

on the close of business of the last day of each calendar quarter shall be immediately transferred to this state's account in the unemployment trust fund. Moneys available in the administrative contingency fund shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary for:

(a) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(b) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

NEW SECTION. Sec. 25. The provisions of section 11 of this 1977 amendatory act shall apply to the week ending May 21, 1977, and all weeks thereafter.

NEW SECTION. Sec. 26. Section 21, chapter 35, Laws of 1945, section 7, chapter 265, Laws of 1951, section 1, chapter 276, Laws of 1953, section 1, chapter 8, Laws of 1953 ex. sess., section 9, chapter 3, Laws of 1971 and RCW 50.04.200 are each repealed on January 1, 1978.

NEW SECTION. Sec. 27. The following acts or parts of acts are each repealed:

(1) Section 26, chapter 35, Laws of 1945 and RCW 50.04.250; and

(2) Section 27, chapter 35, Laws of 1945, section 1, chapter 265, Laws of 1951 and RCW 50.04.260.

NEW SECTION. Sec. 28. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately: PROVIDED, That sections 6, 12, 14, 15, 16, and 18 of this 1977 amendatory act shall take effect on January 1, 1978.

Passed the Senate June 18, 1977.

Passed the House June 17, 1977.

Approved by the Governor June 18, 1977.

Filed in Office of Secretary of State June 18, 1977.

CHAPTER 293

[Substitute House Bill No. 866]

TEACHERS' RETIREMENT SYSTEM

AN ACT Relating to the teachers' retirement system; amending section 1, chapter 80, Laws of 1947 as last amended by section 149, chapter 275, Laws of 1975 1st ex. sess. and RCW 41.32.010; adding new sections to chapter 41.32 RCW; prescribing an effective date; and declaring an emergency.

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

NEW SECTION. Section 1. LEGISLATIVE FINDING. The legislature finds and determines that those members first employed on or before September 30, 1977, shall not suffer any diminishment or loss of benefits or rights, whether current or prospective, as the result of the enactment of this 1977 amendatory act.

NEW SECTION. Sec. 2. APPLICATION TO CERTAIN PERSONS. Sections 3 through 16 of this 1977 amendatory act shall apply only to those persons who are initially employed by an employer on or after October 1, 1977.

NEW SECTION. Sec. 3. COMPUTATION OF THE RETIREMENT ALLOWANCE. A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each year of service.

NEW SECTION. Sec. 4. RETIREMENT FOR SERVICE. (1) NORMAL RETIREMENT. Any member with at least five years of service 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 section 3 of this 1977 amendatory act.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of section 3 of this 1977 amendatory act, 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.

NEW SECTION. Sec. 5. POST-RETIREMENT COST-OF-LIVING. Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

NEW SECTION. Sec. 6. EMPLOYER AND MEMBER CONTRIBUTIONS. 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: PROVIDED, That the employer contribution shall be contributed as provided in RCW 41.32.401.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers: PROVIDED, That the costs of amortizing the unfunded supplemental present value of the retirement system, in existence on September 30, 1977, shall be borne in full by the 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 the retirement board of any pending adjustment in the required contribution rate and such increase shall be announced at a board meeting held at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members earnable compensation each payroll period. The members contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends and the employers contribution shall be remitted as provided by law.

Until such time as the director shall establish other rates, members and employers of such members shall each contribute 5.66% of earnable compensation: PROVIDED, That employers shall initially contribute an additional 5.80% of earnable compensation per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977.

NEW SECTION. Sec. 7. TEACHERS REQUIRED TO BE MEMBERS. All teachers who become employed by an employer on or after October 1, 1977, shall be members of the retirement system and shall be governed by the provisions of sections 2 through 16 of this 1977 amendatory act.

NEW SECTION. Sec. 8. OPTIONS FOR PAYMENT OF RETIREMENT ALLOWANCES. Upon retirement for service as prescribed in section 4 of this 1977 amendatory act, a member shall elect to have the retirement allowance paid pursuant to Option 1, 2, or 3 with Options 2 and 3 calculated so as to be actuarially equivalent to Option 1.

(1) **OPTION 1.** A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) **OPTION 2.** A member who elects this option shall receive a reduced retirement allowance, which upon the member's death shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement.

(3) **OPTION 3.** A member who elects this option shall receive a reduced retirement allowance, and upon the member's death one-half of the retiree's reduced retirement allowance shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement.

NEW SECTION. Sec. 9. EARNED DISABILITY ALLOWANCE. A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the retirement board shall be eligible to receive an allowance under the provisions of sections 2 through 16 of this 1977 amendatory act. Such member shall receive a monthly disability allowance computed as provided for in section 3 of this 1977 amendatory act and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

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

NEW SECTION. Sec. 10. APPLICATION FOR AND EFFECTIVE DATE OF RETIREMENT ALLOWANCES. Any member or beneficiary eligible to receive a retirement allowance under the provisions of sections 4, 9, or 12 of this 1977 amendatory 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 the provisions of section 4 of this 1977 amendatory act shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to section 4 of this 1977 amendatory act, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of section 9 of this 1977 amendatory act shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of section 12 of this 1977 amendatory act shall accrue from the first day of the calendar month immediately following the member's death.

NEW SECTION. Sec. 11. SUSPENSION OF RETIREMENT ALLOWANCE UPON REEMPLOYMENT BY AN EMPLOYER. No retiree under the provisions of sections 2 through 16 of this 1977 amendatory act shall be eligible to receive such retiree's monthly retirement allowance if such retiree is performing service for any nonfederal public employer in this state.

Upon cessation of service for any nonfederal public employer in this state such retiree shall have benefits actuarially recomputed pursuant to the rules adopted by the department.

NEW SECTION. Sec. 12. DEATH BENEFITS. (1) If a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such 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 children shall elect to receive either:

(a) A retirement allowance computed as provided for in section 4(1) of this 1977 amendatory act actuarially adjusted to reflect Option 2 of section 8 of this 1977 amendatory act and if the member was not eligible for normal retirement at the date of death a further reduction as described in section 4(2) of this 1977 amendatory 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 such 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 such 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, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions.

NEW SECTION. Sec. 13. SERVICE CREDIT FOR AUTHORIZED LEAVE OF ABSENCE. A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of sections 2 through 16 of this 1977 amendatory act.

A member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes 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: **PROVIDED**, That for the purpose of this subsection the contribution shall not include the contribution for the unfunded supplemental present value as required by section 6 of this 1977 amendatory act. The contributions required 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.

A member who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence.

NEW SECTION. Sec. 14. **VESTED MEMBERSHIP.** A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of section 4 of this 1977 amendatory act if such member maintains the member's accumulated contributions intact.

NEW SECTION. Sec. 15. **REFUND OF CONTRIBUTIONS ON TERMINATION.** A member who ceases to be an employee of an employer may request a refund of the members accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination 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. 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 benefits under the provisions of sections 2 through 16 of this 1977 amendatory act.

NEW SECTION. Sec. 16. **REENTRY.** A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such 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 such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

NEW SECTION. Sec. 17. **DUTIES OF PAYROLL OFFICER.** The person responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or such other payroll report as the department may require showing thereon all deductions for contributions for the teachers' retirement system made from the earnable compensation of a member of the teachers' retirement system together with warrants or checks covering the total of such deductions. The department shall place such moneys into the proper funds established in this chapter.

Sec. 18. Section 1, chapter 80, Laws of 1947 as last amended by section 149, chapter 275, Laws of 1975 1st ex. sess. and RCW 41.32.010 are each amended to read as follows:

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

(1) (a) "Accumulated contributions" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of all regular annuity contributions with regular interest thereon less cost of operation.

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

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the board of trustees and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance or other benefit provided for by the teachers' retirement law.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7) "Contract" means any agreement for service and compensation between a member and an employer.

(8) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

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

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

(11) (a) "Earnable compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the board of trustees shall fix the value of that part of the compensation not paid in money: PROVIDED, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for his two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(b) "Earnable compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That in any year in which a member

serves in the legislature such member's earnable compensation shall be the greater of:

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

(ii) such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(12) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(13) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(14) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(15) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(16) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to exempt himself from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the annuity fund.

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

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

(19) "Pension fund" means a fund from which all pension obligations are to be paid.

(20) "Pension reserve fund" is a fund in the state treasury in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system.

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

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

(23) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

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

(25) "Regular interest" means ~~((the interest on funds of the retirement system for the current school year and such other earnings as may be applied thereon by the board of trustees))~~ such rate as the department may determine.

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

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

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

(28) (a) "Service" means the time during which a member has been employed by an employer for compensation: PROVIDED, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which earnable compensation is earned for ninety or more hours per calendar month. Members shall receive twelve months of service for each contract year or school year of employment.

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

If a member receives earnable compensation from two or more employers during any calendar year such member shall receive a total of not more than twelve months of service for such calendar year.

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

(30) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity, including state, educational service district, city superintendents and their assistants and certificated employees; and in addition thereto any qualified school librarian, any registered nurse or any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

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

(32) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

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

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

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

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

(37) "Retirement board" means the board of trustees provided for in RCW 41.32.040.

NEW SECTION. Sec. 19. There is added to chapter 41.32 RCW a new section to read as follows:

The provisions of the following sections of this chapter shall apply only to those persons who establish membership in the retirement system on or before June 30, 1977: RCW 41.32.250, 41.32.260, 41.32.270, 41.32.280, 41.32.290, 41.32.300, 41.32.310, 41.32.320, 41.32.330, 41.32.340, 41.32.350, 41.32.360, 41.32.365, 41.32.366, 41.32.380, 41.32.390, 41.32.430, 41.32.440, 41.32.470, 41.32.480, 41.32.491, 41.32.492, 41.32.493, 41.32.4931, 41.32.4932, 41.32.494, 41.32.4943, 41.32.4944, 41.32.4945, 41.32.497, 41.32.498, 41.32.4982, 41.32.4983, 41.32.499, 41.32.500, 41.32.510, 41.32.520, 41.32.522, 41.32.523, 41.32.530, 41.32.540, 41.32.550, 41.32.560, 41.32.561, 41.32.565, 41.32.567, 41.32.570, and 41.32.583.

NEW SECTION. Sec. 20. Section headings used in this 1977 amendatory act shall not constitute any part of the law.

NEW SECTION. Sec. 21. Sections 1 through 17 of this 1977 amendatory act shall be added to chapter 41.32 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter.

NEW SECTION. Sec. 22. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977.

Passed the House June 17, 1977.

Passed the Senate June 17, 1977.

Approved by the Governor June 18, 1977.

Filed in Office of Secretary of State June 18, 1977.