
SUBSTITUTE SENATE BILL 5544

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Spanel, Fairley, Brandland, Keiser, Franklin, Benson and Kohl-Welles)

READ FIRST TIME 02/11/05.

1 AN ACT Relating to creating the Washington voluntary accounts
2 program; amending RCW 43.33A.070 and 43.84.092; adding a new chapter to
3 Title 41 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that many workers do
6 not have access to an employment-based retirement plan. Workers who
7 are unable to build up pensions and savings risk living on low incomes
8 in their old age and are more likely to become dependent on state
9 services. The Washington voluntary accounts program will provide a
10 simple and inexpensive way for workers to save for retirement and
11 employers to offer an employee benefit.

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

14 (1) "Program" means the Washington voluntary accounts program
15 created under section 3 of this act.

16 (2) "Director" means the director of the department of retirement
17 systems.

1 (3) "Participating employee" means any workers in this state that
2 choose to participate in the program.

3 (4) "Participating employer" means any private employer, with a
4 place of business in this state, and with employees that have chosen to
5 participate in the program.

6 NEW SECTION. **Sec. 3.** The Washington voluntary accounts program is
7 created. The director may adopt rules as necessary to implement this
8 chapter. Sections 4 and 5 of this act may not be implemented until any
9 approvals from federal agencies that may be necessary, including the
10 favorable tax treatment of the plan, have been granted, and appropriate
11 funds for start-up costs of the program have been identified.

12 NEW SECTION. **Sec. 4.** (1) Private employers shall, in cooperation
13 with the department, provide employees with the opportunity to
14 participate in the Washington voluntary accounts program, including
15 payroll deductions for those employees who elect to contribute to
16 individual retirement accounts. Each participating employer is
17 authorized to contract with a participating employee to defer or
18 otherwise contribute a portion of that employee's compensation, in
19 accordance with the internal revenue code or other applicable federal
20 laws.

21 (2) Participating employees may self-direct the investment of their
22 account balances through selection among investment options to the
23 extent provided in subsection (3) of this section.

24 (3) The director may provide the individual retirement account
25 plans as the department determines to be advisable. The state
26 investment board, with respect to the program, shall invest the
27 contributions of participating employees, in accordance with federal
28 law, and to the extent permissible under federal law, in accordance
29 with RCW 43.84.150, 43.33A.140, and 41.50.780, and pursuant to
30 investment policy established by the state investment board for the
31 program. The state investment board shall provide investment options
32 for participants to choose from, and may establish an investment plan
33 for participants who choose not to self-direct their investments.

34 NEW SECTION. **Sec. 5.** The director may also provide plans,
35 including 401(k) plans and savings incentive match plan for employees

1 individual retirement account plans, that employers may elect to adopt
2 for the benefit of their employees, and that comply with applicable
3 federal laws. However, this act does not require employers to provide
4 plans for their employees. Those employers that elect to adopt plans
5 are responsible for complying with any applicable federal laws and
6 regulations.

7 NEW SECTION. **Sec. 6.** (1) The Washington voluntary accounts
8 program principal account is created in the state treasury and shall be
9 administered in compliance with applicable federal law and as set forth
10 in this section. The department shall make arrangements with financial
11 institutions to serve as trustees or custodians of Washington voluntary
12 accounts as may be required or advisable to comply with applicable
13 federal law and to provide for the efficient implementation and
14 administration of the program.

15 (2) The contributions elected by participating employees in
16 accordance with sections 4 and 5 of this act shall be paid into the
17 Washington voluntary accounts program principal account and shall be
18 sufficient to cover costs of administration and staffing in addition to
19 such other amounts as may be determined by the director. The account
20 shall be used to carry out the purposes of this chapter.

21 (3) All moneys in the Washington voluntary accounts program
22 principal account and the Washington voluntary accounts program
23 administrative account, all property and rights purchased therewith,
24 and all income attributable thereto, shall be held in trust by the
25 state investment board, as set forth under RCW 43.33A.030, for the
26 exclusive benefit of the Washington voluntary accounts program
27 participants and their beneficiaries, and, notwithstanding any other
28 provision of this or related acts, shall be held separate from other
29 types of funds to the extent required by federal law. Neither the
30 participating employee, nor the participant's beneficiary or
31 beneficiaries, nor any other designee, has any right to commute, sell,
32 assign, transfer, or otherwise convey the right to receive any payments
33 under the program. These payments and rights are nonassignable and
34 nontransferable. Account balances are not subject to attachment,
35 garnishment, or execution and are not transferable by operation of law
36 in event of bankruptcy or insolvency, except to the extent otherwise
37 required by law.

1 (4) The state investment board has the full power to invest moneys
2 in the Washington voluntary accounts program principal account and the
3 Washington voluntary accounts program administrative account in
4 accordance with RCW 43.84.150, 43.33A.140, and 41.50.770, and
5 cumulative investment directions received under this chapter. All
6 investment and operating costs of the state investment board associated
7 with the investment of the program assets shall be paid under RCW
8 43.33A.160 and 43.84.160. With the exception of these expenses, one
9 hundred percent of all earnings from these investments shall accrue
10 directly to the Washington voluntary accounts program principal
11 account.

12 (5)(a) No state board, commission, or agency, or any officer,
13 employee, or member is liable for any loss or deficiency resulting from
14 participant investments selected under this chapter.

15 (b) The state investment board, or any officer, employee, or member
16 is not liable for any loss or deficiency resulting from reasonable
17 efforts to implement investment directions under this chapter.

18 (6) The Washington voluntary accounts program administrative
19 account is created in the state treasury. All expenses of the
20 department pertaining to the Washington voluntary accounts program
21 including staffing and administrative expenses shall be paid out of the
22 Washington voluntary accounts program administrative account. Any
23 excess balances credited to this account over administrative expenses
24 disbursed from this account shall be transferred to the Washington
25 voluntary accounts program principal account at such time and in such
26 amounts as may be determined by the director with the approval of the
27 director of financial management. Any deficiency in the Washington
28 voluntary accounts program administrative account caused by an excess
29 of administrative expenses disbursed from this account shall be
30 transferred to this account from the Washington voluntary accounts
31 program principal account.

32 (7)(a)(i) The director shall keep or cause to be kept full and
33 adequate accounts and records of the assets of each individual
34 participant, obligations, transactions, and affairs of the program.
35 The department shall account for and report on the investment of
36 program assets or may enter into an agreement with the state investment
37 board for accounting and reporting.

1 (ii) The director's duties related to individual participant
2 accounts include conducting the activities of trade instruction,
3 settlement activities, and direction of cash movement and related wire
4 transfers with the custodian bank and outside investment firms.

5 (iii) The director has sole responsibility for contracting with any
6 recordkeepers for individual participant accounts and shall manage the
7 performance of recordkeepers under those contracts.

8 (b)(i) The director's duties under (a)(ii) of this subsection do
9 not limit the authority of the state investment board to conduct its
10 responsibilities for asset management and balancing of program funds.

11 (ii) The state investment board has sole responsibility for
12 contracting with outside investment firms to provide investment
13 management for program funds and shall manage the performance of
14 investment managers under those contracts.

15 (c) The state treasurer shall designate and define the terms of
16 engagement for the custodial banks.

17 **Sec. 7.** RCW 43.33A.070 and 1981 c 3 s 7 are each amended to read
18 as follows:

19 No member of the state investment board is liable for the
20 negligence, default, or failure of any other person or other member of
21 the board to perform the duties of the member's office and no member of
22 the board shall be considered or held to be an insurer of the funds or
23 assets of any of the trust and retirement funds, including funds or
24 assets of the voluntary accounts program, nor is any nonvoting member
25 liable for actions performed with the exercise of reasonable diligence
26 within the scope of the member's authorized activities as a member of
27 the board.

28 **Sec. 8.** RCW 43.84.092 and 2004 c 242 s 60 are each amended to read
29 as follows:

30 (1) All earnings of investments of surplus balances in the state
31 treasury shall be deposited to the treasury income account, which
32 account is hereby established in the state treasury.

33 (2) The treasury income account shall be utilized to pay or receive
34 funds associated with federal programs as required by the federal cash
35 management improvement act of 1990. The treasury income account is
36 subject in all respects to chapter 43.88 RCW, but no appropriation is

1 required for refunds or allocations of interest earnings required by
2 the cash management improvement act. Refunds of interest to the
3 federal treasury required under the cash management improvement act
4 fall under RCW 43.88.180 and shall not require appropriation. The
5 office of financial management shall determine the amounts due to or
6 from the federal government pursuant to the cash management improvement
7 act. The office of financial management may direct transfers of funds
8 between accounts as deemed necessary to implement the provisions of the
9 cash management improvement act, and this subsection. Refunds or
10 allocations shall occur prior to the distributions of earnings set
11 forth in subsection (4) of this section.

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

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

24 (a) The following accounts and funds shall receive their
25 proportionate share of earnings based upon each account's and fund's
26 average daily balance for the period: The capitol building
27 construction account, the Cedar River channel construction and
28 operation account, the Central Washington University capital projects
29 account, the charitable, educational, penal and reformatory
30 institutions account, the common school construction fund, the county
31 criminal justice assistance account, the county sales and use tax
32 equalization account, the data processing building construction
33 account, the deferred compensation administrative account, the deferred
34 compensation principal account, the department of retirement systems
35 expense account, the drinking water assistance account, the drinking
36 water assistance administrative account, the drinking water assistance
37 repayment account, the Eastern Washington University capital projects
38 account, the education construction fund, the election account, the

1 emergency reserve fund, The Evergreen State College capital projects
2 account, the federal forest revolving account, the health services
3 account, the public health services account, the health system capacity
4 account, the personal health services account, the state higher
5 education construction account, the higher education construction
6 account, the highway infrastructure account, the industrial insurance
7 premium refund account, the judges' retirement account, the judicial
8 retirement administrative account, the judicial retirement principal
9 account, the local leasehold excise tax account, the local real estate
10 excise tax account, the local sales and use tax account, the medical
11 aid account, the mobile home park relocation fund, the multimodal
12 transportation account, the municipal criminal justice assistance
13 account, the municipal sales and use tax equalization account, the
14 natural resources deposit account, the oyster reserve land account, the
15 perpetual surveillance and maintenance account, the public employees'
16 retirement system plan 1 account, the public employees' retirement
17 system combined plan 2 and plan 3 account, the public facilities
18 construction loan revolving account beginning July 1, 2004, the public
19 health supplemental account, the public works assistance account, the
20 Puyallup tribal settlement account, the regional transportation
21 investment district account, the resource management cost account, the
22 site closure account, the special wildlife account, the state
23 employees' insurance account, the state employees' insurance reserve
24 account, the state investment board expense account, the state
25 investment board commingled trust fund accounts, the supplemental
26 pension account, the Tacoma Narrows toll bridge account, the teachers'
27 retirement system plan 1 account, the teachers' retirement system
28 combined plan 2 and plan 3 account, the tobacco prevention and control
29 account, the tobacco settlement account, the transportation
30 infrastructure account, the tuition recovery trust fund, the University
31 of Washington bond retirement fund, the University of Washington
32 building account, the volunteer fire fighters' and reserve officers'
33 relief and pension principal fund, the volunteer fire fighters' and
34 reserve officers' administrative fund, the Washington fruit express
35 account, the Washington judicial retirement system account, the
36 Washington law enforcement officers' and fire fighters' system plan 1
37 retirement account, the Washington law enforcement officers' and fire
38 fighters' system plan 2 retirement account, the Washington public

1 safety employees' plan 2 retirement account, the Washington school
2 employees' retirement system combined plan 2 and 3 account, the
3 Washington state health insurance pool account, the Washington state
4 patrol retirement account, the Washington State University building
5 account, the Washington State University bond retirement fund, the
6 Washington voluntary accounts program administrative account, the
7 Washington voluntary accounts program principal account, the water
8 pollution control revolving fund, and the Western Washington University
9 capital projects account. Earnings derived from investing balances of
10 the agricultural permanent fund, the normal school permanent fund, the
11 permanent common school fund, the scientific permanent fund, and the
12 state university permanent fund shall be allocated to their respective
13 beneficiary accounts. All earnings to be distributed under this
14 subsection (4)(a) shall first be reduced by the allocation to the state
15 treasurer's service fund pursuant to RCW 43.08.190.

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

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

1 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act constitute
2 a new chapter in Title 41 RCW.

3 NEW SECTION. **Sec. 10.** This act takes effect July 1, 2006.

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