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**HOUSE BILL 2127**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Stokesbary and Ormsby

AN ACT Relating to additional contribution rates for contributions made after the date the service is rendered for individual employers of Washington state retirement systems; amending RCW 41.45.010, 41.45.050, 41.45.060, 41.45.067, 41.50.125, 41.50.112, and 41.40.798; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature affirms the findings of chapter 177, Laws of 1994, that whenever employer or member contributions are not made at the time service is rendered, the state retirement system trust funds lose investment income which is a major source of pension funding. In that act, the legislature granted broad authority to the department of retirement systems to charge employers interest to compensate for the losses such events cause to the trust funds.

(2) The legislature intends to insulate existing plan members and employers from these costs by requiring that any resulting unfunded liability that is expected to either exceed one hundred thousand dollars or to increase to employer or employee contribution rates be paid solely by the individual employer that employs the retroactively added employees, or is otherwise responsible for the late payments.

(3) The legislature intends the grant of authority under RCW 41.45.060(2)(d) as an additional means to ensure that the contributions collected from employers are sufficient to support the benefits credited to their employees, and not as a substitute for the duty of the director to collect contributions due from employers, such as that provided in RCW 41.50.125.

**Sec.**  RCW 41.45.010 and 2009 c 561 s 1 are each amended to read as follows:

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and firefighters' retirement systems, chapter 41.26 RCW; the school employees' retirement system, chapter 41.35 RCW; the public safety employees' retirement system, chapter 41.37 RCW; and the Washington state patrol retirement system, chapter 43.43 RCW.

The funding process established by this chapter is intended to achieve the following goals:

(1) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the law enforcement officers' and firefighters' retirement system plan 2 as provided by law;

(2) To fully amortize the total costs of the law enforcement officers' and firefighters' retirement system plan 1, not later than June 30, 2024;

(3) To fully amortize the unfunded actuarial accrued liability in the public employees' retirement system plan 1 and the teachers' retirement system plan 1 within a rolling ten-year period, using methods and assumptions that balance needs for increased benefit security, decreased contribution rate volatility, and affordability of pension contribution rates;

(4) To establish long-term employer contribution rates which will remain a relatively predictable proportion of the future state budgets; ((~~and~~))

(5) To fund, to the extent feasible, all benefits for plan 2 and 3 members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service; and

(6) To require, consistent with section 1, chapter 177, Laws of 1994, individual employers to pay contributions that reflect the unfunded liability generated from lost investment returns and interest when contributions are made after the date for which service is rendered, rather than allowing the cost of lost investment returns to be passed on to other retirement system employers and employees.

**Sec.**  RCW 41.45.050 and 2004 c 242 s 38 are each amended to read as follows:

(1) Employers of members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the public safety employees' retirement system, and the Washington state patrol retirement system shall make contributions to those systems based on the rates established in RCW 41.45.060 and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and firefighters' retirement system plan 2 based on the rates established in RCW 41.45.060 and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and firefighters' retirement system plan 2, using the combined rates established in RCW 41.45.060 and 41.45.070 regardless of the level of appropriation provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(4) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the public employees' retirement system combined plan 2 and plan 3 employer contribution shall first be deposited in the public employees' retirement system combined plan 2 and plan 3 fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(5) The contributions received for the teachers' retirement system shall be allocated between the plan 1 fund and the combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan 1 fund.

(6) The contributions received for the school employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the school employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining school employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(7) The contributions received for the law enforcement officers' and firefighters' retirement system plan 2 shall be deposited in the law enforcement officers' and firefighters' retirement system plan 2 fund.

(8) The contributions received for the public safety employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the public safety employees' retirement system plan 2 fund as follows: The contributions necessary to fully fund the plan 2 employer contribution shall first be deposited in the plan 2 fund. All remaining public safety employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(9) The contributions received from an individual employer for a contribution rate adopted under RCW 41.45.060(2)(d) must be deposited in the retirement system plan fund for which the rate was adopted, and must be credited towards the employer in that retirement system or plan for contributions, interest, and lost investment returns.

**Sec.**  RCW 41.45.060 and 2009 c 561 s 3 are each amended to read as follows:

(1) The state actuary shall provide preliminary actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035.

(2) Not later than July 31, 2008, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and firefighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system; ((~~and~~))

(c) Basic employer contribution rates for the school employees' retirement system and the public safety employees' retirement system for funding both those systems and the public employees' retirement system plan 1; and

(d) If the council determines it to be an appropriate substitute for a charge of contributions and interest under RCW 41.50.125, additional individual employer contribution rates to compensate for the unfunded liability, based on current assumptions and actuarial methods, created when member or employer contributions are paid other than immediately after service is rendered, or when the amounts contributed are so insufficient as to otherwise increase contribution rates for other employers or employees within a retirement system or plan. The additional individual employer contribution rates must be sufficient to ensure that the cost of the late contributions, lost investment returns, or interest are not borne by other employers or employees through increases to the basic contribution rates adopted for each system or plan. When the council adopts an individual employer rate, it must direct the state actuary on the frequency of actuarial review necessary for the individual rate during the period that the rate is assessed.

The council may adopt annual rate changes for any plan for any rate-setting period. The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the law enforcement officers' and firefighters' retirement system plan 1 not later than June 30, 2024;

(b) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section; and

(c) To fully fund the public employees' retirement system plan 1 and the teachers' retirement system plan 1 in accordance with RCW 41.45.070, 41.45.150, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 normal cost, a Washington state patrol retirement system normal cost, and a public safety employees' retirement system normal cost.

(5) A modified entry age normal cost method, as set forth in this chapter, shall be used to calculate employer contributions to the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

(6) The employer contribution rate for the public employees' retirement system and the school employees' retirement system shall equal the sum of:

(a) The amount required to pay the combined plan 2 and plan 3 normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the public employees' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) The amounts required to amortize the costs of any benefit improvements in plan 1 of the public employees' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ten-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(7) The employer contribution rate for the public safety employees' retirement system shall equal the sum of:

(a) The amount required to pay the normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the public employees' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) The amounts required to amortize the costs of any benefit improvements in plan 1 of the public employees' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ten-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(8) The employer contribution rate for the teachers' retirement system shall equal the sum of:

(a) The amount required to pay the combined plan 2 and plan 3 normal cost for the system, subject to any minimum rates applied pursuant to RCW 41.45.155; plus

(b) The amount required to amortize the unfunded actuarial accrued liability in plan 1 of the teachers' retirement system over a rolling ten-year period using projected future salary growth and growth in system membership, and subject to any minimum or maximum rates applied pursuant to RCW 41.45.150; plus

(c) The amounts required to amortize the costs of any benefit improvements in plan 1 of the teachers' retirement system that become effective after June 30, 2009. The cost of each benefit improvement shall be amortized over a fixed ten-year period using projected future salary growth and growth in system membership. The amounts required under this subsection are not subject to, and are collected in addition to, any minimum or maximum rates applied pursuant to RCW 41.45.150.

(9) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

(10) The director shall collect those rates adopted by the council. The rates established in RCW 41.45.062, or by the council, shall be subject to revision by the legislature.

(11) The state actuary shall prepare final actuarial valuation results based on the economic assumptions, asset value smoothing technique, and contribution rates included in or adopted under RCW 41.45.030, 41.45.035, and this section.

(12) Whenever costs arise as identified in this section, and an individual contribution rate is adopted, the council shall adopt rates under this section that ensure those costs are exclusively paid by the individual employer that created the cost, and not the other employers or plan 2 members of the system.

**Sec.**  RCW 41.45.067 and 2001 2nd sp.s. c 11 s 14 are each amended to read as follows:

(1) Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section, or as the result of any unfunded liability created pursuant to this act, shall be borne in full by the state or by that employer not making the contribution or creating the unfunded liability.

(2) The director shall notify all employers of any pending adjustment in the required contribution rate and such pending adjustment in the required contribution rate and any increase shall be announced at least thirty days prior to the effective date of the change.

(3) Members' contributions required by RCW 41.45.060 and 41.45.061 shall be deducted from the members' compensation each payroll period. The members' contribution and the employers' contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

(4) The state's contribution required for the law enforcement officers' and firefighters' retirement system plan 2 shall be transferred to the appropriate fund from the total contributions transferred by the state treasurer under RCW 41.45.050.

**Sec.**  RCW 41.50.125 and 1994 c 177 s 2 are each amended to read as follows:

The department ((~~may~~)) must charge interest, as determined by the director, on member or employer contributions owing to any of the retirement systems listed in RCW 41.50.030 when the amount of contributions and interest owing to any of the retirement systems exceeds one hundred thousand dollars. When the amount owing is less than one hundred thousand dollars, the department may charge interest, as determined by the director. The department's ((~~authority~~)) duty to charge interest shall extend to all optional and mandatory billings for contributions where member or employer contributions are paid other than immediately after service is rendered. Except as explicitly limited by statute, the director may delay the imposition of interest charges on late contributions under this section if the delay is necessary to implement required changes in the department's accounting and information systems. The department may adjust the charging of contributions and interest owed following the imposition of an individual employer contribution rate adopted under RCW 41.45.060.

**Sec.**  RCW 41.50.112 and 2000 c 247 s 1107 are each amended to read as follows:

(1) Employers, as defined in RCW 41.26.030, 41.32.010, 41.34.020, 41.35.010, and 41.40.010, must report all member data to the department in a format designed and communicated by the department.

(2) Employers that report employees to the department must report the date that the employee was first employed by the employer, including employment by legal entities controlled by the employer. In the event that an employer does not provide the date of first employment, and report all member data subsequent to that date to the department, the department must, directly or through a contract, conduct an audit of any affected employees of the employer to determine member eligibility. The employer must reimburse the department for all costs associated with the conduct of the audit.

(3) If the department estimates that any retroactive reporting or late payment of contributions could raise the contribution rates of any retirement plan named in RCW 41.50.030 by one rounded basis point (defined as 0.005 percent) or more, then the department must request a calculation of the resulting unfunded liability from the state actuary. The state actuary must calculate the resulting unfunded liability using assumptions and methods determined by the state actuary at the time of measurement and consistent with current law where applicable. The state actuary must report the results to the department, employer, and the pension funding council.

(4) Employers must provide the department with all member data requested for these service credit determinations or liability calculations. The data requested by the department are records of the retirement systems, and a failure to knowingly submit complete records is a violation of RCW 41.26.062, 41.32.055, 41.35.120, 41.37.120, or 41.40.055, as applicable to the retirement system for which the records are requested.

(5) Employers failing to comply with this reporting requirement shall be assessed an additional fee as defined under RCW 41.50.110(5).

**Sec.**  RCW 41.40.798 and 2011 1st sp.s. c 47 s 18 are each amended to read as follows:

(1) All employees who are not qualified under RCW 41.32.836 and who are first employed by an institution of higher education in a position eligible for participation in old age annuities or retirement income plans under RCW 28B.10.400 on or after July 1, 2011, have a period of thirty days to make an irrevocable choice to:

(a) Become a member of the public employees' retirement system plan 3 under this chapter; or

(b) Participate in the annuities or retirement income plan provided by the institution.

(2) At the end of thirty days, if the member has not made a choice to become a member of the public employees' retirement system, he or she becomes a participant in the institution's plan under RCW 28B.10.400, but does not become eligible for any supplemental benefit under RCW 28B.10.400(1)(c).

(3) If the member chooses to participate in the annuities or retirement income plan provided by the institution, the institution of higher education must report that choice to the department, including the date of first employment consistent with RCW 41.50.112.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**