Chapter 41.28 RCW
RETIREMENT OF PERSONNEL IN CERTAIN FIRST-CLASS CITIES

Sections

41.28.005 Establishment of retirement and pension systems authorized.
41.28.010 Definitions.
41.28.020 Retirement system created—Adoption by cities.
41.28.030 Employees within or excluded from system.
41.28.040 Rates of contribution—Deduction and payment into fund.
41.28.050 Allowance of service credit.
41.28.060 Board of administration to administer system—Powers and duties—Actuarial investigations and valuations—Reports, records, and accounts.
41.28.070 Employees' retirement fund created—Composition.
41.28.080 Board of administration—Members—Duties—Fiscal affairs.
41.28.085 Legislative intent—Investments.
41.28.090 Contributions by city.
41.28.100 City obligated to contribute.
41.28.110 Payments on discontinuance of service—Reemployment—Redeposit.
41.28.120 Retirement for service.
41.28.130 Service retirement allowances.
41.28.140 Retirement for disability.
41.28.150 Disability retirement allowances—Grounds for denial.
41.28.160 Medical examination of disability beneficiaries—Reentry.
41.28.170 Optional allowances.
41.28.180 Payments on death of unretired members.
41.28.190 Payments to be made monthly.
41.28.200 Exemption from process—Rights not assignable.
41.28.205 Benefits payable in accordance with court decree or order of dissolution or legal separation.
41.28.207 Payments to spouse or ex spouse pursuant to court order.
41.28.210 Estimates of service, compensation, or age.
41.28.220 Suspension of allowances during other public aid.
41.28.230 Administrative expense.
41.28.240 Existing systems preserved.
41.28.910 Repeal.
41.28.920 Effective date—1939 c 207.
41.28.930 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Portability of public retirement benefits: Chapter 41.54 RCW.

Statewide city employees' retirement system: Chapter 41.44 RCW.

RCW 41.28.005 Establishment of retirement and pension systems authorized. Any city attaining the status of a first-class city after July 1, 1939, is empowered by this chapter to establish retirement and pension systems for superannuated or totally and permanently disabled officers and employees of cities of the first class. [1939 c 207 s 1; RRS s 9592-101. Formerly RCW 41.28.020, part.]

RCW 41.28.010 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Accumulated additional contributions" shall mean the sum of all the additional contributions, deducted from the compensation of a member, standing to the credit of his or her individual account, together with regular interest thereon.

(2) "Accumulated contributions" shall mean accumulated normal contributions plus accumulated additional contributions.

(3) "Accumulated normal contribution" shall mean the sum of all normal contributions, deducted from the compensation of a member, standing to the credit of his or her individual account, together with regular interest thereon.

(4) "Additional contributions" shall mean the contributions provided for in RCW 41.28.040(4).

(5) "Annuity" shall mean payments derived from contributions made by a member as provided in RCW 41.28.130 and 41.28.150.

(6) "Beneficiary" shall mean any person in receipt of a pension, annuity, retirement allowance, disability allowance, or any other benefit provided in this chapter.

(7) "Board" shall mean "board of administration" as provided in RCW 41.28.080.

(8) "City" shall mean any city of the first class as described in RCW 41.28.005.

(9) "City service" shall mean service rendered to city for compensation, and for the purpose of this chapter, a member shall be considered as being in city service only while he or she is receiving compensation from the city for such service.

(10) "Compensation" shall mean the compensation payable in cash, plus the monetary value, as determined by the board of administration, of any allowance in lieu thereof.

(11) "Compensation earnable" by a member shall mean the average compensation as determined by the board of administration upon the basis of the average period of employment of members in the same group or class of employment and at the same rate of pay.

(12) "Continuous service" shall mean uninterrupted employment by that city, except that discontinuance of city service of a member caused by layoff, leave of absence, suspension, or dismissal, followed by reentrance into city service within one year, shall not count as a break in the continuity of service: PROVIDED, That for the purpose of establishing membership in the retirement system continuous service shall mean six months' service in any one year.

(13) "Creditable service" shall mean such service as is evidenced by the record of normal contributions received from the employee plus prior service if credit for same is still intact or not lost through withdrawal of accumulated normal contributions as provided in RCW 41.28.110.

(14) "Employee" shall mean any regularly appointed officer or regularly appointed employee of a first-class city as described in RCW 41.28.005, whose compensation in such employment is paid wholly by that city.

(15) "Final compensation" means the annual average of the greatest compensation earnable by a member during any consecutive five-year period of service for which service credit is allowed.

(16) "Fiscal year" shall mean any year commencing with January 1st, and ending with December 31st, next following.

(17) "Member" shall mean any person included in the membership of the retirement system as provided in RCW 41.28.030.

(18) "Normal contributions" shall mean contributions at the rate provided for in RCW 41.28.040(1).

(19) "Pension" shall mean payments derived from contributions made by the city as provided for in RCW 41.28.130 and 41.28.150.

(20) "Prior service" shall mean the service of a member for compensation rendered to the city prior to July 1, 1939, and shall also include military or naval service of a member to the extent specified in RCW 41.28.050.

(21) "Regular interest," unless changed by the board of administration as provided in RCW 41.28.060, shall mean interest at four percent per annum, compounded annually.

(22) "Retirement allowance" shall mean the pension plus the annuity.

(23) "Retirement fund" shall mean "employees' retirement fund" as created and established in RCW 41.28.070.

(24) "Retirement system" shall mean "employees' retirement system," provided for in RCW 41.28.020. [2012 c 117 s 43; 1967 c 185 s 1; 1963 c 91 s 1; 1939 c 207 s 2; RRS s 9592-102.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

RCW 41.28.020 Retirement system created—Adoption by cities. A retirement system is hereby created and established in each city of the first class in each county with a population of one hundred twenty-five thousand or more to be known as the "employees' retirement system". This chapter shall become effective as to any such city when by ordinance of the city duly enacted its terms are expressly accepted and made applicable thereto. This section shall not be construed as preventing performance before July 1, 1939, of any preliminary work which any city council, city commission or board of administration shall deem necessary. [1991 c 363 s 118; 1939 c 207 s 3; RRS s 9592-103. FORMER PART OF SECTION: 1939 c 207 s 1; RRS s 9592-101 now codified as RCW 41.28.005.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

RCW 41.28.030 Employees within or excluded from system. (1) With the exception of those employees who are excluded from membership as herein provided, all employees shall become members of the retirement system as follows:

(a) Every employee in city service as defined in this chapter, on July 1, 1939, shall become a member of the retirement system on that date.

(b) Every employee who enters or reenters city service after July 1, 1939, shall become a member of the retirement system upon the completion of six months of continuous service.

(2) The following shall be specifically exempted from the provisions of this chapter:

(a) Members of the police departments who are entitled to the benefits of the police relief and pension fund as established by state law.

(b) Members of the fire departments who are entitled to the benefits of the firefighters' relief and pension fund as established by state law.

(3) It shall be the duty of the head of each office or department to give immediate notice in writing to the board of administration of the change in status of any member of his or her office or department, resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal or death. The head of each office or department shall furnish such other information concerning any member as the board may require.

(4) Each member shall be subject to all the provisions of this chapter and to all the rules and regulations adopted by the board of administration. Should the service of any member, in any period of ten consecutive years, amount to less than five years, or should he or she withdraw more than one quarter of his or her accumulated contributions, or should he or she die or be retired, he or she shall thereupon cease to be a member. [2012 c 117 s 44; 1939 c 207 s 4; RRS s 9592-104.]

RCW 41.28.040 Rates of contribution—Deduction and payment into fund. (1) The normal rate of contribution of members shall be those adopted by the board of administration, subject to the approval of the city council or city commission, and for the first five-year period such rates shall be based on sex and on age of entry into the retirement system, which age shall be the age at the birthday nearest the time of entry into the system. The rates so adopted shall remain in full force and effect until revised or changed by the board of administration in the manner provided in RCW 41.28.060. The normal rates of contribution shall be so fixed as to provide an annuity which, together with the pension provided by the city, shall give as nearly as may be a retirement allowance at the age of sixty-two years of one and one-third percent of the final compensation multiplied by the number of years of service of the retiring employee. The normal rate established for age sixty-one shall be the rate for any member who has attained a greater age before entry into the retirement system. The normal rate of contribution for age twenty shall be the rate for any member who enters the retirement system at an earlier age.

(2) Subject to the provision of this chapter, the board of administration shall adopt rules and regulations governing the making of deductions from the compensation of employees and shall certify to the head of each office or department the normal rate of contribution for each member provided for in subdivision (1) of this section. The head of the department shall apply such rate of contribution, and shall certify to the city comptroller on each and every payroll the amount to be contributed and shall furnish immediately to the board a copy of each and every payroll; and each of said amounts shall be deducted by the city comptroller and shall be paid into the retirement fund, hereinafter provided for, and shall be credited by the board together with regular interest to an individual account of the member for whom the contribution was made.

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 contribution shall be a full and complete discharge of all claims and demands

whatsoever for the service rendered by such person during the period covered by such payment, except his or her claim to the benefits to which he or she may be entitled under the provisions of this chapter.

(3) At the end of each payroll period, the board shall determine the aggregate amount of the normal contributions for such period, and shall certify such aggregate to the city comptroller, who shall thereupon transfer to the retirement fund, hereinafter provided for, from the money appropriated for that purpose in the budget for the fiscal year, an amount equal to the aggregate normal contributions for the period received from members.

(4) Any member may elect to contribute at rates in excess of those provided for in subdivision (1) of this section, for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the city any additional financial obligation. The board of administration, upon application, shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contribution. [2012 c 117 s 45; 1967 c 185 s 2; 1939 c 207 s 5; RRS s 9592-105.]

RCW 41.28.050 Allowance of service credit. (1) Subject to the following and all other provisions of this chapter, including such rules and regulations as the board shall adopt in pursuance thereof, the board, subject to the approval of the city council or city commission, shall determine and may modify allowance for service.

Time during which a member is absent on leave without pay shall not be allowed in computing service: PROVIDED, HOWEVER, That any member shall be given credit for any period served by him or her in the national guard, or in the United States army, navy, or marine corps, upon the call of the president, if at the time of such service such member was a regular employee under leave of absence. Certificate of honorable discharge from and/or documentary evidence of such service shall be submitted to the board in order to obtain credit for such service.

Each member shall file with the board such information affecting his or her status as a member of the retirement system as the board may require.

(2) The board shall grant credit for prior service to each member entering the retirement system on July 1, 1939, and to each member entering after that date, if such entry is within one year after rendering service prior to July 1, 1939: PROVIDED, HOWEVER, That the board may grant credit for prior service to those entering the retirement system after July 1, 1939, where the employee, because of sickness or other disability, has been on leave of absence, regularly granted, since discontinuance of city service, regardless of the length of such leave. No prior service credit shall be used as a basis for retirement or other benefit unless the membership continues until retirement on a retirement allowance or until the granting of other benefits. [2012 c 117 s 46; 1939 c 207 s 6; RRS s 9592-106.]

RCW 41.28.060 Board of administration to administer system—Powers and duties—Actuarial investigations and valuations—Reports, records, and accounts. The administration of the retirement system is hereby vested in the board of administration created in RCW 41.28.080.

The board shall exercise the powers and duties conferred upon it by said section, and in addition thereto:

(1) The board shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this chapter. At the end of the five-year period beginning with the year 1939, and at the end of every five-year period thereafter, the board shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members, and beneficiaries as defined by this chapter; and shall further cause to be made an actuarial valuation of the assets and liabilities of the retirement fund, and upon the basis of such investigation and valuation and subject to the approval of the city council or city commission, shall:

(a) Make any necessary changes in the rate of interest;

(b) Adopt for the retirement system such mortality, service and other tables as shall be necessary;

(c) Revise or change the rates of contribution by members on the basis of such mortality, service and other tables.

(2) The board shall promptly transmit to the city council or city commission a report covering the actuarial investigation and actuarial valuation provided for in subdivision (1) of this section.

(3) In addition to other records and accounts, the board shall keep such detailed reports and accounts as shall be necessary to show the financial condition of the retirement fund at all times.

(4) The board shall annually transmit to the city council or city commission a report showing the financial condition of the fund established by this chapter. [1939 c 207 s 7; RRS s 9592-107.]

RCW 41.28.070 Employees' retirement fund created—Composition. A fund is hereby created and established in all cities of the first class as under this chapter provided to be known as the "employees' retirement fund" and shall consist of all the moneys paid into it in accordance with the provisions of this chapter, whether such moneys shall take the form of cash, securities, or other assets. [1939 c 207 s 8; RRS s 9592-108.]

RCW 41.28.080 Board of administration—Members—Duties—Fiscal affairs. (1) There is hereby created and established a board of administration in each city coming under this chapter, which shall, under the provisions of this chapter and the direction of the city council or city commission, administer the retirement system and the retirement fund created by this chapter. Under and pursuant to the direction of the city council or city commission, the board shall provide for the proper investment of the moneys in the said retirement fund.

(2) The board of administration shall consist of seven members, as follows: Three members appointed by the regular appointing authority of the city, and three employees who are eligible to membership in the retirement system, to be elected by the employees. The above six members shall appoint the seventh member.

(3) The investment of all or any part of the retirement fund shall be subject to chapter 35.39 RCW.

(4) Subject to such provisions as may be prescribed by law for the deposit of municipal funds in banks, cash belonging to the

retirement fund may be deposited in any licensed national bank or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of the state of Washington.

(5) The city treasurer shall be the custodian of the retirement fund. All payments from said fund shall be made by the city treasurer but only upon warrant duly executed by the city comptroller.

(6) Except as herein provided, no member and no employee of the board of administration shall have any interest, direct or indirect, in the making of any investments from the retirement fund, or in the gains or profits accruing therefrom. And no member or employee of said board, directly or indirectly, for himself or herself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an endorser or surety or become in any manner an obligor for moneys invested by the board. [2012 c 117 s 47; 1983 c 3 s 93; 1969 ex.s. c 211 s 2; 1939 c 207 s 9; RRS s 9592-109.]

RCW 41.28.085 Legislative intent—Investments. In order that the intent of the legislature may be made clear with respect to investments, but without restricting the necessary flexibility that must exist for successful investing of the retirement and pension funds, the legislature makes this declaration of its desire that the investment authority shall give primary consideration to dealing with brokerage firms which maintain offices in the state of Washington so that the investment programs may make a meaningful contribution to the economy of the state. It is further the desire of the legislature that the retirement and pension funds shall be used as much as reasonably possible to benefit and expand the business and economic climate within the state of Washington so long as such use would be consistent with sound investment policy. [1969 ex.s. c 211 s 3.]

RCW 41.28.090 Contributions by city. (1) There shall be paid into the retirement fund by contributions of the city, the amounts necessary to pay all pensions and all other benefits allowable under this chapter to members on account of prior service, and minimum allowances provided for in RCW 41.28.130. Until the amount accumulated in the retirement fund becomes at least as large as the present value of all amounts thereinafter payable from said fund the amount annually due to the said fund under this section shall be the amount payable from said fund in the ensuing fiscal year on account of prior service and minimum allowances. [1939 c 207 s 10; RRS s 9592-110.]

RCW 41.28.100 City obligated to contribute. The payments of the city due the retirement fund as provided for in this chapter are hereby made obligations of the city as defined in this chapter. The board shall annually, on or before the tenth day of July each year, prepare and submit to the city council or city commission an estimate of the amounts necessary to meet such obligations, and the city council or city commission shall provide for the raising of such amounts as are necessary to make such payments. [1939 c 207 s 11; RRS s 9592-111.]

RCW 41.28.110 Payments on discontinuance of service—Reemployment—Redeposit. (1) Should the service of a member be discontinued, except by death or retirement, he or she shall be paid not later than six months after the day of discontinuance such part of his or her accumulated contributions as he or she shall demand: PROVIDED, HOWEVER, That a member may appeal to the board and by unanimous vote, the board may grant a request for immediate withdrawal of contributions. If in the opinion of the board said member is permanently separated from service by reason of such discontinuance he or she shall be paid forthwith all of his or her accumulated contributions with interest: AND PROVIDED ALSO, That the board may, in its discretion, withhold for not more than one year after a member last rendered service all or part of his or her accumulated normal contributions if after a previous discontinuance of service he or she withdrew all or part of his or her accumulated normal contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in this section: PROVIDED FURTHER, That the city shall receive credit for the full amount deposited by the city in the retirement fund for such member's benefit plus interest. Any member may redeposit in the retirement fund an amount equal to that which he or she previously withdrew therefrom at the last termination of his or her membership, such redeposit to be paid into the retirement fund in accordance with rules established by the board. If a member upon reentering the retirement system after a termination of his or her membership shall not make such a redeposit as hereinabove provided, the rate of his or her contributions for future years shall be the normal rate provided for in RCW 41.28.040(1) at his or her age of reentrance; otherwise his or her rate of contribution for future years shall be the same as his or her rate prior to the termination of his or her membership. In the event such redeposit is made by a member, an amount equal to the accumulated normal contributions so redeposited shall again be held for the benefit of said member, and shall no longer be included in the amounts available to meet the obligations of the city on account of benefits that have been granted or liabilities that have been assumed on account of prior service of members, and the city shall reinstate the prior service credit for such member. [2012 c 117 s 48; 1939 c 207 s 12; RRS s 9592-112.]

RCW 41.28.120 Retirement for service. Retirement of member for service shall be made by the board of administration as follows:

(1) Each member in the city service on June 8, 1967, who, on or before such effective date, has attained the age of sixty-five years or over, shall be forthwith retired on the first day of the calendar month next succeeding the month in which the employee shall have attained the age of sixty-five: PROVIDED, That none of such members shall be subject to compulsory retirement for a period of five years following said effective date, but during such period any member having attained the age of sixty-five may voluntarily retire after attaining such age. Members attaining the age of sixty-five after June 8, 1967 shall be retired on the first day of the calendar month next succeeding the month in which the member shall have attained the age of sixty-five, but none of such members shall be subject to compulsory retirement until five years after said effective date: PROVIDED, FURTHER, That any member attaining the age of seventy years during said five year period shall be forthwith retired on the first day of

the calendar month next succeeding the month in which the employee shall have attained the age of seventy years, except as otherwise provided in this chapter. The board shall extend the time of retirement for any member hired prior to June 8, 1967 so as to enable said member to qualify for retirement benefits under this chapter, but in no event should such extension extend beyond the age of seventy years.

(2) Any member in the city service may retire by filing with the board a written application, stating when he or she desires to be retired, such application to be made at least thirty days prior to date of retirement: PROVIDED, HOWEVER, That said member, at the time specified for his or her retirement, shall have completed ten years of city service as defined in this chapter, and shall have attained the age of fifty-seven years, or shall have completed thirty years of city service as defined in this chapter. Permanent discontinuance of city service after age of fifty-seven shall entitle the member to his or her retirement allowance: PROVIDED, That such employee has had at least ten years of city service to his or her credit: AND PROVIDED FURTHER, That permanent discontinuance of city service after the completion of thirty years of city service shall entitle the member to his or her retirement allowance. [2012 c 117 s 49; 1967 c 185 s 3; 1939 c 207 s 13; RRS s 9592-113.]

RCW 41.28.130 Service retirement allowances. (1) A member, upon retirement from service, shall receive a retirement allowance subject to the provisions of paragraph (2) of this section, which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

(b) A pension purchased by the contributions of the city, equal to the annuity purchased by the accumulated normal contributions of the member.

(c) For any member having credit for prior service an additional pension, purchased by the contributions of the city equal to one and one-third percent of the final compensation, multiplied by the number of years of prior service credited to said member, except that if a member shall retire before attaining the age of sixty-two years, the additional pension shall be reduced to an amount which shall be equal to a lesser percentage of final compensation, multiplied by the number of years of prior service credited to said member, which lesser percentage shall be applied to the respective ages of retirement in accordance with the following tabulation:

Retirement age	Percentage
62	1.333
61	1.242
60	1.158
59	1.081
58	1.010
57	0.945
56	0.885
55	0.829
54	0.778
53	0.731
52	0.687
51	0.646
50	0.608

(2) If the retirement allowance of the member as provided in this section, exclusive of any annuity purchased by his or her accumulated additional contributions, is in excess of two-thirds of his or her final salary, the pension of the member, purchased by the contributions of the city, shall be reduced to such an amount as shall make the member's retirement allowance, exclusive of any annuity purchased by his or her accumulated additional contributions, equal to two-thirds of his or her final salary, and the actuarial equivalent of such reduction shall remain in the retirement fund to the credit of the city: PROVIDED, That the retired member will be granted a cost-of-living increase, in addition to the allowance provided in this section, of one percent commencing January 1, 1968 and an additional one percent on the first day of each even-numbered year thereafter if the U.S. Bureau of Labor Statistics' Cost of Living Index has increased one percent or more since the last cost-of-living increase in the member's retirement allowance; such increases shall apply only to retirement allowances approved on or after January 1, 1967.

(3) Any member, who enters the retirement system on July 1, 1939, or who enters after that date and who is given the credit for prior service, and who is retired by reason of attaining the age of seventy years, shall receive such additional pension on account of prior service, purchased by the contributions of the city, as will make his or her total retirement allowance not less than four hundred twenty dollars per year.

(4) Any member who, at the time of his or her retirement, has at least ten years of creditable service, as defined in this chapter, and who has attained the age of sixty-five years or over, shall receive such additional pension, purchased by the contributions of the city, as will make his or her total retirement allowance not less than nine hundred sixty dollars per year. [2012 c 117 s 50; 1969 c 31 s 1; 1967 c 185 s 4; 1961 c 260 s 1; 1939 c 207 s 14; RRS s 9592-114.]

Validation—1969 c 31: "Any action effected in accordance with the provisions of the last two paragraphs of section 1 of this 1969 amendatory act during the period of from June 8, 1967 until the effective date of this 1969 amendatory act is hereby declared valid." [1969 c 31 s 2.] "Section 1 of this 1969 amendatory act" refers to RCW 41.28.130 above; "the effective date of this 1969 amendatory act" is March 18, 1969.

RCW 41.28.140 Retirement for disability. Any member while in city service may be retired by the board of administration for permanent and total disability, either ordinary or accidental, upon examination, as follows:

(1) Any member who has not attained the age of sixty-five years and who has at least ten years of city service as defined in this chapter, to his or her credit: PROVIDED, That the required ten years of city service shall have been credited to the member over a period of not to exceed fifteen years immediately preceding retirement, within three months after the discontinuance of city service, or while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of city service, shall be examined by a physician or surgeon, appointed by the board of administration upon the application of the head of the office or department in which said member is employed, or upon application of

said member, or a person acting in his or her behalf, stating that said member is permanently and totally incapacitated, either physically or mentally, for the performance of duty and ought to be retired. If such medical examination shows, to the satisfaction of the board, that the said member is permanently and totally incapacitated either physically or mentally for the performance of duty and ought to be retired, the board shall retire the said member for disability forthwith.

(2) The board shall secure such medical services and advice as it may deem necessary to carry out the purpose of this section and of RCW 41.28.160, and shall pay for such medical services and advice such compensation as the board shall deem reasonable. [2012 c 117 s 51; 1939 c 207 s 15; RRS s 9592-115.]

RCW 41.28.150 Disability retirement allowances—Grounds for denial. (1) Upon retirement for disability, as hereinabove provided: PROVIDED, The disability is not due to intemperance, willful misconduct or violation of law, of which the board shall be the judge, a member shall receive a retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

(b) A pension purchased by the contributions of the city, which, together with his or her annuity provided by his or her accumulated normal contributions, shall make the retirement allowance, exclusive of the annuity provided by his or her additional contributions equal to (i) one and one-fourth percent of his or her final compensation multiplied by the number of years of service which would be creditable to him or her were his or her services to continue until attainment by him or her of age sixty-two. The minimum disability retirement allowance shall be nine hundred sixty dollars per year.

(2) If disability is due to intemperance, willful misconduct or violation of law on the part of the member, the board of administration in its discretion may pay to said member in one lump sum, his or her accumulated contributions, in lieu of a retirement allowance, and such payment shall constitute full satisfaction of all obligations of the city to such member, and upon receipt of such payment he or she shall cease to be a member of the retirement system.

(3) Upon the death of a member while in receipt of a disability retirement allowance, his or her accumulated contributions, as they were at the date of his or her retirement, less any annuity payments made to him or her, shall be paid to his or her estate, or to such persons having an insurable interest in his or her life as he or she shall have nominated by written designation duly executed and filed with the board. [2012 c 117 s 52; 1963 c 91 s 2; 1961 c 260 s 2; 1939 c 207 s 16; RRS s 9592-116.]

RCW 41.28.160 Medical examination of disability beneficiaries—Reentry. (1) The board of administration may at its pleasure require any disability beneficiary under age sixty-two years to undergo medical examination to be made by a physician or surgeon appointed by the board, at a place to be designated by the board. Upon the basis of such examination the board shall determine whether such disability beneficiary is still totally and permanently incapacitated either mentally or physically for service in the office or department of the

city where he or she was employed or in any other city service for which he or she is qualified. If the board of administration shall determine that said beneficiary is not so incapacitated, his or her retirement allowance shall be canceled and he or she shall be reinstated forthwith in the city service.

(2) Should a disability beneficiary reenter the city service and be eligible for membership in the retirement system in accordance with RCW 41.28.030(1), his or her retirement allowance shall be canceled and he or she shall immediately become a member of the retirement system, his or her rate of contribution for future years being that established for his or her age at the time of reentry. His or her individual account shall be credited with his or her accumulated contributions less the annuity payments made to him or her. An amount equal to the accumulated normal contributions so credited to him or her shall again be held for the benefit of said member and shall no longer be included in the amounts available to meet the obligations of the city on account of benefits that have been granted and on account of prior service of members. Such member shall receive credit for prior service in the same manner as if he or she had never been retired for disability.

(3) Should any disability beneficiary under age sixty-two years refuse to submit to medical examination, his or her pension may be discontinued until his or her withdrawal of such refusal, and should refusal continue for one year, his or her retirement allowance may be canceled. Should said disability beneficiary, prior to attaining age sixty-two years, engage in a gainful occupation not in city service, or should he or she reenter the city service and be ineligible for membership in the retirement system in accordance with RCW 41.28.030(2), the board of administration shall reduce the amount of his or her retirement allowance to an amount, which when added to the compensation earned by him or her in such occupation shall not exceed the amount of the final compensation on the basis of which his or her retirement allowance was determined. Should the earning capacity of such beneficiary be further altered, the board may further alter his or her retirement allowance to an amount which shall not exceed the amount upon which he or she was originally retired, but which, subject to such limitation shall equal, when added to the compensation earned by him or her, the amount of his or her final compensation on the basis of which his or her retirement allowance was determined. When said disability beneficiary reaches the age of sixty-two years, his or her retirement allowance shall be made equal to the amount upon which he or she was originally retired, and shall not again be modified for any cause except as provided in RCW 41.28.220.

(4) Should the retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into the city service he or she shall be paid his or her accumulated contributions, less annuity payments made to him or her. [2012 c 117 s 53; 1939 c 207 s 17; RRS s 9592-117.]

RCW 41.28.170 Optional allowances. A member may elect to receive, in lieu of the retirement allowance provided for in RCW 41.28.130, its actuarial equivalent in the form of a lesser retirement allowance, payable in accordance with the terms and conditions of one of the options set forth below in this section. Election of any option must be made by written application filed with the board of administration at least thirty days in advance of retirement as

provided in RCW 41.28.120, and shall not be effective unless approved by the board prior to retirement of the member.

Option A. The lesser retirement allowance shall be payable to the member throughout his or her life: PROVIDED, That if he or she die before he or she receive in annuity payments referred to in RCW 41.28.130(1)(a), a total amount equal to the amount of his or her accumulated contributions as it was at the date of his or her retirement, the balance of such accumulated contributions shall be paid in one sum to his or her estate or to such person having an insurable interest in his or her life as he or she shall nominate by written designation duly executed and filed with the board.

Option B. The lesser retirement allowance shall be payable to a member throughout his or her life: PROVIDED, That if he or she die before he or she receive in annuity payments referred to in RCW 41.28.130(1)(a), a total amount equal to the amount of his or her accumulated contributions as it was at the date of his or her retirement, the said annuity payments resulting from his or her accumulated contributions shall be continued and paid to his or her estate or such person, having an insurable interest in his or her life, as he or she shall nominate by written designation duly executed and filed with the board until the total amount of annuity payments shall equal the amount of his or her accumulated contributions as it was at the date of his or her retirement.

Option C. The member shall elect a "guaranteed period" of any number of years. If he or she dies before the lesser retirement allowance has been paid to him or her for the number of years elected by him or her as the "guaranteed period", the lesser retirement allowance shall be continued to the end of the "guaranteed period", and during such continuation shall be paid to his or her estate or to such person having an insurable interest in his or her life as he or she shall nominate by written designation duly executed and filed with the board.

Option D. The lesser retirement allowance shall be payable to the member throughout life, and after the death of the member, one-half of the lesser retirement allowance shall be continued throughout the life of and paid to the wife or husband of the member.

Option E. The lesser retirement allowance shall be payable to the member throughout life, and after death of the member it shall be continued throughout the life of and paid to the wife or husband of the member. [2012 c 117 s 54; 1967 c 185 s 5; 1963 c 91 s 3; 1939 c 207 s 18; RRS s 9592-118.]

RCW 41.28.180 Payments on death of unretired members. Upon the death of any person who has not been retired, pursuant to the provisions of this chapter, there shall be paid to his or her estate, or to such persons having an insurable interest in his or her life as he or she shall have nominated by written designation duly executed and filed with the board, his or her accumulated contributions less any payments therefrom already made to him or her, if any. [2012 c 117 s 55; 1939 c 207 s 19; RRS s 9592-119.]

RCW 41.28.190 Payments to be made monthly. A pension annuity or a retirement allowance granted under the provisions of this chapter, unless otherwise specified herein, shall be payable in monthly

installments, and each installment shall cover for the current calendar month. [1939 c 207 s 20; RRS s 9592-120.]

RCW 41.28.200 Exemption from process—Rights not assignable. (1) The right of a person to a pension, an annuity or a retirement allowance, to the return of contributions, the pension, annuity or retirement 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 shall not be subject to execution, garnishment, attachment, or any other process whatsoever, whether the same be in actual possession of the person or be deposited or loaned and shall be unassignable except as in this chapter specifically provided.

(2) Subsection (1) of this section does not exempt any pension or other benefit received under this chapter from tax under Title 82A RCW. [2026 c 238 s 813; 2012 c 159 s 22; 1939 c 207 s 21; RRS s 9592-121.]

Findings—Intent—Effect of invalidation of 2026 c 238 s 201—Automatic expiration date and tax preference performance statement exemption—Necessity of act—Intent—Implementation by department of revenue—2026 c 238: See notes following RCW 82A.04.030.

RCW 41.28.205 Benefits payable in accordance with court decree or order of dissolution or legal separation. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any 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. [1979 ex.s. c 205 s 9.]

RCW 41.28.207 Payments to spouse or ex spouse pursuant to court order. (1) If the board of administration makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the board of administration or the retirement system for the board of administration to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.28.205 shall cease upon the death of such a nonmember spouse or ex spouse. Upon such a death, the board of administration shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.28.205 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their accumulated contributions: PROVIDED, That the board of administration shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the board at least thirty days before the withdrawal payment date. [1987 c 326 s 20.]

Effective date—1987 c 326: See RCW 41.50.901.

Mandatory assignment of retirement benefits to spouse or ex spouse: RCW 41.50.500 through 41.50.660.

RCW 41.28.210 Estimates of service, compensation, or age. If it shall be impracticable for the board of administration to determine from the records the length of service, the compensation, or the age of any member, the said board may estimate for the purpose of this chapter, such length of service, compensation or age. [1939 c 207 s 22; RRS s 9592-122.]

RCW 41.28.220 Suspension of allowances during other public aid. The payment of any retirement allowance to a member who has been retired from service shall be suspended during the time that the beneficiary is in receipt of other pension or of other compensation for state or public service paid from direct or indirect state or municipal taxes or revenues of publicly owned utilities, except as to the amount by which such retirement allowance may exceed such compensation for the same period. [1939 c 207 s 23; RRS s 9592-123.]

RCW 41.28.230 Administrative expense. The city council or city commission shall appropriate annually from the retirement fund the amount it deems necessary for the purpose of paying the expenses of administering the retirement system. The board of administration shall annually submit to the city council or city commission its estimate of the amount necessary to pay such expenses. The preliminary cost of establishment of said retirement system, such as clerical help and actuarial survey costs, etc., shall be paid by the department or departments affected. [1939 c 207 s 24; RRS s 9592-124.]

RCW 41.28.240 Existing systems preserved. Nothing in this chapter shall repeal, supersede, alter, amend or be regarded as a substitute for any existing retirement or pension system, duly established by city ordinance. [1939 c 207 s 28; RRS s 9592-128.]

RCW 41.28.910 Repeal. All laws and parts of laws in conflict herewith be and the same are hereby repealed. [1939 c 207 s 26.]

RCW 41.28.920 Effective date—1939 c 207. The retirement system shall become effective on July 1, 1939, as provided in RCW 41.28.020. [1939 c 207 s 27.]

RCW 41.28.930 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 s 94.]

Effective dates—2009 c 521 ss 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: See note following RCW 2.10.900.