

question as to how the court can find that the defendant should be acquitted by reason of insanity if it does not first find that the defendant committed the crime charged. In order to remove the cloud of constitutionality, I have determined to veto the item consisting of the subsection references so that a court would still be required to enter findings in substantially the same form as set forth in RCW 10.77.040. Veto Message

Section 10 of the bill contains another obvious drafting error which reverses the intent of the amendatory language. Presumably, the Legislature intended that if a defendant acquitted by reason of insanity is found, among other things, to present a substantial likelihood of committing felonious acts jeopardizing public safety or security, the court would be required to order his hospitalization or other treatment less restrictive than detention in a state mental hospital. As drafted and enacted, the result would be the exact opposite. Accordingly, I have determined to veto that item in section 10 and by this veto I am restoring the language of the existing law, and urge the Legislature to make another attempt at enacting correct amendatory language at its next session. I have been urged by some to correct this drafting error by simply vetoing the word "not" contained in that item, but have determined not to do so as such a veto would be of questionable constitutionality.

With the exception of the foregoing items, I have approved the remainder of Substitute Senate Bill No. 3312."

CHAPTER 199

[Substitute House Bill No. 779]

WASHINGTON STATE TEACHERS' RETIREMENT SYSTEM

AN ACT Relating to public employment; amending section 1, chapter 80, Laws of 1947 as last amended by section 95, chapter 176, Laws of 1969 ex. sess. and RCW 41.32.010; amending section 26, chapter 80, Laws of 1947 as last amended by section 1, chapter 189, Laws of 1973 1st ex. sess. and RCW 41.32.260; amending section 16, chapter 14, Laws of 1963 ex. sess. as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. and RCW 41.32.497; amending section 3, chapter 189, Laws of 1973 1st ex. sess. and RCW 41.32.498; adding a new section to chapter 41.32 RCW; creating new sections; providing for the retroactive effect of certain provisions; and declaring an emergency.

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

Section 1. Section 1, chapter 80, Laws of 1947 as last amended by section 95, chapter 176, Laws of 1969 ex. sess. and RCW 41.32.010 are each amended to read as follows:

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

(1) "Accumulated contributions" means the sum of all regular annuity contributions together with regular interest thereon less cost of operation.

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

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

(4) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided for by the teachers' retirement law.

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

(8) "Creditable service" means membership service plus prior service for which credit is allowable.

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

(10) "Disability allowance" means monthly payments during disability.

(11) "Earnable compensation" means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the board of trustees shall fix the value of that part of the compensation not paid in money: PROVIDED, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature 5 or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for 5 or more years, earnable compensation for his two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

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

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

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

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

(16) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to exempt himself from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the annuity fund.

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system; PROVIDED, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(18) "Pension" means the moneys payable per year during life from the pension fund.

(19) "Pension fund" means a fund from which all pension obligations are to be paid.

(20) "Pension reserve fund" is a fund in the state treasury in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system.

(21) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable.

(22) "Prior service contributions" means contributions made by a member to secure credit for prior service.

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

(24) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to his individual account in the annuity fund.

(25) "Regular interest" means the interest on funds of the retirement system for the current school year and such other earnings as may be applied thereon by the board of trustees.

(26) "Retirement allowance" means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(27) "Retirement system" means the Washington state teachers' retirement system.

(28) "Service" means the time during which a member has been employed by an employer for compensation; PROVIDED, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(29) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members.

(30) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity, including state, intermediate school district, city superintendents and their assistants and certificated employees; and in addition thereto any qualified school librarian, any registered nurse or any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

Sec. 2. Section 26, chapter 80, Laws of 1947 as last amended by section 1, chapter 189, Laws of 1973 1st ex. sess. and RCW 41.32.260 are each amended to read as follows:

Any member whose public school service is interrupted by active service to the United States as a member of its military, naval or air service, or to the state of Washington, as a member of the legislature, may upon becoming reemployed in the public schools, receive credit for such service upon presenting satisfactory proof, and contributing to the annuity fund, either in a lump sum or installments, such amounts as shall be determined by the board of trustees: PROVIDED (1), That no such military service credit in excess of five years shall be established or reestablished after July 1, 1961, unless the service was actually rendered during time of war: PROVIDED FURTHER (2), That a member of the retirement system who is a member of the state legislature or a state official eligible for the combined pension and annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter amended shall have deductions taken from his salary in the amount of ((seven and one-half) six percent of earnable compensation and that service credit shall be established with the retirement system while such deductions are reported to the retirement system, unless he has by reason of his employment become a contributing member of another public retirement system in the state of Washington: AND PROVIDED FURTHER (3), That such elected official who has retired or otherwise terminated his public school service may then elect to terminate his membership in the retirement system and receive retirement benefits while continuing to serve as an elected official: AND, PROVIDED FURTHER (4), That a member of the retirement system who had previous service as an elected or appointed official, for which he did not contribute to the retirement system, may receive

credit for such legislative service unless he has received credit for that service in another state retirement system, upon making contributions in such amounts as shall be determined by the board of trustees.

Sec. 3. Section 16, chapter 14, Laws of 1963 ex. sess. as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. and RCW 41.32.497 are each amended to read as follows:

Any person who became a member on or before April 25, 1973 and who qualifies for a retirement allowance shall, at time of retirement, make an irrevocable election to receive either the retirement allowance by RCW 41.32.498 as now or hereafter amended or to receive a retirement allowance pursuant to this section consisting of: (1) An annuity which shall be the actuarial equivalent of his accumulated contributions at his age of retirement, (2) A basic service pension of one hundred dollars per annum, and (3) A service pension which shall be equal to one one-hundredth of his average earnable compensation for his two highest compensated consecutive years of service times the total years of creditable service established with the retirement system: PROVIDED, That no beneficiary now receiving benefits or who receives benefits in the future, except those beneficiaries receiving reduced benefits pursuant to RCW 41.32.520 (1), options 2 and 3 provided in RCW 41.32.530, or options 2 or 3 of RCW 41.32.498 as now or hereafter amended, shall receive a pension of less than six dollars and fifty cents per month for each year of creditable service established with the retirement system. Pension benefits payable under the provisions of this section shall be prorated on a monthly basis and paid at the end of each month ((: PROVIDED FURTHER, That notwithstanding the provisions of subsections (1) through (3) of this section, the retirement allowance payable for service where a member was elected or appointed to the office of state senator, state representative or superintendent of public instruction shall be equal to three percent of the average earnable compensation of his two highest consecutive years of service, whether or not elected or appointed service, for each year of such elected or appointed service: However, the initial retirement allowance of a member retiring only under the provisions of this proviso shall not exceed the average final compensation upon which the retirement allowance is based: In addition, the member shall be allowed to have the pension provided by this proviso adjusted and paid pursuant to the options provided in RCW 41.32.530, as now or hereafter amended)).

Sec. 4. Section 3, chapter 189, Laws of 1973 1st ex. sess. and RCW 41.32.498 are each amended to read as follows:

Any person who becomes a member subsequent to April 25, 1973 or who has made the election, provided by RCW 41.32.497, to receive

the benefit provided by this section, shall receive a retirement allowance consisting of-

(1) An annuity which shall be the actuarial equivalent of his additional contributions on full salary as provided by chapter 274, Laws of 1955 and his lump sum payment in excess of the required contribution rate made at date of retirement, pursuant to RCW 41.32.350, if any; and

(2) A combined pension and annuity service retirement allowance which shall be equal to two percent of his average earnable compensation for his two highest compensated consecutive years of service times the total years of creditable service established with the retirement system, to a maximum of sixty percent of such average earnable compensation: PROVIDED, That any member may irrevocably elect, at time of retirement, to withdraw all or a part of his accumulated contributions and to receive, in lieu of the full retirement allowance provided by this subsection, a reduction in the standard two percent allowance, of the actuarially determined amount of monthly annuity which would have been purchased by said contributions: PROVIDED FURTHER, That no member may withdraw an amount of accumulated contributions which would lower his retirement allowance below the minimum allowance provided by RCW 41.32.497 as now or hereafter amended: AND PROVIDED FURTHER, That said reduced amount may be reduced even further pursuant to the options provided in subsection (4) below;

(3) ((Any member covered by this subsection who upon retirement has served ten or more years shall receive a retirement allowance of at least one thousand two hundred dollars per annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum. However, the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all retired members or to the surviving spouse of deceased members who were elected to the office of state senator or state representative. Accumulated contributions for elected or appointed service may only be withdrawn if the member elects to waive the pension provided by this subsection. In addition, the member shall be allowed to have the pension provided by this subsection adjusted and paid pursuant to the options provided in subsection (4) below.)) Notwithstanding the provisions of subsections (1) and (2) of this section, the retirement allowance payable for service of a

member who was state superintendent of public instruction on January 1, 1973 shall be equal to three percent of the average earnable compensation of his two highest consecutive years of service for each year of such service.

(4) Upon an application for retirement approved by the board of trustees every member shall receive the maximum retirement allowance available to him throughout life unless prior to the time the first installment thereof becomes due he has elected to receive the reduced amount provided in subsection (2) and/or has elected by executing the proper application therefor, to receive the actuarial equivalent of his retirement allowance in reduced payments throughout his life, with the options listed below:

Option 1. If he dies before he has received the present value of his accumulated contributions at the time of his retirement by virtue of the annuity portion of his retirement allowance, the unpaid balance shall be paid to his estate or to such person as he shall have nominated by written designation executed and filed with the board of trustees.

Option 2. Upon his death his adjusted retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the board of trustees at the time of his retirement.

Option 3. Upon his death one-half of his adjusted retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation executed and filed with the board of trustees at the time of his retirement.

NEW SECTION. Sec. 5. (1) Subsection (3) of section 4 of this 1974 amendatory act relating to elected and appointed officials shall be retroactive to January 1, 1973.

(2) Amendatory language contained in subsection (11) of section 1 relating to members as members of the legislature and in provisos (2) and (3) of section 2 of this 1974 amendatory act shall only apply to those members who are serving as a state senator, state representative or state superintendent of public instruction on or after the effective date of this 1974 amendatory act.

(3) Notwithstanding any other provision of this 1974 amendatory act, RCW 41.32.497 as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. shall be applicable to any member serving as a state senator, state representative or superintendent of public instruction on the effective date of this 1974 amendatory act.

NEW SECTION. Sec. 6. There is added to chapter 41.32 RCW a new section to read as follows:

Notwithstanding any other provision of this 1974 act, when the salary of any member as a member of the legislature is increased

beyond the amount provided for in Initiative Measure No. 282 then earnable compensation for the purposes of this chapter shall be based solely on the sum of (1) the compensation actually received from the salary for the job from which such leave of absence may have been taken and (2) such member's salary as a legislator during his two highest compensated consecutive years.

NEW SECTION. Sec. 7. 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.

NEW SECTION. Sec. 8. 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.

Passed the House April 23, 1974.
Passed the Senate April 23, 1974.
Approved by the Governor May 6, 1974, with the exception of one item which is vetoed.
Filed in Office of Secretary of State May 6, 1974.
Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one item Substitute House Bill No. 779 entitled:

Veto
Message

"AN ACT Relating to public employment."

This bill provides for improved retirement benefits for teacher-legislators by enabling, among other things, current teacher-legislators to receive pensions amounting to three percent of the average earnable compensation of his or her two highest consecutive years of service, which earnable compensation would include both the full contract salary as a teacher and the annual legislative salary.

Notwithstanding the increased benefits, section 2 of the bill contains an item which reduces the employee contribution of the teacher-legislator from seven and one-half percent to six percent of earnable compensation. This reduction in the employee contribution may be justified in respect to future teacher-legislators whose benefits are limited elsewhere in the bill to two percent of the average earnable compensation of the two highest consecutive years of service, but is wholly unwarranted in the case of current teacher-legislators whose benefits have been increased under the bill. For these reasons, I have determined to veto that item.

With the exception of the foregoing item, the remainder of Substitute House Bill No. 779 is approved."