
HOUSE BILL 2736

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Sullivan, Bergquist, and Ormsby

Read first time 01/29/14. Referred to Committee on Appropriations.

1 AN ACT Relating to state retirement system employer participation
2 in the state's deferred compensation program; and amending RCW
3 41.50.770 and 41.50.780.

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

5 **Sec. 1.** RCW 41.50.770 and 2010 1st sp.s. c 7 s 29 are each amended
6 to read as follows:

7 (1) "Employee" as used in this section and RCW 41.50.780 includes
8 all full-time, part-time, and career seasonal employees of the state,
9 a county, a municipality, or other political subdivision of the state,
10 whether or not covered by civil service; elected and appointed
11 officials of the executive branch of the government, including full-
12 time members of boards, commissions, or committees; justices of the
13 supreme court and judges of the court of appeals and of the superior
14 and district courts; and members of the state legislature or of the
15 legislative authority of any county, city, or town.

16 (2) The state, through the department, and any county,
17 municipality, or other political subdivision of the state acting
18 through its principal supervising official or governing body is
19 authorized to contract with an employee to defer a portion of that

1 employee's income, which deferred portion shall in no event exceed the
2 amount allowable under 26 U.S.C. Sec. 457, and deposit or invest such
3 deferred portion in a credit union, savings and loan association, bank,
4 or mutual savings bank or purchase life insurance, shares of an
5 investment company, or fixed and/or variable annuity contracts from any
6 insurance company or any investment company licensed to contract
7 business in this state.

8 (3) Employees participating in the state deferred compensation plan
9 administered by the department shall self-direct the investment of the
10 deferred portion of their income through the selection of investment
11 options as set forth in subsection (4) of this section.

12 (4) The department can provide such plans and features as it deems
13 are in the interests of ((state)) public employees. In addition to the
14 types of investments described in this section, the state investment
15 board, with respect to the state deferred compensation plan, shall
16 invest the deferred portion of an employee's income, without limitation
17 as to amount, in accordance with RCW 43.84.150, 43.33A.140, and
18 41.50.780, and pursuant to investment policy established by the state
19 investment board for the state deferred compensation plans. The state
20 investment board, after consultation with the director regarding any
21 recommendations made pursuant to RCW 41.50.088(2), shall provide a set
22 of options for participants to choose from for investment of the
23 deferred portion of their income. Any income deferred under such a
24 plan shall continue to be included as regular compensation, for the
25 purpose of computing the state or local retirement and pension benefits
26 earned by any employee.

27 (5) Coverage of an employee under a deferred compensation plan
28 under this section shall not render such employee ineligible for
29 simultaneous membership and participation in any pension system for
30 public employees.

31 **Sec. 2.** RCW 41.50.780 and 2010 1st sp.s. c 7 s 30 are each amended
32 to read as follows:

33 (1) The deferred compensation principal account is hereby created
34 in the state treasury.

35 (2) The amount of compensation deferred by employees under
36 agreements entered into under the authority contained in RCW 41.50.770
37 shall be paid into the deferred compensation principal account and

1 shall be sufficient to cover costs of administration and staffing in
2 addition to such other amounts as determined by the department. The
3 deferred compensation principal account shall be used to carry out the
4 purposes of RCW 41.50.770. (~~All eligible state employees shall be
5 given the opportunity to participate in agreements entered into by the
6 department under RCW 41.50.770. State agencies shall cooperate with
7 the department in providing employees with the opportunity to
8 participate.~~)

9 (3) All participating employers in the retirement systems listed in
10 RCW 41.50.030 shall participate in any agreements entered into by the
11 department under RCW 41.50.770, including the making of payments
12 therefrom to the employees participating in a deferred compensation
13 plan upon their separation from qualifying service. Any ((county,))
14 other municipality((,)) or ((other)) subdivision of the state that does
15 not participate in the retirement systems listed in RCW 41.50.030 may
16 elect to participate in ((any)) agreements ((entered into by the
17 department under RCW 41.50.770, including the making of payments
18 therefrom to the employees participating in a deferred compensation
19 plan upon their separation from state or other qualifying service)) as
20 described in this subsection. All employers who are required to or
21 elect to participate in agreements as described in this subsection
22 shall cooperate with the department in providing employees with the
23 information and opportunity to participate. Accordingly, the deferred
24 compensation principal account shall be considered to be a public
25 pension or retirement fund within the meaning of Article XXIX, section
26 1 of the state Constitution, for the purpose of determining eligible
27 investments and deposits of the moneys therein.

28 (4) All moneys in the state deferred compensation principal account
29 and the state deferred compensation administrative account, all
30 property and rights purchased therewith, and all income attributable
31 thereto, shall be held in trust by the state investment board, as set
32 forth under RCW 43.33A.030, for the exclusive benefit of the state
33 deferred compensation plan's participants and their beneficiaries.
34 Neither the participant, nor the participant's beneficiary or
35 beneficiaries, nor any other designee, has any right to commute, sell,
36 assign, transfer, or otherwise convey the right to receive any payments
37 under the plan. These payments and right thereto are nonassignable and
38 nontransferable. Unpaid accumulated deferrals are not subject to

1 attachment, garnishment, or execution and are not transferable by
2 operation of law in event of bankruptcy or insolvency, except to the
3 extent otherwise required by law.

4 (5) The state investment board has the full power to invest moneys
5 in the state deferred compensation principal account and the state
6 deferred compensation administrative account in accordance with RCW
7 43.84.150, 43.33A.140, and 41.50.770, and cumulative investment
8 directions received pursuant to RCW 41.50.770. All investment and
9 operating costs of the state investment board associated with the
10 investment of the deferred compensation plan assets shall be paid
11 pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these
12 expenses, one hundred percent of all earnings from these investments
13 shall accrue directly to the deferred compensation principal account.

14 (6)(a) No state board or commission, agency, or any officer,
15 employee, or member thereof is liable for any loss or deficiency
16 resulting from participant investments selected pursuant to RCW
17 41.50.770(3).

18 (b) Neither the department, nor the director or any employee, nor
19 the state investment board, nor any officer, employee, or member
20 thereof is liable for any loss or deficiency resulting from reasonable
21 efforts to implement investment directions pursuant to RCW
22 41.50.770(3).

23 (7) The deferred compensation administrative account is hereby
24 created in the state treasury. All expenses of the department
25 pertaining to the deferred compensation plan including staffing and
26 administrative expenses shall be paid out of the deferred compensation
27 administrative account. Any excess balances credited to this account
28 over administrative expenses disbursed from this account shall be
29 transferred to the deferred compensation principal account at such time
30 and in such amounts as may be determined by the department with the
31 approval of the office of financial management. Any deficiency in the
32 deferred compensation administrative account caused by an excess of
33 administrative expenses disbursed from this account shall be
34 transferred to this account from the deferred compensation principal
35 account.

36 (8)(a)(i) The department shall keep or cause to be kept full and
37 adequate accounts and records of the assets of each individual
38 participant, obligations, transactions, and affairs of any deferred

1 compensation plans created under RCW 41.50.770 and this section. The
2 department shall account for and report on the investment of state
3 deferred compensation plan assets or may enter into an agreement with
4 the state investment board for such accounting and reporting.

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

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

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

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

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

22 (9) The department may adopt rules necessary to carry out its
23 responsibilities under RCW 41.50.770 and this section.

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