

CHAPTER 294

[Substitute House Bill No. 867]

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

AN ACT Relating to the law enforcement officers' and fire fighters' retirement system; amending section 3, chapter 209, Laws of 1969 ex. sess. as last amended by section 1, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.030; amending section 3, chapter 257, Laws of 1971 ex. sess. as last amended by section 8, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.045; amending section 4, chapter 257, Laws of 1971 ex. sess. as last amended by section 12, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.046; amending section 9, chapter 209, Laws of 1969 ex. sess. as last amended by section 6, chapter 131, Laws of 1972 ex. sess. and RCW 41.26.090; amending section 17, chapter 209, Laws of 1969 ex. sess. as last amended by section 5, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.160; adding new sections to chapter 41.26 RCW; prescribing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. LEGISLATIVE FINDING. The legislature finds and determines that those members first employed on or before September 30, 1977, shall not suffer any diminishment or loss of benefits or rights, whether current or prospective, as the result of the enactment of this 1977 amendatory act.

NEW SECTION. Sec. 2. APPLICATION TO CERTAIN PERSONS. Sections 3 through 16 of this 1977 amendatory act shall apply only to those persons who are initially employed by an employer on or after October 1, 1977.

NEW SECTION. Sec. 3. COMPUTATION OF THE RETIREMENT ALLOWANCE. A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each year of service.

NEW SECTION. Sec. 4. RETIREMENT FOR SERVICE. (1) NORMAL RETIREMENT. Any member with at least five years of service who has attained at least age fifty-eight shall be eligible to retire and to receive a retirement allowance computed according to the provisions of section 3 of this 1977 amendatory act.

(2) EARLY RETIREMENT. Any member who has completed at least twenty years of service and has attained age fifty shall be eligible to retire and to receive a retirement allowance computed according to the provisions of section 3 of this 1977 amendatory act, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age fifty-eight.

NEW SECTION. Sec. 5. POST-RETIREMENT COST-OF-LIVING. Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

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

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

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

NEW SECTION. Sec. 6. EMPLOYER, MEMBER, AND STATE CONTRIBUTIONS. The required contribution rates to the retirement system for members, employers, and the state of Washington shall be established by the director from time to time as may be necessary upon the advice of the state actuary.

The member, the employer and the state shall each contribute the following shares of the cost of the retirement system:

Member	50%
Employer	30%
State	20%

Any adjustments in contribution rates required from time to time for future costs shall likewise be shared proportionally by the members, employers, and the state: PROVIDED, That the costs of amortizing the unfunded supplemental present value of the retirement system, in existence on September 30, 1977, shall be borne in full by the state.

Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne in full by the state or by that employer not making the contribution.

The director shall notify the retirement board of any pending adjustment in the required contribution rate and such increase shall be announced at a board meeting held at least thirty days prior to the effective date of the change.

Members' contributions required by this section shall be deducted from the members basic salary each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

Until such time as the director shall establish other rates, members, employers of such members, and the state shall each contribute the following percentages of basic salary:

Member	8.14%
Employer	4.88%
State	3.28%

In addition, the state shall initially contribute an additional twenty percent of basic salary per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977.

NEW SECTION. Sec. 7. OPTIONS FOR PAYMENT OF RETIREMENT ALLOWANCES. Upon retirement for service as prescribed in section 4 of this

1977 amendatory act, a member shall elect to have the retirement allowance paid pursuant to Option 1, 2, or 3 with Options 2 and 3 calculated so as to be actuarially equivalent to Option 1.

(1) **OPTION 1.** A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) **OPTION 2.** A member who elects this option shall receive a reduced retirement allowance, which upon the member's death shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement.

(3) **OPTION 3.** A member who elects this option shall receive a reduced retirement allowance, and upon the member's death one-half of the retiree's reduced retirement allowance shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement.

NEW SECTION. Sec. 8. EARNED DISABILITY ALLOWANCE. A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the retirement board shall be eligible to receive an allowance under the provisions of sections 2 through 16 of this 1977 amendatory act. Such member shall receive a monthly disability allowance computed as provided for in section 3 of this 1977 amendatory act and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-eight.

Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, such member shall cease to be eligible for such allowance.

NEW SECTION. Sec. 9. INDUSTRIAL INSURANCE. Notwithstanding any other provision of law, members shall be eligible for industrial insurance as provided by Title 51 RCW, as now or hereafter amended, and shall be included in the payroll of the employer for such purpose.

NEW SECTION. Sec. 10. APPLICATION FOR AND EFFECTIVE DATE OF RETIREMENT ALLOWANCES. Any member or beneficiary eligible to receive a retirement allowance under the provisions of sections 4, 8, or 12 of this

1977 amendatory act shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of section 4 of this 1977 amendatory act shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to section 4 of this 1977 amendatory act, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of section 8 of this 1977 amendatory act shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of section 12 of this 1977 amendatory act shall accrue from the first day of the calendar month immediately following the member's death.

NEW SECTION. Sec. 11. SUSPENSION OF RETIREMENT ALLOWANCE UPON REEMPLOYMENT BY AN EMPLOYER. No retiree under the provisions of sections 2 through 16 of this 1977 amendatory act shall be eligible to receive such retiree's monthly retirement allowance if such retiree is performing service for any nonfederal public employer in this state.

Upon cessation of service for any nonfederal public employer in this state such retiree shall have benefits actuarially recomputed pursuant to the rules adopted by the department.

NEW SECTION. Sec. 12. DEATH BENEFITS. (1) If a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in section 4(1) of this 1977 amendatory act actuarially adjusted to reflect Option 2 of section 7 of this 1977 amendatory act and if the member was not eligible for normal retirement at the date of death a further reduction as described in section 4(2) of this 1977 amendatory act; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to

receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions.

NEW SECTION. Sec. 13. SERVICE CREDIT FOR AUTHORIZED LEAVE OF ABSENCE. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of sections 2 through 16 of this 1977 amendatory act.

(2) A member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes the employer, member, and state contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner: **PROVIDED**, That for the purpose of this subsection the contribution shall not include the contribution for the unfunded supplemental present value as required by section 6 of this 1977 amendatory act. The contributions required shall be based on the average of the member's basic salary at both the time the authorized leave of absence was granted and the time the member resumed employment.

A member who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence.

NEW SECTION. Sec. 14. VESTED MEMBERSHIP. A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of section 4 of this 1977 amendatory act if such member maintains the member's accumulated contributions intact.

NEW SECTION. Sec. 15. REFUND OF CONTRIBUTIONS ON TERMINATION. A member who ceases to be an employee of an employer may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt for such payment. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under sections 2 through 16 of this 1977 amendatory act.

NEW SECTION. Sec. 16. REENTRY. A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

Sec. 17. Section 3, chapter 209, Laws of 1969 ex. sess. as last amended by section 1, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.030 are each amended to read as follows:

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

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

(2) (a) "Employer" for persons who establish membership in the retirement system on or before September 30, 1977, means the legislative authority of any city, town, county or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for persons who establish membership in the retirement system on or after October 1, 1977, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter.

(3) "Law enforcement officer" means any person who is serving on a full time, fully compensated basis as a county sheriff or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, or town marshal or deputy marshal, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers; and

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if such individual has five years previous membership in the retirement system established in chapter 41.20 RCW; PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply.

(4) "Fire fighter" means:

(a) any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which

requires passing a civil service examination for fire fighter, or fireman if this title is used by the department, and who is actively employed as such;

(b) anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) supervisory fire fighter personnel;

(d) any full time executive secretary of an association of fire protection districts authorized under chapter 52.08 RCW: PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(e) the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW: PROVIDED, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(f) any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fireman or fire fighter; and

(g) any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971 was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

(5) "Retirement board" means the Washington public employees' retirement system board established in chapter 41.40 RCW, including two members of the retirement system and two employer representatives as provided for in RCW 41.26.050. The retirement board shall be called the Washington law enforcement officers' and fire fighters' retirement board and may enter in legal relationships in that name. Any legal relationships entered into in that name prior to the adoption of this 1972 amendatory act are hereby ratified.

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

(7) "Child" or "children" whenever used in this chapter means every natural born child and stepchild where that relationship was in existence prior to the date benefits are payable under this chapter, posthumous child, child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter, ((stepchild)) and illegitimate child legitimized prior to the date any benefits are payable under this chapter, all while unmarried, and either under the age of eighteen years or mentally or physically handicapped as determined by the retirement board except a handicapped person in the full time care of a state institution. A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is

transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

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

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

(11) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) (a) "Final average salary" for persons who establish membership in the retirement system on or before September 30, 1977, means ((a)) (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; ((b)) (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; ((c)) (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; ((d)) (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for persons who establish membership in the retirement system on or after October 1, 1977, means the monthly average of the member's basic salary for the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13) (a) "Basic salary" for persons who establish membership in the retirement system on or before September 30, 1977, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any

form of severance pay: PROVIDED, That in any year in which a member serves in the legislature such member's compensation earnable shall be the greater of:

(i) the compensation earnable the member would have received had such member not served in the legislature; or

(ii) such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(14) (a) "Service" for persons who establish membership in the retirement system on or before September 30, 1977, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all months of service rendered by a member from and after his initial commencement of employment as a fire fighter or law enforcement officer, during which he worked for ten days or more, or the equivalent thereof, or was on disability leave or disability retirement. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. In addition to the foregoing, for members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall include ~~((a))~~ (i) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under his particular prior pension act, and ~~((b))~~ (ii) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act: PROVIDED, That if such member's prior service is not creditable due to the withdrawal of his contributions plus accrued interest thereon from a prior pension system, such member shall be credited with such prior service, as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to that which was withdrawn from the prior system by such member, as a law enforcement officer or fire fighter: PROVIDED FURTHER, That if such member's prior service is not creditable because, although employed in a position covered by a prior pension act, such member had not yet become a member of the pension system governed by such act, such member shall be credited with such prior service as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to the employer's contributions which would have been required under the prior act when such service was rendered if the member had been a member of such system during such period: AND PROVIDED FURTHER, That where a member is employed by two employers at the same time, he

shall only be credited with service to one such employer for any month during which he rendered such dual service.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month.

Members of the retirement system who are elected or appointed to a state elective position as defined in RCW 41.40.010(30) may elect to continue to be members of this retirement system.

Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar year such member shall receive a total of not more than twelve months of service for such calendar year.

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

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

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

(18) "Disability board" means either the county disability board or the city disability board established in RCW 41.26.110 for persons who establish membership in the retirement system on or before September 30, 1977.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to his full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(20) "Disability retirement" for persons who establish membership in the retirement system on or before September 30, 1977, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for persons who establish membership in the retirement system on or before September 30, 1977, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when he is injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the department may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

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

(26) "Director" means the director of the department.

(27) "State actuary" means the person appointed pursuant to RCW 44.44.010(2).

NEW SECTION. Sec. 18. There is added to chapter 41.26 RCW a new section to read as follows:

The provisions of the following sections of this chapter shall apply only to persons who establish membership in the retirement system on or before September 30, 1977: RCW 41.26.080, 41.26.090, 41.26.100, 41.26.110, 41.26.120, 41.26.130,

41.26.140, 41.26.150, 41.26.160, 41.26.190, 41.26.200, 41.26.240, 41.26.250, 41.26.260, and 41.26.270.

NEW SECTION. Sec. 19. There is added to chapter 41.26 RCW a new section to read as follows:

Notwithstanding any other provision of law to the contrary, the employer shall provide such information as required by the state actuary regarding the award of the disability leave allowance. Such information shall include, but shall not be limited to:

- (1) The number of persons receiving disability leaves;
- (2) The certified reason for disability; when the disability was initially incurred; and, if it was duty related;
- (3) The disability leave allowance paid and for how long;
- (4) The number of replacement personnel required to cover the loss of personnel on disability leave allowance and the resulting cost incurred; and,
- (5) The age of the employee and the length of service at the time of the disability leave.

The employer shall also provide such information as required by the state actuary regarding disability and medical benefit costs including, but not limited to, those required under provisions of this chapter.

The information required by this section shall be from March 1, 1970, forward.

Sec. 20. Section 3, chapter 257, Laws of 1971 ex. sess. as last amended by section 8, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.045 are each amended to read as follows:

Notwithstanding any other provision of law after February 19, 1974 no law enforcement officer or fire fighter, may become eligible for coverage in the pension system established by this chapter, until he has met and has been certified as having met minimum medical and health standards: **PROVIDED**, That an elected sheriff or an appointed chief of police or fire chief, shall not be required to meet the age standard: **PROVIDED FURTHER**, That in cities and towns having not more than two law enforcement officers and/or not more than two fire fighters and if one or more of such persons do not meet the minimum medical and health standards as required by the provisions of this chapter, then such person or persons may join any other pension system that the city has available for its other employees: **AND PROVIDED FURTHER**, That for one year after February 19, 1974 any such medical or health standard now existing or hereinafter adopted, insofar as it establishes a maximum age beyond which an applicant is to be deemed ineligible for coverage, shall be waived as to any applicant for employment or reemployment who is otherwise eligible except for his age, who has been a member of any one or more of the retirement systems created by chapter 41.20 of the Revised Code of Washington and who has restored all contributions which he has previously withdrawn from any such system or systems.

Sec. 21. Section 4, chapter 257, Laws of 1971 ex. sess. as last amended by section 12, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.046 are each amended to read as follows:

By July 31, 1971, the retirement board shall adopt minimum medical and health standards for membership coverage into the Washington law enforcement

officers' and fire fighters' retirement system act. In adopting such standards the retirement board shall consider existing standards recommended by the international association of chiefs of police and the international association of fire fighters, and shall adopt equal or higher standards, together with appropriate standards and procedures to insure uniform compliance with this chapter. The standards when adopted shall be published and distributed to each employer, and each employer shall adopt certification procedures and such other procedures as are required to insure that no law enforcement officer or fire fighter receives membership coverage unless and until he has actually met minimum medical and health standards: **PROVIDED**, That an elected sheriff or an appointed chief of police or fire chief shall not be required to meet the age standard. The retirement board may amend the minimum medical and health standards as experience indicates, even if the standards as so amended are lower or less rigid than those recommended by the international associations mentioned above. The cost of the medical examination contemplated by this section is to be paid by the employer.

Sec. 22. Section 9, chapter 209, Laws of 1969 ex. sess. as last amended by section 6, chapter 131, Laws of 1972 ex. sess. and RCW 41.26.090 are each amended to read as follows:

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

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

(2) Any member having five or more years of service, who terminates his employment with any employer, may leave his contributions in the fund. Any employee who so elects, upon attaining age fifty, shall be eligible to apply for and receive a service retirement allowance based on his years of service, commencing on the first day following his attainment of age fifty. This section shall also apply to a person who rendered service as a law enforcement officer or fire fighter, as those terms are defined in RCW 41.26.030, on or after July 1, 1969, but who was not employed as a law enforcement officer or fire fighter on March 1, 1970, by reason of his having been elected to a public office. Any member selecting this optional vesting with less than twenty years of service shall not be covered by the provisions of RCW 41.26.150, and his survivors shall not be entitled to the benefits of RCW 41.26.160 unless his death occurs after he has attained the age of fifty years. Those members selecting this optional vesting with twenty or more years service shall not be covered by the provisions of RCW 41.26.150 until the attainment of the age of fifty years: **PROVIDED**, That a member selecting this option, with less than twenty years of service credit, who shall die prior to attaining the age of fifty years, shall have paid from the Washington law enforcement officers' and fire fighters' retirement fund, to such member's surviving spouse, if any, otherwise to such beneficiary as the member shall have designated in writing, or if no such designation has been made, to the personal representative of his estate, a lump sum which is equal to the amount of such member's accumulated contributions plus accrued interest: **PROVIDED FURTHER**, That if the vested member has twenty or more years of service credit the surviving spouse or children shall then become eligible

for the benefits of RCW 41.26.160 regardless of his age at the time of his death, to the exclusion of the lump sum amount provided by this subsection.

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

Sec. 23. Section 17, chapter 209, Laws of 1969 ex. sess as last amended by section 5, chapter 120, Laws of 1974 ex. sess. and RCW 41.26.160 are each amended to read as follows:

(1) In the event of the death of any member who is in active service, or who has vested under the provisions of RCW 41.26.090 with twenty or more years of service, or who is on disability leave or retired, whether for disability or service, his surviving spouse shall become entitled to receive a monthly allowance equal to fifty percent of his final average salary at the date of death if active, or the amount of retirement allowance the vested member would have received at age fifty, or the amount of the retirement allowance such retired member was receiving at the time of his death if retired for service or disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), as now or hereafter amended, subject to a maximum combined allowance of sixty percent of final average salary: PROVIDED, That if the child or children is or are in the care of a legal guardian, payment of the increase attributable to each child will be made to the child's legal guardian.

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

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), as now or hereafter amended, there shall be paid to the legal heirs of said member the excess, if any, of accumulated contributions of said member at the time of his death over all payments made to his survivors on his behalf under this chapter: PROVIDED,

That payments under this subsection to children shall be prorated equally among the children, if more than one.

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

(5) If a surviving spouse receiving benefits under the provisions of this section thereafter dies (~~or remarries~~) and there are children as defined in RCW 41.26.030(7), as now or hereafter amended, payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) above.

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

NEW SECTION. Sec. 24. Section headings used in this 1977 amendatory act shall not constitute any part of the law.

NEW SECTION. Sec. 25. Sections 1 through 16 of this 1977 amendatory act shall be added to chapter 41.26 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter.

NEW SECTION. Sec. 26. If any provision of this 1977 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. 27. This 1977 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 October 1, 1977.

Passed the House June 17, 1977.

Passed the Senate June 17, 1977.

Approved by the Governor June 18, 1977.

Filed in Office of Secretary of State June 18, 1977.

CHAPTER 295

[Substitute House Bill No. 865]

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

AN ACT Relating to the public employees' retirement system; amending section 1, chapter 274, Laws of 1947 as last amended by section 2, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.010; amending section 4, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 41.40.165; amending section 35, chapter 274, Laws of 1947 and RCW 41.40.340; amending section 36, chapter 274, Laws of 1947 and RCW 41.40.350; amending section 38, chapter 274, Laws of 1947 as last amended by section 1, chapter 126, Laws of 1963 and RCW 41.40.370; adding new sections to chapter 41.40 RCW; prescribing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. **LEGISLATIVE FINDING.** The legislature finds and determines that those members first employed on or before September 30, 1977, shall not suffer any diminishment or loss of benefits or rights, whether current or prospective, as the result of the enactment of this 1977 amendatory act.