Chapter 41.26 RCW
LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM

Sections

"PROVISIONS APPLICABLE TO PLAN 1 AND PLAN 2"

41.26.005 Provisions applicable to "plan 1" and "plan 2."
41.26.010 Short title.
41.26.020 Purpose of chapter.
41.26.030 Definitions.
41.26.035 "Minimum medical and health standards" defined.
41.26.040 System created—Membership—Funds.
41.26.045 Minimum medical and health standards.
41.26.046 Minimum medical and health standards—Board to adopt—Publication and distribution—Employer certification procedures.
41.26.047 Minimum medical and health standards—Exemptions—Employer may adopt higher standards.
41.26.048 Special death benefit—Death in the course of employment—Death from disease or infection arising from employment—Annual adjustment.
41.26.053 Exemption from judicial process, taxes—Exceptions—Deduction for insurance upon request.
41.26.056 No bond required on appeal to court.
41.26.057 Benefit calculation—Limitation.
41.26.059 Establishing, restoring service credit.
41.26.061 Disability retirement—Criminal conduct.
41.26.062 Falsification—Penalty.

"PLAN 1"

41.26.075 Provisions applicable to plan 1.
41.26.080 Funding total liability of plan 1 system.
41.26.090 Retirement for service.
41.26.100 Allowance on retirement for service.
41.26.105 Purchase of actuarially equivalent life annuity benefit upon retirement—Purchase by past retirees.
41.26.110 Disability boards authorized—Composition—Terms—Reimbursement for travel expenses—Duties.
41.26.115 Director of retirement systems to adopt rules governing disability boards—Remand of orders not in accordance with rules.
41.26.120 Retirement for disability incurred in the line of duty.
41.26.125 Retirement for disability not incurred in the line of duty.
41.26.130 Allowance on retirement for disability.
41.26.135 Cessation of disability—Determination.
41.26.140 Reexaminations of disability beneficiaries—Reentry—Appeal.
41.26.150 Sickness or disability benefits—Medical services.
41.26.160 Death benefits—Duty or military service connected.
41.26.161 Death benefits—Nonduty connected.
41.26.162 Ex spouse qualifying as surviving spouse.
41.26.164 Optional reduced retirement allowance—Continues for spouse otherwise ineligible for survivor benefits.

41.26.170 Refund of contributions on discontinuance of service—Reentry.
41.26.190 Credit for military service.
41.26.192 Credit for service under prior pension system—Restoration of withdrawn contributions.
41.26.194 Credit for service under prior pension system—Service not covered under prior system.
41.26.195 Transfer of service credit from other retirement system—Irrevocable election allowed.
41.26.197 Service credit for paid leave of absence—Application to elected officials of labor organizations.
41.26.199 Purchase of additional service credit—Costs—Rules.
41.26.200 Appeal to director of retirement systems.
41.26.211 Notice for hearing required prior to petitioning for judicial review.
41.26.221 Hearing—Conduct.
41.26.240 Increases or decreases in retirement allowances to be determined by department in accordance with consumer price index.
41.26.250 Increase in presently payable benefits for service or disability authorized.
41.26.260 Increase in certain presently payable death benefits authorized.
41.26.270 Declaration of policy respecting benefits for injury or death—Civil actions abolished.
41.26.281 Cause of action for injury or death, when.
41.26.291 Lump sum defined benefit—Payable January 31, 2023.
41.26.3901 Severability—1969 ex.s. c 209.
41.26.3902 Act to control inconsistencies.
41.26.3903 Effective date—1969 ex.s. c 209.

"PLAN 2"

41.26.410 Provisions applicable to plan 2.
41.26.420 Computation of the retirement allowance.
41.26.425 Lump sum retirement allowance—Reentry—Conditions for reinstatement of service.
41.26.430 Retirement for service.
41.26.432 Additional service credit purchase—Rules.
41.26.435 Transfer of service credit from other retirement system—Enforcement officer for department of fish and wildlife.
41.26.436 Transfer of service credit from other retirement system—Firefighter serving at a prison or civil commitment center on an island.
41.26.440 Post-retirement cost-of-living.
41.26.450 Port districts and institutions of higher education—Employer and state contributions—Recovery of contributions.
41.26.460 Options for payment of retirement allowances—Retirement allowance adjustment—Court-approved property settlement.
41.26.463 Optional actuarially equivalent life annuity benefit—Rules—Definition.
41.26.470 Earned disability allowance—Cancellation of allowance—Reentry—Receipt of service credit while disabled—

Conditions—Disposition upon death of recipient—Disabled in the line of duty—Total disability—Reimbursement for certain payments—Disabled while providing emergency management services.
41.26.473 Disabled in the line of duty—Continuation of service credit—Conditions.
41.26.476 Use of shared leave—Impact on calculation of service credit and final average salary.
41.26.480 Industrial insurance.
41.26.490 Application for and effective date of retirement allowances.
41.26.500 Suspension of retirement allowance upon reemployment—Reinstatement—Option to enter into membership.
41.26.510 Death benefits.
41.26.520 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service, death or disability while providing emergency management services.
41.26.530 Vested membership.
41.26.540 Refund of contributions on termination.
41.26.545 Emergency medical technicians—Establishing service credit—Dates—Process—Contributions.
41.26.546 Emergency medical technicians—Member elects to transfer under RCW 41.26.545—Death—Retirement for disability.
41.26.550 Reentry.
41.26.555 Lump sum defined benefit—Payable January 31, 2023.
41.26.565 Tribal general authority peace officers—State-tribal compacts.
41.26.567 Tribal general authority peace officers—Establishing service credit for prior service.

"PLAN 2 GOVERNANCE"

41.26.700 Overview—Intent.
41.26.705 Intent—2003 c 2.
41.26.710 Definitions.
41.26.715 Board of trustees—Created—Selection of trustees—Terms of office—Vacancies.
41.26.7151 Board of trustees—Political party representation.
41.26.717 Additional duties and powers of board.
41.26.720 Board of trustees—Powers—Meeting procedures—Quorum—Judicial review—Budget.
41.26.725 Board of trustees—Contributions—Minimum and increased benefits.
41.26.730 Joint committee on pension policy—Pension funding council.
41.26.732 Plan 2 expense fund—Board oversight and administration—State investment board.
41.26.735 Asset management.
41.26.740 Reimbursement for expenses.
41.26.802 Local law enforcement officers' and firefighters' retirement system benefits improvement account—Transfers.
41.26.805 Local law enforcement officers' and firefighters' retirement system benefits improvement account—Creation—Use—Administration—Investments.

41.26.904 Effective date—2003 c 2 (Initiative Measure No. 790).
41.26.906 Effective date—2003 c 92.
41.26.921 Effective date—1977 ex.s. c 294.
41.26.922 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Reviser's note: Throughout chapter 41.26 RCW, the phrase "this act" has been changed to "this chapter." 1969 ex.s. c 209 consists of this chapter and RCW 41.16.145, 41.18.010, 41.18.040, 41.18.045, 41.18.060, 41.18.100, 41.18.102, 41.18.104, 41.18.130, 41.18.190, 41.20.005, 41.20.085, 41.20.170, 41.20.050, and 41.20.060.

Numerical designations—1998 c 341: "(1) The legislature declares that changing the numerical designation of the different retirement plans within the retirement systems from Roman numerals to Arabic numerals is of no substantive importance.

(2) The code reviser, under RCW 1.08.025, is directed to change the numerical designation of the retirement plans as follows:

(a) Where "I" is used, replace with "1";

(b) Where "II" is used, replace with "2"; and

(c) Where "III" is used, replace with "3."" [1998 c 341 § 709.] This section takes effect September 1, 2000.

Emergency medical technician or first aid vehicle operator prohibited from joining system solely on basis of such service: RCW 41.24.050.

"PROVISIONS APPLICABLE TO PLAN 1 AND PLAN 2"

RCW 41.26.005 Provisions applicable to "plan 1" and "plan 2." RCW 41.26.010 through 41.26.062 shall apply to members of plan 1 and plan 2. [1992 c 72 § 2; 1991 c 35 § 12; 1989 c 273 § 10; 1985 c 102 § 5; 1979 ex.s. c 249 § 1; 1977 ex.s. c 294 § 18.]

Recodification ratified—Correction of statutory references—1992 c 72: "(1) The recodification of retirement provisions adopted by the code reviser pursuant to the directives of chapter 35, Laws of 1991, is hereby ratified.

(2) The code reviser shall correct all statutory references to sections recodified pursuant to chapter 35, Laws of 1991." [1992 c 72 § 1.]

Intent—1991 c 35: "(1) The legislature intends to reorganize chapter 41.26 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the Washington law enforcement officers' and firefighters' retirement system plan 1, the Washington law enforcement officers' and firefighters' retirement system plan 2, and those provisions relating to both plan 1 and plan 2 into three separate subchapters within chapter 41.26 RCW; (b) decodify or repeal obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any

provision of chapter 41.26 RCW or other statutory provisions or rules adopted under those provisions.

(2) The legislature intends to reorganize chapter 41.32 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the Washington teachers' retirement system plan 1, the Washington teachers' retirement system plan 2, and both plan 1 and plan 2 into three separate subchapters within chapter 41.32 RCW; (b) decodify or repeal obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.32 RCW or other statutory provisions or rules adopted under those provisions.

(3) The legislature intends to reorganize chapter 41.40 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the public employees' retirement system plan 1, the public employees' retirement system plan 2, and both plan 1 and plan 2 into three separate subchapters within chapter 41.40 RCW; (b) decodify obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.40 RCW or other statutory provisions or rules adopted under those provisions.

(4) This act is technical in nature and shall not have the effect of terminating or in any way modifying any rights, proceedings, or liabilities, civil or criminal, which exist on July 28, 1991." [1991 c 35 § 1.]

Purpose—Retrospective application—1985 c 102: See notes following RCW 41.26.120.

RCW 41.26.010 Short title. This chapter shall be known and cited as the "Washington Law Enforcement Officers' and Firefighters' Retirement System Act". [1969 ex.s. c 209 § 1.]

RCW 41.26.020 Purpose of chapter. The purpose of this chapter is to provide for an actuarial reserve system for the payment of death, disability, and retirement benefits to law enforcement officers and firefighters, and to beneficiaries of such employees, thereby enabling such employees to provide for themselves and their dependents in case of disability or death, and effecting a system of retirement from active duty. [1969 ex.s. c 209 § 2.]

RCW 41.26.030 Definitions. ***(Effective until July 1, 2025.)*** As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "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 the member's future benefits during the period of retirement.

(3) "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.

(4)(a) "Basic salary" for plan 1 members, 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 plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), 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. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

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

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, 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.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) 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.

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

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

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (17) and (19) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, district, or regional fire protection service authority or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, 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 firefighters 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 firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, district, public corporation, or regional fire protection service authority established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency;

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or

(v) The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee

relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(15)(a) "Final average salary" for plan 1 members, means (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; (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; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (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 plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit 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.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member employed by the state or a local government employer during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(16) "Fire department" includes a fire station operated by the department of social and health services or the department of corrections when employing firefighters serving a prison or civil commitment center on an island.

(17) "Firefighter" 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 firefighter, and who is actively employed as such;

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

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (17)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (17)(e) shall not apply to plan 2 members;

(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 firefighter;

(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; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician that meets the requirements of RCW 18.71.200 or *18.73.030(12), and whose duties include providing emergency medical services as defined in RCW 18.73.030.

(18) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor and cannabis board, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.

(19) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, 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;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (19)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (19)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(20) "Medical services" for plan 1 members, 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 osteopathic physician and surgeon 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 injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her 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.

(21) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsection (17) or (19) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(22) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(23) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

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

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

(26) "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.

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

(28) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(29)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter 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 service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) 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.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(iii) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b)(i) "Service" for plan 2 members, 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 which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

(ii) Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

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

(iv) If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(v) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(30) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

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

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162. [2021 c 12 § 2; 2020 c 107 § 6; 2018 c 230 § 1; 2017 c 309 § 1; 2012 c 236 § 2; 2011 1st sp.s. c 5 § 1; 2010 2nd sp.s. c 1 § 903; 2010 1st sp.s. c 32 § 6. Prior: 2009 c 523 § 3; 2005 c 459 § 1; 2003 c 388 § 2; 2002 c 128 § 3; prior: 1996 c 178 § 11; 1996 c 38 § 2; prior: 1994 c 264 § 14; 1994 c 197 § 5; prior: 1993 c 502 § 1; 1993 c 322 § 1; 1991 sp.s. c 12 § 1; prior: (1991 sp.s. c 11 § 3 repealed by 1991 sp.s. c 12 § 3); 1991 c 365 § 35; 1991 c 343 § 14; 1991 c 35 § 13; 1987 c 418 § 1; 1985 c 13 § 5; 1984 c 230 § 83; 1981 c 256 § 4; 1979 ex.s. c 249 § 2; 1977 ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

***Reviser's note:** RCW 18.73.030 was amended by 2022 c 136 § 1, changing subsection (12) to subsection (13).

Retroactive application—2021 c 12: "It is the intent of the legislature that this act be curative, remedial, and retroactively applied." [2021 c 12 § 1.]

Purpose—Application—2012 c 236: "(1) On August 18, 2011, the state supreme court entered an opinion in the matter of *Dolan v. King County*, Cause No. 82842-3. The court recognized that a public employees' retirement system eligible employee must work for a public employees' retirement system employer under RCW 41.40.010. However, the court did not explain how such an employee can be an employee of a government contractor and also of a government employer. The legislature determines it necessary and appropriate to affirmatively state that a governmental contractor is not an employer for purposes of the state's public pension systems, including the public employees' retirement system, whether or not the contractor is providing mandatory or discretionary governmental services, and whether or not the contractor is a for-profit or not-for-profit entity.

(2) The legislature has not intended in its pension legislation to provide retirement system eligibility to employees of government contractors. Only in specific circumstances, such as employees of entities, including nonprofits, created by government under the interlocal cooperation act in chapter 39.34 RCW, has the legislature and department of retirement systems permitted retirement system eligibility for employees of government contractors. The department's rules in WAC 415-02-110 conform to the purpose and intent of the legislature regarding public pension eligibility.

(3) It is the purpose of this act to more clearly state and to confirm that employees of for-profit or not-for-profit corporations or other entities providing services under governmental contracts are not, as a result of providing such governmental service, eligible for membership in the various public retirement programs. The state and its local governments have not provided for such eligibility and such eligibility would create unfunded liability for state and local governments and potential impacts on the integrity of the public pension systems.

(4) This act provides cross-references to existing statutes that affect eligibility for pensions under the retirement systems authorized by chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 41.50 RCW and to the relevant definition sections of those chapters. Except as provided, this act is technical in nature and neither enhances nor

diminishes existing pension rights. It is not the intent of the legislature to change the substance or effect of any statute previously enacted. Rather, this act provides cross-references to applicable statutes in order to aid with the administration of eligibility and benefits authorized in chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 41.50 RCW.

(5) This act shall apply solely to eligibility for state-sponsored public employee pension plans under chapters 41.26, 41.32, 41.35, 41.37, and 41.40 RCW and shall not affect any other statute or rule regarding employee benefits, status, or workplace protections.

(6) This act is curative and remedial, but does not affect the state supreme court decision in *Dolan v. King County,* Cause No. 82842-3, and the right established therein of King county public defenders and staff to public employees' retirement system enrollment and eligibility." [2012 c 236 § 1.]

Effective date—2011 1st sp.s. c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 1st sp.s. c 5 § 7.]

Effective date—2010 2nd sp.s. c 1: See note following RCW 38.52.105.

Intent—Conflict with federal requirements—Effective date—2010 1st sp.s. c 32: See notes following RCW 42.04.060.

Effective date—1996 c 178: See note following RCW 18.35.110.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective date—1993 c 502: "This act shall take effect January 1, 1994." [1993 c 502 § 6.]

Application—1993 c 322 § 1: "Section 1 of this act shall apply retroactively to January 1, 1993." [1993 c 322 § 2.]

Effective date—1993 c 322: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 322 § 3.]

Severability—1991 c 365: See note following RCW 41.50.500.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Purpose—1981 c 256: "It is the primary purpose of this act to assure that the provisions of RCW 41.04.250 and 41.04.260 and of any deferred compensation plan established thereunder, are in conformity

with the requirements of 26 U.S.C. Sec. 457 and any other requirements of federal law relating to such a deferred compensation plan. This act shall be construed in such a manner as to accomplish this purpose." [1981 c 256 § 1.]

Severability—1981 c 256: "If any provision of this 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." [1981 c 256 § 7.]

Severability—1974 ex.s. c 120: "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." [1974 ex.s. c 120 § 15.]

Severability—1972 ex.s. c 131: "If any provision of this 1972 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." [1972 ex.s. c 131 § 12.]

Purpose—1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and firefighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

Severability—1971 ex.s. c 257: "If any provision of this 1971 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." [1971 ex.s. c 257 § 22.]

RCW 41.26.030 Definitions. ***(Effective July 1, 2025.)*** As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "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 the member's future benefits during the period of retirement.

(3) "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.

(4)(a) "Basic salary" for plan 1 members, 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 plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), 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. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

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

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, 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.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) 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.

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

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

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of

disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (17) and (19) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, district, or regional fire protection service authority or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, 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 firefighters 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 firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, district, public corporation, or regional fire protection service authority established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency;

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or

(v) The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(15)(a) "Final average salary" for plan 1 members, means (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; (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; (iii) in the case of disability of any member, the basic salary

payable to such member at the time of disability retirement; (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 plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit 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.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member employed by the state or a local government employer during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(16) "Fire department" includes a fire station operated by the department of social and health services or the department of corrections when employing firefighters serving a prison or civil commitment center on an island.

(17) "Firefighter" 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 firefighter, and who is actively employed as such;

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

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (17)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (17)(e) shall not apply to plan 2 members;

(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 firefighter;

(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; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician that meets the requirements of RCW 18.71.200 or 18.73.030(13), and whose duties include providing emergency medical services as defined in RCW 18.73.030.

(18) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, the government of a federally recognized tribe, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor and cannabis board, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.

(19) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, 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;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (19)(d) shall not apply to plan 2 members;

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (19)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993; and

(f) The term "law enforcement officer" also includes a person who is employed on or after January 1, 2024, on a full-time basis by the government of a federally recognized tribe within the state of Washington that meets the terms and conditions of RCW 41.26.565, is employed in a police department maintained by that tribe, and who is currently certified as a general authority peace officer under chapter 43.101 RCW.

(20) "Medical services" for plan 1 members, 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 osteopathic physician and surgeon 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 injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her 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.

(21) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsection (17) or (19) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(22) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(23) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

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

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

(26) "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.

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

(28) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(29)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter 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 service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) 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.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(iii) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b)(i) "Service" for plan 2 members, 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 which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

(ii) Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

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

(iv) If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(v) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(30) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

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

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162. [2023 c 77 § 1; 2021 c 12 § 2; 2020 c 107 § 6; 2018 c 230 § 1; 2017 c 309 § 1; 2012 c 236 § 2; 2011 1st sp.s. c 5 § 1; 2010 2nd sp.s. c 1 § 903; 2010 1st sp.s. c 32 § 6. Prior: 2009 c 523 § 3; 2005 c 459 § 1; 2003 c 388 § 2; 2002 c 128 § 3; prior: 1996 c 178 § 11; 1996 c 38 § 2; prior: 1994 c 264 § 14;

1994 c 197 § 5; prior: 1993 c 502 § 1; 1993 c 322 § 1; 1991 sp.s. c 12 § 1; prior: (1991 sp.s. c 11 § 3 repealed by 1991 sp.s. c 12 § 3); 1991 c 365 § 35; 1991 c 343 § 14; 1991 c 35 § 13; 1987 c 418 § 1; 1985 c 13 § 5; 1984 c 230 § 83; 1981 c 256 § 4; 1979 ex.s. c 249 § 2; 1977 ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

Effective date——2023 c 77: See note following RCW 41.26.565.

Retroactive application——2021 c 12: "It is the intent of the legislature that this act be curative, remedial, and retroactively applied." [2021 c 12 § 1.]

Purpose——Application——2012 c 236: "(1) On August 18, 2011, the state supreme court entered an opinion in the matter of *Dolan v. King County*, Cause No. 82842-3. The court recognized that a public employees' retirement system eligible employee must work for a public employees' retirement system employer under RCW 41.40.010. However, the court did not explain how such an employee can be an employee of a government contractor and also of a government employer. The legislature determines it necessary and appropriate to affirmatively state that a governmental contractor is not an employer for purposes of the state's public pension systems, including the public employees' retirement system, whether or not the contractor is providing mandatory or discretionary governmental services, and whether or not the contractor is a for-profit or not-for-profit entity.

(2) The legislature has not intended in its pension legislation to provide retirement system eligibility to employees of government contractors. Only in specific circumstances, such as employees of entities, including nonprofits, created by government under the interlocal cooperation act in chapter 39.34 RCW, has the legislature and department of retirement systems permitted retirement system eligibility for employees of government contractors. The department's rules in WAC 415-02-110 conform to the purpose and intent of the legislature regarding public pension eligibility.

(3) It is the purpose of this act to more clearly state and to confirm that employees of for-profit or not-for-profit corporations or other entities providing services under governmental contracts are not, as a result of providing such governmental service, eligible for membership in the various public retirement programs. The state and its local governments have not provided for such eligibility and such eligibility would create unfunded liability for state and local governments and potential impacts on the integrity of the public pension systems.

(4) This act provides cross-references to existing statutes that affect eligibility for pensions under the retirement systems authorized by chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 41.50 RCW and to the relevant definition sections of those chapters. Except as provided, this act is technical in nature and neither enhances nor diminishes existing pension rights. It is not the intent of the legislature to change the substance or effect of any statute previously enacted. Rather, this act provides cross-references to applicable statutes in order to aid with the administration of eligibility and benefits authorized in chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 41.50 RCW.

(5) This act shall apply solely to eligibility for state-sponsored public employee pension plans under chapters 41.26, 41.32, 41.35, 41.37, and 41.40 RCW and shall not affect any other statute or rule regarding employee benefits, status, or workplace protections.

(6) This act is curative and remedial, but does not affect the state supreme court decision in *Dolan v. King County,* Cause No. 82842-3, and the right established therein of King county public defenders and staff to public employees' retirement system enrollment and eligibility." [2012 c 236 § 1.]

Effective date—2011 1st sp.s. c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 1st sp.s. c 5 § 7.]

Effective date—2010 2nd sp.s. c 1: See note following RCW 38.52.105.

Intent—Conflict with federal requirements—Effective date—2010 1st sp.s. c 32: See notes following RCW 42.04.060.

Effective date—1996 c 178: See note following RCW 18.35.110.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective date—1993 c 502: "This act shall take effect January 1, 1994." [1993 c 502 § 6.]

Application—1993 c 322 § 1: "Section 1 of this act shall apply retroactively to January 1, 1993." [1993 c 322 § 2.]

Effective date—1993 c 322: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 322 § 3.]

Severability—1991 c 365: See note following RCW 41.50.500.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Purpose—1981 c 256: "It is the primary purpose of this act to assure that the provisions of RCW 41.04.250 and 41.04.260 and of any deferred compensation plan established thereunder, are in conformity with the requirements of 26 U.S.C. Sec. 457 and any other requirements of federal law relating to such a deferred compensation plan. This act shall be construed in such a manner as to accomplish this purpose." [1981 c 256 § 1.]

Severability—1981 c 256: "If any provision of this 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." [1981 c 256 § 7.]

Severability—1974 ex.s. c 120: "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." [1974 ex.s. c 120 § 15.]

Severability—1972 ex.s. c 131: "If any provision of this 1972 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." [1972 ex.s. c 131 § 12.]

Purpose—1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and firefighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

Severability—1971 ex.s. c 257: "If any provision of this 1971 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." [1971 ex.s. c 257 § 22.]

RCW 41.26.035 "Minimum medical and health standards" defined. The term "minimum medical and health standards" means minimum medical and health standards adopted by the department under this chapter. [1991 c 35 § 14; 1971 ex.s. c 257 § 2.]

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.040 System created—Membership—Funds. The Washington law enforcement officers' and firefighters' retirement system is hereby created for firefighters and law enforcement officers.

(1) Notwithstanding *RCW 41.26.030(20), all firefighters and law enforcement officers employed as such on or after March 1, 1970, on a full time fully compensated basis in this state shall be members of the retirement system established by this chapter with respect to all periods of service as such, to the exclusion of any pension system existing under any prior act.

(2) Any employee serving as a law enforcement officer or firefighter on March 1, 1970, who is then making retirement contributions under any prior act shall have his or her membership transferred to the system established by this chapter as of such date.

Upon retirement for service or for disability, or death, of any such employee, his or her retirement benefits earned under this chapter shall be computed and paid. In addition, his or her benefits under the prior retirement act to which he or she was making contributions at the time of this transfer shall be computed as if he or she had not transferred. For the purpose of such computations, the employee's creditability of service and eligibility for service or disability retirement and survivor and all other benefits shall continue to be as provided in such prior retirement act, as if transfer of membership had not occurred. The excess, if any, of the benefits so computed, giving full value to survivor benefits, over the benefits payable under this chapter shall be paid whether or not the employee has made application under the prior act. If the employee's prior retirement system was the Washington public employees' retirement system, payment of such excess shall be made by that system; if the employee's prior retirement system was the statewide city employees' retirement system, payment of such excess shall be made by the employer which was the member's employer when his or her transfer of membership occurred: PROVIDED, That any death in line of duty lump sum benefit payment shall continue to be the obligation of that system as provided in RCW 41.44.210; in the case of all other prior retirement systems, payment of such excess shall be made by the employer which was the member's employer when his or her transfer of membership occurred.

(3) All funds held by any firefighters' or police officers' relief and pension fund shall remain in that fund for the purpose of paying the obligations of the fund. The municipality shall continue to levy the dollar rate as provided in RCW 41.16.060, and this dollar rate shall be used for the purpose of paying the benefits provided in chapters 41.16 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to be paid from whatever financial sources the city has been using for this purpose. [2012 c 117 § 39; 1991 c 35 § 15; 1989 c 273 § 11; 1979 ex.s. c 45 § 1; 1974 ex.s. c 120 § 7; 1973 1st ex.s. c 195 § 44; 1970 ex.s. c 6 § 2; 1969 ex.s. c 209 § 4.]

***Reviser's note:** RCW 41.26.030 was amended by 2018 c 230 § 1, changing subsection (20) to subsection (21).

Intent——1991 c 35: See note following RCW 41.26.005.

Effective date——1979 ex.s. c 45: "This 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 on July 1, 1979." [1979 ex.s. c 45 § 8.]

Severability——1974 ex.s. c 120: See note following RCW 41.26.030.

Severability——Effective dates and termination dates——Construction——1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 41.26.045 Minimum medical and health standards. (1) Notwithstanding any other provision of law after February 19, 1974 no law enforcement officer or firefighter, may become eligible for coverage in the pension system established by this chapter, until the individual 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 firefighters 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 or her 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 or she has previously withdrawn from any such system or systems.

(2) This section shall not apply to persons who initially establish membership in the retirement system on or after July 1, 1979. [2012 c 117 § 40; 1979 ex.s. c 249 § 3; 1977 ex.s. c 294 § 20; 1974 ex.s. c 120 § 8; 1971 ex.s. c 257 § 3.]

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.046 Minimum medical and health standards—Board to adopt—Publication and distribution—Employer certification procedures. By July 31, 1971, the *retirement board shall adopt minimum medical and health standards for membership coverage into the Washington law enforcement officers' and firefighters' 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 firefighters, 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 firefighter receives membership coverage unless and until he or she has actually met minimum medical and health standards: PROVIDED, That an elected sheriff or an appointed chief of police, fire chief, or director of public safety 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. [2012 c 117 § 41; 1987 c 418 § 2; 1977 ex.s. c 294 § 21; 1974 ex.s. c 120 § 12; 1972 ex.s. c 131 § 2; 1971 ex.s. c 257 § 4.]

***Reviser's note:** Powers, duties, and functions of the Washington law enforcement officers' and firefighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.047 Minimum medical and health standards—Exemptions—Employer may adopt higher standards. Nothing in RCW 41.26.035, 41.26.045 and 41.26.046 shall apply to any firefighters or law enforcement officers who are employed as such on or before August 1, 1971, as long as they continue in such employment; nor to promotional appointments after becoming a member in the police or fire department of any employer nor to the reemployment of a law enforcement officer or firefighter by the same or a different employer within six months after the termination of his or her employment, nor to the reinstatement of a law enforcement officer or firefighter who has been on military or disability leave, disability retirement status, or leave of absence status. Nothing in this chapter shall be deemed to prevent any employer from adopting higher medical and health standards than those which are adopted by the *retirement board. [2012 c 117 § 42; 1972 ex.s. c 131 § 3; 1971 ex.s. c 257 § 5.]

***Reviser's note:** Powers, duties, and functions of the Washington law enforcement officers' and firefighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.048 Special death benefit—Death in the course of employment—Death from disease or infection arising from employment—Annual adjustment. (1) A two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization 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 death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) The benefit under this section shall be paid only when death occurs: (a) As a result of injuries sustained in the course of employment; or (b) as a result of an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A;"

(ii) The index for the calendar year prior to the date of determination, to be known as "index B;" and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen thousand dollars;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) 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. [2010 c 261 § 2; 2009 c 523 § 4; 2007 c 487 § 2; 2006 c 351 § 1; 1996 c 226 § 1.]

Application—2010 c 261: "Sections 2 and 7 of this act apply to the benefits of all members killed in the course of employment since January 1, 2009." [2010 c 261 § 9.]

Effective date—1996 c 226: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 28, 1996]." [1996 c 226 § 4.]

RCW 41.26.053 Exemption from judicial process, taxes—Exceptions—Deduction for insurance upon request. (1) Subject to subsections (2) and (3) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, whether the same be in actual possession of the person or be deposited or loaned and shall be unassignable.

(2) On the written request of any person eligible to receive benefits under this section, the department may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child

support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to *RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [2012 c 159 § 21. Prior: 1991 c 365 § 20; 1991 c 35 § 25; 1989 c 360 § 24; 1987 c 326 § 22; 1979 ex.s. c 205 § 4; 1971 ex.s. c 257 § 12; 1970 ex.s. c 6 § 15; 1969 ex.s. c 209 § 23. Formerly RCW 41.26.180.]

***Reviser's note:** RCW 26.23.060 was amended by 2021 c 35 § 15, changing "notice of payroll deduction" to "income withholding order."

Severability—1991 c 365: See note following RCW 41.50.500.

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—1987 c 326: See RCW 41.50.901.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.056 No bond required on appeal to court. No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a decision of the director affecting such claimant's right to retirement or disability benefits. [1984 c 184 § 18; 1971 c 81 § 103; 1969 ex.s. c 209 § 21. Formerly RCW 41.26.230.]

Severability—1984 c 184: See note following RCW 41.50.150.

RCW 41.26.057 Benefit calculation—Limitation. (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 1.]

RCW 41.26.059 Establishing, restoring service credit. Notwithstanding any provision to the contrary, persons who fail to:

(1) Establish allowable membership service not previously credited;

(2) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or

(3) Restore service credit represented by a lump sum payment in lieu of benefits, before the deadline established by statute, may do so under the conditions set forth in RCW 41.50.165. [1998 c 17 § 1.]

RCW 41.26.061 Disability retirement—Criminal conduct. A member shall not receive a disability retirement benefit under RCW 41.26.120, 41.26.125, 41.26.130, or 41.26.470 if the disability is the result of criminal conduct by the member committed after April 21, 1997. [1997 c 103 § 1.]

Severability—1997 c 103: "If any provision of this 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." [1997 c 103 § 4.]

Effective date—1997 c 103: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 21, 1997]." [1997 c 103 § 5.]

RCW 41.26.062 Falsification—Penalty. Any employer, member or beneficiary who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system in an attempt to defraud the retirement system, is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 217; 1972 ex.s. c 131 § 10. Formerly RCW 41.26.300.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

"PLAN 1"

RCW 41.26.075 Provisions applicable to plan 1. RCW 41.26.080 through 41.26.3903 shall apply only to members of plan 1. [1992 c 72 § 3; 1991 c 35 § 101.]

Intent—1991 c 35: See note following RCW 41.26.005.

RCW 41.26.080 Funding total liability of plan 1 system. (1) Except as set forth under subsection (2) of this section, the total liability of the plan 1 system shall be funded as follows:

(a) Every plan 1 member shall have deducted from each payroll a sum equal to six percent of his or her basic salary for each pay period.

(b) Every employer shall contribute monthly a sum equal to six percent of the basic salary of each plan 1 employee who is a member of this retirement system. The employer shall transmit the employee and employer contributions with a copy of the payroll to the retirement system monthly.

(c) The remaining liabilities of the plan 1 system shall be funded as provided in chapter 41.45 RCW.

(d) Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his or her salary or compensation. Payment less said contributions

shall be a complete discharge of all claims and demands whatsoever for the services rendered by such person during the period covered by such payments, except his or her claim to the benefits to which he or she may be entitled under the provisions of this chapter.

(2) No employer or member contribution is required after June 30, 2000, unless the most recent valuation study for law enforcement officers' and firefighters' retirement system plan 1 indicates the plan has unfunded liabilities. The legislature clarifies the enactment of section 907, chapter 1, Laws of 2000 2nd sp. sess. and affirms the suspension of employer and member contributions to plan 1 of the law enforcement officers' and firefighters' retirement system, effective June 30, 2000, as provided in this subsection. The legislature intends this 2007 amendment of this subsection to be curative, remedial, and retrospectively applicable to June 30, 2000. [2007 c 492 § 8; 2000 2nd sp.s. c 1 § 907; 1991 c 35 § 17; 1989 c 273 § 13; 1969 ex.s. c 209 § 8.]

Severability—Effective date—2000 2nd sp.s. c 1: See notes following RCW 41.05.143.

Intent—1991 c 35: See note following RCW 41.26.005.

RCW 41.26.090 Retirement for service. Retirement of a member for service shall be made by the department as follows:

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

(2) Any member having five or more service credit years of service, who terminates his or her employment with any employer, may leave his or her 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 or her years of service, commencing on the first day following his or her attainment of age fifty.

(3) Any member selecting optional vesting under subsection (2) of this section with less than twenty service credit years of service shall not be covered by the provisions of RCW 41.26.150, and the member's survivors shall not be entitled to the benefits of RCW 41.26.160 unless his or her death occurs after he or she 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. A member selecting this optional vesting, with less than twenty service credit years of service credit, who dies prior to attaining the age of fifty years, shall have paid from the Washington law enforcement officers' and firefighters' 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 or her estate, a lump sum which is equal to the amount of such member's accumulated contributions plus accrued interest. If the vested member has twenty or more service credit years of service credit the surviving spouse or children shall then become eligible for the benefits of RCW 41.26.160

regardless of the member's age at the time of his or her death, to the exclusion of the lump sum amount provided by this subsection.

(4) 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 firefighter: PROVIDED, That for any member who is elected or appointed to the office of sheriff, chief of police, or fire chief, his or her 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 or her present term of office and any succeeding periods for which he or she may be so elected or appointed. The provisions of this subsection shall not apply to any member who is employed as a law enforcement officer or firefighter on March 1, 1970. [1991 sp.s. c 11 § 4. Prior: 1991 c 343 § 15; 1991 c 35 § 18; 1977 ex.s. c 294 § 22; 1972 ex.s. c 131 § 6; 1971 ex.s. c 257 § 8; 1970 ex.s. c 6 § 4; 1969 ex.s. c 209 § 9.]

Purpose—1991 sp.s. c 11: "The purpose of this act is to correct certain double amendments created during the 1991 regular session that the code reviser's office is unable to merge under RCW 1.12.025. The session laws repealed by section 2 of this act are strictly technical in nature and affect no policy. Sections *3 through 6 of this act are being reenacted to effectuate a legislative directive contained in 1991 c 35 s 2." [1991 sp.s. c 11 § 1.]

***Reviser's note:** 1991 sp.s. c 11 § 3 was repealed by 1991 sp.s. c 12 § 3.

Effective dates—1991 sp.s. c 11: "(1) Sections *3 through 5 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect September 1, 1991.

(2) Sections 1, 2, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately." [1991 sp.s. c 11 § 7.]

***Reviser's note:** 1991 sp.s. c 11 § 3 was repealed by 1991 sp.s. c 12 § 3.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.100 Allowance on retirement for service. A member upon retirement for service shall receive a monthly retirement allowance computed according to his or her completed creditable service credit years of service as follows: Five years but under ten years, one-twelfth of one percent of his or her final average salary

for each month of service; ten years but under twenty years, one-twelfth of one and one-half percent of his or her final average salary for each month of service; and twenty years and over one-twelfth of two percent of his or her final average salary for each month of service: PROVIDED, That the recipient of a retirement allowance who shall return to service as a law enforcement officer or firefighter shall be considered to have terminated his or her retirement status and he or she shall immediately become a member of the retirement system with the status of membership he or she had as of the date of retirement. Retirement benefits shall be suspended during the period of his or her return to service and he or she shall make contributions and receive service credit. Such a member shall have the right to again retire at any time and his or her retirement allowance shall be recomputed, and paid, based upon additional service rendered and any change in final average salary. [2006 c 350 § 1; 1991 c 343 § 16; 1974 ex.s. c 120 § 3; 1972 ex.s. c 131 § 7; 1971 ex.s. c 257 § 9; 1970 ex.s. c 6 § 5; 1969 ex.s. c 209 § 10.]

Effective date—2006 c 350 § 1: "Section 1 of this act takes effect July 1, 2006." [2006 c 350 § 3.]

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.105 Purchase of actuarially equivalent life annuity benefit upon retirement—Purchase by past retirees. (1) At the time of retirement, plan 1 members may purchase an optional actuarially equivalent life annuity benefit from the Washington law enforcement officers' and firefighters' retirement system plan 1 retirement fund established in RCW 41.50.075. A minimum payment of twenty-five thousand dollars is required.

(2) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) "Eligible retirement plan" means a tax qualified plan offered by a governmental employer.

(3) Plan 1 members whose retirement was effective prior to June 9, 2016, may purchase an annuity under this section between January 1, 2017, and June 1, 2017. [2016 c 222 § 2.]

RCW 41.26.110 Disability boards authorized—Composition—Terms—Reimbursement for travel expenses—Duties. (1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board authorized to be created in this section.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by those cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor; one active or retired firefighter employed by or retired from the city to be elected by the firefighters employed by or retired from the city who are subject to the jurisdiction of the board; one active or retired law enforcement officer employed by or retired from the city to be elected by the law enforcement officers employed by or retired from the city who are subject to the jurisdiction of the board; and one member from the public at large who resides within the city to be appointed by the other four members designated in this subsection. Only those active or retired firefighters and law enforcement officers who are subject to the jurisdiction of the board have the right to elect under this section. All firefighters and law enforcement officers employed by or retired from the city are eligible for election. Each of the elected members shall serve a two year term. If there are either no firefighters or law enforcement officers under the jurisdiction of the board eligible to vote, a second eligible employee representative shall be elected by the law enforcement officers or firefighters eligible to vote. The members appointed pursuant to this subsection shall serve for two year terms: PROVIDED, That cities of the first class only, shall retain existing firefighters' pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by firefighters or law enforcement officers as provided under the Washington law enforcement officers' and firefighters' retirement system act.

(b) If no eligible active or retired firefighter or law enforcement officer is willing or able to be elected to the board under (a) of this subsection, then the following individuals may be elected to the board under (a) of this subsection:

(i) Any active or retired firefighter under this chapter or chapters 41.16, 41.18, and 52.26 RCW or law enforcement officers under this chapter or chapter 41.20 RCW who resides within the jurisdiction served by the board;

(ii) The surviving spouse or domestic partner of a firefighter or law enforcement officer subject to the jurisdiction of the board.

(c) Each county shall establish a disability board having jurisdiction over all members employed by or retired from an employer within the county and not employed by a city in which a disability board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by the county legislative body; one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to (a) of this subsection to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board; one active firefighter

or retired firefighter employed by or retired from an employer within the county to be elected by the firefighters employed or retired from an employer within the county who are subject to the jurisdiction of that board; one law enforcement officer or retired law enforcement officer employed by or retired from an employer within the county to be elected by the law enforcement officers employed in or retired from an employer within the county who are subject to the jurisdiction of that board; and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four members designated in this subsection. However, in counties with a population less than sixty thousand, the member of the disability board appointed by a majority of the mayors of the cities and towns within the county that do not contain a city disability board must be a resident of one of the cities and towns but need not be a member of a city or town legislative body. Only those active or retired firefighters and law enforcement officers who are subject to the jurisdiction of the board have the right to elect under this section. All firefighters and law enforcement officers employed by or retired from an employer within the county are eligible for election. All members appointed or elected pursuant to this subsection shall serve for two year terms. If there are no firefighters under the jurisdiction of the board eligible to vote, a second eligible employee representative shall be elected by the law enforcement officers eligible to vote. If there are no law enforcement officers under the jurisdiction of the board eligible to vote, a second eligible representative shall be elected by the firefighters eligible to vote.

(d) If no eligible active or retired firefighter or law enforcement officer is willing or able to be elected to the board under (c) of this subsection, then the following individuals may be elected to the board under (c) of this subsection:

(i) Any active or retired firefighter under this chapter or chapters 41.16, 41.18, and 52.26 RCW or law enforcement officers under this chapter or chapter 41.20 RCW who resides within the jurisdiction served by the board;

(ii) The surviving spouse or domestic partner of a firefighter or law enforcement officer subject to the jurisdiction of the board.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but the members shall be reimbursed by their respective county or city for all expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter. [2020 c 107 § 7. Prior: 2013 c 213 § 1; 2013 c 23 § 69; 2005 c 66 § 1; 2003 c 30 § 3; 2000 c 234 § 1; 1988 c 164 § 1; 1982 c 12 § 1; 1974 ex.s. c 120 § 9; 1970 ex.s. c 6 § 6; 1969 ex.s. c 219 § 3; 1969 ex.s. c 209 § 11.]

Effective date——2005 c 66: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 15, 2005]." [2005 c 66 § 2.]

Severability——1974 ex.s. c 120: See note following RCW 41.26.030.

RCW 41.26.115 Director of retirement systems to adopt rules governing disability boards—Remand of orders not in accordance with rules. (1) The director of retirement systems shall adopt rules, in accordance with chapter 34.05 RCW, under which each disability board shall execute its disability retirement duties under this chapter. The rules shall include, but not be limited to, the following:

(a) Standards governing the type and manner of presentation of medical, employability, and other evidence before disability boards; and

(b) Standards governing the necessity and frequency of medical and employability reexaminations of persons receiving disability benefits.

(2) If the director determines that an order or determination of a disability board was not processed in accordance with the rules established under this section, the director may remand the order or determination for further proceedings consistent with the rules. [1981 c 294 § 1.]

Severability—1981 c 294: "If any provision of this 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." [1981 c 294 § 16.]

RCW 41.26.120 Retirement for disability incurred in the line of duty. Any member, regardless of age or years of service may be retired by the disability board, subject to approval by the director as hereinafter provided, for any disability incurred in the line of duty which has been continuous since his or her discontinuance of service and which renders the member unable to continue service. No disability retirement allowance shall be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of his or her application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the full monthly salary and shall continue to receive all other benefits provided to active employees from the employer for such period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the beneficiary at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is or is believed to be physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of said member, or a person acting in his or her behalf, stating that said member is disabled, either physically or mentally: PROVIDED, That no such application shall be considered unless said member or someone in his or her behalf, in case of the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled

from the further performance of duty, that such disability was incurred in the line of duty, and that such disability has been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter as now or hereafter amended, granting the member a disability retirement allowance; otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: PROVIDED, That in any order granting a duty disability retirement allowance, the disability board shall make a finding that the disability was incurred in line of duty.

(3) Every order of a disability board granting a duty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board 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.

(4) Every member who can establish, to the disability board, that he or she is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability will be in existence for a period of at least six months may waive the six-month period of disability leave and be immediately granted a duty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section. [1991 c 35 § 19; 1986 c 176 § 5; 1985 c 102 § 2; 1981 c 294 § 2; 1974 ex.s. c 120 § 10; 1972 ex.s. c 131 § 8; 1970 ex.s. c 6 § 7; 1969 ex.s. c 209 § 12.]

Intent——1991 c 35: See note following RCW 41.26.005.

Purpose——1985 c 102: "As expressed in RCW 41.26.270, the intent of the legislature in enacting the law enforcement officers' and firefighters' retirement system was to provide in RCW 41.26.120 a statute in the nature of a workers' compensation act which provides compensation to employees for personal injuries or sickness incurred in the course of employment. The sole purpose of this 1985 act is to clarify that intent." [1985 c 102 § 1.]

Retrospective application——1985 c 102: "The provisions of this 1985 act apply retrospectively to all disability leave and disability retirement allowances granted under chapter 41.26 RCW on or after March 1, 1970." [1985 c 102 § 7.]

Severability——1981 c 294: See note following RCW 41.26.115.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Disability leave supplement for law enforcement officers and firefighters: RCW 41.04.500 through 41.04.550.

RCW 41.26.125 Retirement for disability not incurred in the line of duty. Any member, regardless of age or years of service, may be retired by the disability board, subject to approval by the director as provided in this section, for any disability not incurred in the line of duty which has been continuous since discontinuance of service and which renders the member unable to continue service. No disability retirement allowance may be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of the member's application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the member's full monthly salary and shall continue to receive all other benefits provided to active employees from the member's employer for the period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the member at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is, or is believed to be, physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of the member, or a person acting in the member's behalf, stating that the member is disabled, either physically or mentally: PROVIDED, That no such application shall be considered unless the member or someone acting in the member's behalf, in case of the incapacity of a member, has filed the application within a period of one year from and after the discontinuance of service of the member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability had been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter, granting the member a disability retirement allowance. Otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: PROVIDED, That in any order granting a nonduty disability retirement allowance, the disability board shall make a finding that the disability was not incurred in the line of duty.

(3) Every order of a disability board granting a nonduty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was not incurred in

the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board 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.

(4) Every member who can establish to the disability board that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability will be in existence for a period of at least six months, may waive the six-month period of disability leave and be immediately granted a nonduty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section. [1986 c 176 § 6; 1985 c 102 § 3.]

Purpose—Retrospective application—1985 c 102: See notes following RCW 41.26.120.

RCW 41.26.130 Allowance on retirement for disability. (1) Upon retirement for disability a member shall be entitled to receive a monthly retirement allowance computed as follows: (a) A basic amount of fifty percent of final average salary at time of disability retirement, and (b) an additional five percent of final average salary for each child as defined in *RCW 41.26.030(7), (c) the combined total of (a) and (b) of this subsection shall not exceed a maximum of sixty percent of final average salary.

(2) A disabled member shall begin receiving the disability retirement allowance as of the expiration of his or her six month period of disability leave or, if his or her application was filed after the sixth month of discontinuance of service but prior to the one year time limit, the member's disability retirement allowance shall be retroactive to the end of the sixth month.

(3) Benefits under this section will be payable until the member recovers from the disability or dies. If at the time that the disability ceases the member is over the age of fifty, he or she shall then receive either disability retirement allowance or retirement for service allowance, whichever is greater.

(4) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the member receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability.

(5) A member retired for disability shall be subject to periodic examinations by a physician approved by the disability board prior to attainment of age fifty, pursuant to rules adopted by the director under RCW 41.26.115. Examinations of members who retired for disability prior to July 26, 1981, shall not exceed two medical

examinations per year. [1991 c 35 § 20; 1987 c 185 § 11; 1981 c 294 § 3; 1970 ex.s. c 6 § 8; 1969 ex.s. c 209 § 13.]

***Reviser's note:** RCW 41.26.030 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (7) to subsection (6).

Intent—1991 c 35: See note following RCW 41.26.005.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1981 c 294: See note following RCW 41.26.115.

RCW 41.26.135 Cessation of disability—Determination. (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. [1985 c 103 § 1.]

RCW 41.26.140 Reexaminations of disability beneficiaries—Reentry—Appeal. (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 or her duties either physically or mentally for service in the department where he or she was employed.

(2) If the disability board shall determine that the beneficiary is not so incapacitated 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 beneficiary at the time of his or her retirement or if unable to perform the duties of said rank, then, at his or her request, in such other like or lesser rank as may be or become open and available, the duties of which he or she 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 retirement for disability. If the disability board determines that the beneficiary is able to return

to service he or she shall be entitled to notice and a hearing, both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, as now or hereafter amended.

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

(4) Should any disability beneficiary under age fifty refuse to submit to examination, the retirement allowance shall be discontinued until withdrawal of such refusal, and should such refusal continue for one year or more, the 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 or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her 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. [1991 c 35 § 21; 1985 c 103 § 2; 1981 c 294 § 4; 1974 ex.s. c 120 § 4; 1970 ex.s. c 6 § 9; 1969 ex.s. c 209 § 14.]

Intent——1991 c 35: See note following RCW 41.26.005.

Severability——1981 c 294: See note following RCW 41.26.115.

Severability——1974 ex.s. c 120: See note following RCW 41.26.030.

RCW 41.26.150 Sickness or disability benefits——Medical services. (1) Whenever any active member, or any member hereafter retired, on account of service, sickness, or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in home, and whether or not so confined, requires medical services, the employer shall pay for the active or retired member the necessary medical services not payable

from some other source as provided for in subsection (2) of this section. In the case of active or retired firefighters the employer may make the payments provided for in this section from the firefighters' pension fund established pursuant to RCW 41.16.050 where the fund had been established prior to March 1, 1970. If this pension fund is depleted, the employer shall have the obligation to pay all benefits payable under chapters 41.16 and 41.18 RCW.

(a) The disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all rights to benefits under this section for the period of the refusal.

(b) The disability board shall designate the medical services available to any sick or disabled member.

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under workers' compensation, social security including the changes incorporated under Public Law 89-97, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making the payments provided for in subsection (1) of this section, the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for payment of the cost of medical services in connection with a member's sickness or disability to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this chapter, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers' and firefighters' retirement system, and/or retired former employees who were, before retirement, members of the retirement system, through contracts with regularly constituted insurance carriers, with health maintenance organizations as defined in chapter 48.46 RCW, or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under the plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section.

(5) Any employer under this chapter may, at its discretion, elect to reimburse a retired former employee under this chapter for premiums the retired former employee has paid for medical insurance that supplements medicare, including premiums the retired former employee has paid for medicare part B coverage. [2013 c 23 § 70; 1992 c 22 § 3; 1991 c 35 § 22; 1987 c 185 § 12; 1983 c 106 § 23; 1974 ex.s. c 120 § 11; 1971 ex.s. c 257 § 10; 1970 ex.s. c 6 § 10; 1969 ex.s. c 219 § 4; 1969 ex.s. c 209 § 15.]

Intent—1991 c 35: See note following RCW 41.26.005.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.160 Death benefits—Duty or military service connected. (1) In the event of the duty connected 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 service credit years of service, or who is on duty connected disability leave or retired for duty connected disability, or upon the death of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, the surviving spouse shall become entitled, subject to RCW 41.26.162, to receive a monthly allowance equal to fifty percent of the 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 death if retired for duty connected 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), 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 or, in the absence of a legal guardian and if the member has created a trust for the benefit of the child or children, payment of the increase attributable to each child will be made to the trust.

(2) If at the time of the duty connected death of a vested member with twenty or more service credit years of service as provided in subsection (1) of this section or a member retired for duty connected disability, or at the time of the death of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, the surviving spouse has not been lawfully married to such member for one year prior to 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 or while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, then if he or she was married at the time he or she was disabled or left the employ of an employer due to service in the national guard or military reserves during a period of war as defined in RCW 41.04.005, the 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 duty connected 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), there shall be paid to the legal heirs of the member the excess, if any, of accumulated contributions of the member at the time of death over all payments made to survivors on his or her behalf under this chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(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 the member.

(5) If a surviving spouse receiving benefits under this section remarries after June 13, 2002, the surviving spouse shall continue to receive the benefits under this section.

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

(7) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date. [2009 c 226 § 1; 2005 c 62 § 1; 2002 c 158 § 1; 1999 c 134 § 2; 1991 sp.s. c 11 § 5. Prior: 1991 c 343 § 17; 1991 c 35 § 23; 1986 c 176 § 7; 1977 ex.s. c 294 § 23; 1974 ex.s. c 120 § 5; 1972 ex.s. c 131 § 9; 1971 ex.s. c 257 § 11; 1970 ex.s. c 6 § 12; 1969 ex.s. c 209 § 17.]

***Reviser's note:** RCW 41.26.030 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (7) to subsection (6).

Purpose—1999 c 134: "The purpose of sections 1 through 4 of this act is to clarify that the intent of the legislature in enacting RCW 41.26.160, insofar as that section provides benefits to members or surviving spouses for deaths incurred in the line of duty, was to provide a statute in the nature of a workers' compensation act that provides compensation to employees or surviving spouses for personal injuries or deaths incurred in the course of employment. Accordingly, this act amends and divides RCW 41.26.160 into two separate sections. Section 2 of this act clarifies and emphasizes the legislature's intent that the death benefits granted by RCW 41.26.160, as amended, are granted only to those members who die or become disabled by any injury or incapacity that is incurred in the line of duty. Section 3 of this act continues to provide death retirement benefits to members or surviving spouses for deaths not incurred in the line of duty." [1999 c 134 § 1.]

Retroactive application—1999 c 134 § 2: "The provisions of section 2 of this act apply retrospectively to all line of duty death retirement allowances granted under chapter 41.26 RCW prior to April 28, 1999." [1999 c 134 § 4.]

Effective date—1999 c 134: "This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and takes effect immediately [April 28, 1999]." [1999 c 134 § 5.]

Purpose—Effective dates—1991 sp.s. c 11: See notes following RCW 41.26.090.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.161 Death benefits—Nonduty connected. (1) In the event of the nonduty connected 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 service credit years of service, or who is on disability leave or retired, whether for nonduty connected disability or service, the surviving spouse shall become entitled, subject to RCW 41.26.162, to receive a monthly allowance equal to fifty percent of the 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 death if retired for service or nonduty connected 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), 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 or, in the absence of a legal guardian and if the member has created a trust for the benefit of the child or children, payment of the increase attributable to each child will be made to the trust.

(2) If at the time of the death of a vested member with twenty or more service credit years of service as provided in subsection (1) of this section or a member retired for service or disability, the surviving spouse has not been lawfully married to such member for one year prior to retirement or separation from service if a vested member, the surviving spouse shall not 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), there shall be paid to the legal heirs of the member the excess, if any, of accumulated contributions of the member at the time of death over all payments made to survivors on his or her behalf under this

chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(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 this section remarries after June 13, 2002, the surviving spouse shall continue to receive the benefits under this section.

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

(7) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date. [2005 c 62 § 2; 2002 c 158 § 2; 1999 c 134 § 3.]

***Reviser's note:** RCW 41.26.030 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (7) to subsection (6).

Purpose—Effective date—1999 c 134: See notes following RCW 41.26.160.

RCW 41.26.162 Ex spouse qualifying as surviving spouse. (1) An ex spouse of a law enforcement officers' and firefighters' retirement system retiree shall qualify as surviving spouse under RCW 41.26.160 or 41.26.161 if the ex spouse has been provided benefits under any currently effective court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation. Such an ex spouse shall continue to receive the court-awarded portion of the member's benefit after the member's death as if the member was still alive.

(2) An ex spouse whose benefit resumes as a result of chapter 62, Laws of 2005 shall receive an initial payment equivalent to that portion of the member's benefit received prior to its suspension. The benefit will not be adjusted under RCW 41.26.240 for the period the allowance was suspended.

(3) Chapter 62, Laws of 2005 shall not result in the payment of benefits for the period during which benefits were suspended.

(4) This section shall apply retroactively. [2005 c 62 § 3; 2002 c 158 § 3; 1991 sp.s. c 12 § 2.]

RCW 41.26.164 Optional reduced retirement allowance—Continues for spouse otherwise ineligible for survivor benefits. (1) No later than July 1, 2005, the department shall adopt rules to allow a member who meets the criteria set forth in subsection (2) of this section to choose an actuarially equivalent benefit that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of a spouse ineligible for survivor benefits under RCW 41.26.160 or 41.26.161.

(2) To choose an actuarially equivalent benefit according to subsection (1) of this section, a member shall:

(a) Have a portion of the retirement allowance payable to the retiree that is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670; and

(b) Choose an actuarially reduced benefit equivalent to that portion not subject to periodic payments under (a) of this subsection during a one-year period beginning one year after the date of marriage to the survivor benefit-ineligible spouse.

(3)(a) A member who married a spouse ineligible for survivor benefits under RCW 41.26.160 or 41.26.161 prior to the effective date of the rules adopted under this section and satisfies subsection (2)(a) of this section has one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A member who married a spouse ineligible for survivor benefits under RCW 41.26.160 or 41.26.161, has been married to that spouse for at least two years prior to September 1, 2015, and satisfies subsection (2)(a) of this section has one year from September 1, 2015, to designate their spouse as a survivor beneficiary. The office of the state actuary must provide the department with administrative factors to ensure that the benefits provided under this section are actuarially equivalent.

(c) A deceased member's spouse who was eligible to be provided a survivor benefit under RCW 41.26.164(1) [subsection (1) of this section] but the member did not select a survivor benefit, and who prior to March 1, 2015, exhausted all administrative remedies with the department for establishing eligibility for a benefit under RCW 41.26.164 [this section], is eligible beginning August 1, 2015, for a retirement allowance equal to two-thirds of the gross monthly retirement allowance the retired member received at the time of death.

(4) No benefit provided to a child survivor beneficiary under RCW 41.26.160 or 41.26.161 is affected or reduced by the member's selection of the actuarially reduced spousal survivor benefit provided by this section.

(5)(a) Any member who chose to receive a reduced retirement allowance under subsection (1) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection if:

(i) The retiree's survivor spouse designated in subsection (1) of this section predeceases the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree from the beginning of the month following the date of the beneficiary's death shall be increased by the following:

(i) One hundred percent multiplied by the result of (b)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor. [2016 c 120 § 1; 2005 c 67 § 1; 2002 c 158 § 4.]

Effective date—2005 c 67: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 15, 2005]." [2005 c 67 § 2.]

RCW 41.26.170 Refund of contributions on discontinuance of service—Reentry. (1) Should service of a member be discontinued except by death, disability, or retirement, the member shall, upon application therefor, be paid the accumulated contributions within sixty days after the day of application and the rights to all benefits as a member shall cease: PROVIDED, That any member with at least five years' service may elect the provisions of RCW 41.26.090(2).

(2) Any member whose contributions have been paid in accordance with subsection (1) of this section and who reenters the service of an employer shall upon the restoration of withdrawn contributions, which restoration must be completed within a total period of five years of service following resumption of employment, then receive credit toward retirement for the period of previous service which these contributions are to cover.

(3) If the member fails to meet the time limitations of subsection (2) of this section, the member may make the payment required under RCW 41.50.165(2) prior to retirement. The member shall then receive credit toward retirement for the period of previous service that the withdrawn contributions cover. [1994 c 197 § 6; 1991 c 35 § 24; 1970 ex.s. c 6 § 14; 1969 ex.s. c 209 § 22.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Intent—1991 c 35: See note following RCW 41.26.005.

RCW 41.26.190 Credit for military service. Each person affected by this chapter who at the time of entering the armed services was a member of this system, and has honorably served in the armed services of the United States, shall have added to the period of service as computed under this chapter, the period of service in the armed forces: PROVIDED, That such credited service shall not exceed five years. [1991 c 35 § 26; 1970 ex.s. c 6 § 13; 1969 ex.s. c 209 § 18.]

Intent—1991 c 35: See note following RCW 41.26.005.

RCW 41.26.192 Credit for service under prior pension system—Restoration of withdrawn contributions. If a member of plan 1 served as a law enforcement officer or firefighter under a prior pension system and that service is not creditable to plan 1 because the member withdrew his or her contributions plus accrued interest from the prior pension system, the member's prior service as a law enforcement officer shall be credited to plan 1 if the member pays to the retirement system the amount under RCW 41.50.165(2) prior to retirement. [1994 c 197 § 7; 1992 c 157 § 1.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

RCW 41.26.194 Credit for service under prior pension system—Service not covered under prior system. If a plan 1 member's prior service as a law enforcement officer or firefighter under a prior pension system is not creditable because, although employed in a

position covered by a prior pension act, the member had not yet become a member of the pension system governed by the act, the member's prior service as a law enforcement officer or firefighter shall be creditable under plan 1, if the member pays to the plan the amount set forth under RCW 41.50.165(2) prior to retirement. [1994 c 197 § 8; 1992 c 157 § 2.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

RCW 41.26.195 Transfer of service credit from other retirement system—Irrevocable election allowed. Any member of the teachers' retirement system plans 1, 2, or 3, the public employees' retirement system plans 1, 2, or 3, the public safety employees' retirement system plan 2, the school employees' retirement system plans 2 or 3, or the Washington state patrol retirement system plans 1 or 2 who has previously established service credit in the law enforcement officers' and firefighters' retirement system plan 1 may make an irrevocable election to have such service transferred to their current retirement system and plan subject to the following conditions:

(1) If the individual is employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than July 1, 1998. If the individual is not employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than one year from the date they are employed by an employer in an eligible position.

(2) An individual transferring service under this section forfeits the rights to all benefits as a member of the law enforcement officers' and firefighters' retirement system plan 1 and will be permanently excluded from membership.

(3) Any individual choosing to transfer service under this section will have transferred to their current retirement system and plan: (a) All the individual's accumulated contributions; (b) an amount sufficient to ensure that the employer contribution rate in the individual's current system and plan will not increase due to the transfer; and (c) all applicable months of service, as defined in *RCW 41.26.030(14)(a).

(4) If an individual has withdrawn contributions from the law enforcement officers' and firefighters' retirement system plan 1, the individual may restore the contributions, together with interest as determined by the director, and recover the service represented by the contributions for the sole purpose of transferring service under this section. The contributions must be restored before the transfer can occur and the restoration must be completed within the time limitations specified in subsection (1) of this section.

(5) Service transferred under this section is applicable for meeting the total service required for military service credit as defined in RCW 41.40.170(3) but is not applicable for meeting the total service credit required for military service credit under RCW 43.43.260(3). This subsection applies to members who retired on or after January 1, 1998.

(6) If an individual does not meet the time limitations of subsection (1) of this section, the individual may elect to restore any withdrawn contributions and transfer service under this section by

paying the amount required under subsection (3)(b) of this section less any employee contributions transferred. [2010 c 260 § 1; 2007 c 492 § 9; 2003 c 294 § 2; 1997 c 122 § 1.]

***Reviser's note:** RCW 41.26.030 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (14)(a) to subsection (28)(a).

RCW 41.26.197 Service credit for paid leave of absence—Application to elected officials of labor organizations. (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 under the provisions of RCW 41.26.080 through 41.26.3903.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [1993 c 95 § 3.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

RCW 41.26.199 Purchase of additional service credit—Costs—Rules. (1) A member eligible to retire under RCW 41.26.090 may, at the time of filing a written application for retirement with the department, apply to the department to make a one-time purchase of up to five years of additional service credit.

(2) To purchase additional service credit under this section, a member shall pay the actuarial equivalent value of the resulting increase in the member's benefit.

(3) Subject to rules adopted by the department, a member purchasing additional service credit under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(4) Additional service credit purchased under this section is not membership service and shall be used exclusively to provide the member with a monthly annuity that is paid in addition to the member's retirement allowance. [2006 c 214 § 5.]

Effective date—2006 c 214: See note following RCW 41.40.034.

RCW 41.26.200 Appeal to director of retirement systems. Any person feeling aggrieved by any order or determination of a disability board denying disability leave or disability retirement, or canceling a previously granted disability retirement allowance, shall have 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 applicable 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 such further proceedings as he or she may direct, in accordance with such rules of procedure as the director shall promulgate. [1981 c 294 § 5; 1974 ex.s. c 120 § 6; 1971 ex.s. c 257 § 13; 1970 ex.s. c 6 § 11; 1969 ex.s. c 209 § 16.]

Severability—1981 c 294: See note following RCW 41.26.115.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.211 Notice for hearing required prior to petitioning for judicial review. Any person aggrieved by any final decision of the director must, before petitioning for judicial review, file with the director of the retirement system by mail or personally within sixty days from the day such decision was communicated to such person, a notice for a hearing. The notice of hearing shall set forth in full detail the grounds upon which such person considers such decision unjust or unlawful and shall include every issue to be considered, and it must contain a detailed statement of facts upon which such person relies in support thereof. Such persons shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system. [1984 c 184 § 16; 1981 c 294 § 6; 1969 ex.s. c 209 § 19. Formerly RCW 41.26.052, 41.26.210.]

Severability—1984 c 184: See note following RCW 41.50.150.

Severability—1981 c 294: See note following RCW 41.26.115.

RCW 41.26.221 Hearing—Conduct. A hearing shall be held by the director, or the director's duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be de novo and shall conform to the provisions of chapter 34.05 RCW, as now or hereafter amended. The disability board and the department shall be entitled to appear in all such proceedings and introduce testimony in support of the decision.

Judicial review of any final decision by the director shall be governed by the provisions of chapter 34.05 RCW as now law or hereafter amended. [1984 c 184 § 17; 1981 c 294 § 7; 1969 ex.s. c 209 § 20. Formerly RCW 41.26.054, 41.26.220.]

Severability—1984 c 184: See note following RCW 41.50.150.

Severability—1981 c 294: See note following RCW 41.26.115.

RCW 41.26.240 Increases or decreases in retirement allowances to be determined by department in accordance with consumer price index. For purposes of this section:

(1) "Index" shall mean, for any calendar year, that year's average Consumer Price Index—Seattle, Washington area for urban wage earners and clerical workers, all items (1957-1959=100), compiled by the Bureau of Labor Statistics, United States Department of Labor;

(2) "Retirement allowance" shall mean the retirement allowance provided for in RCW 41.26.100 and 41.26.130, and the monthly allowance provided for in RCW 41.26.160.

Effective April 1 of 1971, and of each succeeding year, every retirement allowance which has been in effect for more than one year shall be adjusted to that dollar amount which exceeds its original dollar amount by the percentage difference which the department finds to exist between the index for the previous calendar year and the index for the calendar year prior to the effective retirement date of the person to whom, or on behalf of whom, such retirement allowance is being paid.

For the purposes of this section, basic allowance shall mean that portion of a total retirement allowance, and any cost-of-living adjustment thereon, attributable to a member (individually) and shall not include the increased amounts attributable to the existence of a child or children. In those cases where a child ceases to be qualified as an eligible child, so as to lessen the total allowance, the allowance shall, at that time, be reduced to the basic allowance plus the amount attributable for the appropriate number of eligible children. In those cases where a child qualifies as an eligible child subsequent to the retirement of a member so as to increase the total allowance payable, such increased allowance shall at the time of the next and appropriate subsequent cost-of-living adjustments, be considered the original dollar amount of the allowance. [1991 c 35 § 27; 1974 ex.s. c 120 § 13; 1970 ex.s. c 6 § 16; 1969 ex.s. c 209 § 24.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

RCW 41.26.250 Increase in presently payable benefits for service or disability authorized. All benefits presently payable pursuant to the provisions of RCW 41.20.050, 41.20.060 and 41.20.080 as such RCW sections existed prior to the effective date of the amendment of such RCW sections by sections 1, 2, 3, chapter 191, Laws of 1961 to persons who retired prior to the effective date of the said 1961 amendatory act, shall be increased annually as hereafter in this section

provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purpose of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: PROVIDED, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased as authorized by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor. [1975 1st ex.s. c 178 § 3; 1974 ex.s. c 190 § 3; 1970 ex.s. c 37 § 2; 1969 ex.s. c 209 § 34.]

Construction—1975 1st ex.s. c 178: See RCW 41.16.921.

Construction—1970 ex.s. c 37: See note following RCW 41.18.104.

RCW 41.26.260 Increase in certain presently payable death benefits authorized. All benefits presently payable pursuant to the provisions of RCW 41.20.085 which are not related to the amount of current salary attached to the position held by the deceased member, shall be increased annually in the same manner and to the same extent as provided for pursuant to RCW 41.26.250. [1974 ex.s. c 190 § 4; 1969 ex.s. c 209 § 35.]

RCW 41.26.270 Declaration of policy respecting benefits for injury or death—Civil actions abolished. The legislature of the state of Washington hereby declares that the relationship between members of the law enforcement officers' and firefighters' retirement system and their governmental employers is similar to that of workers to their employers and that the sure and certain relief granted by this chapter is desirable, and as beneficial to such law enforcement officers and firefighters as workers' compensation coverage is to persons covered by Title 51 RCW. The legislature further declares that removal of law enforcement officers and firefighters from workers' compensation coverage under Title 51 RCW necessitates the (1) continuance of sure and certain relief for personal injuries incurred in the course of employment or occupational disease, which the legislature finds to be accomplished by the provisions of this chapter and (2) protection for the governmental employer from actions at law; and to this end the legislature further declares that the benefits and remedies conferred by this chapter upon law enforcement officers and firefighters covered hereunder, shall be to the exclusion of any other remedy, proceeding, or compensation for personal injuries or sickness, caused by the governmental employer except as otherwise provided by

this chapter; and to that end all civil actions and civil causes of actions by such law enforcement officers and firefighters against their governmental employers for personal injuries or sickness are hereby abolished, except as otherwise provided in this chapter. [1989 c 12 § 13; 1987 c 185 § 13; 1985 c 102 § 4; 1971 ex.s. c 257 § 14.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Purpose—Retrospective application—1985 c 102: See notes following RCW 41.26.120.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.281 Cause of action for injury or death, when. If injury or death results to a member from the intentional or negligent act or omission of a member's governmental employer, the member, the widow, widower, child, or dependent of the member shall have the privilege to benefit under this chapter and also have cause of action against the governmental employer as otherwise provided by law, for any excess of damages over the amount received or receivable under this chapter. [1991 c 35 § 28; 1971 ex.s. c 257 § 15. Formerly RCW 41.26.058, 41.26.280.]

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.291 Lump sum defined benefit—Payable January 31, 2023. (1) Law enforcement officers' and firefighters' plan 1 active members, term-vested members, retirees, and survivors eligible for benefits under the plan 1 provisions of this chapter on June 9, 2022, shall be eligible to receive the plan 1 lump sum defined benefit of $100 per service credit month payable by January 31, 2023.

(a) Members who retired for an in the line of duty disability under RCW 41.26.120 shall receive the greater of the lump sum defined benefit of $100 per service credit month or a lump sum defined benefit of $20,000.

(b) A member's beneficiary is eligible for an in the line of duty death benefit under RCW 41.26.048. If there is more than one eligible beneficiary the lump sum defined benefit will be distributed in accordance with RCW 41.26.048.

(c) If the member is deceased the member's survivor beneficiary under RCW 41.26.160 is eligible for this lump sum defined benefit.

(2) If a member is active or term-vested, interest on the lump sum defined benefit as determined by the director of retirement systems shall accumulate from January 1, 2023, until distribution to the participant upon retirement from service or for disability. For the purposes of this section, a "term-vested member" is a member who has rendered five years of service, has not withdrawn his or her member contributions, and who has not applied for retirement.

(3) If a member dies after June 9, 2022, but before distribution of the lump sum defined benefit created in this section occurs, the distribution shall be made according to the member's beneficiary designation under this chapter.

(4) The lump sum defined benefit created in this section is subject to RCW 41.26.053. [2022 c 168 § 1.]

RCW 41.26.3901 Severability—1969 ex.s. c 209. If any provision of *this 1969 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. [1969 ex.s. c 209 § 42. Formerly RCW 41.26.900.]

***Reviser's note:** "this 1969 amendatory act," see note following chapter digest.

RCW 41.26.3902 Act to control inconsistencies. To the extent that the provisions of *this 1969 amendatory act are inconsistent with the provisions of any other law, the provisions of *this 1969 amendatory act shall be controlling. [1969 ex.s. c 209 § 43. Formerly RCW 41.26.910.]

***Reviser's note:** "this 1969 amendatory act," see note following chapter digest.

RCW 41.26.3903 Effective date—1969 ex.s. c 209. *This 1969 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 on July 1, 1969. [1969 ex.s. c 209 § 45. Formerly RCW 41.26.920.]

***Reviser's note:** "This 1969 amendatory act," see note following chapter digest.

"PLAN 2"

RCW 41.26.410 Provisions applicable to plan 2. RCW 41.26.420 through 41.26.550 shall apply only to plan 2 members. [1991 c 35 § 29; 1977 ex.s. c 294 § 2.]

Intent—1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement—1977 ex.s. c 294: "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." [1977 ex.s. c 294 § 25.]

Section headings—1977 ex.s. c 294: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 294 § 24.]

RCW 41.26.420 Computation of the retirement allowance. (1) Except as provided in RCW 41.26.530, a member of the retirement system shall receive a retirement allowance equal to two percent of such member's final average salary for each year of service.

(2) Beginning January 16, 2023, members new to the retirement system after February 1, 2021, who earn more than 15 years of service credit shall receive a tiered multiplier retirement allowance as follows:

(a) Two percent of such member's final average salary for the first 15 years of service;

(b) Two and one-half percent of such member's final average salary for the 10 years of service after 15 years and up to 25 years; and

(c) Two percent of such member's final average salary for years of service above 25 years.

(3) Members active in the retirement system on or before February 1, 2021, at retirement must make an irrevocable choice between the lump sum defined benefit in RCW 41.26.555 or a tiered multiplier retirement allowance as follows:

(a) Two percent of such member's final average salary for the first 15 years of service;

(b) Two and one-half percent of such member's final average salary for the 10 years of service after 15 years and up to 25 years; and

(c) Two percent of such member's final average salary for years of service above 25 years.

(4) Any member who receives the tiered multiplier benefit in this section is not eligible for the lump sum defined benefit in RCW 41.26.555. [2022 c 125 § 1; 1993 c 517 § 2; 1979 ex.s. c 249 § 4; 1977 ex.s. c 294 § 3.]

Purpose—1993 c 517: "The legislature recognizes the demanding, physical nature of law enforcement and firefighting, and the resulting need to allow law enforcement officers and firefighters to make transitions into other careers when these employees feel they can no longer pursue law enforcement or firefighting. The legislature also recognizes the challenge and cost of maintaining the viability of a retired employee's benefit over longer periods of retirement as longevity increases, and that this problem is compounded for employees who leave a career before they retire from the workforce.

Therefore, the purpose of this act is to: (1) Provide full retirement benefits to law enforcement officers and firefighters at an appropriate age that reflects the unique and physically demanding nature of their work; (2) provide a fair and reasonable value from the retirement system for those who leave the law enforcement or firefighting profession before retirement; (3) increase flexibility for law enforcement officers and firefighters to make transitions into other public or private sector employment; (4) increase employee options for addressing retirement needs, personal financial planning, and career transitions; and (5) continue the legislature's established policy of having employees pay a fifty percent share of the contributions toward their retirement benefits and any enhancements." [1993 c 517 § 1.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.425 Lump sum retirement allowance——Reentry——Conditions for reinstatement of service. (1) On or after June 10, 1982, the director may pay a beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.26.420 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations set forth under subsection (3) of this section, the member may reinstate all previous service under RCW 41.50.165(2) prior to retirement. The sum deposited shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.26.420 or an earned disability allowance under RCW 41.26.470 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1994 c 197 § 9; 1982 c 144 § 1.]

Intent——Severability——Effective date——1994 c 197: See notes following RCW 41.50.165.

RCW 41.26.430 Retirement for service. (1) NORMAL RETIREMENT. Any member with at least five service credit years of service who has attained at least age fifty-three shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit 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 RCW 41.26.420, 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-three.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age fifty-three. [2000 c 247 § 904; 1993 c 517 § 3; 1991 c 343 § 18; 1977 ex.s. c 294 § 4.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Purpose—1993 c 517: See note following RCW 41.26.420.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.432 Additional service credit purchase—Rules. (1) A member eligible to retire under RCW 41.26.430 may, at the time of filing a written application for retirement with the department, apply to the department to make a one-time purchase of up to five years of additional service credit.

(2) To purchase additional service credit under this section, a member shall pay the actuarial equivalent value of the resulting increase in the member's benefit.

(3) Subject to rules adopted by the department, a member purchasing additional service credit under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law. [2005 c 21 § 1.]

Effective date—2005 c 21: "This act takes effect July 1, 2006." [2005 c 21 § 2.]

RCW 41.26.435 Transfer of service credit from other retirement system—Enforcement officer for department of fish and wildlife. (1) A member of plan 2 who was a member of the public employees' retirement system plan 2 or plan 3 while employed as an enforcement officer for the department of fish and wildlife has the option to make an election no later than December 31, 2009, filed in writing with the department of retirement systems, to transfer all service credit previously earned as an enforcement officer in the public employees' retirement system plan 2 or plan 3 to the law enforcement officers'

and firefighters' retirement system plan 2. Service credit that a member elects to transfer from the public employees' retirement system to the law enforcement officers' and firefighters' retirement system under this section shall be transferred no earlier than June 30, 2012, and only after the member completes payment as provided in subsection (2) of this section.

(2)(a) A member who elects to transfer service credit under subsection (1) of this section shall make the payments required by this subsection prior to having service credit earned as an enforcement officer with the department of fish and wildlife under the public employees' retirement system plan 2 or plan 3 transferred to the law enforcement officers' and firefighters' retirement system plan 2.

(b) A member who elects to transfer service credit from the public employees' retirement system plan 2 under this subsection shall pay, for the applicable period of service, the difference between the contributions the employee paid to the public employees' retirement system plan 2 and the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and firefighters' retirement system plan 2, plus interest on this difference as determined by the director. This payment must be made no later than June 30, 2014, and must be made prior to retirement.

(c) A member who elects to transfer service credit from the public employees' retirement system plan 3 under this subsection shall transfer to the law enforcement officers' and firefighters' retirement system plan 2, for the applicable period of service, the full balance of the member's defined contribution account within plan 3 as of the effective date of the transfer. At no time will the member pay, for the applicable period of service, a sum less than the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and firefighters' retirement system plan 2, plus interest as determined by the director. This transfer and any additional payment, if necessary, must be made no later than June 30, 2014, and must be made prior to retirement.

(d) Upon completion of the payment required in (b) of this subsection, the department shall transfer from the public employees' retirement system to the law enforcement officers' and firefighters' retirement system plan 2: (i) All of the employee's applicable accumulated contributions plus interest and all of the applicable employer contributions plus interest; and (ii) all applicable months of service, as defined in *RCW 41.26.030(28)(b), credited to the employee under this chapter for service as an enforcement officer with the department of fish and wildlife as though that service was rendered as a member of the law enforcement officers' and firefighters' retirement system plan 2.

(e) Upon completion of the payment required in (c) of this subsection, the department shall transfer from the public employees' retirement system to the law enforcement officers' and firefighters' retirement system plan 2: (i) All of the employee's applicable accumulated contributions plus interest and all of the applicable employer contributions plus interest; and (ii) all applicable months of service, as defined in *RCW 41.26.030(28)(b), credited to the employee under this chapter for service as an enforcement officer with the department of fish and wildlife as though that service was rendered as a member of the law enforcement officers' and firefighters' retirement system plan 2.

(f) If a member who elected to transfer pursuant to this section dies or retires for disability prior to June 30, 2012, the member's benefit is calculated as follows:

(i) All of the applicable service credit, accumulated contributions, and interest is transferred to the law enforcement officers' and firefighters' retirement system plan 2 and used in the calculation of a benefit.

(ii) If a member's obligation under (b) or (c) of this subsection has not been paid in full at the time of death or disability retirement, the member, or in the case of death the surviving spouse or eligible minor children, have the following options:

(A) Pay the bill in full;

(B) If a continuing monthly benefit is chosen, have the benefit actuarially reduced to reflect the amount of the unpaid obligation under (b) or (c) of this subsection; or

(C) Continue to make payment against the obligation under (b) or (c) of this subsection, provided that payment in full is made no later than June 30, 2014.

(g) Upon transfer of service credit, contributions, and interest under this subsection, the employee is permanently excluded from membership in the public employees' retirement system for all service related to time served as an enforcement officer with the department of fish and wildlife under the public employees' retirement system plan 2 or plan 3. [2012 c 248 § 1; 2009 c 157 § 1.]

***Reviser's note:** RCW 41.26.030 was amended by 2018 c 230 § 1, changing subsection (28)(b) to subsection (29)(b).

RCW 41.26.436 Transfer of service credit from other retirement system—Firefighter serving at a prison or civil commitment center on an island. (1) A member of plan 2 or plan 3 who was a member of the public employees' retirement system while employed by the department of social and health services or the department of corrections as a firefighter serving at a prison or civil commitment center on an island has the following options:

(a) Remain a member of the public employees' retirement system;

(b) Leave any service credit earned as a member of the public employees' retirement system in the public employees' retirement system, and have all future service earned in the law enforcement officers' and firefighters' retirement system plan 2, becoming a dual member under the provisions of chapter 41.54 RCW; or

(c) Make an election no later than one year from June 7, 2018, filed in writing with the department of retirement systems, to transfer service credit previously earned as a firefighter for the department of corrections or the department of social and health services in the public employees' retirement system plan 2 or plan 3 to the law enforcement officers' and firefighters' retirement system plan 2 as defined in RCW 41.26.030.

(2)(a) A member who elects to transfer service credit under subsection (1)(c) of this section shall make the payments required by this subsection prior to having service credit earned as a firefighter for the department of corrections or the department of social and health service[s] under the public employees' retirement system plan 2 or plan 3 transferred to the law enforcement officers' and firefighters' retirement system plan 2.

(b)(i) A member of plan 2 who elects to transfer service credit under this subsection shall pay, for the applicable period of service, the difference between the contributions the employee paid to the public employees' retirement system plan 2 and the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and firefighters' retirement system plan 2.

(ii) A member of plan 3 who elects to transfer service credit under this subsection shall pay, for the applicable period of service, the amount of the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and firefighters' [retirement system] plan 2. That payment may be made in whole or in part as a rollover from the plan 3 member's individual member account.

(iii) The payments in (b)(i) and (ii) of this subsection must be made no later than five years from the effective date of the election made under subsection (1)(c) of this section and must be made prior to retirement, except under (d) of this subsection.

(c) Upon completion of the payment required in (b) of this subsection, the department shall transfer from the public employees' retirement system plan 2 or plan 3 to the law enforcement officers' and firefighters' retirement system plan 2:

(i) All of the employee's applicable accumulated contributions plus interest and an equal amount of employer contributions; and

(ii) All service credit earned as a firefighter for the department of corrections or the department of social and health services as a firefighter serving at a prison or civil commitment center on an island as though that service was rendered as a member of the law enforcement officers' and firefighters' retirement system plan 2.

(d) If a member who elected to transfer pursuant to this section dies or retires for disability prior to five years from their election date, the member's benefit is calculated as follows:

(i) All of the applicable service credit, accumulated contributions, and interest is transferred to the law enforcement officers' and firefighters' retirement system plan 2 and used in the calculation of a benefit.

(ii) If a member's obligation under (b) of this subsection has not been paid in full at the time of death or disability retirement, the member, or in the case of death the surviving spouse or eligible minor children, have the following options:

(A) Pay the bill in full;

(B) If a continuing monthly benefit is chosen, have the benefit actuarially reduced to reflect the amount of the unpaid obligation under (b) of this subsection; or

(C) Continue to make payment against the obligation under (b) of this subsection, provided that payment in full is made no later than five years from the member's original election date.

(e) Upon transfer of service credit, contributions, and interest under this subsection, the employee is permanently excluded from membership in the public employees' retirement system for all service transfers related to their time served as a firefighter for the department of corrections or the department of social and health services serving at a prison or civil commitment center located on an island under the public employees' retirement system. [2018 c 230 § 2.]

RCW 41.26.440 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. [1977 ex.s. c 294 § 5.]

Legislative direction and placement——Section headings——1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.450 Port districts and institutions of higher education——Employer and state contributions——Recovery of contributions. ***(Effective until July 1, 2025.)*** (1) Port districts established under Title 53 RCW and institutions of higher education as defined in RCW 28B.10.016 shall contribute both the employer and state shares of the cost of the retirement system for any of their employees who are law enforcement officers.

(2) Institutions of higher education shall contribute both the employer and the state shares of the cost of the retirement system for any of their employees who are firefighters.

(3) During fiscal years 2018 and 2019 and during the 2019-2021, 2021-2023, and 2023-2025 fiscal biennia:

When an employer charges a fee or recovers costs for work performed by a plan member where:

(a) The member receives compensation that is includable as basic salary under RCW 41.26.030(4)(b); and

(b) The service is provided, whether directly or indirectly, to an entity that is not an "employer" under RCW 41.26.030(14)(b);

the employer shall contribute both the employer and state shares of the cost of the retirement system contributions for that compensation. Nothing in this subsection prevents an employer from recovering the cost of the contribution from the entity receiving services from the member. [2023 c 475 § 927; 2021 c 334 § 965; 2019 c 415 § 958; 2017 3rd sp.s. c 1 § 963; 2000 c 247 § 801; 1996 c 38 § 3; 1993 c 502 § 2; 1989 c 273 § 14; 1986 c 268 § 1; 1984 c 184 § 10; 1977 ex.s. c 294 § 6.]

Effective date——2023 c 475: See note following RCW 16.76.030.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date—1993 c 502: See note following RCW 41.26.030.

Severability—1984 c 184: See note following RCW 41.50.150.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.450 Port districts, institutions of higher education, and tribal governments—Employer and state contributions—Recovery of contributions. ***(Effective July 1, 2025.)*** (1) Port districts established under Title 53 RCW, institutions of higher education as defined in RCW 28B.10.016, and tribal governments participating through a state-tribal compact as defined in RCW 41.26.565 shall contribute both the employer and state shares of the cost of the retirement system for any of their employees who are law enforcement officers.

(2) Institutions of higher education shall contribute both the employer and the state shares of the cost of the retirement system for any of their employees who are firefighters.

(3) During fiscal years 2018 and 2019 and during the 2019-2021, 2021-2023, and 2023-2025 fiscal biennia:

When an employer charges a fee or recovers costs for work performed by a plan member where:

(a) The member receives compensation that is includable as basic salary under RCW 41.26.030(4)(b); and

(b) The service is provided, whether directly or indirectly, to an entity that is not an "employer" under RCW 41.26.030(14)(b); the employer shall contribute both the employer and state shares of the cost of the retirement system contributions for that compensation. Nothing in this subsection prevents an employer from recovering the cost of the contribution from the entity receiving services from the member. [2023 c 475 § 927; 2023 c 77 § 3; 2021 c 334 § 965; 2019 c 415 § 958; 2017 3rd sp.s. c 1 § 963; 2000 c 247 § 801; 1996 c 38 § 3; 1993 c 502 § 2; 1989 c 273 § 14; 1986 c 268 § 1; 1984 c 184 § 10; 1977 ex.s. c 294 § 6.]

Reviser's note: This section was amended by 2023 c 77 § 3 and by 2023 c 475 § 927, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2023 c 475: See note following RCW 16.76.030.

Effective date—2023 c 77: See note following RCW 41.26.565.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date—1993 c 502: See note following RCW 41.26.030.

Severability—1984 c 184: See note following RCW 41.50.150.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.460 Options for payment of retirement allowances—Retirement allowance adjustment—Court-approved property settlement. (1) Upon retirement for service as prescribed in RCW 41.26.430 or disability retirement under RCW 41.26.470, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. 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 the member's estate, or such person or persons, trust, or organization 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 domestic partner; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse or domestic partner, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married or a domestic partner, must provide the written consent of his or her spouse or domestic partner to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married or a domestic partner and both the member and member's spouse or domestic partner do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse or domestic partner as the beneficiary. Such

benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal or domestic partner consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal or domestic partner consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse or domestic partner from a postretirement marriage or domestic partnership as a survivor during a one-year period beginning one year after the date of the postretirement marriage or domestic partnership provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage or domestic partnership prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse or domestic partner as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse or a person not their domestic partner as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.26.530(1) and the member's divorcing spouse or domestic partner be divided into two separate benefits payable over the life of each spouse or domestic partner.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried or in a domestic partnership at the time of retirement remains subject to the spousal or domestic partner consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse or former domestic partner shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 41.26.430(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse or domestic partner if the nonmember ex spouse or former domestic partner was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse or domestic partner shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(6) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (6) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only. [2020 c 161 § 1; 2019 c 102 § 1; 2009 c 523 § 5; 2003 c 294 § 3; 2002 c 158 § 7; 2000 c 186 § 1; 1998 c 340 § 5; 1996 c 175 § 3; 1995 c 144 § 17; 1990 c 249 § 3; 1977 ex.s. c 294 § 7.]

Effective date——1998 c 340: See note following RCW 2.10.146.

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.463 Optional actuarially equivalent life annuity benefit—Rules—Definition. (1) At the time of retirement, plan 2 members may purchase an optional actuarially equivalent life annuity benefit from the Washington law enforcement officers' and firefighters' system plan 2 retirement fund established in RCW 41.50.075. A minimum payment of twenty-five thousand dollars is required.

(2) Retirees, or their beneficiaries, who have received a one-time lump sum defined benefit under RCW 41.26.555 may purchase an optional actuarially equivalent life annuity benefit from the Washington law enforcement officers' and firefighters' system plan 2 retirement fund established in RCW 41.50.075, with the money received from the lump sum defined benefit. A minimum payment of $20,000 is required.

(3) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) "Eligible retirement plan" means a tax qualified plan offered by a governmental employer. [2022 c 125 § 3; 2014 c 91 § 1.]

RCW 41.26.470 Earned disability allowance—Cancellation of allowance—Reentry—Receipt of service credit while disabled—Conditions—Disposition upon death of recipient—Disabled in the line of duty—Total disability—Reimbursement for certain payments—Disabled while providing emergency management services. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the 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-three, except under subsection (7) of this section.

(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 34.05 RCW, the administrative procedure act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.45.060 and 41.45.067.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse or domestic partner, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse or domestic partner, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

(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 or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

(6) A member who becomes disabled in the line of duty, and who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent. A person in receipt of this benefit is a retiree.

(7) A member who becomes disabled in the line of duty shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(8) A member who became disabled in the line of duty before January 1, 2001, and is receiving an allowance under RCW 41.26.430 or subsection (1) of this section shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five, and shall have the allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three. An additional benefit shall not result in a total monthly benefit greater than that provided in subsection (1) of this section.

(9) A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to seventy percent of the member's final average salary. The allowance provided under this subsection shall be offset by:

(a) Temporary disability wage-replacement benefits or permanent total disability benefits provided to the member under Title 51 RCW; and

(b) Federal social security disability benefits, if any;

so that such an allowance does not result in the member receiving combined benefits that exceed one hundred percent of the member's final average salary. However, the offsets shall not in any case reduce the allowance provided under this subsection below the member's accrued retirement allowance.

A member is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings in excess of eight hundred sixty dollars a month in 2006 adjusted annually as determined by the director based on federal social security disability standards. The department may require a person in receipt of an allowance under this subsection to provide any financial records that are necessary to determine continued eligibility for such an allowance. A person in receipt of an allowance under this subsection whose earnings exceed the threshold for substantial gainful activity shall have their benefit converted to a line-of-duty disability retirement allowance as provided in subsection (7) of this section.

Any person in receipt of an allowance under the provisions of this section is subject to comprehensive medical examinations as may be required by the department under subsection (2) of this section in order to determine continued eligibility for such an allowance.

(10)(a) In addition to the retirement allowance provided in subsection (9) of this section, the retirement allowance of a member who is totally disabled in the line of duty shall include reimbursement for any payments made by the member after June 10, 2010, for premiums on employer-provided medical insurance, insurance authorized by the consolidated omnibus budget reconciliation act of 1985 (COBRA), medicare part A (hospital insurance), and medicare part B (medical insurance). A member who is entitled to medicare must enroll and maintain enrollment in both medicare part A and medicare part B in order to remain eligible for the reimbursement provided in this subsection. The legislature reserves the right to amend or repeal the benefits provided in this subsection in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time.

(b) The retirement allowance of a member who is not eligible for reimbursement provided in (a) of this subsection shall include reimbursement for any payments made after June 30, 2013, for premiums on other medical insurance. However, in no instance shall the reimbursement exceed the amount reimbursed for premiums authorized by the consolidated omnibus budget reconciliation act of 1985 (COBRA).

(11) A member who has left the employ of an employer due to service in the national guard, military reserves, federal emergency management agency, or national disaster medical system of the United States department of health and human services and who becomes totally incapacitated for continued employment by an employer as determined by the director while performing service in response to a disaster, major emergency, special event, federal exercise, or official training on or after March 22, 2014, 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 except such allowance is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430. The member's retirement allowance is computed under RCW 41.26.420, except that the member shall be entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five. [2016 c 115 § 3; 2013 c 287 § 2; 2010 c 259 § 2. Prior: 2009 c 523 § 6; 2009 c 95 § 1; 2006 c 39 § 1; 2005 c 451 § 1; 2004 c 4 § 1; 2001 c 261 § 2; 2000 c 247 § 1104; 1999 c 135 § 1; 1995 c 144 § 18; 1993 c 517 § 4; 1990 c 249 § 19; prior: 1989 c 191 § 1; 1989 c 88 § 1; 1982 c 12 § 2; 1981 c 294 § 9; 1977 ex.s. c 294 § 8.]

Short title——2013 c 287: "This act may be known as the Wynn Loiland act." [2013 c 287 § 1.]

Short title——2010 c 259: "This act may be known as the Jason McKissack act." [2010 c 259 § 1.]

Effective date——2006 c 39: "This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and takes effect immediately [March 14, 2006]." [2006 c 39 § 3.]

Effective date—2005 c 451: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 2005]." [2005 c 451 § 2.]

Application—2004 c 4 § 1: "This act applies to all members, subject to section 1 of this act, who become or became disabled in the line of duty on or after January 1, 2001." [2004 c 4 § 2.]

Effective date—2001 c 261 § 2: "Section 2 of this act takes effect March 1, 2002." [2001 c 261 § 5.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Application—1999 c 135 § 1: "Section 1 of this act applies to any member who received a disability retirement allowance on or after February 1, 1990." [1999 c 135 § 2.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Findings—1990 c 249: See note following RCW 2.10.146.

Severability—1981 c 294: See note following RCW 41.26.115.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

Disability leave supplement for law enforcement officers and firefighters: RCW 41.04.500 through 41.04.550.

RCW 41.26.473 Disabled in the line of duty—Continuation of service credit—Conditions. Those members subject to this chapter who became disabled in the line of duty on or after July 1, 2002, and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

(1) No member may receive more than one month's service credit in a calendar month.

(2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(5) State contribution shall be as provided in RCW 41.45.060 and 41.45.067.

(6) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer

contributions. Service credit shall not be granted until the employee contribution has been paid.

(7) The service and compensation credit shall not be granted for a period to exceed twenty-four consecutive months.

(8) This section does not abridge service credit rights granted in RCW 41.26.470(3). However, members receiving service credit under RCW 41.26.470(3) may not receive service credit under this section.

(9) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right. [2007 c 49 § 1.]

RCW 41.26.476 Use of shared leave—Impact on calculation of service credit and final average salary. (1) A member in receipt of employer-authorized shared leave after June 10, 2010, shall receive the same treatment in respect to service credit and final average salary that the member would normally receive if using accrued annual leave or sick leave.

(2) For purposes of this section shared leave includes, but is not limited to:

(a) Direct transfers of annual leave, sick leave, or other leave from one employee to another;

(b) Indirect transfers of annual leave, sick leave, or other leave via leave banks or a similar pool of donated leave; or

(c) Shift trades or employees working shifts on behalf of a member.

(3) Shared leave that has been reported to the department prior to June 10, 2010, and for which contributions have been made, remains creditable for service credit and final average salary. [2010 c 50 § 1. Formerly RCW 41.26.033.]

RCW 41.26.480 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. [1977 ex.s. c 294 § 9.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.490 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.26.430, 41.26.470, or 41.26.510 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 RCW 41.26.430 shall accrue from the first day of the calendar month immediately following such member's separation from service.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.26.430, 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 RCW 41.26.470 shall accrue from the first day of the calendar month immediately following such member's separation from service for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.26.510 shall accrue from the first day of the calendar month immediately following the member's death.

(5) A person is separated from service on the date a person has terminated all employment with an employer. [1997 c 254 § 2; 1977 ex.s. c 294 § 10.]

Intent——Construction——1997 c 254: "(1) This act, which defines separation from service and restrictions concerning postretirement employment, is intended to clarify existing statutory provisions regarding these issues. As a result of this act, the legal standard for determining separation from service and the impact to a retiree's benefit should they return to work following retirement, are either the same as under the prior law, or less restrictive. Accordingly, this act does not constitute a diminution of benefits and applies to all members of the affected retirement systems.

(2) This act, which addresses the determination of employee status, is intended to clarify existing law. The clarifications are consistent with long-standing common law of the state of Washington and long-standing department of retirement systems' interpretations of the appropriate standard to be used in determining employee status. Accordingly, sections 3(49) and 10(22) of this act do not constitute a diminution of benefits and apply to all members of the teachers' retirement system and the public employees' retirement system." [1997 c 254 § 1.]

Application——1997 c 254: "This act applies to all overpayments discovered by the department of retirement systems on or after June 1, 1996, except that sections 10, 12, 14, 15, and 16 of this act apply retroactively to any person who retired under chapter 234, Laws of 1992 or part III of chapter 519, Laws of 1993." [1997 c 254 § 17.]

Legislative direction and placement——Section headings——1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.500 Suspension of retirement allowance upon reemployment——Reinstatement——Option to enter into membership. (1) Except under subsection (3) of this section, a retiree under the provisions of plan 2 shall not be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.37.010, or 41.35.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

(3) A member or retiree who becomes employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.35.010, or

41.37.010 shall have the option to enter into membership in the corresponding retirement system for that position notwithstanding any provision of RCW 41.04.270. A retiree who elects to enter into plan membership shall have his or her benefits suspended as provided in subsection (1) of this section. A retiree who does not elect to enter into plan membership shall continue to receive his or her benefits without interruption. [2005 c 372 § 2; (2005 c 372 § 1 expired July 1, 2006); 2004 c 242 § 54; 1998 c 341 § 604; 1990 c 274 § 12; 1977 ex.s. c 294 § 11.]

Effective date—2005 c 372 § 2: "Section 2 of this act takes effect July 1, 2006." [2005 c 372 § 5.]

Expiration date—2005 c 372 § 1: "Section 1 of this act expires July 1, 2006." [2005 c 372 § 3.]

Effective date—2004 c 242: See RCW 41.37.901.

Effective date—1998 c 341: See RCW 41.35.901.

Findings—Construction—1990 c 274: See notes following RCW 41.32.010.

Application—Reservation—1990 c 274 §§ 11, 12, 14, and 15: See note following RCW 41.40.690.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.510 Death benefits. (1) Except as provided in RCW 11.07.010, 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, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization 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, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) Except as provided in subsection (4) of this section, if a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse, domestic partner, or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430, actuarially reduced by the amount of any lump sum benefit

identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430; if a surviving spouse or domestic partner 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 or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner 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 or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse, domestic partner, or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member:

(a) Who is killed in the course of employment, as determined by the director of the department of labor and industries,

(b) Who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, or

(c) Who has left the employ of an employer due to service in the national guard, military reserves, federal emergency management agency, or national disaster medical system of the United States department of health and human services and dies while performing service in response to a disaster, major emergency, special event, federal exercise, or official training on or after March 22, 2014, is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430 or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 41.26.460. The member's retirement allowance is computed under RCW 41.26.420, except that the member shall be entitled to a minimum retirement allowance

equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(5) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(5), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

(6) In addition to the benefits provided in subsection (4) of this section, if the surviving spouse or domestic partner of a member who is killed in the course of employment is not eligible to receive industrial insurance payments pursuant to RCW 51.32.050 due to remarriage, the surviving spouse or domestic partner shall receive an amount equal to the benefit they would receive pursuant to RCW 51.32.050 but for the remarriage. This subsection applies to surviving spouses and domestic partners whose benefits pursuant to RCW 51.32.050 were suspended or terminated due to remarriage prior to July 24, 2015. The monthly payments to any surviving spouse or domestic partner who received a lump sum payment pursuant to RCW 51.32.050 shall be actuarially reduced to reflect the amount of the lump sum payment. [2016 c 115 § 1; 2015 c 78 § 1; 2010 c 261 § 1. Prior: 2009 c 523 § 7; 2009 c 226 § 2; 2006 c 345 § 1; 2004 c 5 § 1; 2000 c 247 § 1001; prior: 1995 c 245 § 1; 1995 c 144 § 19; 1993 c 236 § 3; 1991 c 365 § 31; 1990 c 249 § 14; 1977 ex.s. c 294 § 12.]

Application—2010 c 261 § 1: "Section 1 of this act applies prospectively to the benefits of all members killed in the course of employment since October 1, 1977." [2010 c 261 § 8.]

Contractual right not granted—2006 c 345: "The legislature reserves the right to amend or repeal this act in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time." [2006 c 345 § 3.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date—1995 c 245: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 245 § 3.]

Severability—1991 c 365: See note following RCW 41.50.500.

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.520 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service, death or disability while providing emergency management services. (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 RCW 41.26.410 through 41.26.550.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (7) of this section, 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.

(4) A law enforcement member may be authorized by an employer to work part time and to go on a part-time leave of absence. During a part-time leave of absence a member is prohibited from any other employment with their employer. A member is eligible to receive credit for any portion of service credit not earned during a month of part-time leave of absence if the member makes the employer, member, and state contributions, plus interest, as determined by the department for the period of the authorized leave within five years of resumption of full-time service or prior to retirement whichever comes sooner. Any service credit purchased for a part-time leave of absence is included in the two-year maximum provided in subsection (3) of this section.

(5) If a member fails to meet the time limitations of subsection (3) or (4) of this section, the member may receive a maximum of two years of service credit during a member's working career for those periods when a member is on unpaid leave of absence authorized by an employer. This may be done by paying the amount required under RCW 41.50.165(2) prior to retirement.

(6) For the purpose of subsection (3) or (4) of this section the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.45.060, 41.45.061, and 41.45.067. 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.

(7) A member who leaves the employ of an employer to enter the uniformed services of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the uniformed services of the United States, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the uniformed services; and

(ii) The member makes the employee contributions required under RCW 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2); or

(iv) Prior to retirement the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(b) Upon receipt of member contributions under (a)(ii), (d)(iii), or (e)(iii) of this subsection, or adequate proof under (a)(iv), (d)(iv), or (e)(iv) of this subsection, the department shall establish the member's service credit and shall bill the employer and the state for their respective contributions required under RCW 41.26.450 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii), (d)(iii), or (e)(iii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(d) The surviving spouse, domestic partner, or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States and died while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in the uniformed services. The department shall establish the deceased member's service credit if the surviving spouse or eligible child or children:

(i) Provides to the director proof of the member's death while serving in the uniformed services;

(ii) Provides to the director proof of the member's honorable service in the uniformed services prior to the date of death; and

(iii) Pays the employee contributions required under chapter 41.45 RCW within five years of the date of death or prior to the distribution of any benefit, whichever comes first; or

(iv) Prior to the distribution of any benefit, provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. If the deceased member made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005, the surviving spouse or eligible child or children may, prior to the distribution of any benefit and on a form provided by the department, request a refund of the funds standing to the deceased member's credit

for up to five years of such service, and this amount shall be paid to the surviving spouse or children. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(e) A member who leaves the employ of an employer to enter the uniformed services of the United States and becomes totally incapacitated for continued employment by an employer while serving in the uniformed services is entitled to retirement system service credit under this subsection up to the date of discharge from the uniformed services if:

(i) The member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while serving in the uniformed services;

(ii) The member provides to the director proof of honorable discharge from the uniformed services; and

(iii) The member pays the employee contributions required under chapter 41.45 RCW within five years of the director's determination of total disability or prior to the distribution of any benefit, whichever comes first; or

(iv) Prior to retirement the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(f) The surviving spouse, domestic partner, or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States, federal emergency management agency, or national disaster medical system of the United States department of health and human services and died while performing service in response to a disaster, major emergency, special event, federal exercise, or official training on or after March 22, 2014, may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in such service. The department shall establish the deceased member's service credit if the surviving spouse or eligible child or children provides to the director proof of the member's death while in such service.

(g) A member who leaves the employ of an employer to enter the uniformed services of the United States, federal emergency management agency, or national disaster medical system of the United States department of health and human services and becomes totally incapacitated for continued employment by an employer while providing such service is entitled to retirement system service credit under this subsection up to the date of separation from such service if the member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while performing such service.

(8) A member receiving benefits under Title 51 RCW who is not receiving benefits under this chapter shall be deemed to be on unpaid,

authorized leave of absence. [2016 c 115 § 2. Prior: 2009 c 523 § 8; 2009 c 205 § 8; 2005 c 64 § 9; 2002 c 28 § 1; 2000 c 247 § 1105; 1996 c 61 § 1; 1994 c 197 § 10; 1993 c 95 § 4; 1992 c 119 § 1; 1989 c 88 § 2; 1977 ex.s. c 294 § 13.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Retroactive application—1992 c 119: "This act applies retroactively for retirement system service credit for military service which began on or after January 1, 1990." [1992 c 119 § 4.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.530 Vested membership. (1) 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 RCW 41.26.430 if such member maintains the member's accumulated contributions intact.

(2) The retirement allowance payable under the provisions of RCW 41.26.430 to a member who separates after having completed at least twenty years of service, and remains a member during the period of his or her absence from service by maintaining his or her accumulated contributions intact, shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date the retirement allowance commences as provided in RCW 41.26.490. [1993 c 517 § 5; 1977 ex.s. c 294 § 14.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.540 Refund of contributions on termination. (1)(a) A member who has completed less than ten years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of the member's accumulated contributions.

(b) A member who has completed ten or more years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(2) The refund shall be made within ninety days following the receipt of the request and notification of termination through the

contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. 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 RCW 41.26.410 through 41.26.550. [1995 c 245 § 2; 1993 c 517 § 6; 1982 1st ex.s. c 52 § 5; 1977 ex.s. c 294 § 15.]

Effective date——1995 c 245: See note following RCW 41.26.510.

Purpose——1993 c 517: See note following RCW 41.26.420.

Effective dates——1982 1st ex.s. c 52: See note following RCW 2.10.180.

Legislative direction and placement——Section headings——1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.545 Emergency medical technicians——Establishing service credit——Dates——Process——Contributions. (1) A member who provided service as an emergency medical technician to an employer may establish credit for such service rendered on or after July 24, 2005, and prior to July 23, 2017, unless that service is already credited. Upon receipt of a written request, the department of retirement systems must notify the member of the cost to establish credit for all or part of such service.

(a) Before July 1, 2018, a member not enrolled in the public employees' retirement system for service between July 24, 2005, and July 23, 2017, may elect to establish credit in plan 2 under this section. Such election must be filed in writing with the department of retirement systems by June 30, 2018. The elected period must be in contiguous monthly increments beginning with the oldest service.

(i) To establish service under this section, except as provided in RCW 41.26.546, the member must pay the employee contributions he or she would have paid if he or she had been participating in the retirement system at the time of the service:

(A) No later than five years from the effective date of the election made under this section; and

(B) Prior to retirement.

(ii) Upon full payment of employee contributions for the elected period of service the department of retirement systems must:

(A) Credit the member with the service; and

(B) Bill the employer for the employer contributions it would have paid if such member had been participating in the retirement system at the time of such service. The amount billed to the employer by the department of retirement systems must be reduced by the amount of any employer contributions to an employee's retirement account prior to January 1, 2016, not to exceed three percent of the member's basic salary from July 1, 2005, through December 31, 2015.

(iii) The employer shall pay the required amount prior to July 1, 2028.

(b)(i) A member of the public employees' retirement system who is eligible for membership in the law enforcement officers' and firefighters' retirement system plan 2 under this section may:

(A) Make an election in writing to the department of retirement systems by January 1, 2018, to remain a member of the public employees' retirement system and not participate in the law enforcement officers' and firefighters' retirement system plan 2;

(B) Leave any service credit earned as a member of the public employees' retirement system in the public employees' retirement system, and have service rendered on or after January 1, 2018, as an emergency medical technician in the law enforcement officers' and firefighters' retirement system plan 2, becoming a dual member under the provisions of chapter 41.54 RCW; or

(C) Before July 1, 2018, elect to transfer service credit previously earned as an emergency medical technician to the law enforcement officers' and firefighters' retirement system plan 2 as defined in RCW 41.26.030. Such election must be filed in writing with the department of retirement systems by June 30, 2018.

(I) A member who elects to transfer service credit under this subsection (1)(b) shall pay, for the applicable period of service, the difference between the contributions the employee paid to the public employees' retirement system plan and the contributions that would have been paid by the employee had the employee been a member of the law enforcement officers' and firefighters' retirement system plan 2, plus interest on this difference as determined by the director.

(II) The payment under (a) of this subsection must be made no later than five years from the effective date of the election and must be made prior to retirement, except as provided under RCW 41.26.546.

(2) Upon transfer or establishment of service credit, contributions, and interest under this section, the employee is permanently excluded from membership in the public employees' retirement system for all service transfers related to their time served as an emergency medical technician under the public employees' retirement system.

(3) Employers shall provide the department of retirement systems with a list of former employees who were employed as emergency medical technicians on or after July 24, 2005, and who are eligible to establish credit for service under this section. The list must include a former employee's name, last known address, and period of employment. The department of retirement systems must notify former employees of the process and cost to establish credit for service under this section. [2017 c 309 § 2.]

RCW 41.26.546 Emergency medical technicians—Member elects to transfer under RCW 41.26.545—Death—Retirement for disability. If a member who elected to transfer pursuant to RCW 41.26.545 dies or retires for disability prior to five years from their election date, the member's benefit is calculated as follows:

(1) All of the applicable service credit, accumulated contributions, and interest is transferred to or established in the law enforcement officers' and firefighters' retirement system plan 2 and used in the calculation of a benefit.

(2) If a member's obligation under RCW 41.26.545 has not been paid in full at the time of death or disability retirement, the

member, or in the case of death the surviving spouse or eligible minor children, have the following options:

(a) Pay the bill in full;

(b) If a continuing monthly benefit is chosen, have the benefit actuarially reduced to reflect the amount of the unpaid obligation under RCW 41.26.545; or

(c) Continue to make payment against the obligation under RCW 41.26.545, provided that payment in full is made no later than five years from the member's original election date. [2017 c 309 § 3.]

RCW 41.26.550 Reentry. (1) A member, who had left service and withdrawn the member's funds pursuant to RCW 41.26.540, shall receive service credit for such prior service if the member restores all withdrawn funds 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.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid. [1994 c 197 § 11; 1993 c 517 § 7; 1977 ex.s. c 294 § 16.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Purpose—1993 c 517: See note following RCW 41.26.420.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.555 Lump sum defined benefit—Payable January 31, 2023. (1) Members who are retired on or before February 1, 2021, will receive a one-time lump sum defined benefit of $100 per service credit month payable by January 31, 2023.

(a) Members who retired for an in the line of duty disability under RCW 41.26.470 shall receive the greater of the lump sum defined benefit of $100 per service credit month or a lump sum defined benefit of $20,000.

(b) A member's beneficiary is eligible for an in the line of duty death benefit under RCW 41.26.048. If there is more than one eligible beneficiary the lump sum defined benefit will be distributed in accordance with RCW 41.26.048.

(c) If the member is deceased the member's survivor beneficiary under RCW 41.26.460 is eligible for this lump sum defined benefit.

(2) Members who are active in the plan on or before February 1, 2021, must make an irrevocable choice at retirement between the tiered multiplier benefit defined in RCW 41.26.420(3) or a one-time lump sum defined benefit of $100 per service credit month to be paid at retirement.

(a) Members who retire for an in the line of duty disability under RCW 41.26.470 and who elect to receive this lump sum defined benefit shall receive the greater of the lump sum defined benefit of

$100 per service credit month or a lump sum defined benefit of $20,000.

(b) A member's beneficiary eligible for an in the line of duty death benefit under RCW 41.26.048 and who elects to receive this lump sum defined benefit shall receive the greater of the lump sum defined benefit of $100 per service credit month or a lump sum defined benefit of $20,000. If there is more than one eligible beneficiary the lump sum defined benefit will be distributed in accordance with RCW 41.26.048.

(c) For a beneficiary of a member who dies in service but not in an in the line of duty death, the distribution shall be made according to the member's beneficiary designation under this chapter.

(3) Members who are inactive on or before February 1, 2021, but who later return to membership must make an irrevocable choice at retirement between the tiered multiplier benefit in RCW 41.26.420 and this lump sum defined benefit.

(4) Members who receive a refund of contributions under RCW 41.26.540 are not eligible for this lump sum defined benefit.

(5) This lump sum defined benefit is exempt from judicial process and taxes under RCW 41.26.053.

(6) Any member who receives this lump sum defined benefit is not eligible for the tiered multiplier benefit in RCW 41.26.420. [2022 c 125 § 2.]

RCW 41.26.565 Tribal general authority peace officers—State-tribal compacts. ***(Effective July 1, 2025.)*** (1) The governor is authorized to enter into state-tribal compacts for the participation of tribal general authority peace officers meeting the terms and conditions of this section in the law enforcement officers' and firefighters' retirement system plan 2.

(2) The governor shall establish an application and approval process, procedures, and timelines for the negotiation, approval or disapproval, and execution of state-tribal law enforcement officers' and firefighters' retirement system plan 2 compacts.

(3) The process may be initiated by submission, to the governor, of a resolution by the governing body of a federally recognized tribe in the state of Washington.

(4) The resolution must be accompanied by an application that indicates the police department whose employees will be offered participation in the law enforcement officers' and firefighters' retirement system plan 2, and that demonstrates that the police department will be operated solely as a governmental entity and compliant with all applicable state and federal laws, the rules adopted thereunder, and the terms and conditions set forth in the application.

(5) Within 90 days of receipt of a resolution and application under this section, the governor must convene a government-to-government meeting for the purpose of considering the resolution and application and initiating negotiations.

(6) State-tribal law enforcement officers' and firefighters' retirement system plan 2 participation compacts must include provisions regarding:

(a) Acknowledgment by the tribe that it affirmatively chooses to participate in the law enforcement officers' and firefighters'

retirement system for tribal law enforcement officers meeting the criteria of this section;

(b) Evidence that the person or persons who sign the compact on behalf of a tribe have authority under tribal law to bind the tribe to all provisions in the compact, including any waiver of sovereign immunity;

(c) If the tribe chooses to participate in the law enforcement officers' and firefighters' retirement system:

(i) Agreement by the tribe that it meets the definition of an employer as defined in this chapter;

(ii) Agreement by the tribe to adhere to all reporting, contribution, and auditing requirements as defined in this chapter, and all rules adopted under authority of RCW 41.50.050(5), including RCW 41.26.062; and

(iii) Agreement by the tribe that, at the request of the criminal justice training commission, the tribe will make available any records the tribe has provided to the department of retirement systems as required under the reporting, contribution, and auditing requirements defined in this chapter or chapter 41.50 RCW, and rules implementing those chapters;

(d) Agreement by the tribe to a limited waiver of sovereign immunity and consent to the jurisdiction of the Washington state courts for the purpose of enforcing the reporting, contribution, and auditing requirements defined in this chapter and all rules adopted under authority of RCW 41.50.050(5), including RCW 41.26.062;

(e) Agreement by the tribe to dissolution procedures memorialized in the state-tribal compact so that all parties are aware of their expectations and duties if the compact terminates or the tribal law enforcement agency chooses to no longer participate in the state retirement systems at a future date, specifically including withdrawal liability and examples of the scale of withdrawal liability for an employer with a tribal law enforcement agency similar in size to the tribe memorializing the compact;

(f) Acknowledgment by the tribe that it has been advised that choosing to no longer participate in the retirement systems may result in federal tax implications for the governing body and its employees that are outside the control of the state of Washington, the department of retirement systems, and that the tribe has been encouraged to seek counsel before agreeing to any dissolution procedures in the compact; and

(g) Acknowledgment by both parties that the pension system participation portions of the state-tribal compact are null and void if the federal internal revenue service issues guidance stating that any portion of those sections are in conflict with the plan qualification requirements for governmental plans in section 401(a) of the internal revenue code, and the conflict cannot be resolved through administrative action, statutory change, or amendment to the state-tribal compact.

(7) For tribes that opt out of pension system participation, such tribal law enforcement employees shall have no right to earn additional service credit in the plan. [2023 c 77 § 2.]

Effective date—2023 c 77: "This act takes effect July 1, 2025." [2023 c 77 § 5.]

RCW 41.26.567 Tribal general authority peace officers—Establishing service credit for prior service. ***(Effective July 1, 2025.)*** (1) A member who is employed as a law enforcement officer with the police department of the government of a federally recognized tribe on July 1, 2025, may establish credit for such service rendered prior to July 1, 2025, unless service is either already credited for those periods, or a member was in receipt of retirement benefits from any retirement system listed in RCW 41.50.030. Upon receipt of a written request, the department of retirement systems must notify the member of the cost to establish credit for all or part of such service. Service credit may only be established for periods prior to July 1, 2025, if that service meets the requirements of RCW 41.26.030.

(2) Before July 1, 2026, a member may elect to establish credit in plan 2 under this section. Such election must be filed in writing with the department of retirement systems by June 30, 2026. The elected period must be in monthly increments beginning with the oldest service.

(a) To establish service under this section, the member must pay the actuarial value of the resulting increase in their benefit in a manner defined by the department: (i) No later than five years from the effective date of the election made under this section; and (ii) prior to retirement.

(b) Upon full payment of employee contributions for the elected period of service the department of retirement systems must credit the member with the service. [2023 c 77 § 4.]

Effective date—2023 c 77: See note following RCW 41.26.565.

"PLAN 2 GOVERNANCE"

RCW 41.26.700 Overview—Intent. The law enforcement officers' and firefighters' retirement system plan 2 is currently subject to policymaking by the legislature's joint committee on pension policy with ratification by the members of the legislature and is administered by the department of retirement systems.

Members of the plan have no direct input into the management of their retirement program. Forty-six other states currently have member representation in their pension management. Chapter 2, Laws of 2003 is intended to give management of the retirement program to the people whose lives are directly affected by it and who provide loyal and valiant service to ensure the health, safety, and welfare of the citizens of the state of Washington. [2003 c 2 § 1 (Initiative Measure No. 790, approved November 5, 2002).]

RCW 41.26.705 Intent—2003 c 2. It is the intent of chapter 2, Laws of 2003 to:

(1) Establish a board of trustees responsible for the adoption of actuarial standards to be applied to the plan;

(2) Provide for additional benefits for firefighters and law enforcement officers subject to the cost limitations provided for in chapter 2, Laws of 2003;

(3) Exercise fiduciary responsibility in the oversight of those pension management functions assigned to the board;

(4) Provide effective monitoring of the plan by providing an annual report to the legislature, to the members and beneficiaries of the plan, and to the public;

(5) Establish contribution rates for employees, employers, and the state of Washington that will guaranty viability of the plan, subject to the limitations provided for in chapter 2, Laws of 2003;

(6) Provide for an annual budget and to pay costs from the trust, as part of the normal cost of the plan; and

(7) Enable the board of trustees to retain professional and technical advisors as necessary for the fulfillment of their statutory responsibilities. [2003 c 2 § 2 (Initiative Measure No. 790, approved November 5, 2002).]

RCW 41.26.710 Definitions. The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "Member" or "beneficiary" means:

(a) Current and future law enforcement officers and firefighters who are contributing to the plan;

(b) Retired employees or their named beneficiaries who receive benefits from the plan; and

(c) Separated vested members of the plan who are not currently receiving benefits.

(2) "Plan" means the law enforcement officers' and firefighters' retirement system plan 2.

(3) "Actuary" means the actuary employed by the board of trustees.

(4) "State actuary" means the actuary employed by the department.

(5) "Board" means the board of trustees.

(6) "Board member" means a member of the board of trustees.

(7) "Department" means the department of retirement systems.

(8) "Minimum benefits" means those benefits provided for in chapter 41.26 RCW as of July 1, 2003.

(9) "Employer" means the same as under *RCW 41.26.030(2)(b).

(10) "Enrolled actuary" means an actuary who is enrolled under the employee retirement income security act of 1974 (Subtitle C of Title III) and who is a member of the society of actuaries or the American academy of actuaries.

(11) "Increased benefit" means a benefit in addition to the minimum benefits.

(12) "Trust" means the assets of the plan.

(13) "Benefits" means the age or service or combination thereof required for retirement, the level of service and disability retirement benefits, survivorship benefits, payment options including a deferred retirement option plan, average final compensation, postretirement cost-of-living adjustments, including health care and the elements of compensation. Benefits shall not include the classifications of employment eligible to participate in the plan.

(14) "Actuarially sound" means the plan is sufficiently funded to meet its projected liabilities and to defray the reasonable expenses of its operation based upon commonly accepted, sound actuarial principles. [2003 c 2 § 3 (Initiative Measure No. 790, approved November 5, 2002).]

***Reviser's note:** RCW 41.26.030 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (2)(b) to subsection (14)(b).

RCW 41.26.715 Board of trustees—Created—Selection of trustees—Terms of office—Vacancies. (1) An eleven member board of trustees is hereby created.

(a) Before January 1, 2007, three of the board members shall be active law enforcement officers who are participants in the plan. Beginning with the first vacancy on or after January 1, 2007, two board members shall be active law enforcement officers who are participants in the plan and one board member shall be either an active or a retired law enforcement officer who is a participant of the plan. The law enforcement officer board members shall be appointed by the governor from a list provided by a recognized statewide council whose membership consists exclusively of guilds, associations, and unions representing state and local government police officers, deputies, and sheriffs and excludes federal law enforcement officers.

(b) Before January 1, 2007, three of the board members shall be active firefighters who are participants in the plan. Beginning with the first vacancy on or after January 1, 2007, two board members shall be active firefighters who are participants in the plan and one board member shall be either an active or a retired firefighter who is a participant of the plan. The firefighter board members shall be appointed by the governor from a list provided by a recognized statewide council, affiliated with an international association representing the interests of firefighters.

(c) Three of the board members shall be representatives of employers and shall be appointed by the governor.

(d) One board member shall be a member of the house of representatives who is appointed by the governor based on the recommendation of the speaker of the house of representatives.

(e) One board member shall be a member of the senate who is appointed by the governor based on the recommendation of the majority leader of the senate.

(f) After January 1, 2008, at least one board member must be a retired participant of the law enforcement officers' and firefighters' retirement system plan 2. This member may be appointed under (a) through (e) of this subsection.

(2) The initial law enforcement officer and firefighter board members shall serve terms of six, four, and two years, respectively. Thereafter, law enforcement officer and firefighter board members serve terms of six years. The initial employer representative board members shall serve terms of four, five, and six years, respectively. Thereafter, employer representative board members serve terms of four years. The initial legislative board members shall serve terms of five years and six months. Thereafter, legislative board members serve terms of two years, which begin on January 1st of odd-numbered years. Board members may be reappointed to succeeding terms without limitation. Board members shall serve until their successors are appointed and seated.

(3) In the event of a vacancy on the board, the vacancy shall be filled in the same manner as prescribed for an initial appointment. [2007 c 303 § 1; 2003 c 2 § 4 (Initiative Measure No. 790, approved November 5, 2002).]

RCW 41.26.7151 Board of trustees—Political party representation. The legislative board members appointed under RCW 41.26.715 must include one member from the two largest political

parties. The speaker of the house of representatives shall request a recommendation from the minority leader of the house of representatives if a member from the opposite party must be recommended for appointment. The majority leader of the senate shall request a recommendation from the minority leader of the senate if a member from the opposite party must be recommended for appointment. [2007 c 303 § 2.]

RCW 41.26.717 Additional duties and powers of board. The law enforcement officers' and firefighters' plan 2 retirement board established in section 4, chapter 2, Laws of 2003 has the following duties and powers in addition to any other duties or powers authorized or required by law. The board:

(1) Shall hire an executive director, and shall fix the salary of the executive director subject to periodic review by the board and in consultation with the director of the office of financial management and shall provide notice to the chairs of the house of representatives and senate fiscal committees of changes;

(2) Shall employ other staff as necessary to implement the purposes of chapter 2, Laws of 2003. Staff must be state employees under Title 41 RCW;

(3) Shall adopt an annual budget as provided in section 5, chapter 2, Laws of 2003. Expenses of the board are paid from the expense fund created in RCW 41.26.732;

(4) May make, execute, and deliver contracts, conveyances, and other instruments necessary to exercise and discharge its powers and duties;

(5) May contract for all or part of the services necessary for the management and operation of the board with other state or nonstate entities authorized to do business in the state; and

(6) May contract with actuaries, auditors, and other consultants as necessary to carry out its responsibilities. [2018 c 272 § 2; 2003 c 92 § 1.]

RCW 41.26.720 Board of trustees—Powers—Meeting procedures—Quorum—Judicial review—Budget. (1) The board of trustees have the following powers and duties and shall:

(a) Adopt actuarial tables, assumptions, and cost methodologies in consultation with an enrolled actuary retained by the board. The state actuary shall provide assistance when the board requests. The actuary retained by the board shall utilize the aggregate actuarial cost method, or other recognized actuarial cost method based on a level percentage of payroll, as that term is employed by the American academy of actuaries. The actuary retained by the board shall adjust the actuarial cost method to recognize the actuarial present value of future revenue that will be included in the calculation of the market value of assets pursuant to RCW 41.26.805(2), using the methods and assumptions employed by the state actuary in RCW 41.26.805(9). In determining the reasonableness of actuarial valuations, assumptions, and cost methodologies, the actuary retained by the board shall provide a copy of all such calculations to the state actuary. If the two actuaries concur on the calculations, contributions shall be made as set forth in the report of the board's actuary. If the two actuaries cannot agree, they shall appoint a third, independent,

enrolled actuary who shall review the calculations of the actuary retained by the board and the state actuary. Thereafter, contributions shall be based on the methodology most closely following that of the third actuary;

(b)(i) Provide for the design and implementation of increased benefits for members and beneficiaries of the plan, subject to the contribution limitations under RCW 41.26.725. An increased benefit may not be approved by the board until an actuarial cost of the benefit has been determined by the actuary and contribution rates adjusted as may be required to maintain the plan on a sound actuarial basis. Increased benefits as approved by the board shall be presented to the legislature on January 1st of each year. The increased benefits as approved by the board shall become effective within ninety days unless a bill is enacted in the next ensuing session of the legislature, by majority vote of each house of the legislature, repealing the action of the board;

(ii) As an alternative to the procedure in (b)(i) of this subsection, recommend to the legislature changes in the benefits for members and beneficiaries, without regard to the cost limitations in RCW 41.26.725(3). Benefits adopted in this manner shall have the same contractual protections as the minimum benefits in the plan. The recommendations of the board shall be presented to the legislature on January 1st of each year. These measures shall take precedence over all other measures in the legislature, except appropriations bills, and shall be either enacted or rejected without change or amendment by the legislature before the end of such regular session;

(c) Retain professional and technical advisors necessary for the accomplishment of its duties. The cost of these services may be withdrawn from the trust;

(d) Consult with the department for the purpose of improving benefit administration and member services;

(e) Provide an annual report to the governor and the legislature setting forth the actuarial funding status of the plan and making recommendations for improvements in those aspects of retirement administration directed by the legislature or administered by the department;

(f) Establish uniform administrative rules and operating policies in the manner prescribed by law;

(g) Engage administrative staff and acquire office space independent of, or in conjunction with, the department. The department shall provide funding from its budget for these purposes;

(h) Publish on an annual basis a schedule of increased benefits together with a summary of the minimum benefits as established by the legislature which shall constitute the official plan document; and

(i) Be the fiduciary of the plan and discharge the board's duties solely in the interest of the members and beneficiaries of the plan.

(2) Meetings of the board of trustees shall be conducted as follows:

(a) All board meetings are open to the public, preceded by timely public notice;

(b) All actions of the board shall be taken in open public session, except for those matters which may be considered in executive session as provided by law;

(c) The board shall retain minutes of each meeting setting forth the names of those board members present and absent, and their voting record on any voted issue; and

(d) The board may establish, with the assistance of the appropriate office of state government, an internet website providing for interactive communication with state government, members and beneficiaries of the plan, and the public.

(3) A quorum of the board is six board members. All board actions require six concurring votes.

(4) The decisions of the board shall be made in good faith and are final, binding, and conclusive on all parties. The decisions of the board shall be subject to judicial review as provided by law.

(5) A law enforcement officers' and firefighters' retirement system plan 2 expense fund is established for the purpose of defraying the expenses of the board. The board shall cause an annual budget to be prepared consistent with the requirements of chapter 43.88 RCW and shall draw the funding for the budget from the investment income of the trust. Board members shall be reimbursed for travel and education expenses as provided in RCW 43.03.050 and 43.03.060. The board shall make an annual report to the governor, legislature, and state auditor setting forth a summary of the costs and expenditures of the plan for the preceding year. The board shall also retain the services of an independent, certified public accountant who shall annually audit the expenses of the fund and whose report shall be included in the board's annual report. [2008 c 99 § 5; 2003 c 2 § 5 (Initiative Measure No. 790, approved November 5, 2002).]

Findings—Purpose—2008 c 99: See note following RCW 41.26.802.

RCW 41.26.725 Board of trustees—Contributions—Minimum and increased benefits. (1) The board of trustees shall establish contributions as set forth in this section. The cost of the minimum benefits as defined in this plan shall be funded on the following ratio:

Employee contributions	50%
Employer contributions	30%
State contributions	20%

(2) The minimum benefits shall constitute a contractual obligation of the state and the contributing employers and may not be reduced below the levels in effect on July 1, 2003. The state and the contributing employers shall maintain the minimum benefits on a sound actuarial basis in accordance with the actuarial standards adopted by the board.

(3) Increased benefits created as provided for in RCW 41.26.720 are granted on a basis not to exceed the contributions provided for in this section. In addition to the contributions necessary to maintain the minimum benefits, for any increased benefits provided for by the board, the employee contribution shall not exceed fifty percent of the actuarial cost of the benefit. In no instance shall the employee cost exceed ten percent of covered payroll without the consent of a majority of the affected employees. Employer contributions shall not exceed thirty percent of the cost, but in no instance shall the employer contribution exceed six percent of covered payroll. State contributions shall not exceed twenty percent of the cost, but in no instance shall the state contribution exceed four percent of covered payroll. Employer contributions may not be increased above the maximum under this section without the consent of the governing body of the

employer. State contributions may not be increased above the maximum provided for in this section without the consent of the legislature. In the event that the cost of maintaining the increased benefits on a sound actuarial basis exceeds the aggregate contributions provided for in this section, the board shall submit to the affected members of the plan the option of paying the increased costs or of having the increased benefits reduced to a level sufficient to be maintained by the aggregate contributions. The reduction of benefits in accordance with this section shall not be deemed a violation of the contractual rights of the members, provided that no reduction may result in benefits being lower than the level of the minimum benefits.

(4) The board shall manage the trust in a manner that maintains reasonable contributions and administrative costs. Providing additional benefits to members and beneficiaries is the board's priority. [2003 c 93 § 1; 2003 c 2 § 6 (Initiative Measure No. 790, approved November 5, 2002).]

Effective date——2003 c 93: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 23, 2003]." [2003 c 93 § 2.]

RCW 41.26.730 Joint committee on pension policy——Pension funding council. The joint committee on pension policy established in *RCW 44.44.050, and the pension funding council created in RCW 41.45.100, shall have no applicability or authority over matters relating to this plan. [2003 c 2 § 7 (Initiative Measure No. 790, approved November 5, 2002).]

***Reviser's note:** RCW 44.44.050 was repealed by 2003 c 295 § 15.

RCW 41.26.732 Plan 2 expense fund——Board oversight and administration——State investment board. (1) A law enforcement officers' and firefighters' retirement system plan 2 expense fund is created within the law enforcement officers' and firefighters' retirement system plan 2 fund.

(2) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the expense fund. The state investment board is authorized to adopt investment policies for the money in the expense fund. All investment and operating costs associated with the investment of money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the law enforcement officers' and firefighters' retirement system plan 2 fund.

(3) All investments made by the investment board shall be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policy established by the state investment board.

(4) When appropriate for investment purposes, the state investment board may commingle money in the expense fund with other funds.

(5) The authority to establish all policies relating to the expense fund, other than the investment policies as set forth in subsections (2) through (4) of this section, resides with the law

enforcement officers' and firefighters' plan 2 retirement board. With the exception of investments by, and expenses of, the state investment board set forth in subsection (2) of this section, disbursements from this expense fund may be made only on the authorization of the law enforcement officers' and firefighters' plan 2 retirement board, and money in the expense fund may be spent only for the purposes of defraying the expenses of the law enforcement officers' and firefighters' plan 2 retirement board as provided in section 5, chapter 2, Laws of 2003.

(6) The state investment board shall routinely consult and communicate with the law enforcement officers' and firefighters' plan 2 retirement board on the investment policy, earnings of the trust, and related needs of the expense fund.

(7) The law enforcement officers' and firefighters' plan 2 retirement board shall administer the expense fund in a manner reasonably designed to be actuarially sound. The assets of the expense fund must be sufficient to defray the obligations of the account including the costs of administration. Money used for administrative expenses is subject to the allotment of all expenditures pursuant to chapter 43.88 RCW. However, an appropriation is not required for expenditures. Administrative expenses include, but are not limited to, the salaries and expenses of law enforcement officers' and firefighters' plan 2 retirement board personnel including lease payments, travel, and goods and services necessary for operation of the board, audits, and other general costs of conducting the business of the board.

(8) The state investment board shall allocate from the law enforcement officers' and firefighters' retirement system plan 2 fund to the expense fund the amount necessary to cover the expenses of the law enforcement officers' and firefighters' plan 2 retirement board. [2003 c 92 § 6.]

RCW 41.26.735 Asset management. Assets of the plan shall be managed by the state investment board as provided by law. [2003 c 2 § 8 (Initiative Measure No. 790, approved November 5, 2002).]

RCW 41.26.740 Reimbursement for expenses. All expenses of the department and the office of the state actuary related to the implementation of chapter 2, Laws of 2003 shall be reimbursed from the law enforcement officers' and firefighters' retirement system expense fund under RCW 39.34.130. [2003 c 92 § 7.]

RCW 41.26.802 Local law enforcement officers' and firefighters' retirement system benefits improvement account——Transfers. (1) Prior to May 13, 2019, this section required certain transfers to be made to the local public safety enhancement account. After May 13, 2019, except for the transfer in subsection (2) of this section, no further transfers will be made to the local public safety enhancement account pursuant to this section.

(2) On July 1, 2019, the state treasurer shall transfer the sum of three hundred million dollars from the law enforcement officers' and firefighters' plan 2 retirement fund to the local law enforcement

officers' and firefighters' retirement system benefits improvement account.

(3) By July 31, 2022, the Washington state investment board shall transfer the difference between the value of the benefit enhancements in chapter 125, Laws of 2022 as identified by the office of the state actuary and the value of the local law enforcement officers' and firefighters' retirement system benefits improvement account, from the law enforcement officers' and firefighters' system plan 2 retirement fund to the local law enforcement officers' and firefighters' retirement system benefits improvement account.

(4) By August 31, 2022, the Washington state investment board shall transfer the total available balance of the local law enforcement officers' and firefighters' retirement system benefits improvement account to the law enforcement officers' and firefighters' system plan 2 retirement fund. The amount transferred under this subsection goes toward the benefit enhancements in chapter 125, Laws of 2022. [2022 c 125 § 7; 2019 c 366 § 2; 2017 3rd sp.s. c 1 § 964; 2015 3rd sp.s. c 4 § 950; 2013 2nd sp.s. c 4 § 969; 2008 c 99 § 4.]

Effective date—Finding—2019 c 366: See notes following RCW 41.26.805.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Findings—Purpose—2008 c 99: "The legislature finds that local governments need additional revenues to provide public safety resources in order to protect the citizens of Washington from fire and crime. The legislature finds that the current benefit formula and contributions for the law enforcement officers' and firefighters' plan 2 are inadequate to modify that formula in recognition of the shorter working careers for firefighters and police officers. The legislature recognizes that although some officers and firefighters are able to work comfortably beyond twenty-five years, the combat nature of fire suppression and law enforcement generally require earlier retirement ages. In recognition of the physical demands of the professions and the inherent risks faced by law enforcement officers and firefighters, eligibility for retirement in the law enforcement officers' and firefighters' plan 2 system has been set at age fifty-three. However, the benefit formula is designed for careers of thirty-five to forty years, making retirement at age fifty-three an unrealistic option for many.

Therefore, the legislature declares that it is the purpose of this act to provide local government public safety employers and the law enforcement officers' and firefighters' plan 2 pension plan with additional shared revenues when general state revenues exceed by more than five percent the previous fiscal biennium's revenue." [2008 c 99 § 1.]

RCW 41.26.805 Local law enforcement officers' and firefighters' retirement system benefits improvement account—Creation—Use—Administration—Investments. (1) The local law enforcement officers' and firefighters' retirement system benefits improvement account (benefits account) is created within the law enforcement officers' and firefighters' retirement system plan 2 fund.

(2) The funds in the benefits account shall not be included by the actuary retained by the board in the calculation of the market value of assets of the law enforcement officers' and firefighters' retirement system plan 2 fund until the board directs the actuary retained by the board in writing to do so for purposes of financing benefits enacted by the legislature. The board shall, in consultation with the state investment board and within ninety days of the transfer of funds into the benefits account, provide the actuary retained by the board, in writing, the market value of the amount directed from the benefits account for inclusion in the calculation of the market value of assets of the law enforcement officers' and firefighters' retirement system plan 2 fund. The market value of the amount directed from the benefits account shall be an amount determined by the state actuary to sufficiently offset the unfunded actuarial accrued liabilities of benefit improvements financed from this account. The market value of the amount directed from the benefits account shall be determined as of the date of the direction from the board to include this amount for purposes of financing benefits enacted by the legislature.

(3) The law enforcement officers' and firefighters' plan 2 retirement board shall administer the fund in an actuarially sound manner.

(4) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the benefits account. The state investment board is authorized to adopt investment policies for the money in the benefits account. All investment and operating costs associated with the investment of money within the benefits account shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the benefits account.

(5) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policy established by the state investment board.

(6) When appropriate for investment purposes, the state investment board may commingle money in the fund with other funds.

(7) The authority to establish all policies relating to the benefits account, other than the investment policies set forth in this section, resides with the law enforcement officers' and firefighters' plan 2 retirement board. Other than investments by and expenses of the state investment board, disbursements from this fund may be made only on the authorization of the law enforcement officers' and firefighters' plan 2 retirement board for purposes of funding the member, employer, and state cost of financing benefits enacted by the legislature.

(8) The state investment board shall routinely consult with and communicate with the law enforcement officers' and firefighters' plan 2 retirement board on the investment policy, earnings of the trust, and related needs of the benefits account.

(9) Funds in the benefits account cannot be used to finance future benefit improvements if the state actuary determines that the actuarial present value of fully projected benefits for current and future members for all benefits being financed from this account exceeds the actuarial present value of the revenue provided under RCW 41.26.802 and the accrued earnings of the benefits account. When making the determination under this subsection, the state actuary shall select assumptions and methods to reduce the risk that the actual revenue received is less than the assumed revenue. [2019 c 366 § 3; 2008 c 99 § 3.]

Finding——2019 c 366: "The legislature finds that the current benefit formula and contributions for the law enforcement officers' and firefighters' plan 2 are inadequate to modify that formula to achieve pension adequacy for the shorter working careers of firefighters and police officers. The legislature recognizes that although some officers and firefighters are able to work comfortably beyond twenty-five years, the combat nature of fire suppression and law enforcement generally require earlier retirement ages. In recognition of the physical demands of the professions and the inherent risks faced by law enforcement officers and firefighters, eligibility for retirement in the law enforcement officers' and firefighters' plan 2 system has been set at age fifty-three. However, the benefit formula is designed for careers of thirty-five to forty years, making retirement at age fifty-three an unrealistic option for many.

Therefore, the legislature declares that it is the purpose of this act to hasten the affordability of law enforcement officers' and firefighters' plan 2 benefit improvements, consistent with the intent associated with the creation of the benefits improvement fund, and designate reserves of the law enforcement officers' and firefighters' plan 2 for the sole purpose of benefit improvements." [2019 c 366 § 1.]

Effective date——2019 c 366: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 2019]." [2019 c 366 § 5.]

Findings——Purpose——2008 c 99: See note following RCW 41.26.802.

RCW 41.26.904 Effective date——2003 c 2 (Initiative Measure No. 790). Except for section 11 of this act, the remainder of this act takes effect July 1, 2003. [2003 c 2 § 13 (Initiative Measure No. 790, approved November 5, 2002).]

RCW 41.26.906 Effective date——2003 c 92. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 23, 2003]. [2003 c 92 § 12.]

RCW 41.26.921 Effective date—1977 ex.s. c 294. 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. [1977 ex.s. c 294 § 27.]

RCW 41.26.922 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 93.]

Effective dates—2009 c 521 §§ 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: See note following RCW 2.10.900.