

shall be filed within thirty days of receipt of notice from the director or the director's authorized delegate setting forth the disposition of the application. Any penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, any penalty incurred under this section shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from the disposition. Whenever an appeal of any penalty incurred under this section is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which the violator may do business, to recover the penalty. In all such actions the procedure and rules of evidence shall be the same as for an ordinary civil action except as otherwise provided in this chapter.

To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

In all actions brought in the superior court for the recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in an ordinary civil action.

Passed the Senate March 6, 1984.

Passed the House March 6, 1984.

Approved by the Governor March 28, 1984.

Filed in Office of Secretary of State March 28, 1984.

CHAPTER 256

[Engrossed House Bill No. 1304]

TEACHER RETIREMENT

AN ACT Relating to teacher retirement; amending section 1, chapter 80, Laws of 1947 as last amended by section 1, chapter 5, Laws of 1983 and RCW 41.32.010; adding a new section to chapter 41.32 RCW; and adding a new section to chapter 41.40 RCW.

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

Sec. 1. Section 1, chapter 80, Laws of 1947 as last amended by section 1, chapter 5, Laws of 1983 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) (a) "Accumulated contributions" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for persons who establish membership in the retirement system on or after October 1, 1977, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(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 director 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) (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 or other benefit provided by this chapter.

(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.

(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. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

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

(10) "Disability allowance" means monthly payments during disability. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(11) (a) "Earnable compensation" for persons who establish membership in the retirement system on or before September 30, 1977, 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 employer shall fix the value of that part of the compensation not paid in money: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned

during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit: PROVIDED FURTHER, 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 five 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 five or more years, earnable compensation for the member's 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.

(b) "Earnable compensation" 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, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b) and 457 of the United States Internal Revenue Code, 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 retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That in any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

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

(ii) such member's actual earnable compensation received for teaching 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.

(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 137, 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 be exempt 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 the individual shall only receive one month's service credit during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

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

(19) "Pension reserve fund" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(20) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(21) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(22) "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.

(23) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the annuity fund. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(24) "Regular interest" means such rate as the director may determine.

(25) (a) "Retirement allowance" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for persons who establish membership in the retirement system on or after October 1, 1977, means monthly payments to a retiree or beneficiary as provided in this chapter.

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

(27) (a) "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 the individual shall only receive one month's service credit during any calendar month in which multiple service is rendered.

(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 earnable compensation is earned for ninety or more hours per calendar month. Members shall receive twelve months of service for each contract year or school year of employment.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive service credit for the time spent in a state elective position by making the required member contributions.

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

Notwithstanding RCW 41.32.240, teachers covered by RCW 41.32-.755 through 41.32.825, who render service need not serve for ninety days to obtain membership so long as the required contribution is submitted for such ninety-day period. Where a member did not receive service credit under RCW 41.32.775 through 41.32.825 due to the ninety-day period in RCW 41.32.240 the member may receive service credit for that period so long as the required contribution is submitted for the period. Anyone entering membership on or after October 1, 1977, and prior to July 1, 1979, shall have until June 30, 1980, to make the required contribution in one lump sum.

(28) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity(;; including)). The term includes state, educational service district, and school

district ((city)) superintendents and their assistants and ((certificated)) all employees certificated by the superintendent of public instruction; 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.

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

(31) "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.

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

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

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

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

(36) "Retirement board" means the ~~((board of trustees provided for in RCW 41.32.040))~~ director of retirement systems.

NEW SECTION. Sec. 2. There is added to chapter 41.32 RCW a new section to read as follows:

(1) Any teacher, as defined under RCW 41.32.010(29), who is first employed by a public school on or after the effective date of this act, shall become a member of the retirement system as directed under RCW 41.32-.240 if otherwise eligible.

(2) Any person who before the effective date of this act, has established service credit under chapter 41.40 RCW while employed in an educational staff associate position and who is employed in such a position on or after the effective date of this act has the following options:

(a) To remain a member of the public employees' retirement system notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

(b) To irrevocably elect to join the retirement system under this chapter and to receive service credit for previous periods of employment in any position included under RCW 41.32.010(29). Such service credit and corresponding employee contribution shall be computed as though the person had then been a member of the retirement system under this chapter. All employee contributions credited to a member under chapter 41.40 RCW for service now to be credited to the retirement system under this chapter shall

be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.40 RCW for those periods of service. The member shall pay any difference between the employee contributions made under chapter 41.40 RCW and transferred under this subsection and what would have been required under this chapter, including interest as set by the director. The member shall be given until July 1, 1989, to make the irrevocable election permitted under this section. The election shall be made by submitting written notification as required by the department requesting credit under this section and by remitting any necessary proof of service or payments within the time set by the department.

Any person, not employed as an educational staff associate on the effective date of this act, may, before June 30 of the fifth school year after that person's return to employment as a teacher, request and establish membership and credit under this subsection.

***NEW SECTION. Sec. 3. There is added to chapter 41.40 RCW a new section to read as follows:**

The director is authorized to waive RCW 41.40.120(3) for any retired member who qualifies for reentry under RCW 41.40.150(6)(b).

*Sec. 3. was vetoed, see message at end of chapter.

Passed the House March 6, 1984.

Passed the Senate February 20, 1984.

Approved by the Governor March 28, 1984, with the exception of section 3, which was vetoed.

Filed in Office of Secretary of State March 28, 1984.

Note: Governor's explanation of partial veto is as follows:

I am returning herewith, without my approval as to section 3, Engrossed House Bill No. 1304, entitled:

"AN ACT Relating to teacher retirement."

The need for this section has not been demonstrated. If, indeed, any such change is necessary, it should be made after adequate study in a careful and deliberate manner to avoid adverse effects on the pension trust fund.

With the exception of section 3, Engrossed House Bill No. 1304 is approved.

CHAPTER 257

[Substitute House Bill No. 1262]

UMBRELLA INDUSTRIAL DEVELOPMENT BONDS

AN ACT Relating to industrial development; amending section 1, chapter 40, Laws of 1982 1st ex. sess. and RCW 43.160.010; amending section 2, chapter 40, Laws of 1982 1st ex. sess. as amended by section 1, chapter 60, Laws of 1983 1st ex. sess. and RCW 43.160.020; amending section 8, chapter 40, Laws of 1982 1st ex. sess. as amended by section 6, chapter 60, Laws of 1983 1st ex. sess. and RCW 43.160.080; amending section 6, chapter 40, Laws of 1982 1st ex. sess. as amended by section 3, chapter 60, Laws of 1983 1st ex. sess. and RCW 43.160.060; adding a new section to chapter 39.84 RCW; adding new sections to chapter 43.160 RCW; creating a new section; repealing section 5, chapter 60, Laws of 1983 1st ex. sess. and RCW 43.160.075; and declaring an emergency.