Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

Executive Committee

December 16, 2003

9 - 10 AM – Before Full Committee Meeting
12:30 - 1 PM – After Full Committee Meeting

Senate Conference Rooms A-B-C, Olympia

AGENDA

(A) Public Safety Subcommittee Report
– Reps. Alexander and Fromhold, Co-chairs

(B) Mandatory Retirement Age in State Patrol
– Laura Harper, Senior Research Analyst - Legal

(C) Bill Sponsors

Representative Gary Alexander

Elaine M. Banks
TRS Retirees

Marty Brown, Director
Office of Financial Management

Senator Don Carlson

John Charles, Director*
Department of Retirement Systems

Representative Steve Conway*
Chair

Richard Ford
PERS Retirees

Senator Karen Fraser

Representative Bill Fromhold

Leland A. Goeke*
TRS and SERS Employers

Bob Keller
PERS Actives

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Glenn Olson
PERS Employers

Representative Cheryl Pflug

Diane Rae
TRS Actives

Senator Debbie Regala

J. Pat Thompson*
PERS Actives

David Westberg
SERS Actives

Senator Shirley Winsley*
Vice Chair

***Executive Committee**

(360) 753-9144
Fax: (360) 586-8135
TDD: 1-800-635-9993

Public Safety Benefits

(December 12, 2003)

Issue

Establishing a public safety retirement plan for those PERS 2/3 members with public safety law enforcement responsibilities, and establishing new benefits for PERS 2/3 members in other public safety high-risk occupations.

Staff

Robert Wm. Baker (360) 586-9237

Members Impacted

There are an estimated 7,200 PERS 2/3 members with public safety law enforcement responsibilities currently employed by the Washington State department of corrections, the Washington State department of parks and recreation, the Washington State gambling commission, the Washington State patrol, the Washington State liquor control board, county corrections departments, and city corrections departments not covered under first class city retirement plans chapter 41.28 RCW.

Those who would qualify for public safety benefits average 41 years of age, 7.8 years of member service, and $41,000 in salary.

Public safety employees with law enforcement responsibilities are city corrections officers, jailers, police support officers, custody officers, and bailiffs; county corrections officers, jailers, custody officers, and sheriffs corrections officers; county probation officers, probation counselors, and court services officers; state correctional officers, correctional sergeants, and community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents.

There are an additional 500 PERS 2/3 members employed in high-risk positions that involve protecting the public but do not have law enforcement responsibilities. These public safety positions are Commercial Vehicle Officers in the Washington State Patrol Commercial Vehicles Division, Fire Marshals in the State Fire Marshal's Office, and Line Workers at Public Utility Districts.

Current Situation

These public safety employees are currently members of the Public Employees' Retirement System. The eligibility requirement to receive normal retirement in PERS 2 is 5 years of service and attainment of age 65; in Plan 3, it is 10 years of service and attainment of age 65. A Plan 2 member may receive an actuarially reduced early retirement after 20 years of service and attainment of age 55. A member with 30 years of service and age 55 may receive a benefit reduced 3% per year from age 65.

History

Numerous groups with some law enforcement authority have sought membership in the retirement plans for Law Enforcement Officers' and Fire Fighters' (LEOFF). A few of these groups have been successful. Recently Emergency Medical Technicians and Fish and Wildlife enforcement officers have gained membership in LEOFF 2 as they met all statutory criteria for membership. Other groups who have sought membership in LEOFF do not meet these statutory criteria.

At the December 10, 2001 meeting of the Joint Committee on Pension Policy (JCPP), the committee passed a motion to study the issue of "… providing additional public safety benefits to certain members of the Public Employees' Retirement System plans 2 and 3…". The JCPP

heard presentations and public testimony on this issue during the June and July 2002 interim hearings. The committee did not forward a recommendation to the full legislature.

Policy Analysis

Inclusion in the Law Enforcement portion of the Law Enforcement Officers' and Fire Fighters' retirement plans requires law enforcement members to be employed by any city, town, county, district, or general authority law enforcement agency; to be commissioned and employed in a full-time, fully compensated basis to enforce the criminal laws of the state of Washington; pass a civil service examination, meet specific medical and health standards, and complete the Criminal Justice Training Commission basic training.

Because those groups proposing enhanced benefits do not meet all the statutory criteria for membership in LEOFF 2, benefit increases need to come either within the PERS plans or via a separate plan.

Options

1. A new benefit tier within PERS with prospective membership
2. A new benefit tier within PERS with retroactive membership
3. A separate plan from PERS with prospective membership
4. A separate plan from PERS with retroactive membership
5. An optional early retirement buy-down program

Estimated Fiscal Impact of Options

See attachment (November 18th subcommittee report).

Subcommittee Recommendations

The PERS Public Safety Benefits Subcommittee recommended option 3 and to draft a bill to create a separate public safety employees' retirement plan with prospective membership. Its benefit design would include:

- Regular retirement at age 65 with 5 years of service
- Unreduced retirement allowance at age 60 with 10 years of service
- 3% early retirement reduction factor (ERF) from age 60 if age 53 with at least 20 years of service
- Current disability benefit with an actuarial equivalent ERF from age 60

Membership would be limited to a statutory list of those PERS Plan 2 and Plan 3 members who have distinct law enforcement responsibilities.

Those responsibilities would include:

- The responsibility to provide public protection of lives and property as a general duty of the job;
- a high degree of physical risk to one's own personal safety;
- authority and power to arrest, conduct criminal investigations, and enforce the criminal laws of the state of Washington;
- passage of a civil service examination or equivalent;
- completion of the Washington criminal justice training commission basic training course or equivalent; and
- the authority to carry a firearm as part of the job.

Public safety members with law enforcement responsibilities would be city corrections officers, jailers, police support officers, custody officers, and bailiffs; county corrections officers, jailers, custody officers, and sheriffs corrections officers; county probation officers, probation counselors, and court services officers; state correctional officers, correctional sergeants, and community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents.

The PERS Public Safety Subcommittee also recommended option 5, and to draft legislation to create an optional early retirement buy-down program for other public safety employees without law enforcement responsibilities.

Under this program, employee and employer contributions to an eligible defined contribution plan (i.e, 401(k), 401(a), 457, etc.) could be rolled into the PERS 2/3 defined benefit trust fund to purchase a reduced early retirement reduction at the time of retirement. The amount of contributions needed at retirement would vary depending on the member's age of early retirement and the magnitude of the early retirement buy-down.

Administrative Impacts (DRS)

See attachment from John Charles, Director of the Department of Retirement Systems dated December 11.

Bill Drafts

See attachment.

Fiscal Notes (Draft)

See attachment.

Public Safety Subcommittee Report

(November 17, 2003)

The subcommittee identified two categories of PERS Public Safety members, those:

- With law enforcement responsibilities; and
- Those without law enforcement responsibilities.

(1) Members with Law Enforcement Responsibilities

Persons employed full time at any state agency, political subdivision, or unit of local government in the state of Washington directly responsible for protecting the public including, but not limited to the following (estimated counts in parentheses):

- State and county corrections officers (5,500)
- Park rangers (170)
- Liquor control enforcement officers (70)
- Gambling commission enforcement officers (80)

Inclusion in the law enforcement public safety category of PERS 2/3 must include <u>all</u> of the following:

- the responsibility to provide public protection of lives and property as a general duty of the job;
- a high degree of physical risk to one's own personal safety;
- authority and power to arrest, conduct criminal investigations, and enforce the criminal laws of the state of Washington;
- passage of a civil service examination or equivalent;
- completion of the Washington criminal justice training commission basic training course or equivalent; and
- the authority to carry a firearm as part of the job

Proposed Benefit Enhancements (with law enforcement responsibilities)

- Unreduced retirement allowance at age 60 with 5 years of service
- 3% early retirement reduction factor (ERF) from age 60 if age 53 with at least 20 years of service
- Current disability benefit with an actuarial equivalent ERF from age 60

(2) Members without Law Enforcement Responsibilities

Persons employed full time at any state agency, political subdivision, or unit of local government in the state of Washington directly responsible for protecting the public including, but not limited to the following (estimated counts in parentheses):

- Commercial vehicle officers (60)
- State fire marshals (20)
- Public utility district - line workers (400)

Inclusion in the non law enforcement public safety category of PERS 2/3 must include the following:

- the responsibility to provide public protection of lives and property as a general duty of the job; and
- a high degree of physical risk to one's own personal safety.

Proposed Benefit Enhancements (without law enforcement responsibilities)

- Optional early retirement buy-down program

Under this program, employee and employer contributions to a qualified defined contribution plan (i.e, 401(k), 401(a), 457, etc.) could be rolled into the PERS 2/3 defined benefit trust fund to purchase a reduced early retirement reduction at the time of retirement. The amount of contributions needed at retirement would vary depending on the member's age of early retirement and the magnitude of the early retirement buy-down.

(3) Significant Issues to be Resolved

- Past service credit options (prospective service only?)
- Funding policy (type and level of cost sharing; socialize cost within PERS 2/3?)
- Administrative impacts and effective date

(4) Cost Estimates

Cost estimates on four distinct options are provided in the following tables (administrative expenses are not included). The options provided vary depending on the determination of two key parameters: (1) past service credit options and (2) plan model/funding options:

Separate Public Safety Benefit Category Within PERS

	No Past Service	With Past Service
Increase in Employee/Employer Contribution Rates	.04% - .05%	.08% - .11%
Estimated 05-07 Costs (in millions)	GF-S = $1.2 - $1.5 Total = $6.7 - $7.6	GF-S = $2.6 - $3.3 Total = $13.5 - $16.8
25 Year Cost (in millions)	GF-S = $33.4 - $38.6 Total = $174.7 - $199.4	GF-S = $68.1 - $85.5 Total = $354.7 - $439.4

Separate Public Safety Plan

	No Past Service	With Past Service
Increase in Employee/Employer Contribution Rates	.99% - 1.13%	2.01% - 2.49%
Estimated 05-07 Costs (in millions)	GF-S = Unknown* Total = $6.7 - $7.6	GF-S = Unknown* Total = $13.5 - $16.8
25 Year Cost (in millions)	GF-S = Unknown* Total = $174.7 - $199.4	GF-S = Unknown* Total = $354.7 - $439.4

* *GF-S percentages for these public safety employers are unknown.*

FISCAL NOTE - DRAFT

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/09/03**	**Public Safety Plan**

SUMMARY OF BILL:

This bill creates the Public Safety Employees Retirement System (PSERS) Plan 2. Full-time and fully compensated employees in the following job classes are eligible for membership in the new PSERS plan:

- State and county correction officers
- State and local community correction officers
- City correction officers (other than the employees covered under the first-class cities retirement system)
- State park rangers
- Gambling commission enforcement officers
- Liquor control enforcement officers
- Commercial vehicle enforcement officers

Existing members of the Public Employees Retirement System (PERS) plans 2/3, who are in eligible PSERS job classes, would be given the option to transfer to PSERS for prospective service credit only and become dual members in PERS and PSERS. PSERS eligible members who are currently members of PERS Plan 1 would remain in PERS Plan 1.

The plan would provide for a retirement allowance equal to 2% of a member's average final compensation for each year of service credit payable under the following standard retirement options:

- Normal retirement at age 65 with at least 5 years of service credit
- Unreduced retirement at age 60 with at least 10 years of service credit in PSERS
- Early retirement at age 53 with at least 20 years of service credit; retirement allowance reduced by 3% for each year the member retires prior to age 60.
- Disability retirement with at least 10 years of service credit in PSERS; retirement allowance with an actuarial reduction for each year the member retires prior to age 60.

All other proposed provisions are equal to the provisions of PERS Plan 2.

Effective Date: July 1, 2006, unless modified or abolished by the legislature prior to July 1, 2006.

CURRENT SITUATION:

Members that would be eligible for the proposed PSERS Plan 2 are currently members of PERS plans 2/3. PERS Plan 2 provides for a retirement allowance equal to 2% of a member's average final compensation for each year of service credit payable under the following standard retirement options:

- Normal retirement at age 65 with at least 5 years of service credit
- Early retirement at age 55 with at least 20 years of service credit; retirement allowance with an actuarial reduction for each year the member retires prior to age 65.
- Alternate early retirement at age 55 with at least 30 years of service credit; retirement allowance reduced by 3% for each year the member retires prior to age 65.
- Disability retirement with at least 10 years of service credit; retirement allowance with an actuarial reduction for each year the member retires prior to age 65.

MEMBERS IMPACTED:

We estimate that approximately 7,200 members out of the total 132,448 members in PERS plans 2/3 would be eligible to transfer under this bill. However, since the enhanced PSERS retirement and disability benefit require at least 10 years of service credit, we estimate that 1,200 members would opt not to transfer from PERS to PSERS. This reduces the estimated initial PSERS population to about 6,000.

Demographic information for the group of PERS Plan 2/3 employees that will likely transfer to PSERS is summarized in the following table:

Estimated Initial PSERS Population

Job Class	Estimated Count*	GF-S Percentage	Local Government Percentage	Average Annual Salary
State Park Rangers	170	100%	0%	$39,800
Gambling Commission Enforcement Officers	70	100%	0%	$48,500
Liquor Enforcement Officers	55	17%	0%	$44,500
Commercial Vehicle Enforcement Officers	50	6%	0%	$45,200
State Correction Officers	2,800	100%	0%	$38,400
State Community Correction Officers	585	100%	0%	$41,300
County Correction Officers	1,765	0%	100%	$35,100
City Correction Officers**	130	0%	100%	$34,700
Local Community Correction Officers	340	0%	100%	$41,300
Total	**5,965**	**62%**	**36%**	**$38,100**

** Estimated counts increased by a 5% load due to uncertainty in the data and to reflect general conservatism*

*** Does not include employees covered under the first-class cities retirement system which are ineligible for membership*

The average PERS Plan 2/3 member that would likely transfer to PSERS is age 38 with about 7 years of service credit in PERS (as of September 30, 2002).

We estimate that for a typical member impacted by this bill, the increase in benefits would be the option to retire at the following earlier ages:

1. At age 53 or later, with a retirement allowance reduced by 3% per year for each year the member retires prior to age 60 (utilizing portability with PERS for eligibility purposes); or
2. At age 60, with an unreduced retirement allowance.

ASSUMPTIONS:

We have assumed that existing PERS Plan 2/3 members who could not benefit from the enhanced benefit provisions in PSERS will opt not to transfer to PSERS. Approximately 17% of the state correction officers in PERS plans 2/3 fall into this category. We have applied a similar percentage (20%) to the local government job classes where individual PERS member data is unavailable at this time.

We have assumed the following rates of retirement due to the enhanced retirement benefit provisions under this proposed retirement plan. Members with past service in PERS are assumed to retire at rates between the PERS rates and the Public Safety rates (weighted by service in each system).

Public Safety Retirement Rates		
Age	Male	Female
53	3%	3%
54	3%	3%
55	3%	3%
56	8%	8%
57	8%	8%
58	15%	11%
59	16%	12%
60	30%	36%
61	26%	26%
62	36%	36%
63	50%	50%
64	89%	89%
65	46%	31%
66	30%	30%
67	22%	26%
68	22%	26%
69	26%	22%
70	100%	100%

In determining the fiscal budget determinations, we have applied the GF-S and local government percentages contained in the Members Impacted section. We have also increased the average annual salary for state agency job classes by a 10% load due to uncertainty in the data and to reflect general conservatism. We used the high average salary from the Washington City and County 2003 Salary and Benefit Survey for the local government job classes where individual member data was unavailable.

FISCAL IMPACT:

Description:

This bill will transfer prospective service credit in PERS to the proposed PSERS Plan 2 for members that elect to transfer. As a result, the present value of future benefits for existing members impacted by this bill will decrease in PERS and increase in PSERS (see table under Actuarial Determinations).

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits				
(The Value of the Total Commitment to all Current Members)	**PERS 2/3**	$13,093	($304)	$12,789
	PSERS 2	$0	$385	$385
	Total	$13,093	$81	$13,174
Unfunded Actuarial Accrued Liability				
(The Portion of the Plan 1 Liability that is Amortized at 2024)	**PERS 2/3**	n/a	n/a	n/a
	PSERS 2	n/a	n/a	n/a
	Total	n/a	n/a	n/a
Unfunded Liability (PBO)				
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	**PERS 2/3**	($3,924)	$0	($3,924)
	PSERS 2	$0	$0	$0
	Total	($3,924)	$0	($3,924)

Projected Contribution Rates:

Projected PERS contribution rates will decrease as a result of this proposal. The Aggregate Cost (AC) method in PERS Plans 2/3 results in the funding of some benefits before they are accrued (future benefits). The amount of this "prefunding" depends on the length of one's working career and the magnitude of past investment gains or losses relative to the long-term investment return assumption. Past investment gains and the "prefunding" of future benefits under the AC method, on an actuarial value basis, will not transfer from PERS to PSERS for the members that elect to transfer. This will serve to temporarily reduce projected PERS contribution rates after the transfer as reflected below.

The initial PSERS contribution rate will exceed the projected PERS rate by about 3% and trend down to about 1% in 2009 and thereafter. PERS contribution rates are projected to increase over the next several biennia due to recent asset losses. The projected PSERS contribution rate, on the other hand, remains relatively stable since the plan starts without any assets (and without any past investment gains or losses that are not yet recognized in the actuarial value of assets). As a result, it may require several biennia before the expected long-term biennial cost of this proposal will surface.

	PERS Increase	PSERS Increase	PSERS Total
2006-2007			
Employee (Plan 2)	(0.17)%	3.24%	6.57%
Employer	(0.17)%	3.24%	8.23%*
2007-2009			
Employee (Plan 2)	(0.09)%	2.17%	6.45%
Employer	(0.09)%	2.17%	8.72%
2009-2011			
Employee (Plan 2)	(0.04)%	1.33%	6.23%
Employer	(0.04)%	1.33%	9.04%
Long-Term Rates			
Employee (Plan 2)	0.0%	0.8%	5.3%
Employer	0.0%	0.8%	5.3%**

* *The employer is projected to contribute 6.57% to PSERS; the remainder is an estimate of the PERS 1 UAAL rate.*

***Assumes that the PERS 1 UAAL has been completely amortized.*

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	**PERS**	**PSERS***	**Total**
2004-2005			
State:			
General Fund	$ 0.00	$ 0.00	$ 0.00
Non-General Fund	0.00	0.00	0.00
Total State	**$ 0.00**	**$ 0.00**	**$ 0.00**
Local Government	$ 0.00	$ 0.00	$ 0.00
Total Employer	$ 0.00	$ 0.00	$ 0.00
2005-2007			
State:			
General Fund	$(2.6)	$7.2	$4.6
Non-General Fund	(4.3)	0.2	(4.1)
Total State	**$(6.9)**	**$7.4**	**$0.5**
Local Government	$(6.1)	$4.2	$(1.9)
Total Employer	$(13.0)	$11.6	$(1.4)
2004-2029			
State:			
General Fund	$(9.3)	$112.9	$103.6
Non-General Fund	(15.3)	3.6	(11.7)
Total State	**$(24.6)**	**$116.5**	**$91.9**
Local Government	$(21.8)	$65.6	$43.8
Total Employer	$(46.4)	$182.1	$135.7

**Represents the increase in funding expenditures for the members that are assumed to transfer from PERS to PSERS (not the total cost of PSERS).*

State Actuary's Comments:

Estimating the cost of a new retirement system with a high degree of accuracy is very difficult. The actual cost will be borne by the actual membership and actual experience of the plan in the future. Actual experience may vary from what is assumed in this fiscal note.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2002 actuarial valuation report of the Public Employees Retirement System.

   We also relied upon demographic data compiled in the Washington City and County Employee 2003 Salary and Benefit survey for the development of costs for the local government job classes where individual PERS member data is unavailable at this time.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report or in the body of this fiscal note include the following:

   We relied upon comparable state agency data as an estimate for local government job classes where individual member data was unavailable.

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.

5. This fiscal note is intended for use only during the 2004 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all Plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Office of the State Actuary
December 11, 2003 (2:21 pm)

AN ACT Relating to permitting members of the public employees' retirement system plan 2 and plan 3 to buy down the early retirement reduction amounts; amending RCW 41.40.630 and 41.40.820; adding a new section to chapter 41.40 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW under the subchapter heading "plan 2" to read as follows:

(1) A member eligible to retire under RCW 41.40.630(2) or (3) may, at the time of filing a written application for retirement with the department, apply to the department to buy down the early retirement reduction amounts with the department.

(2) A member may buy down all or part of the amount required to fully offset the reduction in benefits that the member is subject to in computing the member's retirement allowance under RCW 41.40.630(2) or (3), as applicable.

(3) Subject to rules adopted by the department, a member buying down the early retirement reduction amounts 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 the lump sum payments, rollovers, and transfers comply with the requirements of the federal internal revenue code and the 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 the tax free rollover treatment or other treatment under federal tax law.

Sec. 2. RCW 41.40.630 and 2000 c 247 s 901 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, 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 sixty-five.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, 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 sixty-five.

<u>(4) The actuarial reduction provided for in subsection (2) of this section and the three percent per year reduction provided for in subsection (3) of this section shall be adjusted for any buy-down of those amounts under section 1 of this act.</u>

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.40 RCW under the subchapter heading "plan 3" to read as follows:

(1) A member eligible to retire under RCW 41.40.820(2) or (3) may, at the time of filing a written application for retirement with the department, apply to the department to buy down the early retirement reduction amounts with the department.

(2) A member may buy down all or part of the amount required to fully offset the reduction in benefits that the member is subject to in computing the member's retirement allowance under RCW 41.40.820(2) or (3), as applicable

(3) Subject to rules adopted by the department, a member buying-down the early retirement reduction amounts 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 the lump sum payments, rollovers, and transfers comply with the requirements of the federal internal revenue code and the 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 the tax free rollover treatment or other treatment under federal tax law.

Sec. 4. RCW 41.40.820 and 2000 c 247 s 309 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or

(c) Completed five service credit years by the transfer payment date specified in RCW 41.40.795, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.40.795;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, 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 sixty-five.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, 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 sixty-five.

(4) The actuarial reduction provided for in subsection (2) of this section and the three percent per year reduction provided for in subsection (3) of this section shall be adjusted for any buy-down of those amounts under section 3 of this act.

NEW SECTION. **Sec. 5.** This act takes effect July 1, 2006.

--- END ---

1 AN ACT Relating to permitting members of the public employees'
2 retirement system plan 2 and plan 3 who qualify for early retirement or
3 alternate early retirement to make a one-time purchase of additional
4 service credit; adding new sections to chapter 41.40 RCW; and providing
5 an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW
8 under the subchapter heading "plan 2" to read as follows:
9 (1) A member eligible to retire under RCW 41.40.630(2) or (3) may,
10 at the time of filing a written application for retirement with the
11 department, apply to the department to make a one-time purchase of up
12 to five years of additional service credit.
13 (2) To purchase additional service credit under this section, a
14 member shall pay the actuarial equivalent value of the resulting
15 increase in the member's benefit.
16 (3) Subject to rules adopted by the department, a member purchasing
17 additional service credit under this section may pay all or part of the
18 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 may not be used to qualify a member for retirement under RCW 41.40.630.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.40 RCW under the subchapter heading "plan 3" to read as follows:

(1) A member eligible to retire under RCW 41.40.820(2) or (3) 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 may not be used to qualify for retirement under RCW 41.40.820.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2006.

--- END ---

Sectional Analysis
Public Safety Employees' Retirement Plan Legislation

(December 15, 2003)

Sections 1 through 4 and 6 through 35 are new sections of a new chapter in Title 41 RCW

1. Intent section – sets forth policy criteria and rationale for new plan.

2. Definition section
   Lists "public safety" employers in 2(4)
   Lists job titles eligible to be included in plan membership in 2(5)

3. System created and administration

4. Membership and exceptions

5. Optional membership
   PERS 2/3 members have the option of joining PSERS or remaining in PERS 2/3.
   PERS 1 members remain in PERS 1.

6. Nonelective position -- Eligible membership

7. Information furnished to the department by employees, appointive and elective officials

8. Post-retirement employment provisions

9. Duty disability retirement recipients – Continued service credit

10. Members agree to deductions

11. Employer's contribution – Computation – Billing

12. Exemption from taxation and judicial process – Exceptions – Assignability – Deductions authorized

13. Disability retirement – Criminal conduct

14. Death benefit – Course of employment – $150,000

15. False statements penalty

16. Hearing prior to appeal required – Notice

17. Hearing prior to appeal – Conduct of hearing

18. Judicial review in accordance with administrative procedure act.

19. Appeal – No bond required.

20. Effect of certain accumulated vacation leave on retirement benefits.

21. Benefit Calculation – Limitation.

22. Post-retirement cost-of-living.

23. Options for payment of retirement allowances – Court-approved property settlement.

24. Suspension of retirement allowance upon reemployment – Exceptions – Reinstatement.

25. Computation of retirement allowance.

26. Lump sum retirement allowance – Reentry – Reinstatement of service.

27. Retirement eligibility
    Normal retirement – Age 65 with 5 years of service.
    Unreduced retirement – Age 60 with 10 years of service (not subject to portability.)
    Early retirement – Age 53 with 20 years of service, 3% early retirement reduction factor.

28. Employer and member contribution rates.

29. Earned disability allowance – Disposition upon death.
    A member with 10 years of service may receive a benefit actuarially reduced from age 60 (not subject to portability.)

A members with less than 10 years of service may receive a benefit actuarially reduced from age 65.

30. Application for and effective date of retirement allowances.

31. Death benefits
    Survivors of a member with less than 10 years of service receive member's contributions plus interest.
    Survivors of a member eligible to retire or with at least 10 years of service receive an actuarially reduced joint and 100% earned benefit.

32. Leaves of absence, military service

33. Vested membership

34. Refund of contributions

35. Reentry

Sections 36 through 41 of the Funding chapter -- RCW 41.45 – were amended to include references to the Public Safety Employees' Retirement System.

36. Intent-Findings-Goals

37. Definitions

38. Contributions and allocations

39. Council adoption of contribution rates

40. Required contribution rates for Plan 2 members

41. Supplemental contribution rates

Sections 42 through 52 amend the Department of Retirement Systems chapter – RCW 41.50 – to include references to the Public Safety Employees' Retirement Plan.

42. Transfer of powers and duties

43. Delegation of powers duties and functions

44. Creation of funds

45. Investment of funds in various systems

46. Administrative expenses paid from the retirement systems expense fund

47. Employer liability for excess compensation

48. Public notice requirements for awarding excess compensation

49. Payment of legal and medical expenses of retirement systems

50. Mandatory assignment of retirement benefits

51. Property division obligations

52. Survivor benefits -- dissolution orders

Other amended sections

53. PERS -- definitions

54. LEOFF 2 -- suspension of benefits upon reemployment

55. TRS 2 -- suspension of benefits upon reemployment

56. SERS -- suspension of benefits upon reemployment

57. PERS 2 -- suspension of benefits upon reemployment

58. Portability chapter -- definitions

59. Portability chapter-- payment of retirement allowance and post retirement adjustment -- death benefit

60. Investment and Interfund Loans chapter -- Deposit of surplus balance investment earnings -- Treasury income account -- Accounts and funds credited

61. TRS 2 post retirement employment

62. TRS 3 post retirement employment

63. PERS post retirement employment

64. SERS post retirement employment

Final New Sections

65. This act takes effect July 1, 2006

66. Benefits not a contractual right prior to effective date of the act.

67. New chapter designation

-- END --

AN ACT Relating to establishing a public safety employees' retirement system plan 2; amending RCW 41.45.010, 41.45.020, 41.45.050, 41.50.030, 41.50.060, 41.50.075, 41.50.080, 41.50.110, 41.50.150, 41.50.152, 41.50.255, 41.50.500, 41.50.670, 41.50.790, 41.40.010, 41.26.500, 41.32.800, 41.35.230, 41.40.690, 41.54.010, 41.54.040, 41.32.802, 41.32.862, and 41.35.060; reenacting and amending RCW 41.45.060, 41.45.061, 41.45.070, 43.84.092, and 41.40.037; adding a new section to chapter 41.40 RCW; adding a new chapter to Title 41 RCW; creating a new section; prescribing penalties; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** It is the intent of the legislature to establish a separate public safety employees' retirement system for those public employees whose jobs contain a high degree of physical risk to their own personal safety and who engage in duties contained in this section. The duties involved in these jobs include providing public protection of lives and property, the authority and power to arrest, conducting criminal investigations, enforcing the criminal laws of the state of Washington, and the authority to carry a firearm as

part of the job. Qualifications and training for these jobs include passage of a civil service examination and completion of the Washington criminal justice training commission basic training course or equivalent. Only those job classes specifically included in section 2(5) of this act by the legislature are public safety employees, and only for service earned after the effective date of the inclusion of that job class in section 2(5) of this act.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Retirement system" means the Washington public safety employees' retirement system provided for in this act.

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

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state liquor control board, county corrections departments, and city corrections departments not covered under chapter 41.28 RCW.

(5) "Member" means any employee employed by an employer on a full-time, fully compensated basis within the following job classes in effect as of January 1, 2004: City corrections officers, jailers, police support officers, custody officers, and bailiffs; county corrections officers, jailers, custody officers, and sheriffs corrections officers; county probation officers and probation counselors; state correctional officers, correctional sergeants, and community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents.

(6)(a) "Compensation earnable" for 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 nonmoney maintenance compensation and lump sum or other

payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

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

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

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by section 10 of this act;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any

calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

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

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "Beneficiary" 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.

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

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under section 35 of this act.

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(20) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(21) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(22) "Eligible position" means any permanent, full-time, fully compensated position included in subsection (5) of this section.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(24) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

(27) "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.

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

(29) "Plan" means the Washington public safety employees' retirement system plan 2.

(30) "Index" means, for any calendar year, that year's annual 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.

(31) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(32) "Index B" means the index for the year prior to index A.

(33) "Adjustment ratio" means the value of index A divided by index B.

(34) "Separation from service" occurs when a person has terminated all employment with an employer.

NEW SECTION. **Sec. 3.** A retirement system is hereby created for public safety employees of the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state liquor control board, county corrections departments, and city corrections departments not covered under chapter 41.28 RCW. The administration and management of the retirement system, the responsibility for making effective the provisions of this chapter, and the authority to make all rules necessary therefor are hereby vested in the department. All rules shall be governed by chapter 34.05 RCW. This retirement system shall be known as the Washington public safety employees' retirement system.

NEW SECTION. **Sec. 4.** Membership in the retirement system shall consist of all regularly compensated public safety employees who are members as defined in section 2(5) of this act, with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members,

previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file on a form supplied by the department a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (2)(b);

(3) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(4) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by employers to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

(5) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession; and

(6) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position.

NEW SECTION. **Sec. 5.** A new section is added to chapter 41.40 RCW to read as follows:

(1) An employee who was a member of the public employees' retirement system plan 2 or plan 3 before July 1, 2006, and on the effective date of this act is employed by an employer as defined in section 2(4) of this act and is an employee in a job class included in section 2(5) of this act, has the following options during the election period:

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

(b) Become a member of the public safety employees' retirement system plan 2. All members will be dual members as provided in chapter 41.54 RCW, and public employees' retirement system service credit may not be transferred to the public safety employees' retirement system plan 2.

(2) The "election period" is the period between July 1, 2006, and September 30, 2006.

(3) During the election period, employees remain members of the public employees' retirement system plan 2 or plan 3 until they elect to join the public safety employees' retirement system. Members who elect to join the public safety employees' retirement system as described in subsection (1) of this section will have their membership begin prospectively from the date of their election.

(4) If after September 30, 2006, the member has not made an election to join the public safety employees' retirement system he or she will remain in the public employees' retirement system plan 2 or plan 3.

(5) An employee who was a member of the public employees' retirement system plan 1 on or before July 1, 2006, and on or after the effective date of this act is employed by an employer as defined in section 2(4) of this act as an employee in a job class included in section 2(5) of this act, shall remain a member of the public employees' retirement system plan 1.

(6) All new employees hired on or after July 1, 2006, who become employed by an employer as defined in section 2(4) of this act as an employee in a job class included in section 2(5) of this act will become members of the public safety employees' retirement system.

NEW SECTION. **Sec. 6.** Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter throughout such period, shall be deemed to have been in an eligible position during such period of employment.

NEW SECTION. **Sec. 7.** Within thirty days after his or her employment or his or her acceptance into membership each employee shall submit to the department a statement of his or her name and such other information as the department shall require. Compliance with this section is a condition of employment and failure by an employee to comply may result in separation from service.

NEW SECTION. **Sec. 8.** (1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-

seven hours per calendar year in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under this chapter, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with this chapter. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

NEW SECTION. **Sec. 9.** Those members subject to this chapter who became disabled in the line of duty 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) 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.

(6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.

(7) 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.

NEW SECTION. **Sec. 10.** The deductions from the compensation of members, provided for in section 28 of this act, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment, less the deductions, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for under this chapter.

NEW SECTION. **Sec. 11.** (1) The director shall report to each employer the contribution rates required for the ensuing biennium or fiscal year, whichever is applicable.

(2) Beginning July 1, 2006, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established in chapter 41.45 RCW to the total compensation earnable of employer's members as shown on the current payrolls of the employer. Each employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill that employer for the employer's contribution together with the charges the director deems appropriate in accordance with RCW 41.50.120. This billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to the employer for payment of current biennial payrolls.

NEW SECTION. **Sec. 12.** (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, 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 other process of law whatsoever, and shall be unassignable.

(2) This section does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section also does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more retired employees have authorized the deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section does 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 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.

NEW SECTION. **Sec. 13.** A member shall not receive a disability retirement benefit under section 29 of this act if the disability is the result of criminal conduct by the member committed after July 1, 2006.

NEW SECTION. **Sec. 14.** (1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or the person or persons, trust, or organization the member has nominated by written designation duly executed and filed with the department. If the designated person or persons are not still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. 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.

NEW SECTION. **Sec. 15.** Any person who knowingly makes any false statements, or falsifies or permits to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such an act, is guilty of a gross misdemeanor.

NEW SECTION. **Sec. 16.** Any person aggrieved by any decision of the department affecting his or her legal rights, duties, or privileges must, before he or she appeals to the courts, file with the director by mail or personally within sixty days from the day the decision was communicated to the person, a notice for a hearing before the director's designee. The notice of hearing shall set forth in full detail the grounds upon which the person considers the decision unjust or unlawful and shall include every issue to be considered by the department, and it must contain a detailed statement of facts upon which the person relies in support of the appeal. These persons shall be deemed to have waived all objections or irregularities concerning the matter on which the appeal is taken, other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system.

NEW SECTION. **Sec. 17.** Following its receipt of a notice for hearing in accordance with section 16 of this act, a hearing shall be held by the director or an authorized representative, in the county of the residence of the claimant at a time and place designated by the director. This hearing shall be conducted and governed in all respects by chapter 34.05 RCW.

NEW SECTION. **Sec. 18.** Judicial review of any final decision and order by the director is governed by chapter 34.05 RCW.

NEW SECTION. **Sec. 19.** A bond of any kind shall not be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the department affecting the claimant's right to retirement or disability benefits.

NEW SECTION. **Sec. 20.** RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter.

NEW SECTION. **Sec. 21.** (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.

NEW SECTION. **Sec. 22.** Beginning July 1, 2006, 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.

NEW SECTION. **Sec. 23.** (1) Upon retirement for service as prescribed in section 27 of this act or retirement for disability under section 29 of this act, a member shall elect to have the retirement allowance paid pursuant to one of 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 the member's life. If the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the retiree nominated by written designation duly executed and filed with the department; or if there is no designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there is neither a designated person or persons still living at the time of death nor a surviving spouse, 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, the 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 person 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, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) 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 consent provisions of (a) of this subsection do not apply.

(3) 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 from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage 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 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 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 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.

(4) 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 section 27 of this act and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal 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 shall be eligible to commence receiving their separate benefit upon reaching the age provided in section 27(1) of this act 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 if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) 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 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.

NEW SECTION. **Sec. 24.** (1) Except as provided in section 8 of this act, a retiree shall not be eligible to receive the retiree's monthly retirement allowance if he or she is employed in an eligible position

as defined in section 2 of this act, or RCW 41.35.010, 41.40.010, or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to section 4(2)(b) of this act is not subject to this section if the retiree's only employment is as an elective official.

(2) 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.

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

NEW SECTION. **Sec. 25.** A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each service credit year of service.

NEW SECTION. **Sec. 26.** (1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary, subject to subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with section 25 of this act would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of the monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A retiree or a beneficiary, subject to 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 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

reretiring, 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 under subsection (3) of this section, reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, 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 section 27 of this act or an earned disability allowance under section 29 of this act 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.

NEW SECTION. **Sec. 27.** (1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to section 25 of this act.

(2) UNREDUCED RETIREMENT. Any member who has completed at least ten service credit years in the public safety employees' retirement system and has attained age sixty shall be eligible to retire and to receive a retirement allowance computed according to section 25 of this act.

(3) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-three shall be eligible to retire and to receive a retirement allowance computed according to section 25 of this act, 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 sixty.

NEW SECTION. **Sec. 28.** The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice

of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan 2 fund from the total employer contributions collected under section 11 of this act.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except under this section. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and the increase shall be announced at least thirty days prior to the effective date of the change.

A member's contributions required by this section shall be deducted from the member's compensation earnable each payroll period. The member's contribution and the employer's contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

NEW SECTION. **Sec. 29.** (1)(a) A member of the retirement system with at least ten years of service in the public safety employees' retirement system who becomes totally incapacitated for continued employment as an employee by an employer, as determined by the department, shall be eligible to receive an allowance under sections 25 through 35 of this act. The member shall receive a monthly disability allowance computed as provided for in section 25 of this act and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty.

(b) A member of the retirement system with less than ten years of service who becomes totally incapacitated for continued employment by an employer, as determined by the department, shall be eligible to receive an allowance under sections 25 through 35 of this act. The

member shall receive a monthly disability allowance computed as provided for in section 25 of this act and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

(2) Any member who receives an allowance under this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(3) If the recipient of a monthly allowance under this section dies before the total of the allowance payments equal the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the recipient has nominated by written designation duly executed and filed with the director. If there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

NEW SECTION. **Sec. 30.** Any member or beneficiary eligible to receive a retirement allowance under section 27, 29, or 31 of this act shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under section 27 of this act shall accrue from the first day of the calendar month immediately following the member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for an allowance pursuant to section 27 of this act, shall accrue from the first day of the calendar month immediately following the qualification.

(3) Disability allowances paid to disabled members under section 29 of this act shall accrue from the first day of the calendar month immediately following the member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under section 31

of this act shall accrue from the first day of the calendar month immediately following the member's death.

NEW SECTION. **Sec. 31.** (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 that member's credit in the retirement system at the time of the 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 the person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the member's accumulated contributions standing to the 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 as if in fact that spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in section 27 of this act, 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 section 23 of this act and, except under subsection (4) of this section, if the member was not eligible for normal retirement at the date of death a further reduction as described in section 27 of this act; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then the child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until the child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's

death, the member's child or children under the age of majority shall receive an allowance, share and share alike, calculated under this section making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) 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.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies and is not survived by a spouse 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 a person or persons, estate, 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 designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) A member who is killed in the course of employment, as determined by the director of the department of labor and industries, is not subject to an actuarial reduction under section 27 of this act. The member's retirement allowance is computed under section 25 of this act.

NEW SECTION. **Sec. 32.** (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 sections 25 through 35 of this act.

(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 compensation earnable 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 (4) 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. This credit may be obtained only if:

(a) The member makes both the employer and member 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; or

(b) If not within five years of resumption of service but prior to retirement, pay the amount required under RCW 41.50.165(2).

The contributions required under (a) of this subsection shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces 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 United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under section 28 of this act 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).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit

and shall bill the employer for its contribution required under section 28 of this act for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) 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.

NEW SECTION. **Sec. 33.** A member who separates or has separated after having completed at least five years of service may remain a member during the period of the member's absence from service for the exclusive purpose only of receiving a retirement allowance under section 27 of this act if the member maintains the member's accumulated contributions intact.

NEW SECTION. **Sec. 34.** A member 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. 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 sections 25 through 35 of this act.

NEW SECTION. **Sec. 35.** (1) A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of 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.

Sec. 36. RCW 41.45.010 and 2002 c 26 s 3 are each amended to read as follows:

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement systems, chapter 41.26 RCW; the school employees' retirement system, chapter 41.35 RCW; the public safety employees' retirement system, chapter 41.-- RCW (sections 1 through 4 and 6 through 35 of this act); and the Washington state patrol retirement system, chapter 43.43 RCW.

The legislature finds that the funding status of the state retirement systems has improved dramatically since 1989. Because of the big reduction in unfunded pension liabilities, it is now prudent to adjust the long-term economic assumptions that are used in the actuarial studies conducted by the state actuary. The legislature finds that it is reasonable to increase the salary growth assumption in light of Initiative Measure No. 732, to increase the investment return assumption in light of the asset allocation policies and historical returns of the state investment board, and to reestablish June 30, 2024, as the target date to achieve full funding of all liabilities in the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1.

The funding process established by this chapter is intended to achieve the following goals:

(1) To ((~~continue to~~)) fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the law enforcement officers' and fire fighters' retirement system plan 2 as provided by law;

(2) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1, not later than June 30, 2024;

(3) To establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets; and

(4) To fund, to the extent feasible, benefit increases for plan 1 members and all benefits for plan 2 and 3 members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

Sec. 37. RCW 41.45.020 and 2003 c 295 s 8 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the pension funding council created in RCW 41.45.100.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan 1" and "law enforcement officers' and fire fighters' retirement system plan 2" means the benefits and funding provisions under chapter 41.26 RCW.

(4) "Public employees' retirement system plan 1," "public employees' retirement system plan 2," and "public employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan 1," "teachers' retirement system plan 2," and "teachers' retirement system plan 3" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "School employees' retirement system plan 2" and "school employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.35 RCW.

(7) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(8) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(9) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(10) "State retirement systems" means the retirement systems listed in RCW 41.50.030.

(11) "Classified employee" means a member of the Washington school employees' retirement system plan 2 or plan 3 as defined in RCW 41.35.010.

(12) "Teacher" means a member of the teachers' retirement system as defined in RCW 41.32.010(15).

(13) "Select committee" means the select committee on pension policy created in RCW 41.04.276.

(14) "Public safety employees' retirement system plan 2" means the benefits and funding provisions established under chapter 41.-- RCW (sections 1 through 4 and 6 through 35 of this act).

Sec. 38. RCW 41.45.050 and 2002 c 26 s 5 are each amended to read as follows:

(1) Employers of members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the public safety employees' retirement system, and the Washington state patrol retirement system shall make contributions to those systems based on the rates established in RCW 41.45.060((~~, 41.45.053,~~)) and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and fire fighters' retirement system plan 2 based on the rates established in RCW 41.45.060((~~, 41.45.053,~~)) and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and fire fighters' retirement system plan 2, using the combined rates established in RCW 41.45.060((~~, 41.45.053,~~)) and 41.45.070 regardless of the level of appropriation provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(4) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement

system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the public employees' retirement system combined plan 2 and plan 3 employer contribution shall first be deposited in the public employees' retirement system combined plan 2 and plan 3 fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(5) The contributions received for the teachers' retirement system shall be allocated between the plan 1 fund and the combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan 1 fund.

(6) The contributions received for the school employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the school employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining school employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(7) The contributions received for the law enforcement officers' and fire fighters' retirement system plan 2 shall be deposited in the law enforcement officers' and fire fighters' retirement system plan 2 fund.

<u>(8) The contributions received for the public safety employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the public safety employees' retirement system plan 2 fund as follows: The contributions necessary to fully fund the plan 2 employer contribution shall first be deposited in the plan 2 fund. All remaining public safety employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.</u>

Sec. 39. RCW 41.45.060 and 2003 c 294 s 10 and 2003 c 92 s 3 are each reenacted and amended to read as follows:

(1) The state actuary shall provide actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted by the council under RCW 41.45.030 or 41.45.035.

(2) Not later than September 30, 2002, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system to be used in the ensuing biennial period; and

(c) A basic employer contribution rate for the school employees' retirement system <u>and the public safety employees' retirement system</u> for funding both ((~~that~~)) <u>those</u> system<u>s</u> and the public employees' retirement system plan 1.

The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1 not later than June 30, 2024; and

(b) To ((~~also continue to~~)) fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, <u>the public safety employees' retirement system plan 2,</u> and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate and a Washington state patrol retirement system contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

(6) ((~~The director of the department of retirement systems shall collect the rates established in RCW 41.45.053 through June 30, 2003. Thereafter,~~)) The director shall collect those rates adopted by the council. The rates established in RCW ((~~41.45.053~~)) 41.45.054, or by the council, shall be subject to revision by the ((~~council~~)) legislature.

Sec. 40. RCW 41.45.061 and 2001 2nd sp.s. c 11 s 13, 2001 2nd sp.s. c 11 s 12, and 2001 c 180 s 1 are each reenacted and amended to read as follows:

(1) The required contribution rate for members of the plan 2 teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, 1997, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan 2 and 3 rates adopted under RCW 41.45.060, ((~~41.45.053~~)) 41.45.054, and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after July 1, 1996;

(c) In addition, the employee contribution rate for plan 2 shall not be increased as a result of any distributions pursuant to section 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

(2) The required contribution rate for members of the school employees' retirement system plan 2 shall equal the school employees' retirement system employer plan 2 and 3 contribution rate adopted under RCW 41.45.060, ((~~41.45.053~~)) 41.45.054, and 41.45.070, except as provided in subsection (3) of this section.

(3) The member contribution rate for the school employees' retirement system plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after September 1, 2000.

(4) The required contribution rate for members of the public employees' retirement system plan 2 shall be set at the same rate as the employer combined plan 2 and plan 3 rate.

(5) The required contribution rate for members of the law enforcement officers' and fire fighters' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

(6) The employee contribution rates for plan 2 under subsections (3) and (4) of this section shall not include any increase as a result of any distributions pursuant to RCW 41.31A.020 and 41.31A.030.

(7) The required plan 2 and 3 contribution rates for employers shall be adopted in the manner described in RCW 41.45.060, ((~~41.45.053~~)) 41.45.054, and 41.45.070.

(8) The required contribution rate for members of the public safety employees' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

Sec. 41. RCW 41.45.070 and 2003 1st sp.s. c 11 s 3 and 2003 c 92 s 5 are each reenacted and amended to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or 41.45.054, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, public safety employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsections (6) and (7) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic member, employer, and state contribution rate established in RCW 41.45.0604 for the law enforcement officers' and fire fighters' retirement system plan 2, the department shall also establish supplemental rates to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system plan 2. Except as provided in subsection (6) of this section, these supplemental rates shall be calculated by the actuary retained by the law enforcement officers' and fire fighters' board and the state actuary through the

process provided in RCW 41.26.720(1)(a) and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan 2 and plan 3, the teachers' retirement system plan 2 and plan 3, <u>the public safety employees' retirement system plan 2,</u> or the school employees' retirement system plan 2 and plan 3 shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

Sec. 42. RCW 41.50.030 and 1998 c 341 s 501 are each amended to read as follows:

(1) As soon as possible but not more than one hundred and eighty days after March 19, 1976, there is transferred to the department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

(a) The Washington public employees' retirement system;

(b) The Washington state teachers' retirement system;

(c) The Washington law enforcement officers' and fire fighters' retirement system;

(d) The Washington state patrol retirement system;

(e) The Washington judicial retirement system; and

(f) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

(2) On July 1, 1996, there is transferred to the department all powers, duties, and functions of the deferred compensation committee.

(3) The department shall administer chapter 41.34 RCW.

(4) The department shall administer the Washington school employees' retirement system created under chapter 41.35 RCW.

<u>(5) The department shall administer the Washington public safety employees' retirement system created under chapter 41.-- RCW (sections 1 through 4 and 6 through 35 of this act).</u>

Sec. 43. RCW 41.50.060 and 1998 c 341 s 502 are each amended to read as follows:

The director may delegate the performance of such powers, duties, and functions, other than those relating to rule making, to employees of the department, but the director shall remain and be responsible for the official acts of the employees of the department.

The director shall be responsible for the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the judicial retirement system, the law enforcement officers' and fire fighters' retirement system, <u>the public safety employees' retirement system,</u> and the Washington state patrol retirement system. The director shall also be responsible for the deferred compensation program.

Sec. 44. RCW 41.50.075 and 2000 c 247 s 601 are each amended to read as follows:

(1) Two funds are hereby created and established in the state

treasury to be known as the Washington law enforcement officers' and fire fighters' system plan 1 retirement fund, and the Washington law enforcement officers' and fire fighters' system plan 2 retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan 1, and the plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan 2.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan 1 fund and the teachers' retirement system combined plan 2 and 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 1, and the combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 2 and 3.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan 1, and the combined plan 2 and plan 3 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plans 2 and 3.

(4) There is hereby established in the state treasury the school employees' retirement system combined plan 2 and 3 fund. The combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the school employees' retirement system plan 2 and plan 3.

<u>(5) There is hereby established in the state treasury the public safety employees' retirement system plan 2 fund. The plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the public safety employees' retirement system plan 2.</u>

Sec. 45. RCW 41.50.080 and 1998 c 341 s 504 are each amended to read as follows:

The state investment board shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the Washington public safety employees' retirement system, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority.

Sec. 46. RCW 41.50.110 and 2003 1st sp.s. c 25 s 914 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department, the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, 41.-- (sections 1 through 4 and 6 through 35 of this act), 43.43, and 44.44 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall

be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

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

(6) Expenses other than those under RCW 41.34.060(3) shall be paid pursuant to subsection (1) of this section.

(7) During the 2003-2005 fiscal biennium, the legislature may transfer from the department of retirement systems' expense fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 47. RCW 41.50.150 and 1998 c 341 s 509 are each amended to read as follows:

(1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost using the same method and procedure as is used in preparing fiscal note

costs for the legislature. However, the director may in the director's discretion decline to bill the employer if the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.

(2) "Excess compensation," as used in this section, includes the following payments, if used in the calculation of the employee's retirement allowance:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means:

(i) Any payment in lieu of an accrual of annual leave; or

(ii) Any payment added to salary or wages, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance to the extent that payment qualifies as reportable compensation in the member's retirement system;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular daily or hourly rate of pay; and

(e) Any termination or severance payment.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984. Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35, 41.-- (sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department.

Sec. 48. RCW 41.50.152 and 1998 c 341 s 510 are each amended to read as follows:

(1) Except as limited by subsection (3) of this section, the governing body of an employer under chapter 41.32, 41.35, 41.-- (sections 1 through 4 and 6 through 35 of this act), or 41.40 RCW shall

comply with the provisions of subsection (2) of this section prior to executing a contract or collective bargaining agreement with members under chapter 41.32, 41.35, 41.-- (sections 1 through 4 and 6 through 35 of this act), or 41.40 RCW which provides for:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means any payment in lieu of an accrual of annual leave or any payment added to regular salary, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular rate of pay; or

(e) Any other termination or severance payment.

(2) Any governing body entering into a contract that includes a compensation provision listed in subsection (1) of this section shall do so only after public notice in compliance with the open public meetings act, chapter 42.30 RCW. This notification requirement may be accomplished as part of the approval process for adopting a contract in whole, and does not require separate or additional open public meetings. At the public meeting, full disclosure shall be made of the nature of the proposed compensation provision, and the employer's estimate of the excess compensation billings under RCW 41.50.150 that the employing entity would have to pay as a result of the proposed compensation provision. The employer shall notify the department of its compliance with this section at the time the department bills the employer under RCW 41.50.150 for the pension impact of compensation provisions listed in subsection (1) of this section that are adopted after July 23, 1995.

(3) The requirements of subsection (2) of this section shall not apply to the adoption of a compensation provision listed in subsection (1) of this section if the compensation would not be includable in calculating benefits under chapter 41.32, 41.35, 41.-- (sections 1 through 4 and 6 through 35 of this act), or 41.40 RCW for the employees covered by the compensation provision.

Sec. 49. RCW 41.50.255 and 1998 c 341 s 511 are each amended to read as follows:

The director is authorized to pay from the interest earnings of the trust funds of the public employees' retirement system, the teachers' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the judges' retirement system, the school ((~~district~~)) employees' retirement system, the public safety employees' retirement system, or the law enforcement officers' and fire fighters' retirement system lawful obligations of the appropriate system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the appropriate trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

The director may also pay from the interest earnings of the trust funds specified in this section costs incurred in investigating fraud and collecting overpayments, including expenses incurred to review and investigate cases of possible fraud against the trust funds and collection agency fees and other costs incurred in recovering overpayments. Recovered funds must be returned to the appropriate trust funds.

Sec. 50. RCW 41.50.500 and 2000 c 247 s 603 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.50.500 through 41.50.650, 41.50.670 through 41.50.720, and 26.09.138.

(1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.

(2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld. The term "required by law to be withheld" does not include any deduction elective to the member.

(3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.

(4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to RCW 41.50.570 to withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35, 41.-- (sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW.

(5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.

(6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.

(7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.

(8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.

(9) "Standard allowance" means a benefit payment option selected under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a), 41.40.188(1)(a), 41.40.660(1), 41.40.845(1)(a), section 23 of this act, or 41.35.220 that ceases upon the death of the retiree. Standard allowance also means the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW. Standard allowance also means the maximum retirement allowance available under RCW 41.32.530(1) following member withdrawal of accumulated contributions, if any.

(10) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's

accumulated contributions, including accrued interest, at the request of the member including any lump sum amount paid upon the death of the member.

Sec. 51. RCW 41.50.670 and 2002 c 158 s 5 are each amended to read as follows:

(1) Nothing in this chapter regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an obligee to direct payments of retirement benefits to satisfy a property division obligation ordered pursuant to a court decree of dissolution or legal separation or any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation as provided in RCW 2.10.180, 2.12.090, ((~~41.04.310, 41.04.320, 41.04.330,~~)) 41.26.053, 41.26.162, 41.32.052, 41.35.100, 41.34.070(4), 41.40.052, 43.43.310, section 12 of this act, or 26.09.138, as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991. The department shall pay benefits under this chapter in a lump sum or as a portion of periodic retirement payments as expressly provided by the dissolution order. A dissolution order may not order the department to pay a periodic retirement payment or lump sum unless that payment is specifically authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.32, 41.35, 41.34, 41.40, 41.-- (sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW, as applicable.

(2) The department shall pay directly to an obligee the amount of periodic retirement payments or lump sum payment, as appropriate, specified in the dissolution order if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states in the following form:

If . . . . . (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to . . . . . (the obligee) . . . . . dollars from such payments or . . . percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If . . . . . (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to . . . . . (the obligee) . . . . . dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

(3) This section does not require a member to select a standard allowance upon retirement nor does it require the department to recalculate the amount of a retiree's periodic retirement payment based on a change in survivor option.

(4) A court order under this section may not order the department to pay more than seventy-five percent of an obligor's periodic retirement payment to an obligee.

(5) Persons whose court decrees were entered between July 1, 1987, and July 28, 1991, shall also be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders comply or are modified to comply with this section and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.053, 41.32.052, 41.35.100, 41.34.070, 41.40.052, 43.43.310, <u>section 12 of this act,</u> and 26.09.138.

(6) The obligee must file a copy of the dissolution order with the department within ninety days of that order's entry with the court of record.

(7) A division of benefits pursuant to a dissolution order under this section shall be based upon the obligor's gross benefit prior to any deductions. If the department is required to withhold a portion of the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of that amount plus the amount owed to the obligee exceeds the total benefit, the department shall satisfy the withholding requirements under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee. The provisions of this subsection do not apply to amounts withheld pursuant to 26 U.S.C. Sec. 3402(i).

Sec. 52. RCW 41.50.790 and 2002 c 26 s 8 are each amended to read as follows:

(1) The department shall designate an obligee as a survivor beneficiary of a member under RCW 2.10.146, 41.26.460, 41.32.530,

41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, section 23 of this act, or 41.40.845 if the department has been served by registered or certified mail with a dissolution order as defined in RCW 41.50.500 at least thirty days prior to the member's retirement. The department's duty to comply with the dissolution order arises only if the order contains a provision that states in substantially the following form:

> When . . . . . (the obligor) applies for retirement the department shall designate . . . . . (the obligee) as survivor beneficiary with a . . . . . survivor benefit.

The survivor benefit designated in the dissolution order must be consistent with the survivor benefit options authorized by statute or administrative rule.

(2) The obligee's entitlement to a survivor benefit pursuant to a dissolution order filed with the department in compliance with subsection (1) of this section shall cease upon the death of the obligee.

(3)(a) A subsequent dissolution order may order the department to divide a survivor benefit between a survivor beneficiary and an alternate payee. In order to divide a survivor benefit between more than one payee, the dissolution order must:

(i) Be ordered by a court of competent jurisdiction following notice to the survivor beneficiary;

(ii) Contain a provision that complies with subsection (1) of this section designating the survivor beneficiary;

(iii) Contain a provision clearly identifying the alternate payee or payees; and

(iv) Specify the proportional division of the benefit between the survivor beneficiary and the alternate payee or payees.

(b) The department will calculate actuarial adjustment for the court-ordered survivor benefit based upon the life of the survivor beneficiary.

(c) If the survivor beneficiary dies, the department shall terminate the benefit. If the alternate payee predeceases the survivor beneficiary, all entitlement of the alternate payee to a benefit ceases and the entire benefit will revert to the survivor beneficiary.

(d) For purposes of this section, "survivor beneficiary" means:

(i) The obligee designated in the provision of dissolution filed in compliance with subsection (1) of this section; or

(ii) In the event of more than one dissolution order, the obligee named in the first decree of dissolution received by the department.

(e) For purposes of this section, "alternate payee" means a person, other than the survivor beneficiary, who is granted a percentage of a survivor benefit pursuant to a dissolution order.

(4) The department shall under no circumstances be held liable for not designating an obligee as a survivor beneficiary under subsection (1) of this section if the dissolution order or amendment thereto is not served on the department by registered or certified mail at least thirty days prior to the member's retirement.

(5) If a dissolution order directing designation of a survivor beneficiary has been previously filed with the department in compliance with this section, no additional obligation shall arise on the part of the department upon filing of a subsequent dissolution order unless the subsequent dissolution order:

(a) Specifically amends or supersedes the dissolution order already on file with the department; and

(b) Is filed with the department by registered or certified mail at least thirty days prior to the member's retirement.

(6) The department shall designate a court-ordered survivor beneficiary pursuant to a dissolution order filed with the department before June 6, 1996, only if the order:

(a) Specifically directs the member or department to make such selection;

(b) Specifies the survivor option to be selected; and

(c) The member retires after June 6, 1996.

Sec. 53. RCW 41.40.010 and 2003 c 412 s 4 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

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

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951,

provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been

received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 and plan 3 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 nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the

individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

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

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

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the

computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less

than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 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.

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

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account,

including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant

thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

(31) "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.

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

(33) "Plan 1" means the public employees' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan 2" means the public employees' 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, and are not included in plan 3.

(35) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(36) "Index" means, for any calendar year, that year's annual 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.

(37) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(38) "Index B" means the index for the year prior to index A.

(39) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(40) "Adjustment ratio" means the value of index A divided by index B.

(41) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination.

(43) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

Sec. 54. RCW 41.26.500 and 1998 c 341 s 604 are each amended to read as follows:

(1) No retiree under the provisions of plan 2 shall 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, <u>section 2 of this act,</u> or 41.35.010, or as a law enforcement officer or fire fighter 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.

Sec. 55. RCW 41.32.800 and 1998 c 341 s 605 are each amended to read as follows:

(1) Except as provided in RCW 41.32.802, no retiree under the provisions of plan 2 shall 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, section 2 of this act, or 41.35.010, or as a law enforcement officer or fire fighter 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.

Sec. 56. RCW 41.35.230 and 1998 c 341 s 24 are each amended to read as follows:

(1) Except as provided in RCW 41.35.060, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.35.010, ((~~RCW~~)) 41.40.010, section 2 of this act, or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official.

(2) 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.

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

Sec. 57. RCW 41.40.690 and 1998 c 341 s 606 are each amended to read as follows:

(1) Except as provided in RCW 41.40.037, no retiree under the provisions of plan 2 shall 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, section 2 of this act, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town.

(2) 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.

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

Sec. 58. RCW 41.54.010 and 1998 c 341 s 702 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of the department of retirement systems.

(4) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or

disability leave benefit from any retirement system listed in RCW 41.50.030 or subsection (6) of this section.

(5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW 41.54.030, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, 41.35, 41.-- (sections 1 through 4 and 6 through 35 of this act), and 43.43 RCW; plan 2 of the system established under chapter 41.26 RCW; and the city employee retirement systems for Seattle, Tacoma, and Spokane. ((~~The inclusion of an individual first class city system is subject to the procedure set forth in RCW 41.54.061.~~))

Sec. 59. RCW 41.54.040 and 1998 c 341 s 704 are each amended to read as follows:

(1) The allowances calculated under RCW 41.54.030, 41.54.032, and 41.54.034 shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, 41.35, 41.-- (sections 1 through 4 and 6 through 35 of this act), or 43.43 RCW; service in plan 2 of the system established under chapter 41.26 RCW; and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the retirement system incurring the additional cost.

Sec. 60. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state

treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction

account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers'

relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 61. RCW 41.32.802 and 2001 2nd sp.s. c 10 s 8 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, <u>section 2 of this act,</u> or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

Sec. 62. RCW 41.32.862 and 2001 2nd sp.s. c 10 s 10 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, section 2 of this act, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

Sec. 63. RCW 41.40.037 and 2003 c 412 s 5 and 2003 c 295 s 7 are each reenacted and amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

(b) A retiree from plan 1 who enters employment with an employer at least three calendar months after his or her accrual date and:

(i) Is hired into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, the legislative transportation committee, the joint committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired prior to July 27, 2003, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, <u>section 2 of this act,</u> or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

Sec. 64. RCW 41.35.060 and 2001 2nd sp.s. c 10 s 11 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, <u>section 2 of this act,</u> or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, he or she terminates his or her retirement status and

becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.35.420 or 41.35.680. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

NEW SECTION. **Sec. 65.** This act takes effect July 1, 2006.

NEW SECTION. **Sec. 66.** The benefits provided pursuant to this act are not provided to employees as a matter of contractual right prior to July 1, 2006. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 2006.

NEW SECTION. **Sec. 67.** Sections 1 through 4 and 6 through 35 of this act constitute a new chapter in Title 41 RCW.

--- END ---

Mandatory Retirement Age in State Patrol

(December 10, 2003)

Issue

Increase the mandatory retirement age in the Washington State Patrol Retirement System (WSPRS) from 60 to 65.

Staff

Laura Harper, (360) 586-7616

Members Impacted

Any of the 1,035 active members of the WSPRS could be impacted by such a change, as these members would be given the choice to work beyond age 60. Since 1997, however, the median retirement age for this plan has been 52. Five members have retired at age 60 since 1997. Currently there are eleven active members who are projected to be age 58 or greater by June 30, 2004.

Current Situation

All members of the Washington State Patrol Retirement System are required to retire at age 60, except the Chief, who may serve until age 65.

History

This proposal comes from the Washington State Patrol Troopers Association. The same proposal was introduced in the 2003 session as HB 1323. The bill did not move out of committee.

Policy Analysis

The Washington State Patrol Retirement System is the only open state-administered system in Washington with a mandatory retirement age. The only other plans administered by the State that have mandatory retirement are the Judges and Judicial plans. The Judges plan closed to new members in 1971 and the Judicial plan closed to new members in 1988. In both plans

mandatory retirement is constitutionally required at age 75. The other public safety-related plans in Washington are the Law Enforcement Officers' and Firefighters' (LEOFF) plans. Neither LEOFF 1 or LEOFF 2 have mandatory retirement ages.

A number of state retirement systems for highway patrol members have included a mandatory retirement age in their plan provisions: in New Jersey and Ohio the mandatory retirement age is 55; in California, Minnesota, Missouri, and Nebraska it is age 60; and in Wyoming it is age 65. Some states have repealed the mandatory retirement age for highway patrol members. Those states include South Carolina and Utah, with former mandatory retirement ages of 62, and Massachusetts with a former mandatory retirement age of 55.

Stakeholder Input

See Attachment from the Washington State Patrol Troopers Association dated September 16, 2003 and attachment from the Washington State Patrol dated December 9, 2003.

Options

Only one option is proposed: to increase the mandatory retirement age for members of the WSPRS from 60 to 65.

Administrative Impact (DRS)

Input requested.

Executive Committee Recommendation

On November 18, 2003, this matter was recommended for consideration by the Executive Committee of the Select Committee on Pension Policy.

Bill Draft

See attachment.

Fiscal Note (Draft)

See attachment.

WASHINGTON STATE PATROL TROOPERS ASSOCIATION

200 UNION AVE. SE STE. 200 , OLYMPIA, WASHINGTON 98501 (360) 704-7530 FAX (360) 704-7527

September 16, 2003

The Honorable Chair & Members
Select Committee on Pension Policy
2420 Bristol Court SW, Suite 101
Olympia, WA 98504

Dear Members,

On behalf of the active and retired members of the Washington State Patrol Troopers Association the follow are issues relating to the Washington State Patrol Retirement Systems Plan 1 and Plan 2 that we would like addressed by the Select Committee for 2004 Legislative consideration.

1. During the 2003 Legislative Session HB 1323, an act relating to the mandatory retirement age of WSPRS Plan 1 and Plan 2, was introduced and presented to the House Appropriations Committee. The bill extends the current mandatory retirement from age 60 to age 65. Both WSPRS 1 & 2 are service-based systems allowing for a retirement benefit after 25 years of service. The age 60 mandatory limit was established when Plan 1 had an age 30-entry limit. That limit was removed many years ago and as a result officers have been hired at ages over 30 and in some cases over 40, not allowing the member to serve 25 years before mandatory retirement. We feel the time has come to extend the mandatory limit to age 65.
2. The 2003 Legislature passed HB 1519, an act relating to death benefits for members of TRS, School Employees' Retirement System, and PERS. The new law provides for a survivor benefit paid to a survivor of a member killed in the "course of employment that is subject to an early retirement actuarial reduction. We propose that this same benefit be applied to members of WSPRS Plan 2. Currently the Death in Service Survivor Benefit for State Patrol Officers in Plan 2 with less than 10 years service the beneficiary receives only accumulated contributions to the system. The beneficiaries of officers killed in the line of duty should be provided with a benefit that is not actuarially reduced or a lump sum of contributions, but a monthly benefit as provided in HB 1519 or identical to that provided to WSPRS Plan 1 members.

Your attention to these issues will be greatly appreciated.

Sincerely,

Robert C. Thurston
President

CC: Rick Jensen, Governmental Affairs

STATE OF WASHINGTON
WASHINGTON STATE PATROL
General Administration Building, PO Box 42600 • Olympia, Washington 98504-2600 • (360) 753-6540

December 9, 2003

Representative Steve Conway, Chair
Select Committee on Pension Policy
PO Box 40914
Olympia WA 98504-0914

Dear Representative Conway:

Thank you for your December 3 letter regarding the proposal by the Washington State Patrol Troopers Association to change the mandatory retirement age from 60 to 65. As you know, my staff testified at the November hearing that we are neutral but have concerns on this issue.

Our concerns have to do with the fact that we don't see a compelling, public safety reason to change the current retirement age. As you may know, Washington State Patrol Retirement System (WSPRS) employees become "vested" for a retirement benefit after five years of service, and can collect that full benefit at age 60. After 25 years of service, WSPRS employees can retire with full benefits, irrespective of age, the 25 year mark tends to be the point at which many employees will end their career. Of our current commissioned staff, almost 92% will reach 25 years of service before age 60, less than 2% will reach 25 years of service at age 60, and less than 7% would retire at age 60 with less than 25 years of service, as follows:

	Employees	Percent
Eligible to retire with 25 yrs of service prior to 60 YOA	988	91.8%
Retire with 25 yrs of service at 60 YOA	17	1.6%
Retire with less than 25 yrs of service at 60 YOA	71	6.6%
Totals	**1,076**	**100.0%**

Although it is noted that individuals can work past 25 years of service in the WSPRS and earn additional retirement credit, our experience for the past six years has indicated that, on average, one person per year has worked to age 60 then retired. Our average age at retirement in WSPRS is 52.2 years of age and our median age at retirement is 52.3 years of age.

Based on this analysis, it seems that this bill would only benefit one person per year, if they so choose to continue to work after being retirement-eligible. Consequently, I recommend that this proposed bill not move forward as there is no demonstrable benefit to public safety.

Sincerely,

CHIEF RONAL W. SERPAS

RWS:cf
cc: Senator Shirley Winsley
Mr. Matthew M. Smith, Office of the State Actuary
Mr. Robert C. Thurston, President, WSPTA
Captain Glenn M. Cramer, Government and Media Relations
Mr. Robert L. Maki, Budget and Fiscal Services
Ms. Diane C. Perry, Management Services Bureau

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/09/03**	**Z-0891.1/04**

SUMMARY OF BILL:

This bill impacts the Washington State Patrol Retirement System (WSPRS) by increasing the mandatory retirement age from 60 to 65.

Effective Date: 90 days after session.

CURRENT SITUATION:

Currently, members of the WSPRS must retire at 60 years of age. Only the Chief of the Washington State Patrol may serve after age 60. The WSPRS is the only open state-administered retirement system that has a mandatory retirement age.

Plan 1 members who retire with at least 25 years of service are eligible for up to 5 years of prior military service.

MEMBERS IMPACTED:

We estimate that any of 1,035 active members of this system could be affected by this bill if they choose to work beyond age 60.

This bill would also allow active Plan 1 members who will complete 25 years of service after age 60 (current mandatory retirement age) to earn prior military service credit if eligible.

FISCAL IMPACT:

Currently few members work to age 60. In most cases, the actuarial present value of an unreduced pension at age 60 is greater than the value of an increased pension benefit commencing after age 60 (increased for salary and service beyond age 60).

Actuarial Determinations:

The bill will impact the actuarial funding of the system by <u>decreasing</u> the present value of benefits payable under the System (for existing members impacted by this bill) and the required actuarial contribution rate as shown below:

(Dollars in Millions)	Washington State Patrol Retirement System: Current	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	$686	$(2)	$684
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	N/A	N/A	N/A
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	$(180)	$(2)	$(182)
Required Contribution Rate	(3.03)%	**(.22)%**	(3.25)%

Fiscal Budget Determinations:

While there in no impact while the plan remains fully funded, below we show the change in the projected contributions starting when the plan is no longer expected to be fully funded (based on a 13.6% rate of investment return through August 31, 2003 and assuming an annual return on the Market Value of assets of 8% thereafter).

Costs (in Millions):

2004-2005	
State:	
General Fund	$0.000
Non-General Fund	0.000
Total State	**$0.000**
Local Government	$0.000
Total Employer	$0.000
Total Employee	$0.000
2005-2007	
State:	
General Fund	$(0.013)
Non-General Fund	(0.211)
Total State	**$(0.224)**
Local Government	$0.000
Total Employer	$(0.224)
Total Employee	$(0.224)
2004-2029	
State:	
General Fund	$(0.196)
Non-General Fund	(3.077)
Total State	**$(3.273)**
Local Government	$0.000
Total Employer	$(3.273)
Total Employee	$(3.273)

State Actuary's Comments:

Predicting when a plan might come out of full funding is rather difficult. The effect of the proposed plan change is more predictable, once the plan is no longer fully funded. The above costs are based on one projection of costs which shows the plan to emerge from a fully funded status with our next valuation (9/30/03) which is the basis for the recommended 2005-2007 contribution rates. We have estimated the actual rate of investment return for the period 10/1/2002 through 8/31/03 at 13.6%. The return on assets usually has the most significant impact on the plan's funding status from one year to the next.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2002 actuarial valuation report of the Washington State Patrol Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

   The retirement rates for LEOFF 2 were used for ages 60 to 65: (33% for age 60, 37% for ages 61 to 63, 48% age 64, 100% for age 65)

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.

5. This fiscal note is intended for use only during the 2004 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

Projected Benefits: Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

AN ACT Relating to establishing the retirement age for members of the Washington state patrol retirement system; and amending RCW 43.43.250.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 43.43.250 and 1982 1st ex.s. c 52 s 26 are each amended to read as follows:

(1)(a) Until July 1, 2004, 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~~)) the member ((~~shall have~~)) has attained the age of sixty((~~: PROVIDED, That~~)). However, the requirement to retire at age sixty ((~~shall~~)) does not apply to a member serving as chief of the Washington state patrol.

(b) Beginning July 1, 2004, any active member who has obtained the age of sixty-five years shall be retired on the first day of the calendar month next succeeding that in which the member has attained the age of sixty-five. However, the requirement to retire at age sixty-five does not apply to a member serving as chief of the Washington state patrol.

(2) Any member who has completed twenty-five years of credited service or has attained the age of fifty-five may apply to retire as provided in RCW 43.43.260, by completing and submitting an application form to the department, setting forth at what time the member desires to be retired.

--- END ---

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

Representative Gary Alexander

Elaine M. Banks
TRS Retirees

Marty Brown, Director
Office of Financial Management

Senator Don Carlson

John Charles, Director*
Department of Retirement Systems

Representative Steve Conway*
Chair

Richard Ford
PERS Retirees

Senator Karen Fraser

Representative Bill Fromhold

Leland A. Goeke*
TRS and SERS Employers

Bob Keller
PERS Actives

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Glenn Olson
PERS Employers

Representative Cheryl Pflug

Diane Rae
TRS Actives

Senator Debbie Regala

J. Pat Thompson*
PERS Actives

David Westberg
SERS Actives

Senator Shirley Winsley*
Vice Chair

***Executive Committee**

December 3, 2003

Mr. Ronal Serpas, Chief
Washington State Patrol
P.O. Box 42601
Olympia, Washington 98504-2601

RE: PROPOSAL TO CHANGE MANDATORY RETIREMENT AGE

Dear Chief Serpas:

We are writing you on behalf of the Select Committee on Pension Policy (SCPP) to solicit your input for our Executive Committee meeting scheduled for December 16, 2003. The issue before us is whether to increase the mandatory retirement age in the Washington State Patrol Retirement System from 60 to 65. This issue was brought to the Committee by the Washington State Patrol Troopers Association, and was introduced in the 2003 session as HB 1323. This proposal has been renewed during the 2003 interim and the Select Committee on Pension Policy heard it again on November 18, 2003. At that time, the Executive Committee for the SCPP deferred action on the measure until its December meeting.

One of the reasons for deferring this matter was to provide an opportunity for your office to give more definitive input on the proposal. We were advised at our last meeting that you are "neutral" on this issue. We would very much appreciate hearing your analysis and recommendations on behalf of the Washington State Patrol, and are requesting that you provide us with a written response by no later than December 9, 2003. Please provide a copy to the Office of the State Actuary (OSA) so that your response can be included in the materials that are compiled by that office for our committee meetings.

We would also appreciate your attendance at our Executive Committee meeting on December 16, 2003. Please contact Sandra Granger in the OSA in order to get more specific information as to the timing of this agenda item. Thank you for the important job you are doing for the State of Washington, and we look forward to hearing from you.

Sincerely,

Representative Steve Conway, Chair
Select Committee on Pension Policy

Senator Shirley Winsley, Vice-Chair
Select Committee on Pension Policy

(360) 753-9144
Fax: (360) 586-8135
TDD: 1-800-635-9993

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