

complete performance of the public works contract and the state or such municipality shall modify the provisions of that public works contract to increase the contract price so that the state or municipality shall bear eighty percent of such increased costs over the contractor's estimated cost at the time of contract bid opening and the contractor shall bear the balance thereof. Upon request by the state or municipality the contractor shall make his records available for audit by the state or municipality to verify such increased costs.

(3) This section shall apply only to public works contracts awarded prior to November 1, 1973, and only to work under such contracts which has not been performed on the date the contractor elects to terminate the contract or delete such work from the contract.

NEW SECTION. Sec. 2. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 3. This 1974 act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 9, 1974.
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CHAPTER 195

[House Bill No. 1363]

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

AN ACT Relating to public employment; amending section 3, chapter 274, Laws of 1947 as last amended by section 3, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.030; amending section 13, chapter 274, Laws of 1947 as last amended by section 5, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.120; amending section 16, chapter 274, Laws of 1947 as last amended by section 6, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.150; amending section 39, chapter 274, Laws of 1947 as amended by section 6, chapter 127, Laws of 1967 and RCW 41.40.380; adding new sections to chapter 41.40 RCW; making an appropriation; and declaring an emergency.

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

Section 1. Section 3, chapter 274, Laws of 1947 as last amended by section 3, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.030 are each amended to read as follows:

The retirement board shall consist of ~~((eleven))~~ twelve members, as follows: The insurance commissioner, the attorney general, the state treasurer, the state auditor, the members provided by RCW 41.26.050, and ~~((three employee))~~ four elected representatives who shall have been members of the retirement system for at least five years, and each of whom shall be elected by active or retired members in their classification ~~((of employment))~~ for a term of three years: PROVIDED, That the term of office of any employee representative serving as a member of the retirement board by appointment prior to March 21, 1961 shall continue until the expiration of the period of time for which such employee representative was appointed, except those board members provided by RCW 41.26.050. The active and retired members of the system shall be divided into ~~((three))~~ four classifications ~~((of employment))~~ for purposes of board representation as follows: Classification A shall consist of all employees of the state government; classification B shall consist of all employees of counties; ~~((and))~~ classification C shall consist of all retired members; and classification D shall consist of all members not included in classification A ((or) B, or C. Each member shall have the right to vote only for an employee representative from his respective classification.

~~((The first election will be held to elect a representative from classification C whose term shall begin July 1, 1964; the second election will be held to elect a representative from classification B whose term shall begin July 1, 1962; the third election will be held to elect a representative from classification A whose term shall begin July 1, 1963.))~~ The initial term of the representative from classification C shall begin July 1, 1974.

Any ~~((employee))~~ active or retired member desiring to become a candidate to represent ~~((employees))~~ active or retired members in his classification may during the first two weeks of April of the year in which the vacancy in the classification occurs, file with the director of the system a typewritten statement that he desires to be a candidate for the board. The letter supporting his candidacy must be signed by at least twenty ~~((active))~~ members of the retirement system in his classification. The election shall be conducted under the supervision of the retirement board pursuant to such rules as the board shall prescribe, but shall be so conducted that the voting shall be secret and the ballots may be returned by mail. Ballots in order to be counted shall be received by the director not later than the second Monday in June. The board shall thereupon proceed to

count the ballots and shall certify to the secretary of state the candidate receiving the highest number of votes.

The terms of all ((employee)) elected representatives shall commence on the first day of July following their election.

Sec. 2. Section 13, chapter 274, Laws of 1947 as last amended by section 5, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.120 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers as defined in this chapter who have served at least six months without interruption or who are employed, appointed or elected on or after July 1, 1965, with the following exceptions:

(1) Persons in ineligible positions;

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

(3) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership and to be accepted by the action of the retirement board, such application for those taking elective office for the first time after May 21, 1971 shall be submitted within eight years of the beginning of their initial term of office: AND PROVIDED FURTHER, That any such persons previously denied service credit because of any prior laws excluding membership which have subsequently been repealed, shall nevertheless be allowed to recover or regain such service credit denied or lost because of the previous lack of authority: AND PROVIDED FURTHER, That any persons holding elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership and be accepted by action of the retirement board, to be effective during such term or terms of office, and shall be allowed to recover or regain the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee and employer contributions therefor by the employer or employee: AND PROVIDED FURTHER, That any person who was an elected official eligible to apply for membership pursuant to this subsection, who failed to exercise that option while holding such elected office and who is now a member of the retirement system, shall have the option to recover service credit for such elected service upon payment to the retirement system of the employee and employer contributions which

would have been made had the person been a member during the period of such elective service;

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the state employees' retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: AND PROVIDED FURTHER, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits as secondary payee under the optional retirement allowances as provided by RCW 41.40.190 or 41.40.185;

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

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

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

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

(9) Persons rendering professional services to an employer on a fee, retainer or contract basis or as an incident to the private practice of a profession;

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

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership and to be accepted by the action of the retirement board.

(12) Persons hired in eligible positions on a temporary basis for a period not to exceed six months: PROVIDED, That if such employees are employed for more than six months in an eligible position they shall become members of the system.

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system:

PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971 shall have the option of continuing his membership in this system in lieu of becoming a member of the city system. A member who so elects to maintain his membership shall make his contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010 (4) as the result of an individual's election under the first proviso of this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from transferring all of its current employees to the retirement system established under this chapter.

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

Sec. 3. Section 16, chapter 274, Laws of 1947 as last amended by section 6, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.150 are each amended to read as follows:

Should any member die, or should he separate or be separated from service without leave of absence before attaining age sixty years, or should he become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.190, he shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of ((two years)) six months of continuous service and upon the restoration of all withdrawn contributions with interest as computed by the retirement board, which restoration must be completed within a total period of five years of membership service following his first resumption of employment, be returned to the status, either as an original member or new member which he held at time of separation: PROVIDED, That any member who reentered service outside the ten-year period formerly provided by this subsection, and by reason of the former language of this section was

not allowed to restore withdrawn contributions, shall have two years from April 25, 1973 to restore said contributions: AND PROVIDED FURTHER, That any member who reentered service within the ten-year period formerly provided by this section, and who failed to restore withdrawn contributions within the three or five years previously allowed, shall now have two years from April 25, 1973 to restore said contributions, with interest as determined by the retirement board.

(3) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of his absence from service for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may upon thirty days written notice to the board elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of his accumulated contributions, he shall thereupon cease to be a member and this section shall not apply.

(4) (a) The recipient of a retirement allowance who has not yet reached the compulsory retirement age of seventy and who shall be employed in an eligible position shall be considered to have terminated his retirement status and he shall immediately become a member of the retirement system with the status of membership he had as of the date of his retirement. Retirement benefits shall be suspended during the period of his eligible employment and he shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance he had at the time of his previous retirement shall be reinstated, but no additional service credit shall be available;

(b) The recipient of a retirement allowance who has not yet reached the compulsory retirement age of seventy, following his election to office or appointment to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.120 (3) shall be considered to have terminated his retirement status and he shall become a member of the retirement system with the status of membership he had as of the date of his retirement. Retirement benefits shall be suspended from the date of his return to membership until the date when he again retires and he shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is

exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance he had at the time of his previous retirement shall be reinstated, but no additional service credit shall be available: AND PROVIDED FURTHER, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.120 (3), or should he have reached the age of seventy and be ineligible to apply as provided in RCW 41.40.125, he shall be considered to remain in a retirement status and his retirement benefits shall continue without interruption.

(5) Subject to the provisions of RCW 41.04.070, 41.04.080 and 41.04.100, any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of the state employees' retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue his membership therein until attaining age sixty, shall remain a member for the exclusive purpose only of receiving a retirement allowance without the limitation found in RCW 41.40.180 (1) to begin on attainment of age sixty-five, however, such a member may upon thirty days written notice to the retirement board elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: PROVIDED, That if such member should withdraw all or part of his accumulated contributions, he shall thereupon cease to be a member and this section shall not apply.

Sec. 4. Section 39, chapter 274, Laws of 1947 as amended by section 6, chapter 127, Laws of 1967 and RCW 41.40.380 are each amended to read as follows:

The right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable: PROVIDED, That this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group life or disability insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions in accordance with rules and regulations that may be promulgated by the

retirement board; PROVIDED FURTHER, That this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

NEW SECTION. Sec. 5. There is added to chapter 41.40 RCW a new section to read as follows:

For the purposes of this chapter, unless a different meaning is plainly required by context:

(1) "Classified employees" shall mean all nonacademic employees of the University of Washington and the four "state colleges", as defined in RCW 28B.10.015, who are presently participating, or are presently eligible to participate, in the retirement plan of their employing education institution: PROVIDED, That the following nonacademic employees of the University of Washington shall not be included as classified employees for the purposes of this 1974 amendatory act: the president of the university; deans, directors, and chairmen of academic or research units; persons employed in a position scheduled for less than twenty hours per week or on an intermittent employment schedule; persons employed in a position primarily as an incident to and in furtherance of their education and training or the education and training of a spouse: PROVIDED FURTHER, That the following nonacademic employees of each of the four state colleges shall not be included as classified employees for the purposes of this 1974 amendatory act: Presidents, academic vice presidents or provosts, deans, chairmen of academic departments, and executive heads of major academic divisions and their principal assistants.

(2) "Retirement plan" shall mean the retirement systems established by the board of regents of the University of Washington and the boards of trustees of each of the four state colleges pursuant to authority heretofore conferred by law for the purpose of providing retirement income and related benefits to certain employees through private insurers.

(3) "Board" shall mean the retirement board as provided for in RCW 41.40.020, as now or hereafter amended.

(4) "Employer share" shall mean one-half or fifty percent of the total of any employee's accumulation and/or cash value in the contract(s) attributable to contributions made in accordance with the retirement plan.

(5) "Applicable income" shall mean that income which would have qualified as compensation earnable within the meaning of RCW 41.40.010(8) during each month of University of Washington or state college service from the date of such person's initial participation in the retirement plan.

(6) "Contributing membership" shall mean that period of time during which an employee was making contributions under the retirement plan for purposes of being eligible for a retirement entitlement.

NEW SECTION. Sec. 6. There is added to chapter 41.40 RCW a new section to read as follows:

(1) On and after the effective date of this 1974 amendatory act and until January 1, 1975, classified employees presently members of the retirement plan may irrevocably transfer their years of contributing membership therein to the Washington public employees' retirement system, such transfer being subject to such conditions and limitations as hereinafter set forth in this 1974 amendatory act, including rules and regulations promulgated to effect the purposes of this 1974 amendatory act.

(2) All classified employees employed by the University of Washington or each of the four state colleges on and after the effective date of this 1974 amendatory act and otherwise eligible shall become members of the Washington public employees' retirement system at such institution unless otherwise hereafter provided by law: PROVIDED, That persons who, immediately prior to the date of their hiring as classified employees, have for at least two consecutive years held membership in a retirement plan underwritten by the private insurer of the retirement plan of their respective educational institution may irrevocably elect to continue their membership in the retirement plan notwithstanding the provisions of this chapter, if such election is made within thirty days from the date of their hiring as classified employees. If such persons elect to become members of the public employees' retirement system, contributions by them and their employers shall be required from their first day of such employment.

NEW SECTION. Sec. 7. There is added to chapter 41.40 RCW a new section to read as follows:

(1) Except as otherwise provided in this chapter, upon election by a person to transfer his years of contributing membership to the Washington public employees' retirement system, as authorized in section 6 (1) of this 1974 amendatory act, there shall be transferred from the contract(s) issued under the retirement plan to the Washington public employees' retirement system the amount which would have been paid, in employee and employer contributions, to the

retirement system with interest (as computed by the retirement board) on the applicable income (as defined in section 5 (5) of this 1974 amendatory act) as provided by law and regulations promulgated pursuant thereto had the person been a member of the Washington public employees' retirement system during each month of contributing membership service at the University of Washington or the four state colleges during which such person participated in the retirement plan.

(2) The board shall compute separately the employee and employer amounts that would have been paid, during the time of contributing membership, and which will now be required to be transferred to the Washington public employees' retirement system. The employee share shall be transferred from the accumulation and/or cash value in the contract(s) attributable to employee contributions made in accordance with the retirement plan. The employer share shall be transferred from the accumulation and/or cash value in the contract(s) attributable to University of Washington or state college contributions made in accordance with the retirement plan.

NEW SECTION. Sec. 8. There is added to chapter 41.40 RCW a new section to read as follows:

In the event that the transfers of moneys for a person electing transfer of membership to the public employees' retirement system as provided in section 5 (1) and (2) of this 1974 amendatory act are not sufficient to equal the total amounts required to be transferred as provided for in this 1974 amendatory act, such person shall pay upon his or her transfer of membership the total deficiency required to accomplish such transfer.

NEW SECTION. Sec. 9. There is added to chapter 41.40 RCW a new section to read as follows:

Any classified employee at the University of Washington or the four state colleges electing to transfer membership to the Washington public employees' retirement system from the retirement plan and seeking to transfer employee contributions made to the retirement plan shall be deemed to have voluntarily relinquished any right to any refund of the amounts transferred to the Washington public employees' retirement system as an employer contribution in accordance with section 7 of this 1974 amendatory act except as otherwise provided by chapter 41.40 RCW.

NEW SECTION. Sec. 10. There is added to chapter 41.40 RCW a new section to read as follows:

Any classified employee at the University of Washington or the four state colleges electing to transfer to the Washington public employees' retirement system from the retirement plan and transferring his employee share in the retirement plan shall be

entitled to a refund of his employee share of the total contributions made in his behalf as determined by the board upon termination of employment and withdrawal from the system prior to his death.

NEW SECTION. Sec. 11. There is added to chapter 41.40 RCW a new section to read as follows:

Recognizing that it is or has been necessary for employees to serve a period of time to establish eligibility for contributing membership in the various retirement plans established by the University of Washington and the four state colleges, any classified employee who elects to transfer to the public employees' retirement system pursuant to section 6 (1) of this 1974 amendatory act, may recover such service by paying, to the public employees' retirement system on or before January 1, 1975, the amount of employee and employer contributions with interest (as computed by the retirement board) which would have been made for such service had it been rendered while the employee was a member of the public employees' retirement system.

NEW SECTION. Sec. 12. There is added to chapter 41.40 RCW a new section to read as follows:

Subject to chapter 34.04 RCW, the administrative procedure act, the board shall make such rules and regulations as are necessary to carry out the purposes of this 1974 amendatory act.

NEW SECTION. Sec. 13. To carry out the provisions of sections 1 and 3 through 12 of this 1974 amendatory act there is hereby appropriated from the retirement system expense fund for the biennium ending June 30, 1975 the sum of seventeen thousand five hundred dollars, or so much thereof as may be necessary.

NEW SECTION. Sec. 14. If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

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