

government and its existing public institutions, and shall take effect immediately.

Passed the House March 14, 1985.

Passed the Senate April 10, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 103

[House Bill No. 657]

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM—DISABILITY BOARD DETERMINATIONS

AN ACT Relating to the law enforcement officers' and fire fighters' retirement system; amending RCW 41.26.140; and adding a new section to chapter 41.26 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.26 RCW to read as follows:

(1) A disabled member who believes that his or her disability has ceased in accordance with RCW 41.26.130(3) may make application to the disability board which originally found the member to be disabled, for a determination that the disability has ceased.

(2) Every order of a disability board determining that a member's disability has ceased pursuant to RCW 41.26.130(3) shall forthwith be reviewed by the director. The director may affirm the decision of the disability board or remand the case for further proceedings if the director finds the disability board's findings, inferences, conclusions, or decisions are:

(a) In violation of constitutional provisions; or

(b) In excess of the statutory authority or jurisdiction of the disability board; or

(c) Made upon unlawful procedure; or

(d) Affected by other error of law; or

(e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or

(f) Arbitrary or capricious.

(3) Determinations of whether a disability has ceased under RCW 41.26.130(3) and this section shall be made in accordance with the same procedures and standards governing other cancellations of disability retirement.

Sec. 2. Section 14, chapter 209, Laws of 1969 ex. sess. as last amended by section 4, chapter 294, Laws of 1981 and RCW 41.26.140 are each amended to read as follows:

(1) Upon the basis of reexaminations of members on disability retirement as provided in RCW 41.26.130, the disability board shall determine

whether such disability beneficiary is still unable to perform his duties either physically or mentally for service in the department where he was employed.

(2) If the disability board shall determine that the beneficiary is not so incapacitated his retirement allowance shall be canceled and he shall be restored to duty in the same civil service rank, if any, held by the beneficiary at the time of his retirement or if unable to perform the duties of said rank, then, at his request, in such other like or lesser rank as may be or become open and available, the duties of which he is then able to perform. In no event, shall a beneficiary 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 said beneficiary at the date of his retirement for disability. If the disability board determines that the beneficiary is able to return to service he shall be 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.

(3) Should a disability beneficiary reenter service and be eligible for membership in the retirement system, his retirement allowance shall be canceled and he shall immediately become a member of the retirement system.

(4) Should any disability beneficiary under age fifty refuse to submit to examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year or more, his retirement allowance shall be canceled.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he shall be paid the excess, if any, of his accumulated contributions at the time of his retirement over all payments made on his behalf under this chapter.

(6) Any person feeling aggrieved by an order of a disability board determining that a beneficiary's disability has not ceased, pursuant to RCW 41.26.130(3) has the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty days following the rendition of the order by the disability board. A copy of the notice of appeal shall be served upon the director and the applicable disability board and, within ninety days thereof, the disability board shall certify its decision and order which shall include findings of fact and conclusions of law, together with a transcript of all proceedings in connection therewith, to the director for review. Upon review of the record, the director may affirm the order of the disability board or may remand the case for further proceedings if the director finds that the disability board's findings, inferences, conclusions, or decisions are:

(a) In violation of constitutional provisions; or

(b) In excess of the statutory authority or jurisdiction of the disability board; or

(c) Made upon unlawful procedure; or

(d) Affected by other error of law; or

(e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or

(f) Arbitrary or capricious.

Passed the House March 19, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 22, 1985.

Filed in Office of Secretary of State April 22, 1985.

CHAPTER 104

[House Bill No. 183]

MEALS PROVIDED TO SENIOR CITIZENS, DISABLED PERSONS, OR LOW-INCOME PERSONS—SALES TAX EXEMPTION

AN ACT Relating to excise taxes; amending RCW 82.08.0293 and 82.12.0293; and declaring an emergency.

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

Sec. 1. Section 33, chapter 35, Laws of 1982 1st ex. sess. and RCW 82.08.0293 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this subsection shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others,