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SENATE BILL 5779

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State of Washington

60th Legislature

2007 Regular Session

By Senators Prentice and Pridemore; by request of Office of Financial Management

Read first time 01/31/2007. Referred to Committee on Ways & Means.

1 AN ACT Relating to public pensions that revises gain-sharing  
2 provisions and makes certain changes in benefits for the teachers'  
3 retirement system, the school employees' retirement system, and the  
4 public employees' retirement system; amending RCW 41.34.020, 41.34.040,  
5 41.34.060, 41.31A.020, 41.34.110, 41.32.835, 41.32.840, 41.35.610,  
6 41.35.620, 41.40.790, 41.31.010, and 41.31.020; adding new sections to  
7 chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding  
8 new sections to chapter 41.40 RCW; adding new sections to chapter 41.34  
9 RCW; creating a new section; decodifying RCW 41.31A.020, 41.31.010, and  
10 41.31.020; providing an effective date; and declaring an emergency.

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

12 **Sec. 1.** RCW 41.34.020 and 2000 c 247 s 401 are each amended to  
13 read as follows:

14 As used in this chapter, the following terms have the meanings  
15 indicated:

16 (1) "Actuary" means the state actuary or the office of the state  
17 actuary.

18 (2) "Assured benefit program" means the provisions of this chapter  
19 allowing certain members the option to contribute a specified

1 percentage of their compensation, invest that contribution in the  
2 Washington state investment board investment program, and receive a  
3 specified benefit.

4 (3) "Assured benefit subaccount" means a portion of a member  
5 account that must be directed to the Washington state investment board  
6 investment program.

7 (4) "Board" means the employee retirement benefits board authorized  
8 in chapter 41.50 RCW.

9 ~~((+3))~~ (5) "Department" means the department of retirement  
10 systems.

11 ~~((+4))~~ (6)(a) "Compensation" for teachers for purposes of this  
12 chapter is the same as "earnable compensation" for plan 3 in chapter  
13 41.32 RCW except that the compensation may be reported when paid,  
14 rather than when earned.

15 (b) "Compensation" for classified employees for purposes of this  
16 chapter is the same as "compensation earnable" for plan 3 in RCW  
17 41.35.010, except that the compensation may be reported when paid,  
18 rather than when earned.

19 (c) "Compensation" for public employees for purposes of this  
20 chapter is the same as "compensation earnable" for plan 3 in RCW  
21 41.40.010, except that the compensation may be reported when paid,  
22 rather than when earned.

23 ~~((+5))~~ (7)(a) "Employer" for teachers for purposes of this chapter  
24 means the same as "employer" for plan 3 in chapter 41.32 RCW.

25 (b) "Employer" for classified employees for purposes of this  
26 chapter means the same as "employer" for plan 3 in RCW 41.35.010.

27 (c) "Employer" for public employees for purposes of this chapter  
28 means the same as "employer" for plan 3 in RCW 41.40.010.

29 ~~((+6))~~ (8) "Member" means any employee included in the membership  
30 of a retirement system as provided for in chapter 41.32 RCW of plan 3,  
31 chapter 41.35 RCW of plan 3, or chapter 41.40 RCW of plan 3.

32 ~~((+7))~~ (9) "Member account" or "member's account" means the sum of  
33 the contributions and earnings on behalf of the member.

34 ~~((+8))~~ (10) "Retiree" means any member in receipt of an allowance  
35 or other benefit provided by this chapter resulting from service  
36 rendered to an employer by such member.

37 ~~((+9))~~ (11) "Teacher" means a member of the teachers' retirement  
38 system plan 3 as defined in RCW 41.32.010(29).

1        ~~((10))~~ (12) "Classified employee" means a member of the school  
2 employees' retirement system plan 3 as defined in RCW 41.35.010.

3        ~~((11))~~ (13) "Public employee" means a member of the public  
4 employees' retirement system plan 3 as defined in RCW 41.40.010.

5        **Sec. 2.** RCW 41.34.040 and 2003 c 156 s 1 are each amended to read  
6 as follows:

7        (1)(a) Members of the public employees', school employees', and  
8 teachers' retirement systems participating in the assured benefit  
9 program shall contribute from his or her compensation according to one  
10 of the rate structures in (c) of this subsection in addition to the  
11 mandatory minimum of five percent. However, the total contribution  
12 rate must be at least equal to his or her system's assured benefit base  
13 rate in (d) of this subsection. The assured benefit base rate  
14 contributions are deposited in the member's assured benefit subaccount  
15 and are directed to the Washington state investment board investment  
16 program.

17        (b) A member not participating in the assured benefit program shall  
18 contribute from his or her compensation according to one of the  
19 ~~(following)~~ rate structures in (c) of this subsection in addition to  
20 the mandatory minimum five percent(~~(+)~~).

21        (c)

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	0.0% fixed
<u>Option B</u>	
Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
<u>Option C</u>	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
<u>Option D</u>	
All Ages	2.0%
<u>Option E</u>	
All Ages	5.0%
<u>Option F</u>	

2 (d) System Assured Benefit Base Rate

3		
4	<u>Teachers' Retirement System</u>	<u>fixed 6%</u>
5	<u>School Employees' Retirement System</u>	<u>fixed 5%</u>
6	<u>Public Employees' Retirement System</u>	<u>fixed 5%</u>

7 (2) The board shall have the right to offer contribution rate  
8 options in addition to those listed in subsection (1) of this section,  
9 provided that no significant additional administrative costs are  
10 created. All options offered by the board shall conform to the  
11 requirements stated in subsections (3) and (5) of this section.

12 (3)(a) For members of the teachers' retirement system entering plan  
13 3 under RCW 41.32.835 or members of the school employees' retirement  
14 system entering plan 3 under RCW 41.35.610, within ninety days of  
15 becoming a member he or she has an option to choose one of the above  
16 contribution rate structures. If the member does not select an option  
17 within the ninety-day period, he or she shall be assigned option A.

18 (b) For members of the public employees' retirement system entering  
19 plan 3 under RCW 41.40.785, within the ninety days described in RCW  
20 41.40.785 an employee who irrevocably chooses plan 3 shall select one  
21 of the above contribution rate structures. If the member does not  
22 select an option within the ninety-day period, he or she shall be  
23 assigned option A.

24 (c) For members of the teachers' retirement system transferring to  
25 plan 3 under RCW 41.32.817, members of the school employees' retirement  
26 system transferring to plan 3 under RCW 41.35.510, or members of the  
27 public employees' retirement system transferring to plan 3 under RCW  
28 41.40.795, upon election to plan 3 he or she must choose one of the  
29 above contribution rate structures.

30 (d) Within ninety days of the date that an employee changes  
31 employers, he or she has an option to choose one of the above  
32 contribution rate structures. If the member does not select an option  
33 within this ninety-day period, he or she shall be assigned option A.

34 (4) Each year, members may change their contribution rate option by  
35 notifying their employer in writing during the month of January.

36 (5) Contributions shall begin the first day of the pay cycle in

1 which the rate option is made, or the first day of the pay cycle in  
2 which the end of the ninety-day period occurs.

3 **Sec. 3.** RCW 41.34.060 and 2001 c 180 s 2 are each amended to read  
4 as follows:

5 (1) Except as provided in subsection (3) of this section, the  
6 member's account shall be invested by the state investment board. In  
7 order to reduce transaction costs and address liquidity issues, based  
8 upon recommendations of the state investment board, the department may  
9 require members to provide up to ninety days' notice prior to moving  
10 funds from the state investment board portfolio to self-directed  
11 investment options provided under subsection (3) of this section.

12 (a) For members of the retirement system as provided for in chapter  
13 41.32 RCW of plan 3, investment shall be in the same portfolio as that  
14 of the teachers' retirement system combined plan 2 and 3 fund under RCW  
15 41.50.075(2).

16 (b) For members of the retirement system as provided for in chapter  
17 41.35 RCW of plan 3, investment shall be in the same portfolio as that  
18 of the school employees' retirement system combined plan 2 and 3 fund  
19 under RCW 41.50.075(4).

20 (c) For members of the retirement system as provided for in chapter  
21 41.40 RCW of plan 3, investment shall be in the same portfolio as that  
22 of the public employees' retirement system combined plan 2 and 3 fund  
23 under RCW 41.50.075(3).

24 (2) The state investment board shall declare monthly unit values  
25 for the portfolios or funds, or portions thereof, utilized under  
26 subsection (1)(a), (b), and (c) of this section. The declared values  
27 shall be an approximation of portfolio or fund values, based on  
28 internal procedures of the state investment board. Such declared unit  
29 values and internal procedures shall be in the sole discretion of the  
30 state investment board. The state investment board may delegate any of  
31 the powers and duties under this subsection, including discretion,  
32 pursuant to RCW 43.33A.030. Member accounts shall be credited by the  
33 department with a rate of return based on changes to such unit values.

34 (3)(a) Members may elect to self-direct their investments as set  
35 forth in RCW 41.34.130 and 43.33A.190.

36 (b) Members who elect to participate in the assured benefit program

1 may elect to self-direct only that portion of their investment that is  
2 outside their assured benefit program subaccount.

3 **Sec. 4.** RCW 41.31A.020 and 2003 c 294 s 4 are each amended to read  
4 as follows:

5 (1) On January 1, 2004, and on January 1st of even-numbered years  
6 (~~thereafter~~) through January 1, 2008, the member account of a person  
7 meeting the requirements of this section shall be credited by the  
8 extraordinary investment gain amount. After January 1, 2008, no  
9 further amount under this section shall either accrue, be credited, or  
10 be paid to member accounts.

11 (2) Through January 1, 2008, the following persons shall be  
12 eligible for the benefit provided in subsection (1) of this section:

13 (a) Any member of the teachers' retirement system plan 3, the  
14 Washington school employees' retirement system plan 3, or the public  
15 employees' retirement system plan 3 who earned service credit during  
16 the twelve-month period from September 1st to August 31st immediately  
17 preceding the distribution and had a balance of at least one thousand  
18 dollars in their member account on August 31st of the year immediately  
19 preceding the distribution; or

20 (b) Any person in receipt of a benefit pursuant to RCW 41.32.875,  
21 41.35.680, or 41.40.820; or

22 (c) Any person who is a retiree pursuant to RCW 41.34.020(~~(+8)~~)  
23 (10) and who:

24 (i) Completed ten service credit years; or  
25 (ii) Completed five service credit years, including twelve service  
26 months after attaining age fifty-four; or

27 (d) Any teacher who is a retiree pursuant to RCW 41.34.020(~~(+8)~~)  
28 (10) and who has completed five service credit years by July 1, 1996,  
29 under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

30 (e) Any classified employee who is a retiree pursuant to RCW  
31 41.34.020(~~(+8)~~) (10) and who has completed five service credit years  
32 by September 1, 2000, and who transferred to plan 3 under RCW  
33 41.35.510; or

34 (f) Any public employee who is a retiree pursuant to RCW  
35 41.34.020(~~(+8)~~) (10) and who has completed five service credit years  
36 by March 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

1 (g) Any person who had a balance of at least one thousand dollars  
2 in their member account on August 31st of the year immediately  
3 preceding the distribution and who:

4 (i) Completed ten service credit years; or

5 (ii) Completed five service credit years, including twelve service  
6 months after attaining age fifty-four; or

7 (h) Any teacher who had a balance of at least one thousand dollars  
8 in their member account on August 31st of the year immediately  
9 preceding the distribution and who has completed five service credit  
10 years by July 1, 1996, under plan 2 and who transferred to plan 3 under  
11 RCW 41.32.817; or

12 (i) Any classified employee who had a balance of at least one  
13 thousand dollars in their member account on August 31st of the year  
14 immediately preceding the distribution and who has completed five  
15 service credit years by September 1, 2000, and who transferred to plan  
16 3 under RCW 41.35.510; or

17 (j) Any public employee who had a balance of at least one thousand  
18 dollars in their member account on August 31st of the year immediately  
19 preceding the distribution and who has completed five service credit  
20 years by March 1, 2002, and who transferred to plan 3 under RCW  
21 41.40.795. After January 1, 2008, no member shall be eligible for the  
22 benefit provided in subsection (1) of this section.

23 (3) Through July 1, 2007, the extraordinary investment gain amount  
24 shall be calculated as follows:

25 (a) One-half of the sum of the value of the net assets held in  
26 trust for pension benefits in the teachers' retirement system combined  
27 plan 2 and 3 fund, the Washington school employees' retirement system  
28 combined plan 2 and 3 fund, and the public employees' retirement system  
29 combined plan 2 and 3 fund at the close of the previous state fiscal  
30 year not including the amount attributable to member accounts;

31 (b) Multiplied by the amount which the compound average of  
32 investment returns on those assets over the previous four state fiscal  
33 years exceeds ten percent;

34 (c) Multiplied by the proportion of:

35 (i) The sum of the service credit on August 31st of the previous  
36 year of all persons eligible for the benefit provided in subsection (1)  
37 of this section; to

1 (ii) The sum of the service credit on August 31st of the previous  
2 year of:

3 (A) All persons eligible for the benefit provided in subsection (1)  
4 of this section;

5 (B) Any person who earned service credit in the teachers'  
6 retirement system plan 2, the Washington school employees' retirement  
7 system plan 2, or the public employees' retirement system plan 2 during  
8 the twelve-month period from September 1st to August 31st immediately  
9 preceding the distribution;

10 (C) Any person in receipt of a benefit pursuant to RCW 41.32.765,  
11 41.35.420, or 41.40.630; and

12 (D) Any person with five or more years of service in the teachers'  
13 retirement system plan 2, the Washington school employees' retirement  
14 system plan 2, or the public employees' retirement system plan 2;

15 (d) Divided proportionally among persons eligible for the benefit  
16 provided in subsection (1) of this section on the basis of their  
17 service credit total on August 31st of the previous year. After July  
18 1, 2007, no extraordinary gain shall be calculated.

19 (4) The legislature reserves the right to amend or repeal this  
20 section in the future and no member or beneficiary has a contractual  
21 right to receive this distribution not granted prior to that time.

22 **Sec. 5.** RCW 41.34.110 and 1996 c 39 s 12 are each amended to read  
23 as follows:

24 (1) A member who separates from service and then reestablishes  
25 membership may restore contributions to the member account.

26 (2) A member electing to participate in the assured benefit  
27 program, who separates from service and then reestablishes membership,  
28 may continue to be eligible for benefits under RCW 41.32.840(2),  
29 41.35.620(2), or 41.40.790(2)(a)(i) by restoring all contributions and  
30 earnings to the member account made after the election, plus interest  
31 as determined by the director.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.32 RCW  
33 under the subchapter heading "plan 1" to read as follows:

34 Beginning July 1, 2009, the annual increase amount as defined in  
35 RCW 41.32.010(46) shall be increased by an amount equal to \$0.23 minus  
36 the 2008 gain sharing increase amount under RCW 41.31.010 per month per



1 year of service. This adjustment shall not decrease the annual  
2 increase amount, and is not to exceed \$0.05 per month per year of  
3 service.

4 **Sec. 7.** RCW 41.32.835 and 1995 c 239 s 105 are each amended to  
5 read as follows:

6 (1) All teachers who first become employed by an employer in an  
7 eligible position on or after ((July 1, 1996, shall be members of plan  
8 3)) July 1, 2007, shall have a period of ninety days to make an  
9 irrevocable choice to become a member of plan 2 or plan 3. At the end  
10 of ninety days, if the member has not made a choice to become a member  
11 of plan 2, he or she becomes a member of plan 3.

12 (2) For administrative efficiency, until a member elects to become  
13 a member of plan 3, or becomes a member of plan 3 by default under  
14 subsection (1) of this section, the member shall be reported to the  
15 department in plan 2, with member and employer contributions. Upon  
16 becoming a member of plan 3 by election or by default, all service  
17 credit shall be transferred to the member's plan 3 defined benefit, and  
18 all employee accumulated contributions shall be transferred to the  
19 member's plan 3 defined contribution account.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 41.32 RCW  
21 under the subchapter heading "plan 3" to read as follows:

22 Beginning July 1, 2008, and through September 30, 2008, plan 3  
23 members who first became plan 3 members prior to July 1, 2007, may make  
24 an irrevocable election, filed in writing with the department, to  
25 participate in the assured benefit program prospective provisions under  
26 RCW 41.32.840(2) and 41.34.040.

27 **Sec. 9.** RCW 41.32.840 and 1996 c 39 s 4 are each amended to read  
28 as follows:

29 (1) A member of the retirement system shall receive a retirement  
30 allowance equal to one percent of such member's average final  
31 compensation for each service credit year.

32 (2)(a) A member of the retirement system who elects to participate  
33 in the assured benefit program shall receive an additional benefit  
34 under one of (a)(i) through (iv) of this subsection. The member shall  
35 select the form of their additional benefit from among these options at

1 retirement from service. However, a minimum of five years from the  
2 date a member elects to participate in the assured benefit program must  
3 elapse before the member can begin drawing a prospective assured  
4 benefit under (a)(ii) through (iv) of this subsection.

5 (i) The member may elect to terminate the assured benefit  
6 subaccount and have the funds in the subaccount, including any  
7 investment earnings, returned to the member's defined contribution  
8 account;

9 (ii) The member, at time of retirement from service, may elect to  
10 receive at normal retirement age, an assured benefit of one percent of  
11 the member's average final compensation for each year of service credit  
12 during participation in the assured benefit program, with  
13 postretirement cost-of-living adjustments calculated as under RCW  
14 41.32.845;

15 (iii) The member who has attained at least age fifty-five and has  
16 completed at least ten years of service, at time of retirement from  
17 service, may elect to receive an assured benefit of one percent of the  
18 member's average final compensation for each year of service credit  
19 during participation in the assured benefit program, with  
20 postretirement cost-of-living adjustments calculated under RCW  
21 41.32.845, and adjusted for early retirement under RCW 41.32.875(2); or

22 (iv) The member who has attained at least age fifty-five and has  
23 completed at least thirty years of service, at time of retirement from  
24 service, may elect to receive an assured benefit of one percent of the  
25 member's average final compensation for each year of service credit  
26 during participation in the assured benefit program, with  
27 postretirement cost-of-living adjustments calculated under RCW  
28 41.32.845, and adjusted for alternate early retirement under RCW  
29 41.32.875(3).

30 If the member chooses to receive the assured benefit, the assured  
31 benefit subaccount balance will be reduced by an amount that is  
32 actuarially equivalent to the value of the assured benefit and that  
33 amount will be transferred to the pension reserve as defined in RCW  
34 41.32.010(18). If funds in the subaccount exceed that amount, the  
35 excess shall be returned to the member's defined contribution account.  
36 If the funds in the subaccount are less than that amount, the entire  
37 subaccount balance will be transferred.

1       The assured benefit is subject to the same conditions as the  
2 retirement allowance in subsection (1) of this section, including but  
3 not limited to provisions for retirement and return to work, early  
4 retirement, death, and disability, and is subject to adjustments under  
5 this chapter.

6       (b) For the purposes of this section, "actuarially equivalent"  
7 means of equal value when computed on the basis of mortality tables and  
8 rules adopted by the director.

9       (3) The retirement allowance payable under RCW 41.32.875 to a  
10 member who separates after having completed at least twenty service  
11 credit years shall be increased by twenty-five one-hundredths of one  
12 percent, compounded for each month from the date of separation to the  
13 date that the retirement allowance commences.

14       **Sec. 10.** RCW 41.35.610 and 1998 c 341 s 202 are each amended to  
15 read as follows:

16       (1) All classified employees who first become employed by an  
17 employer in an eligible position on or after (~~September 1, 2000, shall~~  
18 ~~be members of plan 3~~) July 1, 2007, shall have a period of ninety days  
19 to make an irrevocable choice to become a member of plan 2 or plan 3.  
20 At the end of ninety days, if the member has not made a choice to  
21 become a member of plan 2, he or she becomes a member of plan 3.

22       (2) For administrative efficiency, until a member elects to become  
23 a member of plan 3, or becomes a member of plan 3 by default under  
24 subsection (1) of this section, the member shall be reported to the  
25 department in plan 2, with member and employer contributions. Upon  
26 becoming a member of plan 3 by election or by default, all service  
27 credit shall be transferred to the member's plan 3 defined benefit, and  
28 all employee accumulated contributions shall be transferred to the  
29 member's plan 3 defined contribution account.

30       NEW SECTION. **Sec. 11.** A new section is added to chapter 41.35 RCW  
31 under the subchapter heading "plan 3" to read as follows:

32       Beginning July 1, 2008, and through September 30, 2008, plan 3  
33 members who first became members of plan 3 prior to July 1, 2007, may  
34 make an irrevocable election, filed in writing with the department, to  
35 participate in the assured benefit program prospective provisions under  
36 RCW 41.34.040 and 41.35.620(2).

1       **Sec. 12.** RCW 41.35.620 and 1998 c 341 s 203 are each amended to  
2 read as follows:

3       (1) A member of the retirement system shall receive a retirement  
4 allowance equal to one percent of such member's average final  
5 compensation for each service credit year.

6       (2)(a) A member of the retirement system who elects to participate  
7 in the assured benefit program shall receive an additional benefit  
8 under one of (a)(i) through (iv) of this subsection. The member shall  
9 select the form of their additional benefit from among these options at  
10 retirement from service. However, a minimum of five years from the  
11 date a member elects to participate in the assured benefit program must  
12 elapse before the member can begin drawing a prospective assured  
13 benefit under (a)(ii) through (iv) of this subsection.

14       (i) The member may elect to terminate the assured benefit  
15 subaccount and have the funds in the subaccount, including any  
16 investment earnings, returned to the member's defined contribution  
17 account;

18       (ii) The member, at time of retirement from service, may elect to  
19 receive at normal retirement age an assured benefit of one percent of  
20 the member's average final compensation for each year of service credit  
21 during participation in the assured benefit program, with  
22 postretirement cost-of-living adjustments calculated as under RCW  
23 41.35.210;

24       (iii) The member who has attained at least age fifty-five and has  
25 completed at least ten years of service, at time of retirement from  
26 service, may elect to receive an assured benefit of one percent of the  
27 member's average final compensation for each year of service credit  
28 during participation in the assured benefit program, with  
29 postretirement cost-of-living adjustments calculated under RCW  
30 41.35.210, and adjusted for early retirement under RCW 41.35.680(2); or

31       (iv) The member who has attained at least age fifty-five and has  
32 completed at least thirty years of service, at time of retirement from  
33 service, may elect to receive an assured benefit of one percent of the  
34 member's average final compensation for each year of service credit  
35 during participation in the assured benefit program, with  
36 postretirement cost-of-living adjustments calculated under RCW  
37 41.35.210, and adjusted for alternate early retirement under RCW  
38 41.35.680(3).

1 If the member chooses to receive the assured benefit, the assured  
2 benefit subaccount balance will be reduced by an amount that is  
3 actuarially equivalent to the value of the assured benefit and that  
4 amount will be transferred to the school employees' retirement system.  
5 If funds in the subaccount exceed that amount, the excess shall be  
6 returned to the member's defined contribution account. If the funds in  
7 the subaccount are less than that amount, the entire subaccount balance  
8 will be transferred.

9 The assured benefit is subject to the same conditions as the  
10 retirement allowance in subsection (1) of this section, including but  
11 not limited to provisions for retirement and return to work, early  
12 retirement, death, and disability, and is subject to adjustment under  
13 this chapter.

14 (b) For the purposes of this section, "actuarially equivalent"  
15 means of equal value when computed on the basis of mortality tables and  
16 rules adopted by the director.

17 (3) The retirement allowance payable under RCW 41.35.680 to a  
18 member who separates after having completed at least twenty service  
19 credit years shall be increased by twenty-five one-hundredths of one  
20 percent, compounded for each month from the date of separation to the  
21 date that the retirement allowance commences.

22 NEW SECTION. Sec. 13. A new section is added to chapter 41.40 RCW  
23 under the subchapter heading "plan 1" to read as follows:

24 Beginning July 1, 2009, the annual increase amount as defined in  
25 RCW 41.40.010(41) shall be increased by an amount equal to \$0.23 minus  
26 the 2008 gain-sharing increase amount under RCW 41.31.010 per month per  
27 year of service. This adjustment shall not decrease the annual  
28 increase amount, and is not to exceed \$0.05 per month per year of  
29 service.

30 NEW SECTION. Sec. 14. A new section is added to chapter 41.40 RCW  
31 under the subchapter heading "plan 3" to read as follows:

32 Beginning July 1, 2008, and through September 30, 2008, plan 3  
33 members who first became members of plan 3 prior to July 1, 2007, may  
34 make an irrevocable election, filed in writing with the department, to  
35 participate in the assured benefit program prospective provisions under  
36 RCW 41.34.040 and 41.40.790(2).

1       **Sec. 15.** RCW 41.40.790 and 2000 c 247 s 303 are each amended to  
2 read as follows:

3       (1) A member of the retirement system shall receive a retirement  
4 allowance equal to one percent of such member's average final  
5 compensation for each service credit year.

6       (2)(a) A member of the retirement system who elects to participate  
7 in the assured benefit program shall receive an additional benefit  
8 under one of (a)(i) through (iv) of this subsection. The member shall  
9 select the form of their additional benefit from among these options at  
10 retirement from service. However, a minimum of five years from the  
11 date a member elects to participate in the assured benefit program must  
12 elapse before the member can begin drawing a prospective assured  
13 benefit under (a)(ii) through (iv) of this subsection.

14       (i) The member may elect to terminate the assured benefit  
15 subaccount and have the funds in the subaccount, including any  
16 investment earnings, returned to the member's defined contribution  
17 account; or

18       (ii) The member, at time of retirement from service, may elect to  
19 receive at normal retirement age an assured benefit of one percent of  
20 the member's average final compensation for each year of service credit  
21 year during participation in the assured benefit program, with  
22 postretirement cost-of-living adjustments calculated as under RCW  
23 41.40.840;

24       (iii) The member who has attained at least age fifty-five and has  
25 completed at least ten years of service, at time of retirement from  
26 service, may elect to receive an assured benefit of one percent of the  
27 member's average final compensation for each year of service credit  
28 during participation in the assured benefit program, with  
29 postretirement cost-of-living adjustments calculated under RCW  
30 41.40.840, and adjusted for early retirement under RCW 41.40.815(2); or

31       (iv) The member who has attained at least age fifty-five and has  
32 completed at least thirty years of service, at time of retirement from  
33 service, may elect to receive an assured benefit of one percent of the  
34 member's average final compensation for each year of service credit  
35 during participation in the assured benefit program, with  
36 postretirement cost-of-living adjustments calculated under RCW  
37 41.40.840, and adjusted for alternate early retirement under RCW  
38 41.40.815(3).

1 If the member chooses to receive the assured benefit, the assured  
2 benefit subaccount balance will be reduced by an amount that is  
3 actuarially equivalent to the value of the assured benefit and that  
4 amount will be transferred to the public employees' retirement system.  
5 If funds in the subaccount exceed that amount, the excess shall be  
6 returned to the member's defined contribution account. If the funds in  
7 the subaccount are less than that amount, the entire subaccount balance  
8 will be transferred.

9 (b) For the purposes of this section, "actuarially equivalent"  
10 means of equal value when computed on the basis of mortality tables and  
11 rules adopted by the director.

12 The assured benefit is subject to the same conditions as the  
13 retirement allowance in subsection (1) of this section, including but  
14 not limited to provisions for retirement and return to work, early  
15 retirement, death, and disability, and is subject to adjustment under  
16 this chapter.

17 (3) The retirement allowance payable under RCW 41.40.820 to a  
18 member who separates after having completed at least twenty service  
19 credit years shall be increased by twenty-five one-hundredths of one  
20 percent, compounded for each month from the date of separation to the  
21 date that the retirement allowance commences.

22 **Sec. 16.** RCW 41.31.010 and 1998 c 340 s 1 are each amended to read  
23 as follows:

24 Beginning July 1, 1998, and on January 1st of even-numbered years  
25 thereafter, through 2008, the annual increase amount as defined in RCW  
26 41.32.010 and 41.40.010 shall be increased by the gain-sharing increase  
27 amount, if any. No further amount shall either accrue, be credited, or  
28 be paid to member accounts after January 1, 2008. The monthly  
29 retirement allowance of a person in receipt of the benefit provided in  
30 RCW 41.32.489 or 41.40.197 shall immediately be adjusted to reflect any  
31 increase.

32 **Sec. 17.** RCW 41.31.020 and 1998 c 340 s 2 are each amended to read  
33 as follows:

34 (1) Through January 1, 2008, the gain-sharing increase amount shall  
35 be the amount of increase, rounded to the nearest cent, that can be

1 fully funded in actuarial present value by the amount of extraordinary  
2 investment gains, if any. Through January 1, 2008, the amount of  
3 extraordinary investment gains shall be calculated as follows:

4 (a) One-half of the sum of the value of the net assets held in  
5 trust for pension benefits in the teachers' retirement system plan 1  
6 fund and the public employees' retirement system plan 1 fund at the  
7 close of the previous state fiscal year;

8 (b) Multiplied by the amount which the compound average of  
9 investment returns on those assets over the previous four state fiscal  
10 years exceeds ten percent. After July 1, 2007, no extraordinary gain  
11 shall be calculated.

12 (2) The gain-sharing increase amount for July 1998, as provided for  
13 in RCW 41.31.010, is ten cents.

14 NEW SECTION. Sec. 18. A new section is added to chapter 41.34 RCW  
15 to read as follows:

16 The department of retirement systems is authorized to adopt rules  
17 to ensure that assured benefits under RCW 41.32.840(2)(a)(ii) through  
18 (iv), 41.35.620(2)(a)(ii) through (iv), and 41.40.790 (2)(a)(ii)  
19 through (iv) are treated equivalently to defined benefits.

20 NEW SECTION. Sec. 19. A new section is added to chapter 41.34 RCW  
21 to read as follows:

22 The benefits provided pursuant to this act are not provided to  
23 employees as a matter of contractual right prior to July 1, 2008. The  
24 legislature retains the right to alter or abolish these benefits at any  
25 time prior to July 1, 2008.

26 NEW SECTION. Sec. 20. RCW 41.31A.020, 41.31.010, and 41.31.020  
27 are decodified, effective January 2, 2008.

28 NEW SECTION. Sec. 21. If any part of this act is found to be in  
29 conflict with a final determination by the federal internal revenue  
30 service that is a prescribed condition to favorable tax treatment of  
31 one or more of the retirement plans, the conflicting part of this act  
32 is inoperative solely to the extent of the conflict and with respect to  
33 the individual members directly affected. This finding does not affect  
34 the operation of the remainder of this act in its application to the



1 members concerned. The legislature reserves the right to amend or  
2 repeal this act in the future as may be required to comply with a final  
3 federal determination that amendment or repeal is necessary to maintain  
4 the favorable tax treatment of a plan.

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

9 NEW SECTION. **Sec. 23.** This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of the  
11 state government and its existing public institutions, and takes effect  
12 July 1, 2007.

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