

# LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' PLAN 2 RETIREMENT BOARD

## Military Service Credit Final Proposal

November 10, 2004

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### Issue

The Board requested a briefing on current LEOFF Plan 2 military service credit provisions.

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### Members Impacted

Any active LEOFF Plan 2 member who interrupts their membership to serve in the United States Armed Forces may be impacted.

### Current Situation

LEOFF Plan 2 members have the option to purchase up to five years of service credit for periods of military service which interrupt their LEOFF employment. The qualifications for the purchase of military service credit are governed by federal law, but may be expanded by state law. The key qualifications for LEOFF Plan 2 include:

- The member must return to LEOFF Plan 2 covered employment within ninety days of honorable discharge from the armed forces.
- The member must pay the member contributions that would have been paid had the member not entered military service. The employer must pay the related employer contributions.
- The required member contributions must be paid within five years of returning to employment.

## **Background Information and Policy Issues**

Military Service Credit was given initial consideration by the Board on July 28, 2004. A Preliminary Report was discussed by the Board on September 22, 2004.

### **Types of Military Service Credit**

There are two types of military service for which service credit is available in the Washington state pension systems: interruptive and prior.

**Interruptive** military service credit is available to those who interrupt public employment to serve in the uniformed military branches of the United States. This type of service is governed federally by the Uniformed Services Employment and Re-employment Rights Act (USERRA). As it is governed by federal law, interruptive service is handled the same in LEOFF Plan 2 as it is in all of the other Plan 2 systems in Washington. A LEOFF Plan 2 member who meets certain requirements may purchase up to five years of service credit for a leave of absence to serve in the military.

**Prior** service is military service which took place prior to starting public employment. Prior military service credit is available to members of two plans only: PERS Plan 1 and WSPRS Plan 1. Members of PERS Plan 1 and WSPRS Plan 1 who meet certain requirements may receive up to five years of military service credit at no cost.

The following sections describe the requirements for interruptive and prior military service credit in further detail.

### **Interruptive Military Service**

Interruptive military service credit is available to those who interrupt their membership with LEOFF Plan 2 to serve in the United States Armed Forces. The distribution of interruptive military service credit is governed by federal law. In October 1994 the Uniform Services Employment and Reemployment Rights Act (USERRA) became effective replacing the Veterans' Reemployment Rights Act (VRRRA). At a minimum, public employers must provide the protections specified in USERRA. However, states have the discretion to go beyond USERRA and grant benefits for interruptive service that are more generous than those available under the act.

### **Eligibility Requirements**

Three general requirements must be met in order for a member to be eligible to purchase interruptive military service credit.

- The member must leave LEOFF Plan 2 covered employment to render military service in one of the armed or uniformed services of the United States (*See Qualified Military Service*).

- Upon termination of military service, the member must initiate reemployment covered by the member's original retirement system within certain defined time limits (*See Initiation of Reemployment*).
- The member must fully pay the required contributions within the statutorily defined time limits (*See Required Contributions and Payment Timeframes*).

### **Qualified Military Service**

Nearly all types of military service qualify as service in either an armed force or in a uniformed service for the purposes of interruptive military service credit. The following types of military service qualify<sup>1</sup>:

- Service in the army, navy, air force, marine corps, or their reserve units (including two-week annual training for reservists);
- Full-time service in the United States Coast Guard;
- Service in the Public Health Service; and
- Service in the Army or Air National Guard provided to the federal government, but not including service provided to a state.

### **Initiation of Reemployment**

Upon termination of military service, a member must initiate reemployment within certain defined time limits. The member must also be reemployed in a position covered by the retirement system the member was participating in at the time of interruption.

USERRA provides different reemployment timeframes which are determined by the duration or type of military service that the person was engaged in. However, the state law is more generous than the provisions in USERRA. State law provides that a member must initiate reemployment within ninety days to qualify for interruptive military service credit. There are two notable exceptions to the ninety day reemployment requirement.

The first exception is in state law. The state law provides that if a person fails to initiate reemployment within the required timeframe, that person can still purchase the service credit by paying the full actuarial value of the increase to their benefit from the additional service credit.<sup>2</sup>

The second exception is in federal law. USERRA provides that the timeframe for initiation of reemployment can be extended for up to two years for a person who is hospitalized or convalescing because of a disability incurred or aggravated during the period of military service. The two year period can be further extended by the minimum time required to accommodate a circumstance beyond an individual's control that would make reporting within the two-year period impossible or unreasonable.<sup>3</sup> Employers are required under USERRA to make reasonable efforts to accommodate reemployment of a person with a disability incurred or aggravated while in Military Service.<sup>4</sup> However, employers are exempt from such efforts if such accommodation would be of such difficulty or expenses as to cause "undue hardship".<sup>5</sup>

## Required Contributions

The member and employer contributions that would have been made to the plan if the member had not been on military leave must be paid in order for a member to purchase service credit for the period of military leave. Both the member and employer are responsible for paying a portion of the contributions:

- The member must pay the employee contribution (no interest)<sup>6</sup>.
- The employer must pay the employer contribution (no interest)<sup>7</sup>.

### Example:

A LEOFF Plan 2 member is called to active duty for 1 year from July 1, 2003 to June 30, 2004. The member's monthly salary during the leave of absence would have been \$3000.00 per month. The member returns to LEOFF covered employment on July 1, 2004 and requests to purchase 12 months of service credit for the period of military leave of absence.

The member would have been paid \$3000 per month by the employer if the member had not been on the military leave of absence. The member cost would be approximately \$1821.00. The employer cost would be approximately \$1171.50.

Without purchasing the military service credit the member would have retired at age 53 with 19 years of service and an AFC of \$36,000. The member's benefit before the military service credit would have been calculated as:

$$2\% \times 19 \text{ years} \times \$3,000 = \$1140$$

The member's benefit after purchasing the military service credit would be calculated as:

$$2\% \times 20 \text{ years} \times \$3,000 = \$1200$$

## Payment Timeframe

The contribution must be made within five years of initiation of reemployment or prior to retirement, whichever comes first. If a person fails to make the required contribution within five years then that person can purchase service credit by paying the full actuarial value of the resulting increase to their benefit from the additional service credit.<sup>8</sup>

## Maximum Service Credit

USERRA provides for a maximum of five years of interruptive military service credit. The state law matches this maximum providing for a maximum of five years of interruptive military service. There are some exceptions to the five-year maximum that are provided by USERRA as describe in 38 USC, 4312. These exceptions include:

- Obligated services incurred beyond five years, usually by individuals with special skills, (such as an electronics expert)
- Inability to obtain release (needs to be documented on a case by case basis)

- Training requirements
- Specific active duty provisions
- War or a declared national emergency
- Certain operational missions
- Critical missions or requirements (such as Grenada or Panama in the 1980's, when provisions for involuntary activation of Reserves were not exercised)
- Specific National Guard provisions

If a member has over five years of interruptive military service and the excess falls into one of these exceptions then the member may be entitled to this additional military service credit.

### **Comparison to Other Washington State Plan 2 Systems**

All of the plans listed below allow members to purchase retirement service credit for interruptive military service in the same manner as allowed for LEOFF Plan 2:

- Washington State Patrol Retirement System (WSPRS) Plan 2,
- Public Employees' Retirement System (PERS) Plan 2,
- School Employees' Retirement System (SERS) Plan 2, and
- Teachers' Retirement System (TRS) Plan 2.

While the **Plan 1** systems allow interruptive military service credit, the members in PERS Plan 1, LEOFF Plan 1, and WSPRS Plan 1 are not required to pay any cost for the service credit. A TRS Plan 1 member is required to pay the contributions that would have been paid had the member not gone on a military leave of absence.

### **Federal Benefits for Military Service Members**

Although neither USERRA nor state law provides specific relief of pension benefits for service members who are disabled or die while in service, there are various other federal benefits that may be available to these members or their survivors. These benefits are highlighted in the tables below and explained further in Appendix A.

<b>Lump Sum and Recurring Benefits Available to Survivors of Military Service Members</b>	
Social Security	A special one-time payment of \$255 plus benefits based on the service member's earnings in covered employment
Death Gratuity	\$12,000 tax exempt
Burial Expenses	Up to \$6900
Service member Group Life Insurance (SGLI)	\$250,000 from SGLI unless an election was filed reducing the insurance or canceling it entirely.
Unused Leave	Payment is made to a survivor for all unused leave
Tax Benefits	Survivor exempt from paying decedent's income tax for year of death.

Survivor Benefit Plan (SBP)	An eligible spouse under the age of 62 or dependent child receives 55% of the retired pay the service member would have been entitled to on the day he or she died, based on 100% total disability. The SBP amount may be offset by DIC payments.
Dependency and Indemnity Compensation (DIC)	An eligible spouse receives \$967 per month, and each minor child receives \$241 per month (tax exempt).
Government Housing	Provided rent-free housing for 180 days or tax-free Basic Allowance Housing. Also entitled to relocation assistance.
Education Benefits	Up to 45 months of full-time education benefits
Health Care	Health and Dental insurance for three years after service member's death and eligible for care at military medical facilities.
Commissary and Exchange Privileges	Survivors eligible to shop at military commissaries and exchanges.
Gi Bill Contributions	Designated life insurance beneficiary entitled to a refund of money collected through payroll deduction but was not awarded in education benefits
Home Loans	Surviving spouses eligible for a VA-guaranteed home loan

Sources: U.S. General Accounting Office, *Military Personnel: Survivor Benefits for Service members and Federal, State, and City Government Employees*, GAO-04-814 (Washington, D.C.: July 2004)  
[http://www1.va.gov/OPA/fact/docs/survivor\\_benefits.doc](http://www1.va.gov/OPA/fact/docs/survivor_benefits.doc)

<b>Disability Benefits Available to Military Service Members</b>	
Disability Compensation	A person who is at least 10% disabled as a result of military service may be eligible for Disability Compensation that ranges from \$106 to \$2,239 per month, depending on the level of disablement. The benefits are tax-free.
Disability Pension	Veterans with low incomes who are permanently and totally disabled, or are age 65 and older, may be eligible for monetary support if they have 90 days or more of active military service, at least one day of which was during a period of war. Payments are made to qualified veterans to bring their total income, including other retirement or Social Security income, to a level set by Congress (ranges from \$2,244 to \$19,570 per year).

Sources: [http://www1.va.gov/OPA/fact/docs/survivor\\_benefits.doc](http://www1.va.gov/OPA/fact/docs/survivor_benefits.doc)

### **Prior Military Service**

Prior service is military service which took place prior to starting public employment. Service credit for prior military service is a benefit available only to members of WSPRS Plan 1 and PERS Plan 1. Members of all other plans are only allowed service credit for interruptive military service.

## Current Provisions

Members of PERS Plan 1 and WSPRS Plan 1 must have twenty five service credit years, meet the statutory definition of veteran, and have an honorable discharge to be eligible to receive prior military service credit. Total interruptive and prior military service credit cannot exceed five years, and in both plans the members must restore all withdrawn accumulated contributions in order to receive credit for the prior service. No member payments are required for prior military service credit.

## State Pension Policy<sup>9</sup>

The former Joint Committee on Pension Policy (now the Select Committee on Pension Policy) concluded in 1988, upon completion of its study of service credit, that the state's policy was not to grant additional (prior) service credit for military service.

Policies cited that **support** granting prior military service credit in other Washington plans include the following:

- **Recognition of Service:** Granting military service credit that is either partially or wholly funded by the state would recognize the service rendered by individuals to our country.
- **Career Delay:** Service in the military might have delayed the beginning of a member's career with the state and deprived the member of the opportunity to earn a better retirement benefit.
- **Parity:** Prior military service is provided only to the PERS and WSP Plans 1. There has been pressure from members of other systems for similar benefits. RCW 41.50.005(1) sets forth as retirement policy that the retirement systems of the state shall provide similar benefits whenever possible.

Policies cited that **oppose** granting prior military service credit in other Washington plans:

- **Federal Responsibility:** Veteran benefits are properly a responsibility of federal law and federal funding.
- **Cost:** Granting additional military service credit to plan members without requiring payment of the full actuarial cost results in additional liabilities to the plan.
- **Lack of Uniformity:** Providing additional prior military service to one plan might create significant pressure from other systems for similar benefits.
- **Unearned Service:** Granting additional military service credit at little or no cost would provide a benefit for periods when no service was rendered within the plan. Granting service credit for periods of time in which no service was rendered creates pressure on the actuarial liability of the plan.

## Legislative History<sup>10</sup>

Military service credit is being reviewed by the Select Committee on Pension Policy (SCPP) during the 2004 Legislative Interim. The SCPP has scheduled a public hearing for October 2004 during which they will review a proposal on interruptive military service credit. The SCPP proposal will include three components:<sup>11</sup>

- Allow a surviving spouse of a member who dies in active service to pay contributions that the member would have paid but for the military service, and allowing the service credit to accrue to the date of death.
- Allow a member disabled in active service and who cannot return to employment to pay the member contributions and restore service credit up to the date of disability.
- Allow pay differential provided by an employer to be reported as earnable compensation for pension purposes.

Military service credit was previously reviewed by the Joint Committee on Pension Policy (JCPP) in 1988 and by the Executive Committee of the JCPP in 1997. In 1988 military service credit was evaluated as part of a comprehensive analysis of the provisions for granting service credit. Upon completion of its study, the JCPP concluded that the state's policy was not to grant additional service credit for prior military service. In 1997, the JCPP Executive Committee heard an update on military service credit but the issue was not heard by the full committee. In June 2004, the Full Select Committee on Pension Policy (SCPP) heard a report on military service credit.

Since 1996, two JCPP bills on military service credit passed in the legislature, and both were to conform Washington law to federal law (USERRA). At least twenty more bills were filed to expand opportunities to acquire military service credit, but none passed.

Due to the war in Iraq there has been a renewed interest in the effects of military service on employee benefits. During the 2004 legislative session, the Office of the State Actuary tracked five bills concerning military service, none of which passed.

Two of these bills, HB 2415 and SSB 6071 would have expanded the definition of "veteran" for various purposes. One bill, 2SSB 6578 would have provided additional compensation to members on military leave.

- **HB 2415** would have expanded the definition of veteran to include a U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the Department of Defense or its agents during the Korean and Vietnam wars.
- **SSB 6071** would have exempted veterans of the Afghanistan conflict and Persian Gulf War II from certain increases in tuition and fees for higher education.
- **2SSB 6578**, would have provided up to two years of military leave during which employees of the state would receive one-half of the difference between their normal pay and their combined military pay and allowances.

The remaining two bills, SB 6743 and SB 6492, would have allowed members of TRS 1 with twenty-five service credit years to receive up to five years of service credit for prior military service. The two bills differed in the amount of contributions members would be required to pay to receive the service credit:

- **SB 6492** required a contribution "as determined by the Director of the Retirement Systems;"
- **SB 6743** required "six percent of the average earnable compensation for the two highest compensated consecutive years of service for each year of prior military service credited."

## Key Issues and Policy Options

### Key Issues

LEOFF Plan 2 members are able to purchase service credit for periods of leave of absence which result from military service that interrupts membership in LEOFF. Under Federal and State provisions, the member must return to covered employment following military service in order to purchase the missing service credit.

A member who dies during military service or is disabled to the point that they cannot resume employment would not have the opportunity to recover service credit for the period of military service and could not have it included in the computation of benefits. Although there are various federal benefits that may be available disabled members or for survivors of members who die in military service, LEOFF Plan 2 does not provide any specific pension protections.

### Policy Options

#### Policy Option 1

The first policy option is to allow compensation that is paid by an employer to an employee to make up the difference between military salary and normal salary to be reportable as compensation for retirement purposes.

Some employers have voluntarily elected to supplement the military pay for their employees who are called to active duty so that the employee does not suffer a reduction in income. However, this compensation is not considered to be salary for pension purposes. Allowing the supplemental salary to be reported allows the person to receive some or full service credit during the period of military leave of absence. In the event the member cannot return to employment after military service, the member or survivors of the member will receive benefits inclusive of service credit from the military leave period. Although this option could provide benefits for members who are disabled or die while in military service, not all employers have a policy to supplement the salary for

personnel on military leave. Therefore, only members at employers with such a policy could benefit from this option.

## **Policy Option 2**

The second policy option is to allow the purchase of service credit for a member who dies during military service or is disabled during military service to the point that they cannot return to employment.

This option would allow the survivor of a member who dies during military service to purchase service credit the member would have been entitled to purchase had the member returned to employment following military service. This option provides a survivor the opportunity to add service credit to the member's account which could increase the amount of the survivor benefit. However, this would only be a benefit when the member had 10 or more years of service credit in the system before death or the purchased service credit gave the member 10 or more years of service credit. If a member has less than 10 years of service credit, a survivor is only entitled to a refund of accumulated contributions.

A member who is disabled while on military service would be given the option to purchase military service credit if the person's former employer certifies that the disability prevents them from resuming their previous employment. Allowing the disabled member to pay the member contributions and purchase the military service credit would be consistent with the federal policy of treating the veteran for vesting and benefit accrual purposes as if they had been continuously employed.<sup>12</sup>

## **Estimated Fiscal Impact**

The cost of both options is insufficient to increase contribution rates.

## Supporting Information

### Appendix A – Descriptions of Lump Sum and Recurring Benefits Available to Survivors of Military Service Members

#### Social Security Benefits<sup>13</sup>

If a service member had enough credits, a special one-time payment of \$255 will be paid after the servicemember's death. This benefit is paid only to the widow(er) or minor children. Certain family members of the deceased service member may be eligible for benefits on the service member's Social Security record if they earned enough credits while they were working. Family members who can collect benefits include:

- A widow or widower who is 60 or older
- A widow or widower who is 50 or older and disabled
- A widow or widower at any age if she or he is caring for a child under age 16 or a disabled child who is receiving Social Security benefits;
- Children if:
  - They are unmarried and under age 18;
  - Under age 19 but in an elementary or secondary school as a full-time student; or
  - Age 18 or older and severely disabled (the disability must have started before age 22)
- The service member's parents, if they were dependent on him for at least half of their support

#### Death Gratuity<sup>14</sup>

Next of kin members are given a death gratuity upon the death of an armed services member. The death gratuity is intended to provide immediate cash to meet the needs of survivors. The death gratuity has been recently increased to \$12,000, (100% tax free) and is paid to the next of kin for the following armed service members:

- A member of an armed force who dies while on active duty or while performing authorized travel to or from active duty;
- A Reserve of an armed force who dies while on inactive duty training (with exceptions);
- Any Reserve of an armed force who assumed an obligation to perform active duty for training, or inactive duty training (with exceptions) and who dies while traveling directly to or from that active duty for training or inactive duty training;
- Any member of a reserve officers' training corps who dies while performing annual training duty under orders for a period of more than 13 days, or while performing authorized travel to or from that annual training duty; or any applicant for membership in a reserve officers' training corps who dies while attending field training or a practice cruise or while performing authorized travel to or from the place where the training or cruise is conducted; or
- A person who dies while traveling to or from or while at a place for final acceptance, or for entry upon active duty (other than for training), in an armed force, who has been ordered or directed to go to that place, and who
  - Has been provisionally accepted for that duty; or

- Has been selected for service in that armed force.

### **Burial Expenses<sup>15</sup>**

The Government will reimburse up to \$6,900 of expenses for the member's burial, depending on the type of arrangements and will provide travel for next-of-kin under invitational travel orders.

### **Service Member Group Life Insurance<sup>16</sup>**

Service members are automatically insured for \$250,000 through the SGLI program, but may reduce or decline coverage as desired. Although participating members must pay premiums, SGLI is a government-sponsored insurance program that enables U. S. Service members to increase substantially the amount available to their beneficiaries in the event of their death.

### **Unused Leave<sup>17</sup>**

Payment is made to a survivor for all of the service member's unused accrued leave.

### **Tax Benefits<sup>18</sup>**

The next-of-kin of a Service member whose death occurs overseas in a terrorist or military action is exempt from paying the decedent's income tax for at least the year in which the death occurred. Payments made by the VA are tax-exempt.

### **Survivor Benefit Plan<sup>19</sup>**

The primary survivor benefit applicable to survivors of retirees (and, in some situations, active duty members) is the Uniformed Services Survivor Benefit Plan (SBP). The Reserves have a related plan called the Reserve Component Survivor Benefit Plan (RC-SBP). The purpose of the Survivor Benefit Plan (SBP) is to insure that the surviving dependents of military personnel who die in retirement or after becoming eligible for retirement will continue to have a reasonable level of income. These are voluntary programs to ensure survivors continue to receive income throughout their lifetimes. A service member pays a monthly premium to be covered under SBP. SBP Premiums and benefits depend on the "base amount" that the person elects as the basis of coverage. The base amount can be the full monthly retired pay or just a portion, down to as little as \$300. The SBP is an insurance plan to protect survivors against the risks of early death, a survivor outliving benefits; and inflation through cost of living adjustments.

A spouse under the age of 62 or dependent child receives 55% of the retired pay the service member would have been entitled to on the day he or she died, based on 100% total disability. If the spouse is the designated beneficiary, the annuity is reduced by the amount of the Dependency and Indemnity Compensation payment (DIC) that they may receive. If a child is the designated beneficiary, the monthly survivor Benefit Plan payment is not reduced by the Dependency and Indemnity Compensation Payment.

## **Dependency and Indemnity Compensation<sup>20</sup>**

The Department of Veterans Affairs (VA) pays a benefit called Dependency and Indemnity Compensation (DIC) to a surviving spouse and dependent children if a service member dies of service-connected causes. This includes deaths after retirement if the cause of death is due to an injury or disease contracted while the member was on active duty.

DIC may also be paid if a person had a 100 percent VA disability rating for ten continuous years, or if less than ten years, then at least five continuous years from the date of release from active duty. The VA determines who may receive DIC.<sup>21</sup>

DIC payments to all surviving spouses are at the monthly rate of \$967, adjusted annually for cost of living. Whenever there is no surviving spouse of a deceased veteran entitled to DIC, it shall be paid in equal shares to the children of the deceased veteran. The basic DIC basic rate may be increase under certain circumstances.

## **Government Housing or Allowances and Relocation Assistance<sup>22</sup>**

Survivors are provided rent-free Government housing for 180 days or the tax-free Basic Allowance for Housing (BAH) appropriate to the member's grade for any portion of the 180 day period while not in quarters. Survivors are also entitled to transportation, per diem, and shipment of household goods and baggage.

## **Education Benefits<sup>23</sup>**

When an active-duty service member dies, VA's Survivors' and Dependents' Educational Assistance Program generally provides up to 45 months of education benefits to the un-remarried surviving spouse for 10 years, or for children aged 18 to 26. Currently the rate is \$788 a month for full-time attendance, with lesser amounts for part-time education. This benefit may be used to pursue secondary school programs; associate, bachelor or graduate degrees; technical or vocational training; apprenticeships; and other types of training, including work-study programs

## **Health Care<sup>24</sup>**

An un-remarried surviving spouse and minor dependents of the member are eligible for space-available medical care at military medical facilities or are covered by TRICARE/CHAMPUS (MEDICARE after age 65). Dental insurance coverage and full TRICARE/CHAMPUS are extended for three years after the member's death.

## **Commissary and Exchange Privileges<sup>25</sup>**

The unmarried surviving spouse and qualified unmarried dependents are eligible to shop at military commissaries and exchanges, normally providing a savings over similar goods sold in private commercial establishments. Families of retired members retain their privileges so long as a spouse is not remarried.

## **Refund of Service Member's Unused GI Bill Contribution<sup>26</sup>**

If the deceased service member had contributed to the Montgomery GI Bill education program, the designated life insurance beneficiary or surviving spouse is entitled to a refund of the money

that was collected through payroll deduction but was not awarded in education benefits during the service member's lifetime. Most active-duty military members participate in this educational benefit program, which deducts \$1,200 from their pay at \$100 monthly during their first year of service.

### **Home Loans<sup>27</sup>**

Surviving spouses of military members may be eligible for a VA-guaranteed home loan from a private lender. The loan may be used to purchase, construct or improve a home, to refinance an existing mortgage or for certain other purposes. As with the program for veterans, VA guarantees part of the total loan, permitting the purchaser to obtain a mortgage with a competitive interest rate. Except for manufactured homes and other select cases, the surviving spouse may obtain a no-downpayment loan if the lender agrees.

### **Disability Compensation**

Disability Compensation is a Veterans Affairs (VA) benefit paid to a veteran because of injuries or diseases that happened while on active duty, or were made worse by active military service. It is also paid to certain veterans disabled from VA health care. A person may be eligible for Disability Compensation if they have a service-related disability and were discharged under other than dishonorable conditions. The amount of basic benefit paid ranges from \$106 to \$2,239 per month, depending on the level of disablement. The benefits are tax-free. Additional amounts may be paid in circumstances such as severe disability or loss of limb(s).

### **Disability Pension<sup>28</sup>**

Veterans with low incomes who are permanently and totally disabled, or are age 65 and older, may be eligible for monetary support if they have 90 days or more of active military service, at least one day of which was during a period of war. Generally, veterans who entered active duty on or after Sept. 8, 1980, or officers who entered active duty on or after Oct. 16, 1981, may have to meet a longer minimum period of active duty. The discharge from active duty must have been under conditions other than dishonorable. The permanent and total disability must be for reasons other than the veteran's own willful misconduct. Payments are made to qualified veterans to bring their total income, including other retirement or Social Security income, to a level set by Congress (see table). Un-reimbursed medical expenses may reduce countable income. Veterans of a period of war who are age 65 or older and meet service and income requirements are also eligible to receive a pension, regardless of current physical condition.

<b>Status</b>	<b>Max Annual Rate (\$)</b>
Increase for each additional dependent child	1,688
Veterans of World War I and Mexican Border Period, addition to the applicable annual rate	2,244
Veteran without dependent	9,894
Veteran permanently housebound, no dependents	12,092
Veteran with one dependent	12,959
Two veterans married to one another	12,959
Veteran permanently housebound, one dependent	15,156
Veteran needing regular aid and attendance, no dependents	16,509
Veteran needing regular aid and attendance, one dependent	19,570

## Endnotes

- 1 Department of Retirement Systems, “Military Service Credit for LEOFF Plan 2, WSPRS Plan 2, PERS Plan 2 & 3, TRS Plans 2 & 3, and SERS Plans 2 & 3”, n.d., <<http://www.drs.wa.gov/member/militsc/plan23mil.htm>> (July 14, 2004)
- 2 Department of Retirement Systems, “Military Service Credit for LEOFF Plan 2, WSPRS Plan 2, PERS Plan 2 & 3, TRS Plans 2 & 3, and SERS Plans 2 & 3”, n.d., <<http://www.drs.wa.gov/member/militsc/plan23mil.htm>> (July 14, 2004)
- 3 “A Non-Technical Resource Guide to the Uniformed Services Employment and Reemployment Rights Act (USERRA)”, The U.S. Department of Labor Veterans Employment and Training Service, March 2003, p.5.
- 4 Ibid., p.8.
- 5 Ibid., p.9.
- 6 USERRA prohibits the state from charging interest on the outstanding employee contributions.
- 7 USERRA prohibits the state from charging interest on the outstanding employer contributions.
- 8 Department of Retirement Systems, “Military Service Credit for LEOFF Plan 2, WSPRS Plan 2, PERS Plan 2 & 3, TRS Plans 2 & 3, and SERS Plans 2 & 3”, n.d., <<http://www.drs.wa.gov/member/militsc/plan23mil.htm>> (July 14, 2004). Also see RCW 41.50.165(2).
- 9 Steve Nelsen, “Military Service Credit”, Joint Committee on Pension Policy, September 23, 1997.
- 10 Laura Harper, “Military Service Credit”, Select Committee on Pension Policy, June 15, 2004.
- 11 Laura Harper, “Military Service Credit”, Select Committee on Pension Policy, August 31, 2004.
- 12 Laura Harper, “Military Service Credit”, Select Committee on Pension Policy, August 31, 2004.
- 13 <http://www.military.com/Resources/ResourcesContent/0,13964,31073,00.html> (August 31, 2004)
- 13 <http://www.dod.mil/militarypay/benefits/deathben.pdf> (August 31, 2004)

- 14 <http://www.military.com/Resources/ResourcesContent/0,13964,30873--1,00.html>  
(August 31, 2004)
- 15 <http://www.dod.mil/militarypay/benefits/deathben.pdf> (August 31, 2004)
- 16 <http://www.dod.mil/militarypay/benefits/deathben.pdf> (August 31, 2004)
- 17 <http://www.dod.mil/militarypay/benefits/deathben.pdf> (August 31, 2004)
- 18 <http://www.dod.mil/militarypay/benefits/deathben.pdf> (August 31, 2004)
- 19 <http://www.military.com/Resources/ResourcesContent/0,13964,31293--0,00.html>  
(August 31, 2004)
- 20 <http://www.military.com/Resources/ResourcesContent/0,13964,30974--,.00.html>  
(August 31, 2004)
- 21 [http://www.dod.mil/militarypay/survivor/sbp/11\\_va\\_benefits.html](http://www.dod.mil/militarypay/survivor/sbp/11_va_benefits.html) (August 31, 2004)
- 22 <http://www.dod.mil/militarypay/benefits/deathben.pdf> (August 31, 2004)
- 23 [http://www1.va.gov/OPA/fact/docs/survivor\\_benefits.doc](http://www1.va.gov/OPA/fact/docs/survivor_benefits.doc) (September 1, 2004)
- 24 <http://www.dod.mil/militarypay/benefits/deathben.pdf> (August 31, 2004)
- 25 <http://www.dod.mil/militarypay/benefits/deathben.pdf> (August 31, 2004)
- 26 [http://www1.va.gov/OPA/fact/docs/survivor\\_benefits.doc](http://www1.va.gov/OPA/fact/docs/survivor_benefits.doc) (August 31, 2004)
- 27 [http://www1.va.gov/OPA/fact/docs/survivor\\_benefits.doc](http://www1.va.gov/OPA/fact/docs/survivor_benefits.doc) (August 31, 2004)
- 28 <http://www1.va.gov/opa/vadocs/Fedben.pdf> (August 31, 2004)



STATE OF WASHINGTON  
DEPARTMENT OF RETIREMENT SYSTEMS  
PO Box 48380 • Olympia WA 98504-8380 • (360) 664-7000 • Toll Free 1-800-547-6657

October 28, 2004

The Honorable Karen Fraser, Chair  
The Honorable Steve Conway, Vice-Chair  
Select Committee on Pension Policy  
Post Office Box 40914  
Olympia, Washington 98504-0914

**RECEIVED**

**OCT 28 2004**

Office of  
The State Actuary

Dear Senator Fraser and Representative Conway:

Subject: Purchase of Interruptive Military Service Credit

At the October 19, 2004 Select Committee on Pension Policy (SCPP) meeting, the Department of Retirement Systems (DRS) was asked to provide input on the proposal to allow the purchase of retirement service credit for service men and women on interruptive military leave. DRS supports the death and disability provisions of the proposal, but has concerns about the third provision which would allow employers to report as earnable compensation any offset salary being paid to the employee.

Current Federal and State law on interruptive military service is consistent in two areas:

- It requires that service be designated as honorable.
- It requires the employee to return to covered service if he or she is able.

The death and disability proposals also require the military service to be deemed as honorable. If however, employers are allowed to report a salary offset to DRS (the third provision), a situation exists where the member may earn partial or total service credit for periods where the nature of the military service could be dishonorable, and where a return to employment is not required or does not occur. This creates an inequity in the treatment of those members not receiving the pay offset who must serve honorably and return to covered employment in order to purchase their missing service.

As I mentioned at the October 19<sup>th</sup> meeting, the current process for purchasing service for interruptive leave is both easy and efficient. With an average cost of approximately \$1,700 for nine months of service credit, a member can initiate the purchase with a simple phone call and can take up to five years to pay with no interest. Members may pay in installments or with a lump sum at anytime during the five years. This same process would be utilized to implement the death and disability proposals. While reporting an offset salary creates no additional cost by itself, there would be increased administrative cost if DRS is required to begin tracking offset pay and related service credit.

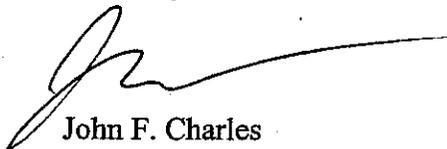


Senator Karen Fraser  
Representative Steve Conway  
October 28, 2004  
Page 2

As noted above, the death and disability proposals are in alignment with Federal and State law and the existing policy and process for purchasing interruptive military service. However, allowing service to be earned due to reporting offset pay goes beyond the current policy and creates inequity in the treatment of members. Based on this information I encourage the removal of the reporting of offset salary from the proposal.

Please contact me at 664-7312 if you would like to discuss this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'John F. Charles', with a long horizontal flourish extending to the right.

John F. Charles  
Director

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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: Z-0177.1/05

ATTY/TYPIST: LL:ads

BRIEF DESCRIPTION: Authorizing interruptive military service credit.

1 AN ACT Relating to interruptive military service credit within the  
2 public employees' retirement system, the school employees' retirement  
3 system, the teachers' retirement system, the law enforcement officers'  
4 and fire fighters' retirement system plan 2, the Washington state  
5 patrol retirement system, and the public safety employees' retirement  
6 system; amending RCW 41.40.170, 41.40.710, 41.40.805, 41.35.470,  
7 41.35.650, 41.32.260, 41.32.810, 41.32.865, 41.26.520, 43.43.260, and  
8 41.37.260; and providing an effective date.

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

10 **Sec. 1.** RCW 41.40.170 and 2002 c 27 s 2 are each amended to read  
11 as follows:

12 (1) A member who has served or shall serve on active federal  
13 service in the military or naval forces of the United States and who  
14 left or shall leave an employer to enter such service shall be deemed  
15 to be on military leave of absence if he or she has resumed or shall  
16 resume employment as an employee within one year from termination  
17 thereof.

18 (2) If he or she has applied or shall apply for reinstatement of  
19 employment, within one year from termination of the military service,

1 and is refused employment for reasons beyond his or her control, he or  
2 she shall, upon resumption of service within ten years have such  
3 service credited to him or her.

4 (3) In any event, after completing twenty-five years of creditable  
5 service, any member may have service in the armed forces credited to  
6 him or her as a member whether or not he or she left the employ of an  
7 employer to enter the armed service: PROVIDED, That in no instance,  
8 described in this section, shall military service in excess of five  
9 years be credited: AND PROVIDED FURTHER, That in each instance the  
10 member must restore all withdrawn accumulated contributions, which  
11 restoration must be completed within five years of membership service  
12 following the first resumption of employment or complete twenty-five  
13 years of creditable service: AND PROVIDED FURTHER, That this section  
14 will not apply to any individual, not a veteran within the meaning of  
15 RCW 41.04.005.

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

24 (a) Provides to the director proof of the member's death while  
25 serving in the uniformed services; and

26 (b) Provides to the director proof of the member's honorable  
27 service in the uniformed services prior to the date of death.

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

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

37 (b) The member provides to the director proof of honorable  
38 discharge from the uniformed services.

1       **Sec. 2.** RCW 41.40.710 and 2000 c 247 s 1106 are each amended to  
2 read as follows:

3       (1) A member who is on a paid leave of absence authorized by a  
4 member's employer shall continue to receive service credit as provided  
5 for under the provisions of RCW 41.40.610 through 41.40.740.

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

18       (3) Except as specified in subsection (4) of this section, a member  
19 shall be eligible to receive a maximum of two years service credit  
20 during a member's entire working career for those periods when a member  
21 is on an unpaid leave of absence authorized by an employer. Such  
22 credit may be obtained only if:

23       (a) The member makes both the plan 2 employer and member  
24 contributions plus interest as determined by the department for the  
25 period of the authorized leave of absence within five years of  
26 resumption of service or prior to retirement whichever comes sooner; or

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

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

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

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

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

8 (ii) The member makes the employee contributions required under RCW  
9 41.45.061 and 41.45.067 within five years of resumption of service or  
10 prior to retirement, whichever comes sooner; or

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

14 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
15 or (e)(iii) of this subsection, the department shall establish the  
16 member's service credit and shall bill the employer for its  
17 contribution required under RCW 41.45.060, 41.45.061, and 41.45.067 for  
18 the period of military service, plus interest as determined by the  
19 department.

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

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

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

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

37 (iii) Pays the employee contributions required under chapter 41.45

1 RCW within five years of the date of death or prior to the distribution  
2 of any benefit, whichever comes first.

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

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

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

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

18 **Sec. 3.** RCW 41.40.805 and 2000 c 247 s 306 are each amended to  
19 read as follows:

20 (1) A member who is on a paid leave of absence authorized by a  
21 member's employer shall continue to receive service credit.

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

34 (3) Except as specified in subsection (4) of this section, a member  
35 shall be eligible to receive a maximum of two years service credit  
36 during a member's entire working career for those periods when a member

1 is on an unpaid leave of absence authorized by an employer. Such  
2 credit may be obtained only if:

3 (a) The member makes the contribution on behalf of the employer,  
4 plus interest, as determined by the department; and

5 (b) The member makes the employee contribution, plus interest, as  
6 determined by the department, to the defined contribution portion.

7 The contributions required shall be based on the average of the  
8 member's earnable compensation at both the time the authorized leave of  
9 absence was granted and the time the member resumed employment.

10 (4) A member who leaves the employ of an employer to enter the  
11 (~~armed forces~~) uniformed services of the United States shall be  
12 entitled to retirement system service credit for up to five years of  
13 military service if within ninety days of the member's honorable  
14 discharge from the uniformed services of the United States (~~armed~~  
15 ~~forces~~), the member applies for reemployment with the employer who  
16 employed the member immediately prior to the member entering the  
17 (~~United States armed forces~~) uniformed services. This subsection  
18 shall be administered in a manner consistent with the requirements of  
19 the federal uniformed services employment and reemployment rights act.

20 The department shall establish the member's service credit and  
21 shall bill the employer for its contribution required under RCW  
22 41.45.060 and 41.45.067 for the period of military service, plus  
23 interest as determined by the department. Service credit under this  
24 subsection may be obtained only if the member makes the employee  
25 contribution to the defined contribution portion as determined by the  
26 department.

27 The contributions required shall be based on the compensation the  
28 member would have earned if not on leave, or if that cannot be  
29 estimated with reasonable certainty, the compensation reported for the  
30 member in the year prior to when the member went on military leave.

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

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

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

5 (iii) Pays the employee contributions required under this  
6 subsection within five years of the date of death or prior to the  
7 distribution of any benefit, whichever comes first.

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

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

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

19 (iii) The member pays the employee contributions required under  
20 this subsection within five years of the director's determination of  
21 total disability or prior to the distribution of any benefit, whichever  
22 comes first.

23 **Sec. 4.** RCW 41.35.470 and 1998 c 341 s 108 are each amended to  
24 read as follows:

25 (1) A member who is on a paid leave of absence authorized by a  
26 member's employer shall continue to receive service credit as provided  
27 for under the provisions of RCW 41.35.400 through 41.35.599.

28 (2) A member who receives compensation from an employer while on an  
29 authorized leave of absence to serve as an elected official of a labor  
30 organization, and whose employer is reimbursed by the labor  
31 organization for the compensation paid to the member during the period  
32 of absence, may also be considered to be on a paid leave of absence.  
33 This subsection shall only apply if the member's leave of absence is  
34 authorized by a collective bargaining agreement that provides that the  
35 member retains seniority rights with the employer during the period of  
36 leave. The compensation earnable reported for a member who establishes

1 service credit under this subsection may not be greater than the salary  
2 paid to the highest paid job class covered by the collective bargaining  
3 agreement.

4 (3) Except as specified in subsection (4) of this section, a member  
5 shall be eligible to receive a maximum of two years service credit  
6 during a member's entire working career for those periods when a member  
7 is on an unpaid leave of absence authorized by an employer. Such  
8 credit may be obtained only if:

9 (a) The member makes both the plan 2 employer and member  
10 contributions plus interest as determined by the department for the  
11 period of the authorized leave of absence within five years of  
12 resumption of service or prior to retirement whichever comes sooner; or

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

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

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

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

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

32 (ii) The member makes the employee contributions required under RCW  
33 41.35.430 within five years of resumption of service or prior to  
34 retirement, whichever comes sooner; or

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

1 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
2 or (e)(iii) of this subsection, the department shall establish the  
3 member's service credit and shall bill the employer for its  
4 contribution required under RCW 41.35.430 for the period of military  
5 service, plus interest as determined by the department.

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

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

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

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

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

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

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

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

37 (iii) The member pays the employee contributions required under

1 chapter 41.45 RCW within five years of the director's determination of  
2 total disability or prior to the distribution of any benefit, whichever  
3 comes first.

4 **Sec. 5.** RCW 41.35.650 and 1998 c 341 s 206 are each amended to  
5 read as follows:

6 (1) A member who is on a paid leave of absence authorized by a  
7 member's employer shall continue to receive service credit.

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

20 (3) Except as specified in subsection (4) of this section, a member  
21 shall be eligible to receive a maximum of two years service credit  
22 during a member's entire working career for those periods when a member  
23 is on an unpaid leave of absence authorized by an employer. Such  
24 credit may be obtained only if:

25 (a) The member makes the contribution on behalf of the employer,  
26 plus interest, as determined by the department; and

27 (b) The member makes the employee contribution, plus interest, as  
28 determined by the department, to the defined contribution portion.

29 The contributions required shall be based on the average of the  
30 member's earnable compensation at both the time the authorized leave of  
31 absence was granted and the time the member resumed employment.

32 (4) A member who leaves the employ of an employer to enter the  
33 (~~armed forces~~) uniformed services of the United States shall be  
34 entitled to retirement system service credit for up to five years of  
35 military service if within ninety days of the member's honorable  
36 discharge from the uniformed services of the United States (~~armed~~  
37 ~~forces~~)), the member applies for reemployment with the employer who

1 employed the member immediately prior to the member entering the  
2 (~~United States armed forces~~) uniformed services. This subsection  
3 shall be administered in a manner consistent with the requirements of  
4 the federal uniformed services employment and reemployment rights act.

5 The department shall establish the member's service credit and  
6 shall bill the employer for its contribution required under RCW  
7 41.35.720 for the period of military service, plus interest as  
8 determined by the department. Service credit under this subsection may  
9 be obtained only if the member makes the employee contribution to the  
10 defined contribution portion as determined by the department.

11 The contributions required shall be based on the compensation the  
12 member would have earned if not on leave, or if that cannot be  
13 estimated with reasonable certainty, the compensation reported for the  
14 member in the year prior to when the member went on military leave.

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

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

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

27 (iii) Pays the employee contributions required under this  
28 subsection within five years of the date of death or prior to the  
29 distribution of any benefit, whichever comes first.

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

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

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

3 (iii) The member pays the employee contributions required under  
4 this subsection within five years of the director's determination of  
5 total disability or prior to the distribution of any benefit, whichever  
6 comes first.

7 **Sec. 6.** RCW 41.32.260 and 1992 c 212 s 8 are each amended to read  
8 as follows:

9 Any member whose public school service is interrupted by active  
10 service to the United States as a member of its (~~military, naval or~~  
11 ~~air service~~) uniformed services, or to the state of Washington, as a  
12 member of the legislature, may upon becoming reemployed in the public  
13 schools, receive credit for that service upon presenting satisfactory  
14 proof, and contributing to the member reserve, either in a lump sum or  
15 installments, amounts determined by the director. Except that no  
16 military service credit in excess of five years shall be established or  
17 reestablished after July 1, 1961, unless the service was actually  
18 rendered during time of war. This section shall be administered in a  
19 manner consistent with the requirements of the federal uniformed  
20 services employment and reemployment rights act.

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

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

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

33 (c) Pays the employee contributions required under chapter 41.45  
34 RCW within five years of the date of death or prior to the distribution  
35 of any benefit, whichever comes first.

36 (2) A member who leaves the employ of an employer to enter the  
37 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in  
2 the uniformed services is entitled to retirement system service credit  
3 under this subsection up to the date of discharge from the uniformed  
4 services if:

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

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

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

14 **Sec. 7.** RCW 41.32.810 and 1996 c 61 s 2 are each amended to read  
15 as follows:

16 (1) A member who is on a paid leave of absence authorized by a  
17 member's employer shall continue to receive service credit as provided  
18 for under the provisions of RCW 41.32.755 through 41.32.825.

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

31 (3) Except as specified in subsection (6) of this section, a member  
32 shall be eligible to receive a maximum of two years service credit  
33 during a member's entire working career for those periods when a member  
34 is on an unpaid leave of absence authorized by an employer. Such  
35 credit may be obtained only if the member makes both the employer and  
36 member contributions plus interest as determined by the department for

1 the period of the authorized leave of absence within five years of  
2 resumption of service or prior to retirement whichever comes sooner.

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

9 (5) For the purpose of subsection (3) of this section, the  
10 contribution shall not include the contribution for the unfunded  
11 supplemental present value as required by RCW 41.32.775. The  
12 contributions required shall be based on the average of the member's  
13 earnable compensation at both the time the authorized leave of absence  
14 was granted and the time the member resumed employment.

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

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

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

28 (ii) The member makes the employee contributions required under RCW  
29 41.32.775 within five years of resumption of service or prior to  
30 retirement, whichever comes sooner; or

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

34 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
35 or (e)(iii) of this subsection, the department shall establish the  
36 member's service credit and shall bill the employer for its  
37 contribution required under RCW 41.32.775 for the period of military  
38 service, plus interest as determined by the department.

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

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

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

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

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

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

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

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

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

36 **Sec. 8.** RCW 41.32.865 and 1996 c 61 s 3 are each amended to read  
37 as follows:

1 (1) A member who is on a paid leave of absence authorized by a  
2 member's employer shall continue to receive service credit.

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

15 (3) Except as specified in subsection (4) of this section, a member  
16 shall be eligible to receive a maximum of two years service credit  
17 during a member's entire working career for those periods when a member  
18 is on an unpaid leave of absence authorized by an employer. Such  
19 credit may be obtained only if:

20 (a) The member makes the contribution on behalf of the employer,  
21 plus interest, as determined by the department; and

22 (b) The member makes the employee contribution, plus interest, as  
23 determined by the department, to the defined contribution portion.

24 The contributions required shall be based on the average of the  
25 member's earnable compensation at both the time the authorized leave of  
26 absence was granted and the time the member resumed employment.

27 (4) A member who leaves the employ of an employer to enter the  
28 (~~armed forces~~) uniformed services of the United States shall be  
29 entitled to retirement system service credit for up to five years of  
30 military service if within ninety days of the member's honorable  
31 discharge from the uniformed services of the United States (~~armed  
32 forces~~), the member applies for reemployment with the employer who  
33 employed the member immediately prior to the member entering the  
34 (~~United States armed forces~~) uniformed services. This subsection  
35 shall be administered in a manner consistent with the requirements of  
36 the federal uniformed services employment and reemployment rights act.

37 The department shall establish the member's service credit and  
38 shall bill the employer for its contribution required under chapter

1 239, Laws of 1995 for the period of military service, plus interest as  
2 determined by the department. Service credit under this subsection may  
3 be obtained only if the member makes the employee contribution to the  
4 defined contribution portion as determined by the department.

5 The contributions required shall be based on the compensation the  
6 member would have earned if not on leave, or if that cannot be  
7 estimated with reasonable certainty, the compensation reported for the  
8 member in the year prior to when the member went on military leave.

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

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

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

21 (iii) Pays the employee contributions required under this  
22 subsection within five years of the date of death or prior to the  
23 distribution of any benefit, whichever comes first.

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

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

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

35 (iii) The member pays the employee contributions required under  
36 this subsection within five years of the director's determination of  
37 total disability or prior to the distribution of any benefit, whichever  
38 comes first.

1       **Sec. 9.** RCW 41.26.520 and 2002 c 28 s 1 are each amended to read  
2 as follows:

3       (1) A member who is on a paid leave of absence authorized by a  
4 member's employer shall continue to receive service credit as provided  
5 for under the provisions of RCW 41.26.410 through 41.26.550.

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

18       (3) Except as specified in subsection (7) of this section, a member  
19 shall be eligible to receive a maximum of two years service credit  
20 during a member's entire working career for those periods when a member  
21 is on an unpaid leave of absence authorized by an employer. Such  
22 credit may be obtained only if the member makes the employer, member,  
23 and state contributions plus interest as determined by the department  
24 for the period of the authorized leave of absence within five years of  
25 resumption of service or prior to retirement whichever comes sooner.

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

37       (5) If a member fails to meet the time limitations of subsection  
38 (3) or (4) of this section, the member may receive a maximum of two

1 years of service credit during a member's working career for those  
2 periods when a member is on unpaid leave of absence authorized by an  
3 employer. This may be done by paying the amount required under RCW  
4 41.50.165(2) prior to retirement.

5 (6) For the purpose of subsection (3) or (4) of this section the  
6 contribution shall not include the contribution for the unfunded  
7 supplemental present value as required by RCW 41.45.060, 41.45.061, and  
8 41.45.067. The contributions required shall be based on the average of  
9 the member's basic salary at both the time the authorized leave of  
10 absence was granted and the time the member resumed employment.

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

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

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

24 (ii) The member makes the employee contributions required under RCW  
25 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of  
26 service or prior to retirement, whichever comes sooner; or

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

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

36 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)  
37 of this subsection shall be based on the compensation the member would

1 have earned if not on leave, or if that cannot be estimated with  
2 reasonable certainty, the compensation reported for the member in the  
3 year prior to when the member went on military leave.

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

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

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

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

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

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

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

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

34 (8) A member receiving benefits under Title 51 RCW who is not  
35 receiving benefits under this chapter shall be deemed to be on unpaid,  
36 authorized leave of absence.

1       **Sec. 10.** RCW 43.43.260 and 2002 c 27 s 3 are each amended to read  
2 as follows:

3       Upon retirement from service as provided in RCW 43.43.250, a member  
4 shall be granted a retirement allowance which shall consist of:

5       (1) A prior service allowance which shall be equal to two percent  
6 of the member's average final salary multiplied by the number of years  
7 of prior service rendered by the member.

8       (2) A current service allowance which shall be equal to two percent  
9 of the member's average final salary multiplied by the number of years  
10 of service rendered while a member of the retirement system.

11       (3)(a) Any member commissioned prior to January 1, 2003, with  
12 twenty-five years service in the Washington state patrol may have the  
13 member's service in the (~~armed forces~~) uniformed services credited as  
14 a member whether or not the individual left the employ of the  
15 Washington state patrol to enter such (~~armed forces~~) uniformed  
16 services: PROVIDED, That in no instance shall military service in  
17 excess of five years be credited: AND PROVIDED FURTHER, That in each  
18 instance, a member must restore all withdrawn accumulated  
19 contributions, which restoration must be completed on the date of the  
20 member's retirement, or as provided under RCW 43.43.130, whichever  
21 occurs first: AND PROVIDED FURTHER, That this section shall not apply  
22 to any individual, not a veteran within the meaning of RCW 41.06.150.

23       (b) A member who leaves the Washington state patrol to enter the  
24 (~~armed forces~~) uniformed services of the United States shall be  
25 entitled to retirement system service credit for up to five years of  
26 military service. This subsection shall be administered in a manner  
27 consistent with the requirements of the federal uniformed services  
28 employment and reemployment rights act.

29       (i) The member qualifies for service credit under this subsection  
30 if:

31       (A) Within ninety days of the member's honorable discharge from the  
32 uniformed services of the United States (~~armed forces~~), the member  
33 applies for reemployment with the employer who employed the member  
34 immediately prior to the member entering the (~~United States armed~~  
35 ~~forces~~) uniformed services; and

36       (B) The member makes the employee contributions required under RCW  
37 41.45.0631 and 41.45.067 within five years of resumption of service or  
38 prior to retirement, whichever comes sooner; or

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

4 (ii) Upon receipt of member contributions under (b)(i)(B),  
5 (b)(iv)(C), and (b)(v)(C) of this subsection, the department shall  
6 establish the member's service credit and shall bill the employer for  
7 its contribution required under RCW 41.45.060 for the period of  
8 military service, plus interest as determined by the department.

9 (iii) The contributions required under (b)(i)(B), (b)(iv)(C), and  
10 (b)(v)(C) of this subsection shall be based on the compensation the  
11 member would have earned if not on leave, or if that cannot be  
12 estimated with reasonable certainty, the compensation reported for the  
13 member in the year prior to when the member went on military leave.

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

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

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

26 (C) If the member was commissioned on or after January 1, 2003,  
27 pays the employee contributions required under chapter 41.45 RCW within  
28 five years of the date of death or prior to the distribution of any  
29 benefit, whichever comes first.

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

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

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

3       (C) If the member was commissioned on or after January 1, 2003, the  
4 member pays the employee contributions required under chapter 41.45 RCW  
5 within five years of the director's determination of total disability  
6 or prior to the distribution of any benefit, whichever comes first.

7       (4) In no event shall the total retirement benefits from  
8 subsections (1), (2), and (3) of this section, of any member exceed  
9 seventy-five percent of the member's average final salary.

10       (5) Beginning July 1, 2001, and every year thereafter, the  
11 department shall determine the following information for each retired  
12 member or beneficiary whose retirement allowance has been in effect for  
13 at least one year:

14       (a) The original dollar amount of the retirement allowance;

15       (b) The index for the calendar year prior to the effective date of  
16 the retirement allowance, to be known as "index A";

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

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

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

23       (i) Produce a retirement allowance which is lower than the original  
24 retirement allowance;

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

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

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

33       The provisions of this section shall apply to all members presently  
34 retired and to all members who shall retire in the future.

35       **Sec. 11.** RCW 41.37.260 and 2004 c 242 s 32 are each amended to  
36 read as follows:

1 (1) A member who is on a paid leave of absence authorized by a  
2 member's employer shall continue to receive service credit as provided  
3 for under RCW 41.37.190 through 41.37.290.

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

16 (3) Except as specified in subsection (4) of this section, a member  
17 shall be eligible to receive a maximum of two years service credit  
18 during a member's entire working career for those periods when a member  
19 is on an unpaid leave of absence authorized by an employer. This  
20 credit may be obtained only if:

21 (a) The member makes both the employer and member contributions  
22 plus interest as determined by the department for the period of the  
23 authorized leave of absence within five years of resumption of service  
24 or prior to retirement whichever comes sooner; or

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

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

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

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

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

6 (ii) The member makes the employee contributions required under RCW  
7 41.37.220 within five years of resumption of service or prior to  
8 retirement, whichever comes sooner; or

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

12 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
13 or (e)(iii) of this subsection, the department shall establish the  
14 member's service credit and shall bill the employer for its  
15 contribution required under RCW 41.37.220 for the period of military  
16 service, plus interest as determined by the department.

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

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

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

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

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

37 (e) A member who leaves the employ of an employer to enter the  
38 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in  
2 the uniformed services is entitled to retirement system service credit  
3 under this subsection up to the date of discharge from the uniformed  
4 services if:

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

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

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

14 NEW SECTION. Sec. 12. Section 11 of this act takes effect July 1,  
15 2006.

--- END ---

# DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY: <b>Office of the State Actuary</b>	CODE: <b>035</b>	DATE: <b>10/25/04</b>	BILL NUMBER: <b>Z-0177.1</b>
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## SUMMARY OF BILL:

This bill impacts the Public Employees' Retirement System, the School Employees' Retirement System, the Teachers' Retirement System, the Law Enforcement Officers' and Firefighters' Retirement System Plan 2, the Washington State Patrol Retirement System, and the Public Safety Employees' Retirement System by authorizing interruptive military service credit for employees who cannot return to public employment due to death or total disability while serving in the uniformed services. Service credit could be purchased by a disabled member or survivor(s) of a deceased member for interruptive military service credit up to the date of death or disability.

Effective Date: 90 days after session.

## CURRENT SITUATION:

Interruptive military service is governed by the Uniformed Services Employment and Re-employment Rights Act (USERRA). At a minimum, public employers must provide the protections specified in the act. State law can provide for benefits that are more generous than those under USERRA, as long as the minimum requirements of the federal law are fully satisfied.

USERRA provides for the re-employment of individuals who leave employment to serve in the uniformed services of the United States. Included in USERRA's re-employment rights is the right to restoration of retirement plan benefits, and to that end, USERRA provides for reinstatement of retirement service credit after re-employment. USERRA does not, however, address the retirement benefits that would have accrued to members who are never re-employed because they died while in active service or became totally incapacitated for continued service with their employer.

## MEMBERS IMPACTED:

We estimate that each year, 0 to 6 members out of the total members of all the systems would be affected by this bill.

We estimate that for a typical member impacted by this bill, the increase in benefits would be in the \$40 to \$50 per month range.

## FISCAL IMPACT:

The cost of this bill is insufficient to increase contribution rates in any of the affected systems.



STATE OF WASHINGTON  
DEPARTMENT OF RETIREMENT SYSTEMS  
PO Box 48380 • Olympia WA 98504-8380 • (360) 664-7000 • Toll Free 1-800-547-6657

October 28, 2004

The Honorable Karen Fraser, Chair  
The Honorable Steve Conway, Vice-Chair  
Select Committee on Pension Policy  
Post Office Box 40914  
Olympia, Washington 98504-0914

**RECEIVED**

**OCT 28 2004**

Office of  
The State Actuary

Dear Senator Fraser and Representative Conway:

Subject: Purchase of Interruptive Military Service Credit

At the October 19, 2004 Select Committee on Pension Policy (SCPP) meeting, the Department of Retirement Systems (DRS) was asked to provide input on the proposal to allow the purchase of retirement service credit for service men and women on interruptive military leave. DRS supports the death and disability provisions of the proposal, but has concerns about the third provision which would allow employers to report as earnable compensation any offset salary being paid to the employee.

Current Federal and State law on interruptive military service is consistent in two areas:

- It requires that service be designated as honorable.
- It requires the employee to return to covered service if he or she is able.

The death and disability proposals also require the military service to be deemed as honorable. If however, employers are allowed to report a salary offset to DRS (the third provision), a situation exists where the member may earn partial or total service credit for periods where the nature of the military service could be dishonorable, and where a return to employment is not required or does not occur. This creates an inequity in the treatment of those members not receiving the pay offset who must serve honorably and return to covered employment in order to purchase their missing service.

As I mentioned at the October 19<sup>th</sup> meeting, the current process for purchasing service for interruptive leave is both easy and efficient. With an average cost of approximately \$1,700 for nine months of service credit, a member can initiate the purchase with a simple phone call and can take up to five years to pay with no interest. Members may pay in installments or with a lump sum at anytime during the five years. This same process would be utilized to implement the death and disability proposals. While reporting an offset salary creates no additional cost by itself, there would be increased administrative cost if DRS is required to begin tracking offset pay and related service credit.

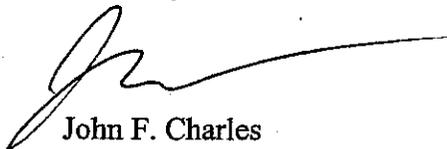


Senator Karen Fraser  
Representative Steve Conway  
October 28, 2004  
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As noted above, the death and disability proposals are in alignment with Federal and State law and the existing policy and process for purchasing interruptive military service. However, allowing service to be earned due to reporting offset pay goes beyond the current policy and creates inequity in the treatment of members. Based on this information I encourage the removal of the reporting of offset salary from the proposal.

Please contact me at 664-7312 if you would like to discuss this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'John F. Charles', with a long horizontal flourish extending to the right.

John F. Charles  
Director