

Hawbaker, Lisa

From: Guerin, Tracy (DRS)
Sent: Thursday, October 11, 2018 5:29 PM
To: Gutierrez, Aaron
Cc: Smith, Matt; Conway, Sen. Steve; Miller, Seth (DRS)
Subject: Fwd: SHB 1558 technical fix

Aaron,

Please include this in the correspondence for Exec as it was forwarded to me.

Hopefully it can get on a SCPP agenda before January since it will be in a technical fix bill for DCYF.

Tracy

Sent from my iPhone

Begin forwarded message:

From: Rosen, Mark (DSHS/RA)
Sent: Wednesday, October 10, 2018 5:06 PM
To: Avalos, Paulette (GOV); Forrester, Sydney (GOV); Hallum, Sonja (GOV); Chinn, Brandy (OFM); Sakson, Jane (OFM)
Cc: Ordway, Frank (DCYF); Del Villar Fox, David (DCYF); Stokes, Genevieve (DCYF); Clark, Lauren (DCYF); Merchant, Shawn (DRS); McMahan, Amy (DRS); Swanson, Sharon (DSHS/PER); Phelan, Jennisha (DSHS/PER); Qural, Marybeth (DSHS); Kelly, Rebecca H (DSHS/RA); Long, Wendy (DSHS/HRD); Maddox, Margaret (DSHS/HRD); Blair, Diana (DSHS/RA)
Subject: SHB 1558 technical fix

Hello all,

On behalf of Frank Ordway, I am forwarding draft language to make a technical fix to [SHB 1558](#) (2018), authorizing membership for JR institutional employees in the Public Safety Employees' Retirement System.

I wanted to let you know that we are proposing to add this language to the Department of Children, Youth, and Families (DCYF's) technical fix request bill (Z-0128.1 Tech fix).

As noted on the attached draft, under SHB 1558, DSHS employees who provide nursing care to, or ensure the custody or safety of, offender and patient populations in Juvenile Rehabilitation (JR) institutions are now eligible for membership in PSERS. However, DSHS/JR will be transitioning to DCYF effective July 1, 2019 pursuant to 2E2SHB 1661 (2018). The proposed amendment corrects this oversight in SHB 1558 to ensure that DSHS staff working in JR

institutions will continue to be eligible for membership in PSERS upon their transfer to DCYF in July of 2019.

DCYF has approved inclusion of this language in their technical fix bill, and DRS, which is responsible for implementing SHB 1558, has deferred policy questions to OFM. I spoke to Paulette Avalos this afternoon, who thought that this technical correction sounded appropriate.

Please let me know if you have any questions or concerns. Thank you!

Mark

Mark Rosen, J.D. / Legislative and Risk Management Administrator

Rehabilitation Administration

Washington State Department of Social and Health Services

(O) 360-902-7504 / mark.rosen@dshs.wa.gov

Transforming Lives

DCYF Technical Fix Bill – JR PSERS Amendment - 10.4.18 Draft

Rationale: Employees of the Department of Social and Health Services (DSHS) that provide nursing care to, or ensure the custody or safety of, offender and patient populations in Juvenile Rehabilitation (JR) institutions are now eligible for membership in the Public Safety Employees' Retirement System (PSERS) under Substitute House Bill 1558 (Chapter 241, Laws 2018, effective June 6, 2018). However, DSHS/JR will be transitioning to the new Department of Children, Youth, and Families (DCYF) effective July 1, 2019 pursuant to 2E2SHB 1661 (2018). This amendment corrects this oversight in SHB 1558 to ensure that DSHS staff working in JR institutions will continue to be eligible for membership in PSERS upon their transfer to DCYF.

Sec. #. Amend RCW [41.37.010](#) to read as follows:

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

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

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

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

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

(5)(a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW [41.37.290](#).

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; and

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

DCYF Technical Fix Bill – JR PSERS Amendment - 10.4.18 Draft

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

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

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

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

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

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

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW [41.37.060](#);

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

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

(8) "Department" means the department of retirement systems created in chapter [41.50](#) RCW.

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

(10) "Eligible position" means any permanent, full-time position included in subsection (19) of this section.

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

(12) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state department of natural resources, the Washington state liquor and cannabis board, the Washington state department of veterans affairs, the department of children, youth, and families, and the Washington state department of social and health services; any county corrections department; any city corrections department not covered under chapter [41.28](#) RCW; and any public corrections entity created under RCW [39.34.030](#) by counties, cities not covered under chapter [41.28](#) RCW, or both. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has

DCYF Technical Fix Bill – JR PSERS Amendment - 10.4.18 Draft

been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

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

(14) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

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

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

(17) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (10) of this section.

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

(19) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW [10.93.020](#), for an employer;

(d) Whose primary responsibility is to provide nursing care to, or to ensure the custody and safety of, offender, adult probationary, or patient populations; and who is in a position that requires completion of defensive tactics training or de-escalation training; and who is employed by one of the following state institutions or centers operated by the department of social and health services or the department of children, youth, and families:

(i) Juvenile rehabilitation administration institutions, not including community facilities;

(ii) Mental health hospitals;

(iii) Child study and treatment centers; or

(iv) Institutions or residential sites that serve developmentally disabled patients or offenders, except for state-operated living alternatives facilities;

(e) Whose primary responsibility is to provide nursing care to offender and patient populations in institutions and centers operated by the following employers: A city or county corrections department as set forth in subsection (12) of this section, a public corrections entity as set forth in subsection (12) of this section, the Washington state department of corrections, or the Washington state department of veterans affairs; or

(f) Whose primary responsibility is to supervise members eligible under this subsection.

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

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

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

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

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

DCYF Technical Fix Bill – JR PSERS Amendment - 10.4.18 Draft

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

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

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

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

(29) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

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

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

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

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

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

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

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

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