

Sec. 2. Section 8, chapter 294, Laws of 1977 ex. sess. as amended by section 9, chapter 294, Laws of 1981 and RCW 41.26.470 are each amended to read as follows:

(1) 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))~~ director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 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.

(2) 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 no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.04 RCW, as now or hereafter amended.

Passed the Senate February 9, 1982.

Passed the House February 24, 1982.

Approved by the Governor March 4, 1982.

Filed in Office of Secretary of State March 4, 1982.

CHAPTER 13

[Senate Bill No. 4636]

RETIREMENT SYSTEMS RECORDS—CORRECTION OF ERRORS

AN ACT Relating to retirement from public employment; adding a new section to chapter 41.50 RCW; repealing section 16, chapter 257, Laws of 1971 ex. sess. and RCW 41.26-.290; repealing section 66, chapter 80, Laws of 1947 and RCW 41.32.660; and repealing section 40, chapter 274, Laws of 1947 and RCW 41.40.390.

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

NEW SECTION. Section 1. There is added to chapter 41.50 RCW a new section to read as follows:

(1) The director may at any time correct errors appearing in the records of the retirement systems listed in RCW 41.50.030. Should any error in such records result in any member or beneficiary receiving more or less than he or she would have been entitled to had the records been correct, the director, subject to the conditions set forth in subsection (2) of this section, shall adjust the payment in such a manner that the benefit to which such member or beneficiary was correctly entitled shall be paid in accordance with the following:

(a) In the case of underpayments to a member or beneficiary, the retirement system shall correct all future payments from the point of error detection, and shall compute the additional payment due for the allowable prior period which shall be paid in a lump sum by the appropriate retirement system.

(b) In the case of overpayments to a member or beneficiary, the retirement system shall adjust the payment in such a manner that the benefit to which such member or beneficiary was correctly entitled shall be reduced by an amount equal to the actuarial equivalent of the amount of overpayment. Alternatively the member shall have the option of repaying the overpayment in a lump sum within ninety days of notification and receive the proper benefit in the future.

(2) (a) Except as provided in subsection (2)(b) of this section, in the case of overpayments to a member or beneficiary, the benefits shall be adjusted to reflect only the amount of overpayments made within three years of discovery of the error, notwithstanding any provision to the contrary in chapter 4.16 RCW.

(b) In the case of underpayments or overpayments to a member or beneficiary resulting from actual fraud on the part of the member or beneficiary, the benefits shall be adjusted to reflect the full amount of such underpayment or overpayment, plus interest at the rate that was specified in RCW 4.56.110 for each year that the overpayment or underpayment occurred.

(c) Except in the case of actual fraud, no monthly benefit shall be reduced by more than fifty percent of the member's or beneficiary's corrected benefit.

(3) Except as provided in subsection (2)(a) of this section, obligations of employers or members until paid to the department shall constitute a debt from the employer or member to the department, recovery of which shall not be barred by laches or statutes of limitation.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) Section 16, chapter 257, Laws of 1971 ex. sess. and RCW 41.26.290;

(2) Section 66, chapter 80, Laws of 1947 and RCW 41.32.660; and

(3) Section 40, chapter 274, Laws of 1947 and RCW 41.40.390.

Passed the Senate February 9, 1982.

Passed the House February 24, 1982.

Approved by the Governor March 4, 1982.

Filed in Office of Secretary of State March 4, 1982.

CHAPTER 14

[House Bill No. 46]

FOOD FISH AND SHELLFISH—TAKING CAUGHT FISH, STEALING GEAR— SHELLFISH POT PROTECTION

AN ACT Relating to food fish and shellfish; amending section 75.12.090, chapter 12, Laws of 1955 and RCW 75.12.090; adding a new section to chapter 75.12 RCW; and prescribing penalties.

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

Section 1. Section 75.12.090, chapter 12, Laws of 1955 and RCW 75.12.090 are each amended to read as follows:

(1) It ~~((shall be))~~ is unlawful to take food fish or shellfish from ~~((any))~~ a building, vehicle, ~~((sow))~~ vessel, live box, container, trap, seine, line, or net ~~((, any caught or impounded fish or shellfish with the intent of))~~ thereby depriving the rightful owner of ((such)) the food fish or shellfish ((and)).

(2) It ~~((shall be))~~ is unlawful to ~~((wilfully))~~ steal or ~~((otherwise))~~ molest ~~((any of the fishing or shellfishing gear operated under a license from the state))~~ gear used to take food fish or shellfish for either commercial purposes or personal use.

(3) Any person violating this section ~~((shall be))~~ is guilty of a gross misdemeanor and shall be ~~((subject to))~~ punished by a fine of not less than two hundred and fifty dollars.

NEW SECTION. Sec. 2. There is added to chapter 75.12 RCW a new section to read as follows:

It is unlawful to lift or set shellfish pots from the waters of Hood Canal south of a line between the abutments of the Hood Canal bridge from one hour after sunset until one hour before sunrise. This section does not apply to the harvesting of clams.

Passed the House January 13, 1982.

Passed the Senate February 26, 1982.

Approved by the Governor March 8, 1982.

Filed in Office of Secretary of State March 8, 1982.