
SENATE BILL 5908

State of Washington

62nd Legislature

2011 Regular Session

By Senators Zarelli, Baumgartner, Holmquist Newbry, and Parlette

Read first time 03/25/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to public employee pension reform; amending RCW
2 41.04.440, 41.04.445, 41.04.450, 41.50.030, 41.50.110, and 43.33A.190;
3 adding a new section to chapter 41.32 RCW; adding a new section to
4 chapter 41.35 RCW; adding a new section to chapter 41.37 RCW; adding a
5 new section to chapter 41.40 RCW; adding a new section to chapter 41.04
6 RCW; adding a new chapter to Title 41 RCW; creating new sections; and
7 providing an effective date.

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

9 PART I

10 SHORT TITLE AND INTENT

11 NEW SECTION. Sec. 101. This act may be known and cited as the
12 public employee pension reform act.

13 NEW SECTION. Sec. 102. The legislature recognizes the need for
14 public employees, teachers, and school employees to have a secure and
15 viable retirement benefit, not only for their own financial protection,
16 but also so that public funds are spent prudently for their intended
17 purpose. The legislature also recognizes the need for public employers

1 and taxpayers to have consistent and predictable pension funding
2 obligations in support of employee retirement benefits. Therefore, it
3 is the intent of the legislature to design a defined contribution
4 pension system for new public employees, teachers, and school employees
5 that uses best practices of defined contribution plans to provide
6 opportunity and flexibility to accrue a viable retirement benefit,
7 while providing stable funding requirements for public employers and
8 taxpayers. These best practices include minimizing the investment risk
9 borne by the participants, whether through lack of investment knowledge
10 or lack of access to the full variety of investment classes, and
11 providing a distribution option that would ensure participants do not
12 outlive their savings.

13 **PART II**
14 **RETIREMENT SYSTEM**

15 NEW SECTION. **Sec. 201.** This chapter applies only to members of
16 the Washington public employees' savings plan created under this
17 chapter.

18 NEW SECTION. **Sec. 202.** As used in this chapter, unless a
19 different meaning is clearly required by the context:

20 (1) "Accumulated contributions" means the sum of all contributions
21 standing to the credit of a member in the member's individual account,
22 together with the earnings thereon.

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

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

33 (i) Retroactive payments to an individual by an employer on
34 reinstatement of the employee in a position, or payments by an employer
35 to an individual in lieu of reinstatement in a position which are

1 awarded or granted as the equivalent of the salary or wage which the
2 individual would have earned during a payroll period is considered
3 compensation earnable to the extent provided in this subsection (2),
4 and the individual shall receive the equivalent service credit;

5 (ii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
6 and 72.09.240;

7 (iii) Compensation that a member would have received but for a
8 disability occurring in the line of duty only as authorized by RCW
9 41.40.038;

10 (iv) Compensation that a member receives due to participation in
11 the leave sharing program only as authorized by RCW 41.04.650 through
12 41.04.670; and

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

18 (3) "Department" means the department of retirement systems created
19 in chapter 41.50 RCW.

20 (4) "Director" means the director of the department.

21 (5) "Eligible position" means:

22 (a) Any position that, as defined by the employer, normally
23 requires five or more months of service a year for which regular
24 compensation for at least seventy hours is earned by the occupant
25 thereof. For purposes of this chapter, an employer may not define
26 "position" in such a manner that an employee's monthly work for that
27 employer is divided into more than one position; and

28 (b) Any position occupied by an elected official or person
29 appointed directly by the governor, or appointed by the chief justice
30 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
31 compensation is paid.

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

37 (7) "Employer" means every branch, department, agency, commission,
38 board, and office of the state, and any political subdivision and

1 municipal corporation of the state admitted into the retirement system,
2 including public agencies created pursuant to RCW 35.63.070, 36.70.060,
3 and 39.34.030.

4 (8) "Ineligible position" means any position that does not conform
5 with the requirements set forth in subsection (7) of this section.

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

9 (10) "Member" means any employee included in the membership of the
10 retirement system, as provided for in section 203 of this act. RCW
11 41.26.045 does not prohibit a person otherwise eligible for membership
12 in the retirement system from establishing membership effective when he
13 or she first entered an eligible position.

14 (11) "Member account" or "member's account" means the sum of the
15 contributions and earnings on behalf of the member.

16 (12) "Regular interest" means the rate the director determines.

17 (13) "Retirement system" means the Washington public employees'
18 savings plan created in this chapter.

19 (14) "Separation from service" occurs when a person has terminated
20 all employment with an employer. Separation from service or employment
21 does not occur, and if claimed by an employer or employee may be a
22 violation of RCW 41.40.055, when an employee and employer have a
23 written or oral agreement to resume employment with the same employer
24 following termination. Mere expressions or inquiries about
25 postretirement employment by an employer or employee that do not
26 constitute a commitment to reemploy the employee after retirement are
27 not an agreement under this subsection.

28 (15)(a) "Service" means periods of employment by a member in an
29 eligible position or positions for one or more employers for which
30 compensation earnable is paid. Time spent in standby status, whether
31 compensated or not, is not service.

32 (b) Service in any state elective position is service.

33 (16) "State actuary" or "actuary" means the person appointed
34 pursuant to RCW 44.44.010(2).

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

1 (18) "State treasurer" means the treasurer of the state of
2 Washington.

3 NEW SECTION. **Sec. 203.** A public employees' savings plan is hereby
4 created for the employees of the state of Washington and its political
5 subdivisions. The administration and management of the savings system,
6 the responsibility for making effective the provisions of this chapter,
7 and the authority to make all rules and regulations necessary therefor
8 are hereby vested in the department. All such rules and regulations
9 shall be governed by the provisions of chapter 34.05 RCW. The
10 retirement system created in this chapter shall be known as the
11 Washington public employees' savings plan.

12 NEW SECTION. **Sec. 204.** Membership in the retirement system
13 consists of all regularly compensated employees and appointive and
14 elective officials of employers, as defined in this chapter, with the
15 following exceptions:

16 (1) Persons in ineligible positions;

17 (2) Employees of the legislature except the officers thereof
18 elected by the members of the senate and the house of representatives
19 and legislative committees, unless membership of the employees is
20 authorized by the committee;

21 (3) Persons holding elective offices or persons appointed directly
22 by the governor. However, these persons have the option of applying
23 for membership during periods of employment. Persons holding or who
24 have held elective offices or persons appointed by the governor who are
25 members in the retirement system and who have, prior to becoming
26 members, previously held an elective office, and did not at the start
27 of their initial or successive terms of office exercise their option to
28 become members, may apply for membership to be effective during their
29 term or terms of office. All contributions submitted by the employee
30 under this subsection must be placed in the employee's individual
31 account and be treated as any other contribution made by the employee;

32 (4) Employees holding membership in, or receiving pension benefits
33 under, any retirement plan operated wholly or in part by an agency of
34 the state or political subdivision thereof, or who are by reason of
35 their current employment contributing to or otherwise establishing the

1 right to receive benefits from such a retirement plan, except as
2 follows:

3 (a) In any case where the retirement system has in existence an
4 agreement with another retirement system in connection with exchange of
5 service credit or an agreement whereby members can retain service
6 credit in more than one system, such an employee is allowed membership
7 rights should the agreement so provide;

8 (b) An employee is allowed membership if otherwise eligible while
9 receiving survivor's benefits;

10 (c) An employee may not be excluded from membership pursuant to
11 this subsection solely on account of: (i) Membership in the plan
12 created under chapter 2.14 RCW; or (ii) enrollment under the relief and
13 compensation provisions or the pension provisions of the volunteer fire
14 fighters' relief and pension fund under chapter 41.24 RCW;

15 (d) Except as provided in RCW 41.40.109, an employee may not be
16 excluded from membership pursuant to this subsection solely on account
17 of participation in a defined contribution pension plan qualified under
18 section 401 of the internal revenue code;

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

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

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

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

28 (9) Persons rendering professional services to an employer on a
29 fee, retainer, or contract basis or when the income from these services
30 is less than fifty percent of the gross income received from the
31 person's practice of a profession;

32 (10) Persons appointed by the liquor control board as contract
33 liquor store managers;

34 (11) Employees of a labor guild, association, or organization.
35 However, elective officials and employees of a labor guild,
36 association, or organization which qualifies as an employer within this
37 chapter have the option of applying for membership;

1 (12) Retirement system retirees. However, following reemployment
2 in an eligible position, a retiree may elect to prospectively become a
3 member of the retirement system if otherwise eligible;

4 (13) Persons employed by or appointed or elected as an official of
5 a first-class city that has its own retirement system, but any member
6 elected or appointed to an elective office has the option of continuing
7 as a member of the retirement system under this chapter in lieu of
8 becoming a member of the city system. A member who elects to continue
9 as a member of the retirement system under this chapter shall pay the
10 appropriate member contributions and the city shall pay the employer
11 contributions at the rates prescribed by this chapter. Any city that
12 becomes an employer as defined in RCW 41.40.010 as the result of an
13 individual's election under this subsection is not required to have all
14 employees covered for retirement under this chapter. Nothing in this
15 subsection prohibits a city of the first class with its own retirement
16 system from: (a) Transferring all of its current employees to the
17 retirement system established under this chapter, or (b) allowing newly
18 hired employees the option of continuing coverage under the retirement
19 system established by this chapter;

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

23 (15) Employees who (a) are not citizens of the United States, (b)
24 are not covered by chapter 41.48 RCW, (c) are not excluded from
25 membership under this chapter or chapter 41.04 RCW, (d) are residents
26 of this state, and (e) make an irrevocable election to be excluded from
27 membership, in writing, which is submitted to the director within
28 thirty days after employment in an eligible position;

29 (16) Employees who are citizens of the United States and who reside
30 and perform duties for an employer outside of the United States.
31 However, unless otherwise excluded under this chapter or chapter 41.04
32 RCW, the employee may apply for membership (a) within thirty days after
33 employment in an eligible position and membership service credit shall
34 be granted from the first day of membership service, and (b) after the
35 thirty-day period in (a) of this subsection, but membership service
36 credit shall be granted only if payment is made for the noncredited
37 membership service under RCW 41.50.165(2), otherwise service is
38 credited from the date of application;

1 (17) The city manager or chief administrative officer of a city or
2 town, other than a retiree, who serves at the pleasure of an appointing
3 authority. These persons have the option of applying for membership
4 within thirty days from date of appointment to their positions.

5 Persons serving in these positions who have not opted for
6 membership within the specified thirty days, may do so by paying the
7 contributions required for the period from the date of their
8 appointment to the date of acceptance into membership;

9 (18) Persons serving as: (a) The chief administrative officer of
10 a public utility district as defined in RCW 54.16.100; (b) the chief
11 administrative officer of a port district formed under chapter 53.04
12 RCW; or (c) the chief administrative officer of a county who serves at
13 the pleasure of an appointing authority. These persons have the option
14 of applying for membership within thirty days from the date of
15 appointment to their positions.

16 Persons serving in these positions who have not opted for
17 membership within the specified thirty days, may do so at a later date
18 by paying the contributions for the period from the date of their
19 appointment to the date of acceptance into membership;

20 (19) Persons enrolled in state-approved apprenticeship programs,
21 authorized under chapter 49.04 RCW, and who are employed by local
22 governments to earn hours to complete the apprenticeship programs, if
23 the employee is a member of a union-sponsored retirement plan and is
24 making contributions to such a retirement plan or if the employee is a
25 member of a Taft-Hartley retirement plan;

26 (20) Persons employed exclusively as trainers or trainees in
27 resident apprentice training programs operated by housing authorities
28 authorized under chapter 35.82 RCW, if (a) the trainer or trainee is a
29 member of a union-sponsored retirement plan and is making contributions
30 to such a retirement plan, or (b) the employee is a member of a Taft-
31 Hartley retirement plan.

32 NEW SECTION. **Sec. 205.** (1) A member shall contribute five percent
33 of his or her compensation earnable until age thirty-five, seven and
34 one-half percent after a member's thirty-fifth birthday until age
35 fifty-five, and ten percent after the member's fifty-fifth birthday.

36 (2) The employer of a member shall contribute an amount equal to

1 the contributions made by a member, up to a maximum of six percent of
2 the member's compensation earnable.

3 (3) Contributions shall begin the first day of the pay cycle in
4 which the employee becomes a member.

5 NEW SECTION. **Sec. 206.** In addition to contributions made to
6 members' accounts, employers shall make contributions as follows:

7 (1) School districts and educational service districts shall
8 contribute to plan 1 of the teachers' retirement system the amounts
9 specified in RCW 41.45.060(8) (b) and (c);

10 (2) Employers other than school districts and education service
11 districts shall contribute to plan 1 of the public employees'
12 retirement system the amounts specified in RCW 41.45.060(6) (b) and
13 (c).

14 NEW SECTION. **Sec. 207.** (1) Except as provided in subsection (3)
15 of this section, the member's account shall be invested by the state
16 investment board in the same portfolio as that of the public employees'
17 retirement system combined plan 2 and 3 fund under RCW 41.50.075(3).
18 In order to reduce transaction costs and address liquidity issues,
19 based upon recommendations of the state investment board, the
20 department may require members to provide up to ninety days' notice
21 prior to moving funds from the state investment board portfolio to
22 self-directed investment options provided under subsection (3) of this
23 section.

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) of this section. The declared values shall be an
27 approximation of portfolio or fund values, based on internal procedures
28 of the state investment board. Such declared unit values and internal
29 procedures shall be in the sole discretion of the state investment
30 board. The state investment board may delegate any of the powers and
31 duties under this subsection, including discretion, pursuant to RCW
32 43.33A.030. Member accounts shall be credited by the department with
33 a rate of return based on changes to such unit values.

34 (3) Members may elect to self-direct their investments as set forth
35 in section 209 of this act and RCW 43.33A.190.

1 NEW SECTION. **Sec. 208.** (1) The state investment board has the
2 full authority to invest all self-directed investment moneys in
3 accordance with RCW 43.84.150 and 43.33A.140, and cumulative investment
4 directions received pursuant to section 207 of this act and this
5 section. In carrying out this authority the state investment board,
6 after consultation with the department regarding any recommendations
7 made pursuant to RCW 41.50.088(1)(b), shall provide a set of options
8 for members to choose from for self-directed investment.

9 (2) All investment and operating costs of the state investment
10 board associated with making self-directed investments shall be paid by
11 members and recovered under procedures agreed to by the department and
12 the state investment board pursuant to the principles set forth in RCW
13 43.33A.160 and 43.84.160. All other expenses caused by self-directed
14 investment shall be paid by the member in accordance with rules
15 established by the department. With the exception of these expenses,
16 all earnings from self-directed investments shall accrue to the
17 member's account.

18 (3)(a)(i) The department shall keep or cause to be kept full and
19 adequate accounts and records of each individual member's account. The
20 department shall account for and report on the investment of defined
21 contribution assets or may enter into an agreement with the state
22 investment board for such accounting and reporting under this chapter.

23 (ii) The department's duties related to individual participant
24 accounts include conducting the activities of trade instruction,
25 settlement activities, and direction of cash movement and related wire
26 transfers with the custodian bank and outside investment firms.

27 (iii) The department has sole responsibility for contracting with
28 any recordkeepers for individual participant accounts and shall manage
29 the performance of recordkeepers under those contracts.

30 (b)(i) The department's duties under (a)(ii) of this subsection do
31 not limit the authority of the state investment board to conduct its
32 responsibilities for asset management and balancing of the deferred
33 compensation funds.

34 (ii) The state investment board has sole responsibility for
35 contracting with outside investment firms to provide investment
36 management for the deferred compensation funds and shall manage the
37 performance of investment managers under those contracts.

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

3 NEW SECTION. **Sec. 209.** (1) If the member terminates employment,
4 the balance in the member's account may be distributed in accordance
5 with an option selected by the member either as a lump sum or pursuant
6 to other options authorized by the department.

7 (2) If the member dies while in service, the balance of the
8 member's account may be distributed in accordance with an option
9 selected by the member either as a lump sum or pursuant to other
10 options authorized by the department. The distribution is as follows:

11 (a) The distribution shall be made to the person or persons the
12 member nominated by written designation duly executed and filed with
13 the department;

14 (b) If there is designated person or persons still living at the
15 time of the member's death, the balance of the member's account in the
16 retirement system, less any amount identified as owing to an obligee
17 upon withdrawal of the account balance pursuant to a court order filed
18 under RCW 41.50.670, shall be paid to the member's surviving spouse as
19 if in fact the spouse had been nominated by written designation;

20 (c) If there is no surviving spouse, then to the person or persons,
21 trust, or organization as the member has nominated by written
22 designation duly executed and filed with the department; or

23 (d) If there is no designated person or persons still living at the
24 time of the member's death, then to the member's legal representatives.

25 (3) If a member has a terminal illness and terminates from
26 employment, the member may choose to have the balance in the member's
27 account distributed as a lump sum payment based on the most recent
28 valuation in order to expedite the distribution. The department shall
29 make this payment within ten working days after receipt of notice of
30 termination of employment, documentation verifying the terminal
31 illness, and an application for payment.

32 (4) The distribution under subsections (1) through (3) of this
33 section is less any amount identified as owing to an obligee upon
34 withdrawal pursuant to a court order filed under RCW 41.50.670.

35 NEW SECTION. **Sec. 210.** (1) Subject to subsection (2) of this
36 section, the right of a person to accumulated contributions, annuities,

1 or any other right accrued or accruing to any person under this chapter
2 is hereby exempt from any state, county, municipal, or other local tax,
3 and is not subject to execution, garnishment, attachment, the operation
4 of bankruptcy or insolvency laws, or other process of law whatsoever,
5 and is unassignable.

6 (2) Subsection (1) of this section does not prohibit the department
7 from complying with (a) a wage assignment order for child support
8 issued pursuant to chapter 26.18 RCW, (b) an order to withhold and
9 deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll
10 deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits
11 assignment order issued by the department, (e) a court order directing
12 the department to pay benefits directly to an obligee under a
13 dissolution order as defined in RCW 41.50.500(3) which fully complies
14 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
15 order expressly authorized by federal law.

16 NEW SECTION. **Sec. 211.** (1) The retirement plan created by this
17 chapter must be administered so as to comply with the federal internal
18 revenue code, Title 26 U.S.C., and specifically with plan qualification
19 requirements imposed on governmental plans by section 401(a) of the
20 internal revenue code.

21 (2) Any section or provision of this chapter which is susceptible
22 to more than one construction must be interpreted in favor of the
23 construction most likely to satisfy requirements imposed by section
24 401(a) of the internal revenue code.

25 (3) If any section or provision of this chapter is found to be in
26 conflict with the plan qualification requirements for governmental
27 plans in section 401(a) of the internal revenue code, the conflicting
28 part of this chapter is hereby inoperative solely to the extent of the
29 conflict, and such finding does not affect the operation of the
30 remainder of this chapter.

31 NEW SECTION. **Sec. 212.** (1) A state board or commission, agency,
32 or any officer, employee, or member thereof is not liable for any loss
33 or deficiency resulting from member investments selected or required
34 pursuant to section 208 (1) or (3) of this act.

35 (2) Neither the department, nor director or any employee, nor the
36 state investment board, nor any officer, employee, or member thereof is

1 liable for any loss or deficiency resulting from reasonable efforts to
2 implement investment directions pursuant to section 208 (1) or (3) of
3 this act.

4 (3) The state investment board, or any officer, employee, or member
5 thereof is not liable with respect to any declared monthly unit
6 valuations or crediting of rates of return, or any other exercise of
7 powers or duties, including discretion, under section 208(2) of this
8 act.

9 (4) The department, or any officer or employee thereof, is not
10 liable for crediting rates of return which are consistent with the
11 state investment board's declaration of monthly unit valuations
12 pursuant to section 208(2) of this act.

13 NEW SECTION. **Sec. 213.** For the purposes of this chapter, the
14 terms spouse, marriage, marital, husband, wife, widow, widower, next of
15 kin, and family apply equally to state registered domestic partnerships
16 or individuals in state registered domestic partnerships as well as to
17 marital relationships and married persons, and references to
18 dissolution of marriage apply equally to state registered domestic
19 partnerships that have been terminated, dissolved, or invalidated, to
20 the extent that such interpretation does not conflict with federal law.
21 When necessary to implement chapter 521, Laws of 2009, gender-specific
22 terms such as husband and wife used in any statute, rule, or other law
23 are gender neutral, and applicable to individuals in state registered
24 domestic partnerships.

25 NEW SECTION. **Sec. 214.** Sections 201 through 213 of this act
26 constitute a new chapter in Title 41 RCW.

27 **PART III**
28 **CHANGES TO EXISTING RETIREMENT SYSTEMS**

29 **Sec. 301.** RCW 41.04.440 and 2007 c 492 s 3 are each amended to
30 read as follows:

31 (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the
32 members of the retirement systems created in chapters 2.10, 2.12,
33 41.26, 41.32, 41.35, 41.37, 41.40, 41.34, 41.--- (the new chapter
34 created in section 214 of this act), and 43.43 RCW to enjoy the tax

1 deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of
2 1984 does not alter in any manner the provisions of RCW 41.45.060,
3 41.45.061, and 41.45.067 which require that the member contribution
4 rates shall be set so as to provide fifty percent of the cost of the
5 respective retirement plans.

6 (2) Should the legislature revoke any benefit allowed under 26
7 U.S.C. 414(h), no affected employee shall be entitled thereafter to
8 receive such benefit as a matter of contractual right.

9 **Sec. 302.** RCW 41.04.445 and 2007 c 492 s 4 are each amended to
10 read as follows:

11 (1) This section applies to all members who are:

12 (a) Judges under the retirement system established under chapter
13 2.10, 2.12, or 2.14 RCW;

14 (b) Employees of the state under the retirement system established
15 by chapter 41.32, 41.37, 41.40, 41.--- (the new chapter created in
16 section 214 of this act), or 43.43 RCW;

17 (c) Employees of school districts under the retirement system
18 established by chapter 41.32 (~~(01)~~), 41.40, or 41.--- (the new chapter
19 created in section 214 of this act) RCW, except for substitute teachers
20 as defined by RCW 41.32.010;

21 (d) Employees of educational service districts under the retirement
22 system established by chapter 41.32 (~~(01)~~), 41.40, or 41.--- (the new
23 chapter created in section 214 of this act) RCW; or

24 (e) Employees of community college districts under the retirement
25 system established by chapter 41.32 (~~(01)~~), 41.40, or 41.--- (the new
26 chapter created in section 214 of this act) RCW.

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

32 (a) RCW 2.10.090(1);

33 (b) RCW 2.12.060;

34 (c) RCW 2.14.090;

35 (d) RCW 41.32.263;

36 (e) RCW 41.32.350;

37 (f) RCW 41.40.330 (1) and (3);

1 (g) RCW 41.45.061 and 41.45.067;

2 (h) RCW 41.34.070; and

3 (i) (~~RCW 43.43.300; and~~
4 ~~(j)~~) RCW 41.34.040.

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

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

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

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

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

19 **Sec. 303.** RCW 41.04.450 and 2007 c 492 s 5 are each amended to
20 read as follows:

21 (1) Employers of those members under chapters 41.26, 41.34, 41.35,
22 41.37, 41.--- (the new chapter created in section 214 of this act), and
23 41.40 RCW who are not specified in RCW 41.04.445 may choose to
24 implement the employer pick up of all member contributions without
25 exception under RCW 41.26.080(1)(a), 41.26.450, 41.40.330(1),
26 41.45.060, 41.45.061, and 41.45.067 and chapter 41.34 RCW. If the
27 employer does so choose, the employer and members shall be subject to
28 the conditions and limitations of RCW 41.04.445 (3), (4), and (5) and
29 41.04.455.

30 (2) An employer exercising the option under this section may later
31 choose to withdraw from and/or reestablish the employer pick up of
32 member contributions only once in a calendar year following forty-five
33 days prior notice to the director of the department of retirement
34 systems.

35 NEW SECTION. **Sec. 304.** A new section is added to chapter 41.32
36 RCW to read as follows:

1 This chapter applies only to persons who become members before the
2 effective date of this section.

3 NEW SECTION. **Sec. 305.** A new section is added to chapter 41.35
4 RCW to read as follows:

5 This chapter applies only to persons who become members before the
6 effective date of this section.

7 NEW SECTION. **Sec. 306.** A new section is added to chapter 41.37
8 RCW to read as follows:

9 This chapter applies only to persons who become members before the
10 effective date of this section.

11 NEW SECTION. **Sec. 307.** A new section is added to chapter 41.40
12 RCW to read as follows:

13 This chapter applies only to persons who become members before the
14 effective date of this section.

15 **Sec. 308.** RCW 41.50.030 and 2004 c 242 s 42 are each amended to
16 read as follows:

17 (1) As soon as possible but not more than one hundred and eighty
18 days after March 19, 1976, there is transferred to the department of
19 retirement systems, except as otherwise provided in this chapter, all
20 powers, duties, and functions of:

21 (a) The Washington public employees' retirement system;

22 (b) The Washington state teachers' retirement system;

23 (c) The Washington law enforcement officers' and firefighters'
24 retirement system;

25 (d) The Washington state patrol retirement system;

26 (e) The Washington judicial retirement system; and

27 (f) The state treasurer with respect to the administration of the
28 judges' retirement fund imposed pursuant to chapter 2.12 RCW.

29 (2) On July 1, 1996, there is transferred to the department all
30 powers, duties, and functions of the deferred compensation committee.

31 (3) The department shall administer chapter 41.34 RCW.

32 (4) The department shall administer the Washington school
33 employees' retirement system created under chapter 41.35 RCW.

1 (5) The department shall administer the Washington public safety
2 employees' retirement system created under chapter 41.37 RCW.

3 (6) The department shall administer the Washington public
4 employees' savings plan created in chapter 41.--- RCW (the new chapter
5 created in section 214 of this act).

6 **Sec. 309.** RCW 41.50.110 and 2009 c 564 s 924 are each amended to
7 read as follows:

8 (1) Except as provided by RCW 41.50.255 and subsection (6) of this
9 section, all expenses of the administration of the department, the
10 expenses of administration of the retirement systems, and the expenses
11 of the administration of the office of the state actuary created in
12 chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, 41.37, 43.43,
13 41.--- (the new chapter created in section 214 of this act), and 44.44
14 RCW shall be paid from the department of retirement systems expense
15 fund.

16 (2) In order to reimburse the department of retirement systems
17 expense fund on an equitable basis the department shall ascertain and
18 report to each employer, as defined in RCW 41.26.030, 41.32.010,
19 41.35.010, 41.37.010, section 202 of this act, or 41.40.010, the sum
20 necessary to defray its proportional share of the entire expense of the
21 administration of the retirement system that the employer participates
22 in during the ensuing biennium or fiscal year whichever may be
23 required. Such sum is to be computed in an amount directly
24 proportional to the estimated entire expense of the administration as
25 the ratio of monthly salaries of the employer's members bears to the
26 total salaries of all members in the entire system. It shall then be
27 the duty of all such employers to include in their budgets or otherwise
28 provide the amounts so required.

29 (3) The department shall compute and bill each employer, as defined
30 in RCW 41.26.030, 41.32.010, 41.35.010, 41.37.010, section 202 of this
31 act, or 41.40.010, at the end of each month for the amount due for that
32 month to the department of retirement systems expense fund and the same
33 shall be paid as are its other obligations. Such computation as to
34 each employer shall be made on a percentage rate of salary established
35 by the department. However, the department may at its discretion
36 establish a system of billing based upon calendar year quarters in
37 which event the said billing shall be at the end of each such quarter.

1 (4) The director may adjust the expense fund contribution rate for
2 each system at any time when necessary to reflect unanticipated costs
3 or savings in administering the department.

4 (5) An employer who fails to submit timely and accurate reports to
5 the department may be assessed an additional fee related to the
6 increased costs incurred by the department in processing the deficient
7 reports. Fees paid under this subsection shall be deposited in the
8 retirement system expense fund.

9 (a) Every six months the department shall determine the amount of
10 an employer's fee by reviewing the timeliness and accuracy of the
11 reports submitted by the employer in the preceding six months. If
12 those reports were not both timely and accurate the department may
13 prospectively assess an additional fee under this subsection.

14 (b) An additional fee assessed by the department under this
15 subsection shall not exceed fifty percent of the standard fee.

16 (c) The department shall adopt rules implementing this section.

17 (6) Expenses other than those under RCW 41.34.060(3) shall be paid
18 pursuant to subsection (1) of this section.

19 (7) During the 2007-2009 and 2009-2011 fiscal biennia, the
20 legislature may transfer from the department of retirement systems'
21 expense fund to the state general fund such amounts as reflect the
22 excess fund balance of the fund.

23 **Sec. 310.** RCW 43.33A.190 and 2000 c 247 s 701 are each amended to
24 read as follows:

25 Pursuant to RCW 41.34.130 and section 208 of this act, the state
26 investment board shall invest all self-directed investment moneys under
27 the public employees' savings plan, the teachers' retirement system
28 plan 3, the school employees' retirement system plan 3, and the public
29 employees' retirement system plan 3 with full power to establish
30 investment policy, develop investment options, and manage self-directed
31 investment funds.

32 PART IV

33 ADDITIONAL PROVISIONS

34 NEW SECTION. **Sec. 401.** A new section is added to chapter 41.04
35 RCW to read as follows:

1 After the effective date of this section, any change in the
2 benefits provided in the retirement systems specified in chapter 41.32,
3 41.35, 41.37, or 41.40 RCW, or in the Washington public employees'
4 savings plan under chapter 41.--- RCW (the new chapter created in
5 section 214 of this act), that is expected to result in a net increase
6 in required employer contributions to the retirement systems over
7 either a two-year or a twenty-five year period may only be enacted by
8 a supermajority of at least sixty percent of the members in both the
9 house of representatives and the senate.

10 NEW SECTION. **Sec. 402.** Sections 201 through 310 of this act take
11 effect January 1, 2013.

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