPRS member contribution rate was set in statute at 7.00% of salary. When the plan was reformed in 2001, a new funding method and cost-sharing design were incorporated. As a result, member contribution rates will soon exceed the former statutory rate.

Committee Activity

Presentations:

October 19, 2004 - Full Committee
November 9, 2004 - Full Committee

Proposal:

November 9, 2004 - Full Committee

Recommendation to Legislature

Establish a contribution formula for the WSPRS where members pay $\frac{1}{3}$ of the cost of the plan, with a maximum member contribution rate of 7.0%, and the employer pays the remaining cost of the plan.

Staff Contact

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Select Committee on Pension Policy

Washington State Patrol

Rate Stability

(December 15, 2004)

Issue

Contribution rate stability and the current cost-sharing provision in the Washington State Patrol Retirement System (WSPRS) are issues for the Washington State Patrol Trooper's Association. They have forwarded their proposals to the SCPP in recent correspondence and analysis.

As of the most recent forecast, member contribution rates in the WSPRS are expected to increase from the current 2.00% minimum to 7.97% during the 2007-2009 biennium, and to 8.93% in the 2009-2011 biennium. Historically, the WSPRS member contribution rate was set in statute at 7.00% of salary. When the plan was reformed in 2001, a new funding method and cost-sharing design were incorporated. As a result, member contribution rates will soon exceed the former statutory rate. While the Trooper's Association endorses the concept of rate stability, they are also interested in reformulating the current cost-sharing formula.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

As of the 2003 valuation there were 1,079 active members of the WSPRS (1,045 in Plan 1 and 34 in Plan 2).

Current Situation

The Washington State Patrol Retirement System (WSPRS) was originally established in 1947, and in 2001 was the last of the Plan 1 design systems to be reformed. Among the numerous modifications to the system were changes to the funding provisions. In the original plan,

member contributions were set at 7.00% in statute with the balance of contributions provided by the employer. The current provisions are a modified cost-sharing design in which members pay half the cost of the plan or 2.00% of pay, whichever is greater.

When the funding provisions were modified, the plan was in fully-funded status and member contributions were 2.00% of pay while employer contributions were 0.00%.

History

From 1995 through 1999, the return on plan assets in the State's retirement funds performed well above the actuarially assumed rate of return. As a result, several plans reached funded ratios significantly above 100%, in essence holding greater assets than there were accrued liabilities. In 1999, the State's contributions were suspended in both the WSPRS and the Law Enforcement Officer's and Fire Fighter's Plan 1 (LEOFF 1) when plan assets exceeded the plan's fully projected benefit liability. In 2000, employee and employer contributions were suspended in LEOFF 1, and employee contributions were lowered to 3% in WSPRS. The 1999 legislature also directed the Joint Committee on Pension Policy (JCPP) to study the method for setting employer and employee contribution rates in the WSPRS during the 2000 interim. During the 2000 interim, JCPP studied and proposed changes to the WSPRS. The JCPP submitted legislation that was enacted in 2001 as Chapter 329. That legislation reformed the WSPRS by:

- Changing the COLA from a simple 2% to a compounded 3% CPI-based adjustment for beneficiaries as well as retirees.
- Changing the employee contribution rate from a fixed 7% to the greater of 2% or the employer rate.
- Excluding prospectively voluntary D.O.T. overtime from the definition of salary.

For new members of the WSPRS commissioned on or after January 1, 2003, the new plan differed from the older plan by:

- Changing from a 2 year to a 5 year Average Final Salary (AFS) for calculating retirement benefits.
- Excluding annual and holiday pay cash-outs from compensation in determining member's AFS.
- Changing military service credit provisions to exclude prior military service and requiring employee contributions for interruptive service.
- Removing the post-retirement death benefit and allowing the member to select an actuarial equivalent benefit option at retirement.
- Changing the pre-retirement death benefit for members not eligible to retire or who have less than ten years of service to a refund of the member's accumulated contributions plus interest. For a member who was eligible to retire or who had at least 10 years of service, the benefit was changed to a reduced accrued benefit or 150 percent of the member's accumulated contributions at the survivor's option.

In addition, the legislation provided that the funding of the plan be done on an "aggregate actuarial cost" method, as done for all other Plan 2's. Prior to this change, the system was funded on an "entry age normal" basis.

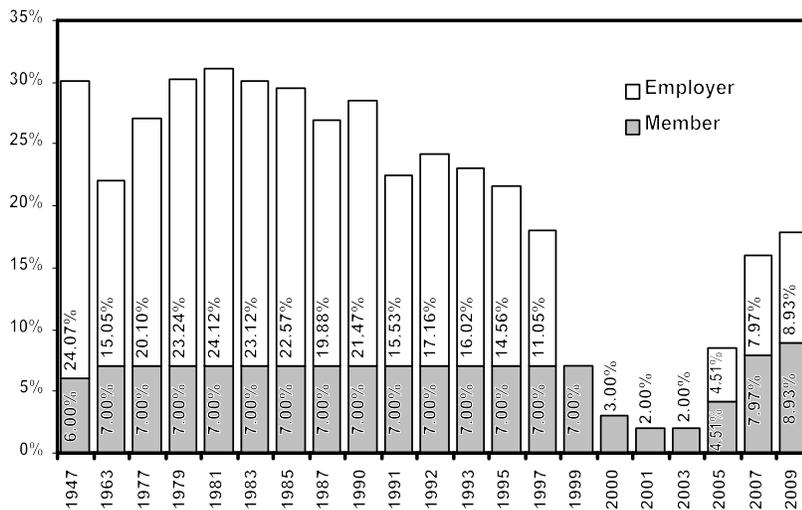
The legislation also attempted to amend the disability provisions in the WSPRS. The existing provisions gave the Chief a principal role in determining disability. And while injured WSPRS members are eligible for Workers Compensation benefits through the Department of Labor and Industries (L&I), disability retirement benefits have been primarily paid from the WSP operating budget rather than the retirement system or L&I. The sections amending the disability provisions were vetoed because of the possible diminishment of benefits in particular situations.

What is also unusual about the changes made to the WSPRS in 2001, and what makes it distinct from the other Plan 2s, is that those changes did not include a typical Plan 2 funding structure. When the other Plan 2s were created (PERS 2, TRS 2, SERS 2, and LEOFF 2), the original plans were closed, and separate funds and funding methods were established. In the WSPRS there are no separate Plan 1 and Plan 2 funds – all contributions are deposited into the same fund. All members, whether Plan 1 or Plan 2, are part of one actuarial experience group, contributions are calculated with no distinction between the plan members, and all members are subject to the same contribution rate.

Contribution Rate History

At its creation in 1947, WSPRS member contributions were set at 6% of pay, and the employer rate was approximately 4 times that (see Figure 1). In 1963, the member rate was fixed at 7% of pay, and employer contribution rates have varied between two and three times the member rate. So while the member contribution rate has historically been very stable, the employer contribution rate has fluctuated significantly.

Figure 1
WSPRS Member and Employer Contribution Rates
Historical 1947-2003 and Forecast 2005-2009

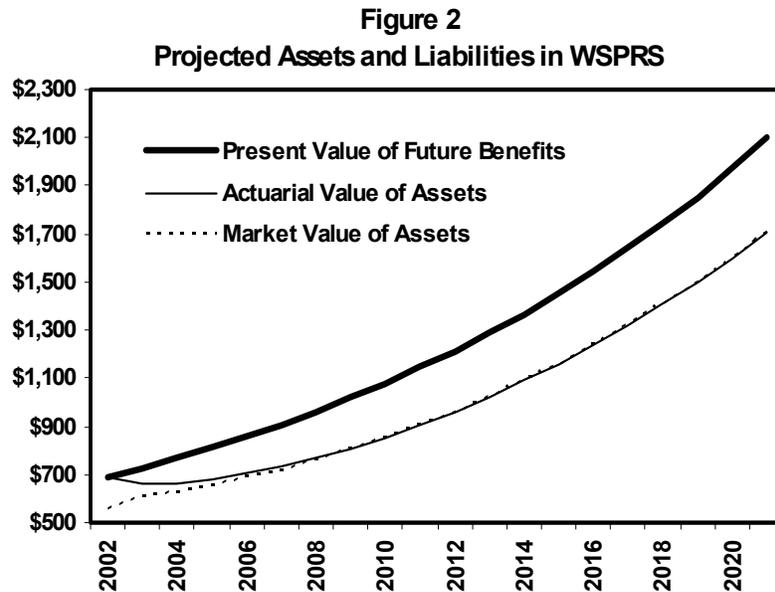


Source: Office of the State Actuary

The funding and contribution rate provisions in the WSPRS have, up to 2001, been similar to those of the other Plan 1s. The plan funding was based on the “entry age normal” method, the member rate was set at a constant percent of salary, and the employer rate was whatever else was required to meet the funding needs of the plan including payments to amortize any unfunded liability. All other Plan 1s – PERS, TRS, and LEOFF – still have statutorily fixed member contribution rates of 6% (the LEOFF 1 member contribution rate is currently 0% as the plan is still fully funded). WSPRS is the only Plan 1 design to change its funding method and change its existing member contribution from a fixed percentage to a cost-sharing percent.

After experiencing a funding ratio of 159% in 1999, the WSP Plan is projected to emerge from full funding in the 2005-2007 biennium. The relatively quick reduction of surplus funds in the WSPRS was not just because of the poor investment markets in 2000 and 2001 but also because the plan is open to

new entrants. As new members join, the plan recognizes their liabilities very quickly (see Figure 2), which is then compared with the assets from the single WSPRS fund, including the surplus assets. Contrast this with the surplus funding experience in LEOFF 1: there have been no new members (liabilities) since 1977 and the reduction of surplus funds, as a result, is slower. Member and employer contribution rates in the WSPRS are each expected to surpass 7% in the 2007-2009 biennium.



Source: Office of the State Actuary

Because of changes in the WSPRS funding method, member and employer contribution rates are expected to move in unison once the total costs reach and surpass 4% of pay. This is somewhat characteristic of a cost-sharing funding method. The principal difference between the WSPRS and other Plan 2s is the 2% minimum member contribution in the WSPRS; minimum member contributions are not found in the other Plan 2s. As a result of the minimum contribution requirement, WSPRS members will, in the long-run, pay more than half the cost of the plan.

Cost-sharing and Plan Value

Because of the varying degrees of funded status, the value of the retirement plans – the benefits provided to members in retirement – and the long-term level of cost-sharing are not necessarily reflected in the current contribution rates. There are several plans that are not fully funded (see Figure 3) and their

contribution rates are higher to pay for the plans' unfunded actuarially accrued liability. Other plans are in surplus, and depending on the funding method may have lower contributions, or no contributions. Because of these funding differences current contribution rates do not reflect the long-term value of the plans.

Figure 3
Funded Ratios of Plan 1 Systems
and WSPRS 2003

PERS 1	TRS 1	LEOFF 1	WSP
85%	93%	112%	123%

A more appropriate indicator of plan value, or benefit value under a defined benefit plan, is the entry age normal cost of the plan. This prices the plan based on the cost of the benefits and the long-term realization of all actuarial assumptions. In this manner, the contribution rates reflect the demographic characteristics of plan members and the value of the benefits in the plan rather than the short-term gains or losses in plan assets. The normal cost of the various retirement systems and plans are shown in Figure 4.

Figure 4
Entry-Age Normal Contribution Rate and Social Security Contribution
by System and Plan: Total Percent of Pay

Plan	Entry Age Normal Cost			Social Security Tax			Entry Age + Soc Sec		
	Member	Employer*	Total	Member	Employer	Total	Member	Employer	Total
PERS 1	6.00%	5.31%	11.31%	6.20%	6.20%	12.40%	12.20%	11.51%	23.71%
PERS2/3	4.46%	4.46%	8.92%	6.20%	6.20%	12.40%	10.66%	10.66%	21.32%
TRS 1	6.00%	7.30%	13.30%	6.20%	6.20%	12.40%	12.20%	13.50%	25.70%
TRS 2/3	5.43%	5.43%	10.86%	6.20%	6.20%	12.40%	11.63%	11.63%	23.26%
SERS	4.71%	4.71%	9.42%	6.20%	6.20%	12.40%	10.91%	10.91%	21.82%
LEOFF 1	6.00%	22.46%	28.46%	0.00%	0.00%	0.00%	6.00%	22.46%	28.46%
LEOFF 2	8.36%	8.36%	16.71%	0.00%	0.00%	0.00%	8.36%	8.36%	16.71%
WSPRS	10.69%	10.69%	21.38%	0.00%	0.00%	0.00%	10.69%	10.69%	21.38%

*Does not include contribution rate for Plan 1 UAAL.

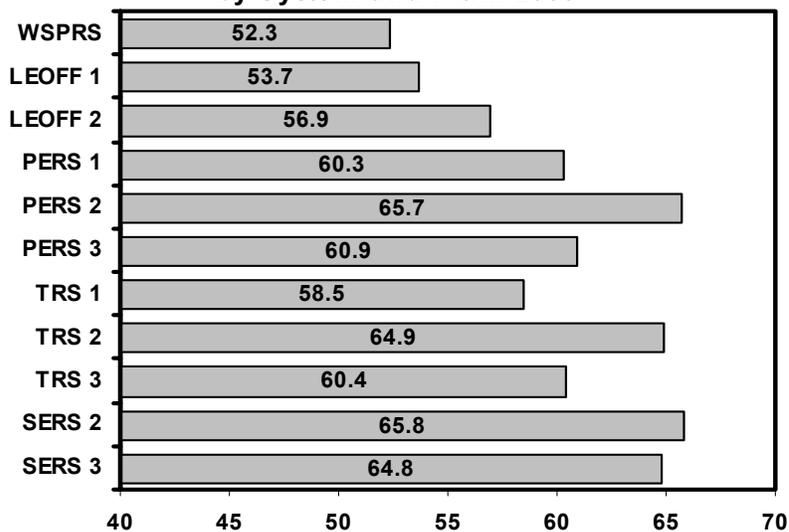
Taking into account both State retirement and Social Security, total contributions to Washington's retirement systems can easily surpass 20% of pay in most plans. The employer commitment to Washington's retirement plans, again summing the normal cost plus any employer contributions to Social Security, can surpass 10% of pay. The total employer contribution in

the WSPRS is 10.69% of pay compared to 10.66% on PERS 2/3 and 11.63% in TRS 2/3. The entry age normal cost for the WSPRS is based on the current mix of Plan 1 and Plan 2 members. This rate will decrease as Plan 1 members are replaced by Plan 2 members.

Age Provisions and Plan Value

All Washington’s systems and plans have similar benefit formulas (2% of average final compensation × years of service). Such similar provisions will not cause cost differences within the Plan 1s, or within the Plan 2s. The more costly element that will differentiate these systems and plans is the age at which a member is allowed to retire and receive a benefit. The younger the retirement age, the longer a benefit is received, and the costlier the plan. Because of the inherent danger and physical stresses of public-safety occupations, the age and service provisions in WSPRS and the LEOFF Plans allow for full retirement benefits at relatively young ages: at age 50 in LEOFF 1, age 53 in LEOFF 2, and at age 55 or after 25 years of service in WSPRS. Many WSPRS members have become eligible for full benefits before reaching age 50. The average retirement ages in these public-safety plans are reflective of those provisions (see Figure 5) which would make them more costly than the remaining plans.

**Figure 5
Average Retirement Age
by System and Plan: 2003**



Three-Legged Stool

The “three-legged-stool” pension model is one in which an individual’s retirement income is derived from three sources: an employer provided pension, personal savings, and Social Security. Social Security benefits are available to all employee groups who elect to join and make contributions. Those contributions are currently 6.2% of pay, up to \$87,000 (indexed) in earnings, for both the employee and employer.

Many public-safety retirement plan members, including WSPRS members, do not pay into the Social Security system. Members of several general public employee retirement plans also do not pay into Social Security, Alaska and Ohio Public Employee’s Retirement System being examples. Plans covering employees who do not pay into Social Security tend to have more generous benefits than those where members do make Social Security contributions. This is a tacit acknowledgment that when one leg of the three-legged stool is absent, one of the other legs must be more substantial.

WSPRS members also do not pay into Medicare. PERS, TRS, and SERS members and their employers each pay 1.45% of salary as contributions to Medicare.

Even if WSPRS members do not pay into Social Security, that does not necessarily mean they won’t inevitably receive Social Security benefits. It is understood that by retiring relatively young, not all members will be permanently leaving the work force. Retired WSPRS members will likely be working in some other public or private-sector job until fully retired; one in which they would probably be contributing to Social Security.

Contributions and Funding in Comparative Systems

Contributions among the comparative states will be different because of the differences in benefit design, funding policies, cost-sharing, and the presence of unfunded liabilities. Employer contributions among the comparison states ranged from 0.00% in Washington to 43.54% in Missouri (see Figure 6).

**Figure 6
Comparisons of Provisions in Select State Trooper Plans**

	Contribution Rates		Benefit Multiplier: ___% × Years of Service	Benefit Requirements Age / Service
	Employer	Member		
California	32.65%	8.00%	3.0% (max 90%)	50 / 5
Colorado	12.85%	10.00%	2.5%	50 / 25, 55 / 20, 60-64 / rule of 80, 65 / 5
Florida	22.15%	0.00%	3.0%	55 / 6, Any age / 25
Idaho	10.73%	7.65%	2.3% (max 100%)	50 / Rule of 80
Iowa	17.00%	9.35%	2.75% (max 88%)	55 / 22
Minnesota	12.60%	8.40%	3.0%	55 / 3
Missouri	43.54%	0.00%	1.7%	48 / Rule of 80
Ohio	24.50%	10.00%	2.5% up to 20 years, 2.25% 21 to 25 years, 2.00% per year thereafter (max 79.25%)	48 / 25
Oregon	9.49%	6.00%	2.0%	55 / any service, 50 / 25, Any age / 30
Washington	0.00%	2.00%	2.0% (max 75%)	Any age / 25, 55 / Any service

Florida and Missouri are non-contributory plans.

Iowa employer contribution did not include a payment to the plan's unfunded liability.

Missouri employer contribution rate includes a 29.21% payment for the plan's unfunded liability.

California employer contribution rate includes an 18.13% payment for the plan's unfunded liability.

Missouri members pay into Social Security.

Among these comparative systems, only WSPRS has a 50-50 (as long as the costs exceed 4% of pay) cost-sharing design. Most rely on a statutory contribution by the members and a residual contribution by employers to pay the remaining cost of the plan. Two of the plans, Florida and Missouri, are non-contributory plans, meaning the members make no contributions at all.

Benefit design has a direct bearing on the cost and funding requirements of these plans. The California State Patrol plan recently instituted a 3% per year benefit multiplier which will result in a larger benefit and require greater contributions than the 1.7% multiplier used in Missouri. However, Missouri troopers and their employer, pay into Social Security thus providing a benefit that does not show in this accounting.

Funding methods also add to the difficulties in comparing contribution rates. The current funding method in Washington is the aggregate actuarial cost method in which no unfunded actuarially accrued liability (UAAL) is allowed to accumulate outside the plan's normal cost. All of the comparison States use

the “entry age normal” funding method and have varying levels of unfunded liabilities. For instance, in Missouri the great majority of their current employer contributions are to cover the plan’s UAAL. Over half of the employer contributions in the California Highway Patrol plan are payment for the plan’s unfunded liability. Idaho and Colorado’s trooper plans also have unfunded liabilities that add to their employer contribution rates. Iowa’s trooper plan also has a significant unfunded liability that could increase their current employer contribution rate by up to 12 percentage points if they chose to fund it. Unfunded liabilities create generational equity issues in that the cost of unfunded pension liabilities of current retirees are passed to future taxpayers.

LEOFF 2 Comparison

The other open public safety related retirement system in Washington State is the Law Enforcement Officers and Fire Fighters retirement system Plan 2 (LEOFF 2). A new Public Safety Employee’s Retirement System (PSERS) will open in 2006, but until that time LEOFF 2 will be the point of comparison. Benefit provisions in WSPRS 2 and LEOFF 2 are similar in many ways, particularly in terms of vesting, benefit formula, and COLAs. Where the WSPRS differs is in the provision allowing a member with 25 years of service to retire with an unreduced benefit. This is characteristic of the service-based criteria found in the Plan 1 designs and still found in WSPRS 2. This is more costly than the age and service provision in LEOFF 2.

As with all the Plans 2, the WSPRS and LEOFF 2 are similar in that they both use the “aggregate actuarial cost” funding method (see Figure 7). This method reacts quickly to changes in asset returns, and does not allow the accumulation of an unfunded liability outside the plan’s normal cost.

**Figure 7
Funding Provisions in WSPRS 2 and LEOFF 2**

	WSPRS 2	LEOFF 2
Funding Method	Aggregate Actuarial Cost	
Member Contributions	2% or half the cost of the benefits, whichever is greater.	Half the cost of member benefits
Employer Contributions	(The State is the employer)	30% of the cost of members benefits
State Contributions	Half the cost of members benefits unless total costs are under 4%.	20% of the cost of members benefits

Besides the minimum member contribution in WSPRS, the principal difference in funding policy between the plans is how the employer costs are divided in LEOFF 2. The state is the employer for WSPRS members and pays half the cost of the retirement plan benefits, as long as the costs exceed 4% of pay. While the State is not the employer in LEOFF 2, it still pays 20% of the cost of the benefits, while the actual local government employer pays 30% of the cost of the benefits. A State contribution for those who are local government employees is not found in the other Washington systems and plans; it is likely a design borne of the significant state contributions to the original LEOFF 1 Plan.

Proposed Cost-sharing Formula

The Trooper's association has proposed reworking the cost-sharing formula. The current 50-50 split with a 2.00% member minimum would be changed to $\frac{1}{3}$ member, $\frac{2}{3}$ employer, with the member rate capped at 7%. Historically the plan required 7.00% of pay from the members with the State liable for the remaining costs. This resulted in members paying, on average, about one-third of the plan's costs and the employer (the State) paying about two-thirds.

In a second proposal, the Trooper's Association has also requested a phase-in period before the $\frac{1}{3}$ - $\frac{2}{3}$ formula takes effect. Because their employer has been making no contributions since 1999, they feel their employer should make even larger contributions than are generated in the $\frac{1}{3}$ - $\frac{2}{3}$ formula. They propose that over the next 3 biennia, members would pay 20% of the cost of the plan, with a 2.0% minimum member contribution rate, and their employer would pay the remaining cost of the plan.

Fiscal Impact

Fiscal analysis of this proposed cost-sharing formula show the member contribution rate in the 2005-2007 biennium declining by 1.5% and the employer rate increasing by 1.5%. This would result in an additional \$2.4 million in State contributions to the WSPRS during the 2005-2007 biennium. With a long-term expected normal cost of 21.38%, the current 50-50 cost-sharing would result in member rates and employer rates each trending to 10.69%. Under the $\frac{1}{3}$ - $\frac{2}{3}$, 7% cap proposal, the member rate would reach a maximum of 7% while the employer rate would trend to 14.39%. The 25-year cost to the State would be \$123 million. Under the phase-in proposal, the

member contribution rate would fall by 2.51% and the employer contribution rate would increase by 2.51% in the 2005-2007 biennium. This would result in an additional \$4.0 million in employer contributions in the first two years. The 25-year cost to the state would be \$133.4 million.

Policy Analysis

The policy questions in regards to the WSPRS contribution rate stability issue is whether the plan adheres to the cost-sharing policies outlined for the Plan 2s, whether the current volatile contribution rates are in conflict with existing funding policy, and whether the proposed contribution formula, with the 7% cap, is in keeping with current policy.

Cost-sharing

One of the implicit policies formulated by the Joint Committee on Pension Policy states that "... costs should be shared equally between employees and employers."

When the total funding requirements of the WSPRS are 4% of salary or greater, there is equal cost-sharing. If, as has been the case over the past several years, the plan is fully funded and requires no contributions, then members pay the only contributions to the plan. Since members make contributions when none are necessary but the employer does not, the members will, in the long-run, not share equally in the costs of the plan. The proposed $\frac{1}{3}$ - $\frac{2}{3}$ cost-sharing formula would be consistent with past practices for the WSPRS but inconsistent with current cost-sharing policies of the Plan 2 systems. The prospect of member contribution rates climbing over 7.00% may also raise a Bakenhus issue for existing Plan 1 members. Existing members never paid contributions above 7.00% of pay. The Bakenhus decision does allow for changes in retirement plan provisions as long as the trade-offs are of equivalent value. In the reform of the State Patrol Plan in 2001, existing members and their beneficiaries received a benefit increase in the form of a 3% CPI-based COLA for retirees and survivors; retirees formerly had a 2% simple COLA, and only in 2000 were survivors eligible to receive a 2% simple COLA. Existing members also received more flexibility in providing survivor benefits for their beneficiaries. Though not a permanent benefit, members also received a short term decline in their contribution rate.

Rate Volatility

Within the Finding Chapter (RCW 41.45) is the policy goal to “establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets.”

The projected increases in employer and member contribution rates have brought this policy to the forefront in current retirement discussions. The volatility of the contribution rates, both during the recent past and over the next several biennia, is in conflict with this existing funding policy. Legislation has been enacted in the past two sessions to address this volatility, and is expected to smooth out any such future fluctuations (Chapter 11 laws of 2003 extended session, and chapter 93 laws of 2004.)

Rate predictability and stability is an issue impacting all systems and plans, including the WSPRS. In response to this volatility the funding report of the State Actuary, heard by the SPCP in July of this year, included a recommendation to establish minimum Plan 2/3 contribution rates based on a combination of entry age and aggregate methods. The report also recommended that the rate charged employers to fund the Plan 1 unfunded liability not be allowed to decrease until the plans were at a funded ratio of 125%. These recommendations seek to add a greater degree of predictability and stability to the funding of the retirement plans in keeping with existing policies.

In addition, the SPCP Pension Funding Council Subgroup proposed a phase-in of the projected rates increases over the next 3 biennia. While this would incur additional costs to the plans, it would observe the policy of predictability.

Policy Conclusion

Two particular elements within the WSPRS design have policy implications. The presence of a minimum contribution rate for members results in an imbalanced cost-sharing relationship. Without an equivalent minimum contribution rate for the employer, members will not share equally with the State in the cost of the plan. The proposed $\frac{1}{3}$ - $\frac{2}{3}$ contribution formula with a 7% member cap may be in keeping with historical Plan 1 policy, but would be establishing new policy within the Plan 2 systems. The other policy element relates to the stability of the contribution rates; by using the aggregate method to fund the plans, benefits are fully paid over the working lives of the members

and no unfunded liability is allowed to accrue outside the plan's normal cost. This does result in rate volatility which may be in conflict with existing funding policy. However, recent legislation has set in place new smoothing methods and asset corridor measures to address this volatility. Furthermore, additional funding recommendations are before the SCPP this interim which also apply to the WSPRS.

Executive Committee Recommendation

Forward two proposals to the full committee for a public hearing:

Proposal # 1: Members pay $\frac{1}{3}$ of the cost of the plan, with a maximum member contribution rate of 7.0%, and the employer pays the remaining cost of the plan.

Proposal #2: During the first 3 biennia members pay 20% of the cost of the plan, with a 2% minimum member contribution rate, and the employer pays the remaining cost of the plan. After 3 biennia, members pay $\frac{1}{3}$ of the cost of the plan, with a maximum member contribution rate of 7.0%, and the employer pays the remaining cost of the plan.

Committee Recommendation

Draft a bill on proposal #1 and forward it to the full legislature.

Bill Drafts

Attached

Fiscal Note

Attached

Administrative Impact

See attached letter from John Charles, Director of Department of Retirement Systems.

Stakeholder Input

Robert Thurston, President
Washington State Troopers Association
See attached correspondence



STATE OF WASHINGTON
DEPARTMENT OF RETIREMENT SYSTEMS
PO Box 48380 • Olympia WA 98504-8380 • (360) 664-7000 • Toll Free 1-800-547-6657

October 28, 2004

The Honorable Karen Fraser, Chair
The Honorable Steve Conway, Vice-Chair
Select Committee on Pension Policy
Post Office Box 40914
Olympia, Washington 98504-0914

RECEIVED

OCT 28 2004

Office of
The State Actuary

Dear Senator Fraser and Representative Conway:

Subject: Washington State Patrol Rate Stability

At the October 19, 2004 Select Committee on Pension Policy (SCPP) meeting, the Department of Retirement Systems (DRS) was asked to provide administrative input on the issue of rate stability in the Washington State Patrol Retirement System (WSPRS). There are three administrative areas of the WSPRS that are important to note: the funding structure of the plan, the accounting of the contributions, and the reporting of the assets in the Department's Comprehensive Annual Financial Report (CAFR).

Funding

As explained in the report to the SCPP, the funding of the plan had historically been a 1/3 – 2/3 split between member and employer, with a 7 percent maximum member contribution. In the 2001 legislation creating Plan 2 and providing for an enhanced cost of living allowance for retirees, that funding was changed to an employee contribution equal to the greater of 2 percent or the employer rate. However, unlike any other Washington State retirement system with multiple plans, the funding of the benefits for each plan was not separated, even though the benefit structure for Plan 1 and Plan 2 is significantly different. Currently, members of both plans pay the same contribution rate, and all benefits are paid from the same fund.

Accounting

When implementing this 2001 legislation, DRS decided to account for the contributions from each plan separately. While the contributions are invested and benefits are paid from one fund per statutory requirement, the Department accounts for them separately to ensure clear records and provide for historical data regarding the contributions received by members of each plan. This practice would allow the Department to easily account for separate Plan 1 and Plan 2 funds should this be necessary in the future.



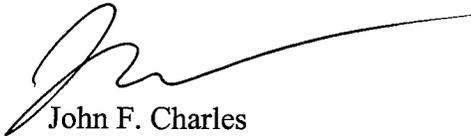
Senator Karen Fraser
Representative Steve Conway
October 28, 2004
Page 2

Reporting

In determining how to report WSPRS Plan 1 and Plan 2 under one fund in the department's and the state's Comprehensive Annual Financial Reports, and in the State Investment Board's Annual Report, we worked with staff from the Office of the State Actuary, the State Investment Board, and the Office of Financial Management, to reach agreement on the appropriate way to accurately represent WSPRS. We agreed that descriptions of the benefit structure and demographic data should be represented for each plan within the system but that all data showing contributions, assets, and liabilities would be represented only at the system level, with footnotes explaining that this includes both Plan 1 and Plan 2. You will see this reporting structure in the 2004 CAFR, published in December.

The issue before the Select Committee on rate stability is complex but the decisions and practices of the Department, when implementing the 2001 legislation, should allow for ease of administration if changes to WSPRS funding policy are made. Please contact me at 664-7312 if you have any further questions.

Sincerely,



John F. Charles
Director



WASHINGTON STATE PATROL TROOPERS ASSOCIATION

200 UNION AVE. SE STE. 200 , OLYMPIA, WASHINGTON 98501 (360) 704-7530 FAX (360) 704-7527

September 9, 2004

RECEIVED

SEP 13 2004

COPY

Senator Karen Fraser
P.O. Box 40422
Olympia, WA 98504-0422

Office of
The State Actuary

Re: WSPRS Contribution Rate Stability

Dear Senator Fraser:

Thank you for taking the time to meet with Rick Jensen and Paul Neal to contribution rate stabilization. We share your concerns, and appreciate your leadership, in this area. All of the systems have seen wide swings in rates in the last six years, but those fluctuations have been most dramatic in the Washington State Patrol Retirement System (WSPRS).

The current contribution rate stabilization recommendation put forward by the State Actuary would require an amendment to the statutes governing contribution rates for the WSPRS. We ask that those amendments incorporate our proposal.

We are proposing a WSPRS contribution formula that is consistent with the statutory history and past practice of the Legislature and the Pension Funding Council:

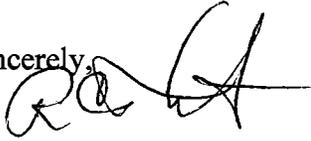
- 7% cap on member contributions;
- 1/3 – 2/3 member to employer contribution ratio effective July 1, 2005.

I am enclosing a copy of our briefing paper on the issue. I would appreciate it if you could give the Trooper's association fifteen to twenty minutes on the October SCPP agenda to present this issue to the full committee.

We are also concerned about retiree health insurance. There are a number of optional plans authorized by the federal tax code. There also appears to be a lot of confusion about what those plans are and how they work. Please consider making the study and discussion of this issue a top priority for the SCPP's work during the 2005 interim.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Thurston', written over the word 'Sincerely,'.

Robert Thurston, President
Washington State Trooper's Association

cc: Matt Smith

Contribution Rate Stability For Trooper Retirement

October 4, 2004

The Trooper's association shares the SCPP's concern for contribution rate stability. We support the idea of working towards a minimum contribution rate that will guard against the wild swings we are currently experiencing. Under the Actuary's current recommendation, those minimum contribution rates would be equal for employers and employees. The unique history of Trooper retirement requires a modified application.

How We Got Here

Up until 2001, the Troopers paid a statutorily fixed 7% contribution rate. Historically, Troopers have paid one-third of the system cost and the State has paid two-thirdsⁱ.

In 1999 the State's contribution to WSPRS dropped to 0.00%, where it has stayed ever since. In 2001 the Legislature changed the funding formulaⁱⁱ greatly reducing the State's obligation. Instead of picking up two-thirds of the cost, the State changed its maximum obligation to one-half. Troopers were required to pick up the slack.

Since 1999 the State has paid nothing while the Troopers have continued to pay. Beginning in 2005, the system cost will exceed 4% of salaryⁱⁱⁱ. At that point the Troopers and the State will each be sharing half of the total cost. Beginning in 2007, Trooper contributions will exceed 7%.

Where We Are

Washington State Troopers appear to get better retirement benefits than other State employees. In reality, the State's current funding commitment to Trooper's retirement is much less. The State makes Social Security Contributions for all its employees - except Troopers.

Current employer retirement contribution policy:

	Employer Pension Contribution Policy	10 year average annual employer contributions
Troopers (WSPRS)	(A) One-half of actuarial cost of WSPRS ^{iv} ;	5.12% of salary
All Other State Employees (PERS 2 plus Social Security)	(A) One-half of actuarial costs of PERS ^v ; PLUS (B) 7.65% of salary for social security and medicare	12.03% of salary

Prepared by
Washington State Patrol Troopers Association
October 18, 2004

Prior to 1999, the level of State retirement contributions for Troopers was equivalent to contributions for other State employees. The State didn't contribute to Social Security for Troopers, but it spent more on WSPRS than on PERS. That made sense. In 2001, that one-third/two-thirds contribution ratio was replaced with a ratio of fifty/fifty. By 2007 Trooper contribution rates will exceed the contractually fixed 7% level.

Contribution Rate Stability for Troopers

Raising Trooper contribution rates above 7% violates constitutionally protected Trooper pension rights. Restoring the 7% cap and keeping the cost sharing at 50-50 will not provide adequate funding. The Trooper's propose:

- Trooper contribution rates capped at 7% - one-third of the current 21% normal cost.
- Long-term contribution ratio of 1/3 - 2/3. Adopt same floor as other plans but with 1/3 – 2/3 cost division. This reinstates the old formula and recognizes the lack of employer social security contributions.
- Restore equilibrium with 80-20 phase in. Three bienniums of the State paying less than its share should be offset with three bienniums of the State paying more. As rates go up for the next three biennia, the State should pay 80% of the cost while the Troopers pay 20% of the cost.

Notes

- i. 15.1 % Average annual employer contribution to WSPRS since 1963 (7% employee contribution). 13.74% Average annual employer contributions for other state employees.
- ii. RCW 41.45.0631 (Ch. 329, Laws of 2001) enacted the following formula:
- Troopers pay 2% of salary or one-half of retirement cost, whichever is greater;
 - State pays:
 - Less than Troopers if total cost of system is less than 4%; or
 - One-half of retirement cost if total cost exceeds 4%.
- iii. Projected WSPRS contribution rates from the OSA website:

	2003-05	2005-07	2007-09	2009-11
Troopers	2.00%	4.22%	7.97%	8.93%
Employer	0.00%	4.22%	7.97%	8.93%

- iv. RCW 41.45.0631; the state makes a Medicare contribution of 1.45% for Troopers employed after July 1, 1986.

- v. RCW 41.45.061

*Prepared by
Washington State Patrol Troopers Association
October 18, 2004*

Transfers from State Patrol Highway Account to Motor Vehicle Fund

Biennium	Biennial Transfer	Total Transfer
2001-03	\$48,657,000 ¹	\$48,657,000
2003-05	\$20,000,000 ²	\$68,657,000
2005-07	\$20,000,000 ³	\$88,657,000
2007-09	\$25,000,000	\$113,657,000
2009-11	\$5,000,000	\$118,657,000
2011- 13	\$15,000,000	\$133,657,000
2013 - 15	\$15,000,000	\$148,657,000

Discontinuance of the transfer will provide more than enough funding for the Trooper pension contribution proposal.

¹ch. 14, sec.406, laws of 2001 as amended by sec 404, ch. 359, laws of 2002.

² ch. 360, sec. 405, laws of 2003

³Projected transfers taken from DOT ten-year transportation budget plan submitted to Governor's office with 2005-07 DOT budget.

*Prepared by
Washington State Trooper's Association
October 18, 2004*

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

September 24, 2004

Chief Lowell M. Porter
Washington State Patrol
General Administration Building
P.O. Box 42600
Olympia, Washington 98504-2600

Chief Porter:

The Select Committee on Pension Policy (SCPP) will be holding its next hearing on October 19, 2004, from 10:00 am to 1:00 pm in Senate Hearing Room 4. Among the issues being presented will be Washington State Patrol Retirement System (WSPRS) Contribution Rates.

Based on the results of the 2003 actuarial valuation, the Office of the State Actuary and the SCPP forwarded contribution rate recommendations to the Pension Funding Council for the 2005-2007 biennium. The recommended employer and member contribution rates for the WSPRS were 4.51% of pay.

WSPRS member contribution rates are forecast to exceed 7% in the 2007-2009 biennium. The Troopers Association has asked the SCPP to address this issue.

You are welcome to attend the hearing. Any information you may want to share in this regard would be appreciated.

Sincerely,


Robert Wm. Baker
Senior Research Analyst

cc: Senator Karen Fraser, Chair SCPP
Robert Thurston, Washington State Troopers Association

Enclosure

O:\SCPP\2004\10-19-04 Full\WSP letter.wpd

Representative Gary Alexander

Elaine M. Banks
TRS Retirees

Marty Brown, Director*
Office of Financial Management

Senator Don Carlson

John Charles, Director
Department of Retirement Systems

Representative Steve Conway*
Vice Chair

Representative Larry Crouse

Richard Ford
PERS Retirees

Senator Karen Fraser*
Chair

Representative Bill Fromhold

Leland A. Goeke*
TRS and SERS Employers

Bob Keller
PERS Actives

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Glenn Olson
PERS Employers

Diane Rae
TRS Actives

Senator Debbie Regala

J. Pat Thompson
PERS Actives

David Westberg*
SERS Actives

***Executive Committee**

(360) 753-9144

Fax: (360) 586-8135

TDD: 1-800-635-9993

1 AN ACT Relating to member contribution rates in the Washington
2 state patrol retirement system; amending RCW 41.45.0631; providing an
3 effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 41.45.0631 and 2001 c 329 s 11 are each amended to
6 read as follows:

7 Beginning July 1, (~~(2001)~~) 2005, the required contribution rate for
8 members of the Washington state patrol retirement system shall be
9 (~~(two)~~) seven percent or (~~(equal to)~~) one-third of the (~~(employer)~~)
10 rate adopted under RCW 41.45.060 and 41.45.070 for the Washington state
11 patrol retirement system, whichever is (~~(greater)~~) less. In no event
12 shall the member contribution rate be less than two percent.

13 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 July 1, 2005.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	10/27/2004	Z-0190.2/Z-0191.2

SUMMARY OF BILL:

This bill impacts the Washington State Patrol Retirement System by changing the contribution rate setting formula. The bill would establish member contribution rates at 1/3 of the total cost of the system, or 7 percent, whichever is less. However, in no event will the member rate be less than 2 percent. The employer would then be responsible for paying the remaining costs of the system.

Effective Date: July 1, 2005

CURRENT SITUATION:

Currently the member contribution rate in the Washington State Patrol Retirement System is set at half the cost of the system or 2 percent, whichever is greater. The employer is then responsible for the remaining costs of the system. Because of the funding status of the system, member contribution rates have been 2 percent since 2001, and there have been no employer contributions.

MEMBERS IMPACTED:

All 1,079 active members of this system would be affected by this bill.

For members impacted by this bill, there would be no increase in benefits, but there would be a decrease in member contributions.

ASSUMPTIONS:

The 1/3 member, 2/3 employer split would apply for all years beginning July 1, 2005. The rates are rounded to two decimal places after multiplying the total rate by 1/3 and 2/3 (for example, the total rate of 9.02% would be split with 3.01% for the member and 6.01% for the employer).

FISCAL IMPACT:

Description:

This would not change the liabilities of the current plan. It would shift 1/6 of the total contributions from members to employers. It would also change the cost allocation of any future benefit improvements so that the members would only be paying for 1/3 instead of 1/2, and the employer would be responsible for 2/3 of the cost instead of 1/2.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>	System: Washington State Patrol (WSP)		
	Current	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	\$727	\$0	\$727
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	\$0	\$0	\$0
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	(\$124)	\$0	(\$124)

Increase in Contribution Rates: (Effective 7/1/2005)

Employee	(1.50%)
Employer State	1.50%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	<u>WSP</u>
2005-2007	
State:	
General Fund	\$0.1
Non-General Fund	<u>2.3</u>
Total State	\$2.4
Local Government	\$0.0
Total Employer	\$2.4
Total Employee	(\$2.4)
2007-2009	
State:	
General Fund	\$0.3
Non-General Fund	<u>4.5</u>
Total State	\$4.8
Local Government	\$0.0
Total Employer	\$4.8
Total Employee	(\$4.8)
2005-2030	
State:	
General Fund	\$7.4
Non-General Fund	<u>115.9</u>
Total State	\$123.3
Local Government	\$0.0
Total Employer	\$123.3
Total Employee	(\$123.3)

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Washington State Patrol Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.