

Chehalis, and Swinomish tribes shall not exercise criminal or civil jurisdiction over non-Indians.

Sec. 4. Section 1, chapter 267, Laws of 1986 and RCW 37.12.140 are each amended to read as follows:

RCW 37.12.100 through 37.12.140 may be known and cited as the ((Colville)) Indian reservation criminal jurisdiction retrocession act.

NEW SECTION. Sec. 5. A new section is added to chapter 37.12 RCW to read as follows:

The state of Washington hereby accepts retrocession from the United States of the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Olympic National Park by 16 U.S.C. Sec. 251e. The lands restored to the Quileute Indian Reservation by Public Law 94-578 shall be subject to the same Washington state and tribal jurisdiction as all other lands within the Quileute Reservation.

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Approved by the Governor March 18, 1988.

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## CHAPTER 109

[Substitute House Bill No. 1366]

### JUDGES—RETIREMENT BENEFITS

AN ACT Relating to retirement benefits for judges of the state supreme court, court of appeals and superior courts; amending RCW 2.10.030, 2.10.040, 2.10.100, 2.10.140, 41.40.690, 2.56.030, 41.04.445, and 41.40.120; adding new sections to chapter 2.10 RCW; adding new sections to chapter 41.40 RCW; adding a new chapter to Title 2 RCW; repealing RCW 2.10.150 and 2.10.160; and providing an effective date.

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

Sec. 1. Section 3, chapter 267, Laws of 1971 ex. sess. and RCW 2.10.030 are each amended to read as follows:

(1) "Retirement system" means the "Washington judicial retirement system" provided herein.

(2) "Judge" means a person elected or appointed to serve as judge of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW. Said word shall not include a person serving as a judge pro tempore.

(3) "Retirement board" means the "Washington judicial retirement board" established herein.

(4) "Surviving spouse" means the surviving widow or widower of a judge. The word shall not include the divorced spouse of a judge.

(5) "Retirement fund" means the "Washington judicial retirement fund" established herein.

(6) "Beneficiary" means any person in receipt of a retirement allowance, disability allowance or any other benefit described herein.

(7) "Monthly salary" means the monthly salary of the position held by the judge.

(8) "Service" means all periods of time served as a judge, as herein defined. Any calendar month at the beginning or end of a term in which ten or more days are served shall be counted as a full month of service: PROVIDED, That no more than one month's service may be granted for any one calendar month. Only months of service will be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Years of service shall be determined by dividing the total months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(9) "Final average salary" means (a) for a judge in service in the same court for a minimum of twelve consecutive months preceding the date of retirement, the salary attached to the position held by the judge immediately prior to retirement; (b) for any other judge, the average monthly salary paid over the highest twenty-four month period in the last ten years of service.

(10) "Retirement allowance" for the purpose of applying cost of living increases or decreases shall include retirement allowances, disability allowances and survivorship benefit.

(11) "Index" shall mean for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959 equal one hundred) — compiled by the bureau of labor statistics, United States department of labor.

(12) "Accumulated contributions" means the total amount deducted from the judge's monthly salary pursuant to RCW 2.10.090, together with the regular interest thereon from the effective date of this section, as determined by the director of the department of retirement systems.

Sec. 2. Section 4, chapter 267, Laws of 1971 ex. sess. as amended by section 1, chapter 37, Laws of 1984 and RCW 2.10.040 are each amended to read as follows:

The Washington judicial retirement system is hereby created for judges appointed or elected under the provisions of chapters 2.04, 2.06, and 2.08 RCW. All judges first appointed or elected to the courts covered by these chapters on or after August 9, 1971, and prior to the effective date of this 1988 section, shall be members of this system: PROVIDED, That following February 23, 1984, and until the effective date of this 1988 section, any newly elected or appointed judge holding credit toward retirement benefits under chapter 41.40 RCW shall be allowed thirty days from the effective date of election or appointment to such judgeship to make an irrevocable choice filed in writing with the department of retirement systems to continue coverage under that chapter and to be permanently excluded from coverage under this chapter for the current or any future term as a judge. All judges first appointed or elected to the courts covered by these chapters on

or after the effective date of this 1988 section shall not be members of this system, but may become members of the public employees' retirement system under chapter 41.40 RCW on the same basis as other elected officials as provided in RCW 41.40.120(3).

Any member of the retirement system who is serving as a judge as of the effective date of this 1988 section has the option on or before December 31, 1989, of becoming a member of the retirement system created in chapter 41.40 RCW, subject to the conditions imposed by section 5 of this 1988 act. The option may be exercised by making an irrevocable choice filed in writing with the department of retirement systems to be permanently excluded from this system for all service as a judge. In the case of a former member of the retirement system who is not serving as a judge on the effective date of this 1988 section, the written election must be filed within one year after reentering service as a judge.

Sec. 3. Section 10, chapter 267, Laws of 1971 ex. sess. and RCW 2.10.100 are each amended to read as follows:

Retirement of a member for service shall be made by the retirement board as follows:

(1) Any judge who, on August 9, 1971 or within one year thereafter, shall have completed as a judge the years of actual service required under chapter 2.12 RCW and who shall elect to become a member of this system, shall in all respects be deemed qualified to retire under this retirement system upon his written request.

(2) Any member who has completed fifteen or more years of service ~~((and has attained the age of sixty years))~~ may be retired upon his written request but shall not be eligible to receive a retirement allowance until the member attains the age of sixty years.

(3) Any member who attains the age of seventy-five years shall be retired at the end of the calendar year in which he attains such age.

(4) Any judge who involuntarily leaves service at any time after having served an aggregate of twelve years shall be eligible to a partial retirement allowance computed according to RCW 2.10.110 and shall receive this allowance upon the attainment of the age of sixty years and fifteen years after the beginning of his judicial service.

NEW SECTION. Sec. 4. A new section is added to chapter 2.10 RCW to read as follows:

Any person receiving retirement benefits from this system who is appointed or elected to a court under chapter 2.04, 2.06, or 2.08 RCW shall upon the first day of entering such office become a member of this system and his or her retirement benefits shall cease. Pro tempore service as a judge of a court of record shall not constitute appointment as that term is used in this section. Upon leaving such office, a person shall have his or her benefits recomputed or restored, as determined in this chapter: PROVIDED, That

no such person shall receive a benefit less than that which was being paid at the time his or her benefit ceased.

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

(1) Any member of the Washington judicial retirement system who wishes to transfer such membership to the retirement system provided for in this chapter shall file a written request with the director as required by RCW 2.10.040 on or before December 31, 1989, or within one year after reentering service as a judge.

Upon receipt of such request, the director shall transfer from the judicial retirement system to this retirement system: (a) An amount equal to the employee and employer contributions the judge would have made if the judge's service under chapter 2.10 RCW had originally been earned under this chapter, which employee contributions shall be credited to the member's account established under this chapter; and (b) a record of service credited to the member. The judge's accumulated contributions that exceed the amount credited to the judge's account under this subsection shall be deposited in the judge's retirement account created pursuant to chapter 2.—RCW (sections 12 through 22 of this act).

(2) The member shall be given year-for-year credit for years of service, as determined under RCW 2.10.030(8), earned under the judicial retirement system. Service credit granted under the judicial retirement system pursuant to RCW 2.10.220 shall not be transferred under this section. The director instead shall reverse the transfer of contributions and service credit previously made under RCW 2.10.220 and shall credit the member for such periods of service and contributions under this chapter as though no transfer had ever occurred.

(3) All employee contributions transferred pursuant to this section shall be treated the same as other employee contributions made under this chapter.

**NEW SECTION.** Sec. 6. A new section is added to chapter 41.40 RCW to read as follows:

A former member of the Washington judicial retirement system who: (1) Is not serving as a judge on the effective date of this section; (2) has not retired under the applicable provisions of chapter 2.10 RCW; and (3) subsequently reacquires membership in the public employees' retirement system may, by written request filed with the director of retirement systems, transfer to the public employees' retirement system all periods of time served as a judge, as defined in RCW 2.10.030(2). Upon such membership transfer being made, the department of retirement systems shall transfer the employer contributions and the employee's contributions and service from the judicial retirement system to the public employees' retirement system. The

service shall be transferred and credited to the member as though the service was originally earned as a member of the public employees' retirement system.

Sec. 7. Section 14, chapter 267, Laws of 1971 ex. sess. as amended by section 2, chapter 37, Laws of 1984 and RCW 2.10.140 are each amended to read as follows:

(1) A surviving spouse of any judge holding such office, or if he dies after having retired and who, at the time of his death, has served ten or more years in the aggregate, shall receive a monthly allowance equal to fifty percent of the retirement allowance the retired judge was receiving, or fifty percent of the retirement allowance the active judge would have received had he been retired on the date of his death, but in no event less than twenty-five percent of the final average salary that the deceased judge was receiving: PROVIDED, That said surviving spouse had been married to the judge for a minimum of two years at time of death(~~(-AND PROVIDED FURTHER, That if the surviving spouse remarries all benefits under this chapter shall cease))~~).

(2) A judge holding office on the effective date of this 1988 section may make an irrevocable choice to relinquish the survivor benefits provided by this section in exchange for the survivor benefits provided by sections 8 and 9 of this 1988 act by indicating the choice in a written declaration submitted to the department of retirement systems by December 31, 1988.

(3) The surviving spouse of any judge who died in office after January 1, 1986, but before the effective date of this 1988 section may elect to receive the survivor benefit provided in section 8(1) of this 1988 act.

NEW SECTION. Sec. 8. A new section is added to chapter 2.10 RCW to read as follows:

(1) If a judge dies before the date of retirement, the amount of the accumulated contributions standing to the judge's credit at the time of death shall be paid to such person or persons, having an insurable interest in the judge's life, as the judge has nominated by written designation duly executed and filed with the department of retirement systems. If there is no such designated person or persons still living at the time of the judge's death, or if the judge fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, the judge's credited accumulated contributions shall be paid to the surviving spouse as if in fact the spouse had been nominated by written designation or, if there is no such surviving spouse, then to the judge's legal representatives.

(2) Upon the death in service of any judge who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the

payment provided by subsection (1) of this section. Upon such an election, option II of section 9 of this act shall automatically be given effect as if selected for the benefit of the surviving spouse or dependent who is the designated beneficiary, except that if the judge is not then qualified for a service retirement allowance, the option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased judge would have first qualified for a service retirement allowance. However, subsection (1) of this section, unless elected, shall not apply to any judge who has applied for a service retirement and thereafter dies between the date of separation from service and the judge's effective retirement date, where the judge has selected either option II or III of section 9 of this act. In those cases, the beneficiary named in the judge's final application for service retirement may elect to receive either a cash refund or monthly payments according to the option selected by the judge.

**NEW SECTION.** Sec. 9. A new section is added to chapter 2.10 RCW to read as follows:

Upon making application for a service retirement allowance under RCW 2.10.100, a judge who is eligible therefor shall make an election as to the manner in which such service retirement shall be paid from among the following designated options, calculated so as to be actuarially equivalent to each other:

(1) Standard Allowance. A member selecting this option shall receive a retirement allowance, which shall be computed as provided in RCW 2.10.110. The retirement allowance shall be payable throughout the judge's life. However, if the judge dies before the total of the retirement allowance paid to the judge equals the amount of the judge'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 judge's life, as the judge has nominated by written designation duly executed and filed with the department of retirement systems or, if there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse or, if there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

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

(3) Option III. A judge who selects this option shall receive a reduced retirement allowance and upon death, one-half of the judge's reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in the judge's life, as the judge has

nominated by written designation duly executed and filed with the department of retirement systems at the time of retirement.

**NEW SECTION.** Sec. 10. A new section is added to chapter 2.10 RCW to read as follows:

No judge shall be eligible to receive the judge's monthly service or disability retirement allowance if the retired judge is performing service for any nonfederal public employer in this state. However, a retired judge may render up to ninety days of pro tempore service per year as a judge of a court of record before the judge's allowance shall be reduced on a pro rata basis pursuant to this section.

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.

Sec. 11. Section 10, chapter 295, Laws of 1977 ex. sess. as amended by section 2, chapter 379, Laws of 1987 and RCW 41.40.690 are each amended to read as follows:

No retiree under the provisions of RCW 41.40.610 through 41.40.740 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. A retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.120(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town. However, a retired judge may render up to ninety days of pro tempore service per year as a judge of a court of record before the judge's allowance shall be reduced on a pro rata basis pursuant to this section.

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. (1) The purpose of this chapter is to provide a supplemental retirement benefit to judges who are elected or appointed under chapter 2.04, 2.06, or 2.08 RCW and who are members of the public employees' retirement system for their service as a judge.

(2) This chapter may be known and cited as the judicial retirement account act.

**NEW SECTION.** Sec. 13. The definitions in this section apply throughout this chapter.

(1) "Plan" means the judicial retirement account plan.

(2) "Principal account" means the judicial retirement principal account.

(3) "Member" means a judge participating in the judicial retirement account plan.

(4) "Administrative account" means the judicial retirement administrative account.

(5) "Accumulated contributions" means the total amount contributed to a member's account under section 20(1) and (2) of this act, together with any interest and earnings that have been credited to the member's account.

**NEW SECTION.** Sec. 14. The judicial retirement account plan is established for judges appointed or elected under chapter 2.04, 2.06, or 2.08 RCW and who are members of the public employees' retirement system for their service as a judge.

**NEW SECTION.** Sec. 15. The administrator for the courts, under the direction of the board for judicial administration, shall administer the plan. The administrator shall:

(1) Deposit or invest contributions to the plan consistent with section 19 of this act;

(2) Credit investment earnings or interest to individual judicial retirement accounts consistent with section 18 of this act;

(3) Keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any judicial retirement accounts created under this chapter;

(4) File an annual report of the financial condition, transactions, and affairs of the judicial retirement accounts. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor; and

(5) Adopt rules necessary to carry out this chapter.

**NEW SECTION.** Sec. 16. The administrator for the courts shall be deemed to stand in a fiduciary relationship to the members participating in the plan and shall discharge his or her duties in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

**NEW SECTION.** Sec. 17. The judicial retirement principal account is created in the state treasury. Any deficiency in the judicial retirement administrative account caused by an excess of administrative expenses disbursed from that account over earnings of investments or balances credited to that account shall be transferred to that account from the principal account.

The contributions under section 19 of this act shall be paid into the principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the administrator for the courts. The principal account shall be used to carry out the purposes of this chapter.

**NEW SECTION.** Sec. 18. The judicial retirement administrative account is created in the state treasury. All expenses of the administrator for the courts under this chapter, including staffing and administrative expenses, shall be paid out of the administrative account. Notwithstanding



RCW 43.84.090, all earnings of investments of balances in the administrative account shall be credited to this account. Any excess of earnings of investments of balances credited to this account over administrative expenses disbursed from this account shall be expended to the principal account. Any deficiency in the administrative account caused by an excess of administrative expenses disbursed from this account over earnings of investments of balances credited to this account shall be transferred to this account from the principal account.

**NEW SECTION.** Sec. 19. (1) The administrator for the courts shall:

(a) Deposit or invest the contributions under section 20 of this act in a credit union, savings and loan association, bank, or mutual savings bank;

(b) Purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or investment company licensed to contract business in this state; or

(c) Invest in any of the class of investments described in RCW 43.84.150.

(2) The state investment board, at the request of the administrator for the courts, may invest moneys in the principal account in accordance with RCW 43.84.150. Except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the principal account. The earnings on any surplus balances in the principal account shall be credited to the principal account, notwithstanding RCW 43.84.090.

**NEW SECTION.** Sec. 20. The plan shall be funded as provided in this section.

(1) Two and one-half percent shall be deducted from each member's salary.

(2) The state, as employer, shall contribute an equal amount on a monthly basis.

(3) The contributions shall be collected by the administrator for the courts and deposited in the member's account within the principal account.

**NEW SECTION.** Sec. 21. (1) A member who separates from judicial service for any reason is entitled to receive a lump sum distribution of the member's accumulated contributions. The administrator for the courts may adopt rules establishing other payment options, in addition to lump sum distributions, if the other payment options conform to the requirements of the federal internal revenue code.

(2) The right of a person to receive a payment under this chapter and the moneys in the accounts created under this chapter are exempt from any state, county, municipal, or other local tax and are not subject to execution, garnishment, or any other process of law whatsoever.

**NEW SECTION.** Sec. 22. If a member dies, the amount of the accumulated contributions standing to the member's credit at the time of the

member's death shall be paid to such person or persons having an insurable interest in the member's life as the member has nominated by written designation duly executed and filed with the office of the administrator for the courts. If there is no such designated person or persons still living at the time of the member's death, the member's accumulated contributions 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 such surviving spouse, then to the member's legal representatives.

Sec. 23. Section 3, chapter 259, Laws of 1957 as last amended by section 6, chapter 363, Laws of 1987 and RCW 2.56.030 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Formulate and submit to the judicial council of this state recommendations of policies for the improvement of the judicial system;

(10) Submit annually, as of February 1st, to the chief justice and the judicial council, a report of the activities of the administrator's office for the preceding calendar year;

(11) Administer programs and standards for the training and education of judicial personnel;

(12) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration and the judicial council, both of which shall make recommendations to the legislature by January 1, 1989. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective; ~~((and))~~

(13) Provide staff to the judicial retirement account plan under chapter 2.— RCW (sections 12 through 22 of this 1988 act); and

(14) Attend to such other matters as may be assigned by the supreme court of this state.

Sec. 24. Section 2, chapter 227, Laws of 1984 as amended by section 2, chapter 13, Laws of 1985 and RCW 41.04.445 are each amended to read as follows:

(1) This section applies to all members without exception who are:

(a) Judges under the retirement system established under chapter 2.10 or 2.12 RCW or chapter 2.— RCW (sections 12 through 22 of this 1988 act);

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

(a) RCW 2.10.090(1);

(b) RCW 2.12.060;

(c) Section 20 of this 1988 act;

(d) RCW 41.32.260(2);

~~((f))~~ (e) RCW 41.32.350;

~~((e))~~ (f) RCW 41.32.775;

~~((f))~~ (g) RCW 41.40.330 (1) and (3);

~~((g))~~ (h) RCW 41.40.650; and

((~~th~~)) (i) RCW 43.43.300.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems.

Sec. 25. Section 13, chapter 274, Laws of 1947 as last amended by section 1, chapter 379, Laws of 1987 and RCW 41.40.120 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3) (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 in a town or city 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 of a town or city. A member who receives more than ten thousand dollars per year in compensation for his or her elective service is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: AND PROVIDED FURTHER, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: AND PROVIDED FURTHER, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (a) Membership in the plan created under chapter 2.— RCW (sections 12 through 22 of this 1988 act); or (b) enrollment under the relief and compensation provisions or the pension provisions of the volunteer firemen's relief and pension fund under chapter 41.24 RCW;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) 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;

(10) Persons appointed after April 1, 1963, by the liquor control board as agency vendors;

(11) Employees of a labor guild, association, or organization: **PROVIDED**, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Persons hired in eligible positions on a temporary basis for a period not to exceed six months: **PROVIDED**, That if such employees are employed for more than six months in an eligible position they shall become members of the system;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: **PROVIDED**, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under the first proviso of this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from transferring all of its current employees to the retirement system established under this chapter. Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) 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;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: **PROVIDED**, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only from the date of application;

(17) The city manager or chief administrative officer of a city or town who serves at the pleasure of an appointing authority: **PROVIDED**, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

**NEW SECTION.** Sec. 26. Sections 12 through 22 of this act shall constitute a new chapter in Title 2 RCW.

**NEW SECTION.** Sec. 27. This act shall take effect July 1, 1988.

**NEW SECTION.** Sec. 28. The following acts or parts of acts are each repealed:

(1) Section 15, chapter 267, Laws of 1971 ex. sess., section 1, chapter 119, Laws of 1973 1st ex. sess. and RCW 2.10.150; and

(2) Section 16, chapter 267, Laws of 1971 ex. sess. and RCW 2.10-.160.

Passed the House March 9, 1988.

Passed the Senate March 3, 1988.

Approved by the Governor March 18, 1988.

Filed in Office of Secretary of State March 18, 1988.

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## CHAPTER 110

[House Bill No. 1330]

### PUBLIC EMPLOYEES' COLLECTIVE BARGAINING—REFERENCES CORRECTED AND CLARIFIED

AN ACT Relating to changing statutory references to classes of public employees; and amending RCW 41.56.460, 41.56.475, and 41.56.495.

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

Sec. 1. Section 5, chapter 131, Laws of 1973 as last amended by section 2, chapter 521, Laws of 1987 and RCW 41.56.460 are each amended to read as follows: