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HOUSE BILL 2083

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Linville, Roach, O'Brien, Cooper, Fromhold, Dunn, Armstrong and Boldt

Read first time 02/14/2001. Referred to Committee on Appropriations.

1 AN ACT Relating to the Washington state public pension protection  
2 act; amending RCW 41.50.020, 41.45.020, 41.45.030, 41.45.090,  
3 41.40.650, and 41.26.450; reenacting and amending RCW 41.45.020 and  
4 41.45.060; adding a new section to chapter 42.17 RCW; adding a new  
5 chapter to Title 41 RCW; creating new sections; decodifying RCW  
6 41.45.0602; repealing RCW 41.45.100, 41.45.110, and 41.45.120;  
7 providing effective dates; providing an expiration date; and declaring  
8 an emergency.

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

10 **WASHINGTON STATE PENSION BOARD**

11 NEW SECTION. **Sec. 1.** The Washington state pension board, which  
12 may be known as the pension board, is created as an independent  
13 governing board to manage all of the public retirement systems of the  
14 state of Washington. Members shall serve in a trustee capacity and  
15 with fiduciary responsibility in administrating the assets of the  
16 public retirement systems which are declared a trust.

1        NEW SECTION.    **Sec. 2.**    The pension board consists of eleven members  
2 as follows:    One retired and one active member from the public  
3 employees' retirement system; one retired and one active member from  
4 the teachers' or school employees' retirement systems; one retired and  
5 one active member from the law enforcement officers' and fire  
6 fighters', state patrol, and judges' retirement systems; the state  
7 treasurer; the director of financial management; one employer member  
8 representing city, county, and municipal governments; and two members  
9 at large appointed by the governor.    All pension board members are  
10 voting members.

11        NEW SECTION.    **Sec. 3.**    The retired and active pension board members  
12 shall be elected by the membership from their respective retirement  
13 systems and the department of retirement systems shall conduct the  
14 elections.    The employer member from city, county, and municipal  
15 governments shall be appointed by the governor from a list of three  
16 names collectively submitted by the association of Washington cities  
17 and the Washington state association of counties.    Terms of office for  
18 retired and active members are five years.    In order to stagger the  
19 terms, the initial term for the (1) public employees' retirement system  
20 members is one year; (2) teachers' or school employees' retirement  
21 systems' members is three years; (3) law enforcement officers' and fire  
22 fighters', state patrol, and judges' retirement systems' members is  
23 five years; and (4) member representing city, county, and municipal  
24 governments is five years.    The two members appointed by the governor  
25 have five-year appointments with one member serving an initial term of  
26 three years.

27        NEW SECTION.    **Sec. 4.**    The pension board shall establish an  
28 operational budget sufficient to perform its duties and, as appropriate  
29 and reasonable, the department of retirement systems shall provide  
30 resources and staff assistance.

31        NEW SECTION.    **Sec. 5.**    The pension board has the authority to  
32 obtain by employment or contract the services necessary to exercise its  
33 trustee powers and duties, including hiring the director of the  
34 department of retirement systems, actuarial, auditing and legal  
35 services, and procuring and disposing of the goods and property  
36 necessary to exercise the pension board's authority in performing its

1 duties. In exercising their authority under this section, pension  
2 board members are subject to the fiduciary duties under this chapter.

3 NEW SECTION. **Sec. 6.** The pension board may delegate functions  
4 that a prudent trustee or administrator acting in a like capacity and  
5 familiar with those matters could properly delegate under the  
6 circumstances. In doing so, the pension board shall exercise  
7 reasonable care, skill, and caution in:

8 (1) Selecting an agent;

9 (2) Establishing scope and terms of the delegation consistent with  
10 the purpose and terms of the retirement program; and

11 (3) Periodically reviewing the agent's performance and compliance  
12 with the terms of the delegation.

13 In performing a delegated function, an agent owes a duty to the  
14 retirement systems and to its participants and beneficiaries to comply  
15 with the duties imposed by section 7 of this act. The pension board,  
16 if in compliance with this section, is not liable to the retirement  
17 system or its participants or beneficiaries for the decisions or  
18 actions of the agent to whom the function was delegated. By accepting  
19 the delegation of a function from the pension board, an agent submits  
20 to the jurisdiction of the courts of this state. The pension board may  
21 limit the authority of an administrator to delegate.

22 NEW SECTION. **Sec. 7.** The pension board shall discharge its duties  
23 with respect to the retirement system:

24 (1) Solely in the interest of the participants and beneficiaries;

25 (2) For the exclusive purpose of providing benefits to participants  
26 and beneficiaries and paying reasonable expenses of administering the  
27 system;

28 (3) With the care, skill, and caution under the circumstances then  
29 prevailing which a prudent person acting in a like capacity and  
30 familiar with those matters would use in the conduct of an activity of  
31 like character and purpose;

32 (4) Impartially taking into account any differing interests of  
33 participants and beneficiaries;

34 (5) Incurring only costs that are appropriate and reasonable; and

35 (6) In accordance with a good-faith interpretation of the law  
36 governing the retirement program and system.

1        NEW SECTION.    **Sec. 8.**    In managing the assets of the retirement  
2 system pursuant to section 7 of this act, the pension board must  
3 consider the following:

4            (1) General economic conditions;

5            (2) Possible effect of inflation and deflation;

6            (3) Expected total return on investments, including income and  
7 appreciation of capital;

8            (4) Needs for liquidity, regular income, and preservation of  
9 capital;

10           (5) Making a reasonable effort to verify facts relevant to the  
11 investment of assets as reported by the state investment board.

12        NEW SECTION.    **Sec. 9.**    The pension board's primary duties include  
13 adopting actuarial assumptions, setting contribution rates needed to  
14 keep the pension system properly funded, and proposing necessary  
15 legislation. The pension board has no authority to invest the pension  
16 funds.

17        NEW SECTION.    **Sec. 10.**    The state auditor may conduct a performance  
18 audit as necessary but not less than once every four years. The  
19 pension board shall pay for necessary expenses incurred by the state  
20 auditor in performing this function from the trust funds.

21        NEW SECTION.    **Sec. 11.**    The state investment board shall provide  
22 the pension board with in-depth quarterly reports and its annual report  
23 that shall be combined with the pension board's annual and consolidated  
24 summary reports. The pension board shall also prepare a condensed  
25 version of its annual report, in layman's terms, for distribution to  
26 all participants and beneficiaries of the pension systems.

27        NEW SECTION.    **Sec. 12.**    A pension board member or other fiduciary  
28 who breaches a duty under this chapter, as determined under section 14  
29 of this act, is personally liable to the public retirement systems for  
30 any losses resulting from the breach and any profits made by the  
31 pension board member or other fiduciary through use of assets of the  
32 system by the pension board member or fiduciary. An agreement that  
33 purports to limit the liability of the board member or fiduciary for a  
34 breach of duty is void. The public retirement systems may insure  
35 itself against liability or losses occurring because of a breach of

1 duty by a pension board member or other fiduciary. A pension board  
2 member or other fiduciary may insure against liability or losses  
3 occurring because of a breach of duty if the insurance is purchased or  
4 provided either by the pension board member or fiduciary personally,  
5 or, on the pension board member or fiduciary's behalf by the state of  
6 Washington, the public retirement systems, a public employer whose  
7 employees participate in the retirement program served by the pension  
8 board or fiduciary, an employee representative whose members  
9 participate in the retirement program served by the pension board or  
10 fiduciary, or the pension board or fiduciary's employer.

11 NEW SECTION. **Sec. 13.** The pension board, when managing the assets  
12 of the public retirement systems, may deliberate about, or make  
13 tentative final decisions, in executive session if disclosure of the  
14 deliberations or decisions would jeopardize the ability to implement  
15 them. A record of the public retirement system that discloses  
16 deliberations, or a tentative or final decision, made in an executive  
17 session is not an open or public record under chapter 42.17 RCW.

18 NEW SECTION. **Sec. 14.** An action may be maintained in superior  
19 court of Thurston county by a public employer, participant,  
20 beneficiary, or fiduciary:

21 (1) To enjoin an act, practice, or omission that is a violation  
22 under this chapter;

23 (2) For appropriate equitable relief for a breach of trust under  
24 section 12 of this act; or

25 (3) For other appropriate equitable relief to redress the violation  
26 of or to enforce this chapter.

27 In an action under this section by a participant, beneficiary, or  
28 fiduciary, the court may award reasonable attorneys' fees and costs to  
29 either party.

30 NEW SECTION. **Sec. 15.** A new section is added to chapter 42.17 RCW  
31 to read as follows:

32 Chapter 41.-- RCW (sections 1 through 14 and 27 through 49 of this  
33 act) is exempt from the disclosure requirements under this chapter.

34 **Sec. 16.** RCW 41.50.020 and 1975-'76 2nd ex.s. c 105 s 4 are each  
35 amended to read as follows:

1        There is created a department of state government to be known as  
2 the department of retirement systems. The executive and administrative  
3 head of the department shall be the director, who shall be appointed by  
4 the ((governor)) Washington state pension board with the consent of the  
5 senate. The director shall serve at the pleasure of the ((governor))  
6 pension board and may be removed upon written notification by the  
7 ((governor)) pension board to the respective retirement boards.

8        The director shall have complete charge of and supervisory powers  
9 over the department and shall be paid a salary fixed by the governor in  
10 accordance with the provisions of RCW 43.03.040. If a vacancy occurs  
11 in the position of director while the senate is not in session, the  
12 ((governor)) pension board shall make a temporary appointment until the  
13 next meeting of the senate at which time ((he)) the pension board shall  
14 present to that body the name of the person appointed to the position  
15 of director.

16        NEW SECTION.    **Sec. 17.** The director of retirement systems shall  
17 conduct an election among retirement systems members for the election  
18 of pension board members as set forth under section 3 of this act.

19        **Sec. 18.** RCW 41.45.020 and 1998 c 341 s 402 and 1998 c 283 s 1 are  
20 each reenacted and amended to read as follows:

21        As used in this chapter, the following terms have the meanings  
22 indicated unless the context clearly requires otherwise.

23        (1) ((("Council")) "Pension board" means the Washington state  
24 pension ((funding council)) board created in ((RCW 41.45.100)) section  
25 1 of this act.

26        (2) "Department" means the department of retirement systems.

27        (3) "Law enforcement officers' and fire fighters' retirement system  
28 plan 1" and "law enforcement officers' and fire fighters' retirement  
29 system plan 2" mean the benefits and funding provisions under chapter  
30 41.26 RCW.

31        (4) "Public employees' retirement system plan 1" and "public  
32 employees' retirement system plan 2" mean the benefits and funding  
33 provisions under chapter 41.40 RCW.

34        (5) "Teachers' retirement system plan 1," "teachers' retirement  
35 system plan 2," and "teachers' retirement system plan 3" mean the  
36 benefits and funding provisions under chapter 41.32 RCW.

1 (6) "School employees' retirement system plan 2" and "school  
2 employees' retirement system plan 3" mean the benefits and funding  
3 provisions under chapter 41.35 RCW.

4 (7) "Washington state patrol retirement system" means the  
5 retirement benefits provided under chapter 43.43 RCW.

6 (8) "Unfunded liability" means the unfunded actuarial accrued  
7 liability of a retirement system.

8 (9) "Actuary" or "state actuary" means the state actuary employed  
9 under chapter 44.44 RCW.

10 (10) "State retirement systems" means the retirement systems listed  
11 in RCW 41.50.030.

12 (11) (~~("Work group" means the pension funding work group created in~~  
13 ~~RCW 41.45.120.~~

14 ~~(12))~~) "Classified employee" means a member of the Washington  
15 school employees' retirement system plan 2 or plan 3 as defined in RCW  
16 41.35.010.

17 (~~(13))~~) (12) "Teacher" means a member of the teachers' retirement  
18 system as defined in RCW 41.32.010(15).

19 **Sec. 19.** RCW 41.45.020 and 2000 c 247 s 502 are each amended to  
20 read as follows:

21 As used in this chapter, the following terms have the meanings  
22 indicated unless the context clearly requires otherwise.

23 (1) (~~("Council")~~) "Pension board" means the Washington state  
24 pension (~~(funding council))~~) board created in (~~(RCW 41.45.100))~~) section  
25 1 of this act.

26 (2) "Department" means the department of retirement systems.

27 (3) "Law enforcement officers' and fire fighters' retirement system  
28 plan 1" and "law enforcement officers' and fire fighters' retirement  
29 system plan 2" mean the benefits and funding provisions under chapter  
30 41.26 RCW.

31 (4) "Public employees' retirement system plan 1," "public  
32 employees' retirement system plan 2," and "public employees' retirement  
33 system plan 3" mean the benefits and funding provisions under chapter  
34 41.40 RCW.

35 (5) "Teachers' retirement system plan 1," "teachers' retirement  
36 system plan 2," and "teachers' retirement system plan 3" mean the  
37 benefits and funding provisions under chapter 41.32 RCW.

1 (6) "School employees' retirement system plan 2" and "school  
2 employees' retirement system plan 3" mean the benefits and funding  
3 provisions under chapter 41.35 RCW.

4 (7) "Washington state patrol retirement system" means the  
5 retirement benefits provided under chapter 43.43 RCW.

6 (8) "Unfunded liability" means the unfunded actuarial accrued  
7 liability of a retirement system.

8 (9) "Actuary" or "state actuary" means the state actuary employed  
9 under chapter 44.44 RCW.

10 (10) "State retirement systems" means the retirement systems listed  
11 in RCW 41.50.030.

12 (11) (~~("Work group" means the pension funding work group created in  
13 RCW 41.45.120.~~

14 ~~(12))~~) "Classified employee" means a member of the Washington  
15 school employees' retirement system plan 2 or plan 3 as defined in RCW  
16 41.35.010.

17 (~~(13))~~) (12) "Teacher" means a member of the teachers' retirement  
18 system as defined in RCW 41.32.010(15).

19 **Sec. 20.** RCW 41.45.030 and 1995 c 233 s 1 are each amended to read  
20 as follows:

21 (1) Beginning (~~(September 1, 1995))~~ on the effective date of this  
22 section, and every two years thereafter, the state actuary shall submit  
23 to the (~~(council))~~ pension board information regarding the experience  
24 and financial condition of each state retirement system. The  
25 (~~(council))~~ pension board shall review this and such other information  
26 as it may require.

27 (2) By December 31, (~~(1995))~~ 2001, and every two years thereafter,  
28 the (~~(council))~~ pension board, by affirmative vote of (~~(five~~  
29 ~~councilmembers))~~ six pension board members, shall adopt the following  
30 long-term economic assumptions:

- 31 (a) Growth in system membership;
- 32 (b) Growth in salaries, exclusive of merit or longevity increases;
- 33 (c) Growth in inflation; and
- 34 (d) Investment rate of return.

35 The (~~(council))~~ pension board shall (~~(work with the department of~~  
36 ~~retirement systems, the state actuary, and the executive director of~~  
37 ~~the state investment board, and shall))~~ consider long-term historical  
38 averages, in developing the economic assumptions.



1 (3) The assumptions adopted by the (~~council~~) pension board shall  
2 be used by the state actuary in conducting all actuarial studies of the  
3 state retirement systems.

4 **Sec. 21.** RCW 41.45.060 and 2000 2nd sp.s. c 1 s 905 and 2000 c 247  
5 s 504 are each reenacted and amended to read as follows:

6 (1) The state actuary shall provide actuarial valuation results  
7 based on the assumptions adopted under RCW 41.45.030.

8 (2) Not later than (~~September 30, 1998~~) December 31, 2001, and  
9 every two years thereafter, consistent with the assumptions adopted  
10 under RCW 41.45.030, the (~~council~~) pension board shall adopt and may  
11 make changes to:

12 (a) A basic state contribution rate for the law enforcement  
13 officers' and fire fighters' retirement system;

14 (b) Basic employer contribution rates for the public employees'  
15 retirement system, the teachers' retirement system, and the Washington  
16 state patrol retirement system to be used in the ensuing biennial  
17 period; and

18 (c) A basic employer contribution rate for the school employees'  
19 retirement system for funding the public employees' retirement system  
20 plan 1.

21 (~~For the 1999-2001 fiscal biennium, the rates adopted by the~~  
22 ~~council shall be effective for the period designated in section 902,~~  
23 ~~chapter 1, Laws of 2000 2nd sp. sess. and RCW 41.45.0602.~~)

24 (3) The employer and state contribution rates adopted by the  
25 (~~council~~) pension board shall be the level percentages of pay that  
26 are needed:

27 (a) To fully amortize the total costs of the public employees'  
28 retirement system plan 1, the teachers' retirement system plan 1, the  
29 law enforcement officers' and fire fighters' retirement system plan 1,  
30 and the unfunded liability of the Washington state patrol retirement  
31 system not later than June 30, 2024, except as provided in subsection  
32 (5) of this section;

33 (b) To also continue to fully fund the public employees' retirement  
34 system plans 2 and 3, the teachers' retirement system plans 2 and 3,  
35 the school employees' retirement system plans 2 and 3, and the law  
36 enforcement officers' and fire fighters' retirement system plan 2 in  
37 accordance with RCW 41.45.061, 41.45.067, and this section; and

1 (c) For the law enforcement officers' and fire fighters' system  
2 plan 2 the rate charged to employers, except as provided in RCW  
3 41.26.450, shall be thirty percent of the cost of the retirement system  
4 and the rate charged to the state shall be twenty percent of the cost  
5 of the retirement system.

6 (4) The aggregate actuarial cost method shall be used to calculate  
7 a combined plan 2 and 3 employer contribution rate.

8 (5) An amount equal to the amount of extraordinary investment gains  
9 as defined in RCW 41.31.020 shall be used to shorten the amortization  
10 period for the public employees' retirement system plan 1 and the  
11 teachers' retirement system plan 1.

12 (6) The ~~((council))~~ pension board shall immediately notify the  
13 directors of the office of financial management and department of  
14 retirement systems of the state and employer contribution rates  
15 adopted.

16 (7) The director of the department of retirement systems shall  
17 collect those rates adopted by the ~~((council))~~ pension board.

18 NEW SECTION. **Sec. 22.** RCW 41.45.0602 (Washington state patrol  
19 basic employer contribution rate) is decodified.

20 **Sec. 23.** RCW 41.45.090 and 1998 c 283 s 7 are each amended to read  
21 as follows:

22 The department shall collect and keep in convenient form such data  
23 as shall be necessary for an actuarial valuation of the assets and  
24 liabilities of the state retirement systems, and for making an  
25 actuarial investigation into the mortality, service, compensation, and  
26 other experience of the members and beneficiaries of those systems.  
27 The department and state actuary shall enter into a memorandum of  
28 understanding regarding the specific data the department will collect,  
29 when it will be collected, and how it will be maintained. The  
30 department shall notify the ~~((state actuary))~~ pension board of any  
31 changes it makes, or intends to make, in the collection and maintenance  
32 of such data.

33 At least once in each six-year period, the state actuary shall  
34 conduct an actuarial experience study of the mortality, service,  
35 compensation and other experience of the members and beneficiaries of  
36 each state retirement system, and into the financial condition of each  
37 system. The results of each investigation shall be filed with the

1 department, the office of financial management, the budget writing  
2 committees of the Washington house of representatives and senate, and  
3 the pension (~~(funding council)~~) board. Upon the basis of such  
4 actuarial investigation the department, with approval of the pension  
5 board, shall adopt such tables, schedules, factors, and regulations as  
6 are deemed necessary in the light of the findings of the actuary or the  
7 pension board for the proper operation of the state retirement systems.

8 NEW SECTION. **Sec. 24.** The following acts or parts of acts are  
9 each repealed:

10 (1) RCW 41.45.100 (Pension funding council--Created) and 1998 c 283  
11 s 2;

12 (2) RCW 41.45.110 (Pension funding council--Audits required) and  
13 1998 c 283 s 3; and

14 (3) RCW 41.45.120 (Pension funding work group) and 1998 c 283 s 4.

15 **Sec. 25.** RCW 41.40.650 and 1989 c 273 s 24 are each amended to  
16 read as follows:

17 The required contribution rates to the retirement system for both  
18 members and employers shall be established by the (~~(director)~~)  
19 Washington state pension board from time to time as may be necessary  
20 (~~(upon the advice of the state actuary. The state actuary shall use~~  
21 ~~the aggregate actuarial cost method to calculate contribution rates)~~).  
22 The employer contribution rate calculated under this section shall be  
23 used only for the purpose of determining the amount of employer  
24 contributions to be deposited in the plan 2 fund from the total  
25 employer contributions collected under RCW 41.40.048.

26 Contribution rates required to fund the costs of the retirement  
27 system shall always be equal for members and employers, except as  
28 herein provided. Effective January 1, 1987, however, no member or  
29 employer contributions are required for any calendar month in which the  
30 member is not granted service credit. Any adjustments in contribution  
31 rates required from time to time for future costs shall likewise be  
32 shared equally by the members and employers.

33 Any increase in the contribution rate required as the result of a  
34 failure of an employer to make any contribution required by this  
35 section shall be borne in full by the employer not making the  
36 contribution.

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

4 Members contributions required by this section shall be deducted  
5 from the members compensation earnable each payroll period. The  
6 members contribution and the employers contribution shall be remitted  
7 directly to the department within fifteen days following the end of the  
8 calendar month during which the payroll period ends.

9 **Sec. 26.** RCW 41.26.450 and 1996 c 38 s 3 are each amended to read  
10 as follows:

11 (1) The required contribution rates to the plan 2 system for  
12 members, employers, and the state of Washington shall be established by  
13 the ~~((director))~~ Washington state pension board from time to time as  
14 may be necessary ~~((upon the advice of the state actuary. The state  
15 actuary shall use the aggregate actuarial cost method to calculate  
16 contribution rates))~~.

17 (2) Except as provided in subsection (3) of this section, the  
18 member, the employer and the state shall each contribute the following  
19 shares of the cost of the retirement system:

20	Member	50%
21	Employer	30%
22	State	20%

23 (3) Port districts established under Title 53 RCW and institutions  
24 of higher education as defined in RCW 28B.10.016 shall contribute both  
25 the employer and state shares of the cost of the retirement system for  
26 any of their employees who are law enforcement officers. Institutions  
27 of higher education shall contribute both the employer and the state  
28 shares of the cost of the retirement system for any of their employees  
29 who are fire fighters.

30 (4) Effective January 1, 1987, however, no member or employer  
31 contributions are required for any calendar month in which the member  
32 is not granted service credit.

33 (5) Any adjustments in contribution rates required from time to  
34 time for future costs shall likewise be shared proportionally by the  
35 members, employers, and the state.

36 (6) Any increase in the contribution rate required as the result of  
37 a failure of the state or of an employer to make any contribution

1 required by this section shall be borne in full by the state or by that  
2 employer not making the contribution.

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

7 (8) Members' contributions required by this section shall be  
8 deducted from the members basic salary each payroll period. The  
9 members contribution and the employers contribution shall be remitted  
10 directly to the department within fifteen days following the end of the  
11 calendar month during which the payroll period ends. The state's  
12 contribution required by this section shall be transferred to the plan  
13 2 fund from the total contributions transferred by the state treasurer  
14 under RCW 41.45.060 and 41.45.070.

15 **UNIFORM MANAGEMENT OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS**

16 NEW SECTION. **Sec. 27.** SHORT TITLE. This subchapter may be cited  
17 as the uniform management of public employee retirement systems act.

18 NEW SECTION. **Sec. 28.** Sections 27 through 49 of this act apply to  
19 the management of public employee retirement systems unless they  
20 conflict with other statutes, in which case the other statutes control.

21 NEW SECTION. **Sec. 29.** DEFINITIONS. The definitions in this  
22 section apply throughout this subchapter unless the context clearly  
23 requires otherwise.

24 (1) "Administrator" means a person primarily responsible for the  
25 management of a retirement system or, if no person is clearly  
26 designated, the trustee of the system who has the ultimate authority to  
27 manage the system.

28 (2) "Agent group of programs" means a group of retirement programs  
29 which shares administrative and investment functions but maintains a  
30 separate account for each retirement program so that assets accumulated  
31 for a particular program may be used to pay benefits only for that  
32 program's participants and beneficiaries.

33 (3) "Appropriate grouping of programs" means:

34 (a) For defined benefit plans, a cost-sharing program or an agent  
35 group of programs; and

1 (b) For defined contribution plans, a group of retirement programs  
2 which shares administrative and investment functions.

3 (4) "Beneficiary" means a person, other than the participant, who  
4 is designated by a participant or by a retirement program to receive a  
5 benefit under the program.

6 (5) "Code" means the federal internal revenue code of 1986, as  
7 amended.

8 (6) "Cost-sharing program" means a retirement program for the  
9 employees of more than one public employer in which all assets  
10 accumulated for the payment of benefits may be used to pay benefits to  
11 any participants or beneficiaries of the program.

12 (7) "Defined benefit plan" means a retirement program other than a  
13 defined contribution plan.

14 (8) "Defined contribution plan" means a retirement program that  
15 provides for an individual account for each participant and for  
16 benefits based solely upon the amount contributed to the participant's  
17 account; any income, expenses, gains, and losses credited or charged to  
18 the account; and any forfeitures of accounts of other participants that  
19 may be allocated to the participant's account.

20 (9) "Employee" includes an officer of a public employer.

21 (10) "Fair value" means the amount that a willing buyer would pay  
22 a willing seller for an asset in a current sale, as determined in good  
23 faith by a fiduciary.

24 (11) "Fiduciary" means a person who:

25 (a) Exercises any discretionary authority to manage a retirement  
26 system;

27 (b) Exercises any authority to invest or manage assets of a system;

28 (c) Provides investment advice for a fee or other direct or  
29 indirect compensation with respect to assets of a system or has any  
30 authority or responsibility to do so; or

31 (d) Is a trustee or a member of a board of trustees.

32 (12) "Furnish" means:

33 (a) To deliver personally, to mail to the last known place of  
34 employment or home address of the intended recipient, or, if reasonable  
35 grounds exist to believe that the intended recipient would receive it  
36 in ordinary course, to transmit by any other usual means of  
37 communication; or

38 (b) To provide to the intended recipient's public employer if  
39 reasonable grounds exist to believe that the employer will make a good

1 faith effort to deliver personally, by mail, or by other usual means of  
2 communication.

3 (13) "Governing law" means state and local laws establishing or  
4 authorizing the creation of a retirement program or system and the  
5 principal state and local laws and regulations governing the management  
6 of a retirement program or system or assets of either.

7 (14) "Guaranteed benefit policy" means an insurance policy or  
8 contract to the extent the policy or contract provides for benefits in  
9 a guaranteed amount. The term includes any surplus in a separate  
10 account, but excludes any other portion of a separate account.

11 (15) "Insurer" means a company, service, or organization qualified  
12 to engage in the business of insurance in this state.

13 (16) "Nonforfeitable benefit" means an immediate or deferred  
14 benefit that arises from a participant's service, is unconditional, and  
15 is enforceable against the retirement system.

16 (17) "Participant" means an individual who is or has been an  
17 employee enrolled in a retirement program and who is or may become  
18 eligible to receive, or is currently receiving, a benefit under the  
19 program, or whose beneficiaries are or may become eligible to receive  
20 a benefit. The term does not include an individual who is no longer an  
21 employee of a public employer and has not accrued any nonforfeitable  
22 benefits under the program.

23 (18) "Public employer" means this state or any political  
24 subdivision, or any agency or instrumentality of this state or any  
25 political subdivision, whose employees are participants in a retirement  
26 program.

27 (19) "Retirement program" means a program of rights and obligations  
28 which a public employer establishes or maintains and which, by its  
29 express terms or as a result of surrounding circumstances:

30 (a) Provides retirement income to employees; or

31 (b) Results in a deferral of income by employees for periods  
32 extending to the termination of covered employment or beyond.

33 (20) "Retirement system" means an entity established or maintained  
34 by a public employer to manage one or more retirement programs, or to  
35 invest or manage the assets of one or more retirement programs.

36 (21) "State" means a state of the United States, the District of  
37 Columbia, Puerto Rico, the United States Virgin Islands, or any  
38 territory or insular possession subject to the jurisdiction of the  
39 United States.

1 (22) "Trustee" means a person who has ultimate authority to manage  
2 a retirement system or to invest or manage its assets.

3 NEW SECTION. **Sec. 30.** SCOPE. This subchapter applies to all  
4 retirement programs and retirement systems, except:

5 (1) A retirement program that is unfunded and is maintained by a  
6 public employer solely for the purpose of providing deferred  
7 compensation for a select group of management employees or employees  
8 who rank in the top five percent of employees of that employer based on  
9 compensation;

10 (2) A severance-pay arrangement under which:

11 (a) Payments are made solely on account of the termination of an  
12 employee's service and are not contingent upon the employee's retiring;

13 (b) The total amount of the payments does not exceed the equivalent  
14 of twice the employee's total earnings from the public employer during  
15 the year immediately preceding the termination of service; and

16 (c) All payments are completed within twenty-four months after the  
17 termination of service;

18 (3) An arrangement or payment made on behalf of an employee because  
19 the employee is covered by Title II of the social security act, as  
20 amended;

21 (4) A qualified governmental excess benefit arrangement within the  
22 meaning of section 415(m) of the code;

23 (5) An individual retirement account or individual retirement  
24 annuity within the meaning of section 408 of the code;

25 (6) A retirement program consisting solely of annuity contracts or  
26 custodial accounts satisfying the requirements of section 403(b) of the  
27 code; or

28 (7) A program maintained solely for the purpose of complying with  
29 workers' compensation laws or disability insurance laws.

30 NEW SECTION. **Sec. 31.** ESTABLISHMENT OF TRUST. (1) Except as  
31 otherwise provided in subsection (2) of this section, all assets of a  
32 retirement system are held in trust. The trustee has the exclusive  
33 authority, subject to this subchapter, to invest and manage those  
34 assets.

35 (2) Assets of a retirement system which consist of insurance  
36 contracts or policies issued by an insurer, assets of an insurer, and  
37 assets of the system held by an insurer need not be held in trust.



1 (3) If an insurer issues a guaranteed benefit policy to a  
2 retirement system, assets of the system include the policy but not  
3 assets of the insurer.

4 (4) If a retirement system invests in a security issued by an  
5 investment company registered under the investment company act of 1940,  
6 the assets of the system include the security but not the assets of the  
7 investment company.

8 NEW SECTION. **Sec. 32.** POWERS OF TRUSTEE. (1) In addition to  
9 other powers conferred by the governing law, a trustee has exclusive  
10 authority, consistent with the trustee's duties under this subchapter,  
11 to:

12 (a) Establish an administrative budget sufficient to perform the  
13 trustee's duties and, as appropriate and reasonable, draw upon assets  
14 of the retirement system to fund the budget;

15 (b) Obtain by employment or contract the services necessary to  
16 exercise the trustee's powers and perform the trustee's duties,  
17 including actuarial, auditing, custodial, investment, and legal  
18 services; and

19 (c) Procure and dispose of goods and property necessary to exercise  
20 the trustee's powers and perform the trustee's duties.

21 (2) In exercising its authority under this section, a trustee is  
22 subject to the fiduciary duties of this subchapter, but not to civil  
23 service, personnel, procurement, or similar general laws relating to  
24 subsection (1) of this section.

25 NEW SECTION. **Sec. 33.** DELEGATION OF FUNCTIONS. (1) A trustee or  
26 administrator may delegate functions that a prudent trustee or  
27 administrator acting in a like capacity and familiar with those matters  
28 could properly delegate under the circumstances.

29 (2) The trustee or administrator shall exercise reasonable care,  
30 skill, and caution in:

31 (a) Selecting an agent;

32 (b) Establishing the scope and terms of the delegation, consistent  
33 with the purposes and terms of the retirement program; and

34 (c) Periodically reviewing the agent's performance and compliance  
35 with the terms of the delegation.

36 (3) In performing a delegated function, an agent owes a duty to the  
37 retirement system and to its participants and beneficiaries to comply

1 with the terms of the delegation and, if a fiduciary, to comply with  
2 the duties imposed by section 34 of this act.

3 (4) A trustee or administrator who complies with subsections (1)  
4 and (2) of this section is not liable to the retirement system or to  
5 its participants or beneficiaries for the decisions or actions of the  
6 agent to whom the function was delegated.

7 (5) By accepting the delegation of a function from the trustee or  
8 administrator, an agent submits to the jurisdiction of the courts of  
9 this state.

10 (6) A trustee may limit the authority of an administrator to  
11 delegate functions under this section.

12 NEW SECTION. **Sec. 34.** GENERAL FIDUCIARY DUTIES. A trustee or  
13 other fiduciary shall discharge duties with respect to a retirement  
14 system:

15 (1) Solely in the interest of the participants and beneficiaries;

16 (2) For the exclusive purpose of providing benefits to participants  
17 and beneficiaries and paying reasonable expenses of administering the  
18 system;

19 (3) With the care, skill, and caution under the circumstances then  
20 prevailing which a prudent person acting in a like capacity and  
21 familiar with those matters would use in the conduct of an activity of  
22 like character and purpose;

23 (4) Impartially, taking into account any differing interests of  
24 participants and beneficiaries;

25 (5) Incurring only costs that are appropriate and reasonable; and

26 (6) In accordance with a good-faith interpretation of the law  
27 governing the retirement program and system.

28 NEW SECTION. **Sec. 35.** DUTIES OF TRUSTEE IN INVESTING AND MANAGING  
29 ASSETS OF RETIREMENT SYSTEM. (1) In investing and managing assets of  
30 a retirement system pursuant to section 34 of this act, a trustee with  
31 authority to invest and manage assets:

32 (a) Shall consider among other circumstances:

33 (i) General economic conditions;

34 (ii) The possible effect of inflation or deflation;

35 (iii) The role that each investment or course of action plays  
36 within the overall portfolio of the retirement program or appropriate  
37 grouping of programs;

1 (iv) The expected total return from income and the appreciation of  
2 capital;

3 (v) Needs for liquidity, regularity of income, and preservation or  
4 appreciation of capital; and

5 (vi) For defined benefit plans, the adequacy of funding for the  
6 plan based on reasonable actuarial factors;

7 (b) Shall diversify the investments of each retirement program or  
8 appropriate grouping of programs unless the trustee reasonably  
9 determines that, because of special circumstances, it is clearly  
10 prudent not to do so;

11 (c) Shall make a reasonable effort to verify facts relevant to the  
12 investment and management of assets of a retirement system;

13 (d) May invest in any kind of property or type of investment  
14 consistent with this subchapter; and

15 (e) May consider benefits created by an investment in addition to  
16 investment return only if the trustee determines that the investment  
17 providing these collateral benefits would be prudent even without the  
18 collateral benefits.

19 (2) A trustee with authority to invest and manage assets of a  
20 retirement system shall adopt a statement of investment objectives and  
21 policies for each retirement program or appropriate grouping of  
22 programs. The statement must include the desired rate of return on  
23 assets overall, the desired rates of return and acceptable levels of  
24 risk for each asset class, asset-allocation goals, guidelines for the  
25 delegation of authority, and information on the types of reports to be  
26 used to evaluate investment performance. At least annually, the  
27 trustee shall review the statement and change or reaffirm it.

28 NEW SECTION. **Sec. 36.** SPECIAL APPLICATION OF DUTIES. (1) A  
29 trustee may return a contribution, with interest, to a public employer  
30 or employee, or make alternative arrangements for reimbursement, if the  
31 trustee determines the contribution was made because of a mistake of  
32 fact or law.

33 (2) Upon termination of a retirement program, a trustee may return  
34 to a public employer any assets of the program remaining after all  
35 liabilities of the program to participants and beneficiaries have been  
36 satisfied.

37 (3) If a retirement program provides for individual accounts and  
38 permits a participant or beneficiary to exercise control over the

1 assets in such an account and a participant or beneficiary exercises  
2 control over those assets:

3 (a) The participant or beneficiary is not a fiduciary by reason of  
4 the exercise of control; and

5 (b) A person who is otherwise a fiduciary is not liable for any  
6 loss, or by reason of any breach of fiduciary duty, resulting from the  
7 participant's or beneficiary's exercise of control.

8 (4) If an insurer issues to a retirement system a contract or  
9 policy that is supported by the insurer's general account but is not a  
10 guaranteed benefit policy, the insurer complies with section 34 of this  
11 act if it manages the assets of the general account with the care,  
12 skill, and caution under the circumstances then prevailing which a  
13 prudent person acting in a like capacity and familiar with those  
14 matters would use in the conduct of an activity of like character and  
15 purpose, taking into account all obligations supported by the general  
16 account.

17 NEW SECTION. **Sec. 37.** REVIEWING COMPLIANCE. In evaluating  
18 performance of a trustee or other fiduciary:

19 (1) Compliance by the trustee or other fiduciary with sections 33  
20 through 36 of this act must be determined in light of the facts and  
21 circumstances existing at the time of the trustee or fiduciary's  
22 decision or action and not by hindsight.

23 (2) The trustee's investment and management decisions must be  
24 evaluated not in isolation but in the context of the trust portfolio as  
25 a whole and as a part of an overall investment strategy having risk and  
26 return objectives reasonably suited to the program or appropriate  
27 grouping of programs.

28 NEW SECTION. **Sec. 38.** FIDUCIARY LIABILITY. (1) A trustee or  
29 other fiduciary who breaches a duty imposed by this subchapter is  
30 personally liable to a retirement system for any losses resulting from  
31 the breach and any profits made by the trustee or other fiduciary  
32 through use of assets of the system by the trustee or other fiduciary.  
33 The trustee or other fiduciary is subject to other equitable remedies  
34 as the court considers appropriate, including removal.

35 (2) An agreement that purports to limit the liability of a trustee  
36 or other fiduciary for a breach of duty under this subchapter is void.

1 (3) A retirement system may insure itself against liability or  
2 losses occurring because of a breach of duty under this subchapter by  
3 a trustee or other fiduciary.

4 (4) A trustee or other fiduciary may insure against liability or  
5 losses occurring because of a breach of duty under this subchapter if  
6 the insurance is purchased or provided either by the trustee or  
7 fiduciary personally or, on the trustee or fiduciary's behalf, by this  
8 state, the retirement system, a public employer whose employees  
9 participate in a retirement program served by the trustee or fiduciary,  
10 an employee representative whose members participate in a retirement  
11 program served by the trustee or fiduciary, or the trustee or  
12 fiduciary's employer.

13 NEW SECTION. **Sec. 39.** OPEN OR PUBLIC MEETINGS AND RECORDS. (1)  
14 A multimember body having authority to invest or manage assets of a  
15 retirement system may deliberate about, or make tentative or final  
16 decisions on, investments or other financial matters in executive  
17 session if disclosure of the deliberations or decisions jeopardizes the  
18 ability to implement a decision or to achieve investment objectives.

19 (2) A record of a retirement system that discloses deliberations  
20 about, or a tentative or final decision on, investments or other  
21 financial matters is not an open or public record under chapter 42.30  
22 RCW to the extent and so long as its disclosure jeopardizes the ability  
23 to implement an investment decision or program or to achieve investment  
24 objectives.

25 NEW SECTION. **Sec. 40.** DISCLOSURE TO PUBLIC. (1) An administrator  
26 shall prepare and disseminate:

- 27 (a) A summary plan description of each retirement program;  
28 (b) A summary description of any material modification in the terms  
29 of the program and any material change in the information required to  
30 be contained in the summary plan description, to the extent the  
31 modification or change has not been integrated into an updated summary  
32 plan description;  
33 (c) An annual disclosure of financial and actuarial status; and  
34 (d) An annual report.

35 (2) An administrator shall make available for public examination in  
36 the principal office of the administrator and in other places if  
37 necessary to make the information reasonably available to participants:

- 1 (a) The governing law of the retirement program and system;  
2 (b) The most recent summary plan description;  
3 (c) Summary descriptions of modifications or changes described in  
4 subsection (1)(b) of this section that have been provided to  
5 participants and beneficiaries but have not yet been integrated into  
6 the summary plan description;  
7 (d) The most recent annual disclosure of financial and actuarial  
8 status; and  
9 (e) The most recent annual report.

10 (3) Upon written request by a participant, beneficiary, or member  
11 of the public, an administrator shall provide a copy of any publication  
12 described in subsection (1)(b) of this section. Except as otherwise  
13 provided in section 41(1) of this act, the administrator may charge a  
14 reasonable fee to cover the cost of providing copies. The  
15 administrator shall provide the copies within thirty days after the  
16 request or, if a fee is charged, within thirty days after receiving  
17 payment.

18 NEW SECTION. **Sec. 41.** DISCLOSURE TO PARTICIPANTS AND  
19 BENEFICIARIES. (1) An administrator shall furnish to each participant  
20 and to each beneficiary who is receiving benefits under a retirement  
21 program:

22 (a) A copy of the most recent summary plan description, along with  
23 any summary descriptions of modifications or changes described in  
24 section 40(1)(b) of this act, within three months after a person  
25 becomes a participant or, in the case of a beneficiary, within three  
26 months after a person first receives benefits, or, if later, within  
27 four months after the retirement program becomes subject to this  
28 subchapter;

29 (b) The summary description of any modifications or changes  
30 described in section 40(1)(b) of this act, within seven months after  
31 the end of the fiscal year in which a modification or change has been  
32 made;

33 (c) A copy of an updated summary plan description that integrates  
34 all modifications and changes at intervals not exceeding five years;  
35 and

36 (d) The annual report within seven months after the end of each  
37 fiscal year.

1 (2) An administrator shall provide to a participant or beneficiary  
2 a statement containing information that would permit the participant or  
3 beneficiary to estimate projected benefits reasonably, to the extent  
4 the information is regularly maintained by the retirement system. The  
5 information must be provided with the annual report or upon written  
6 request of the participant or beneficiary. The information need not be  
7 provided to a participant or beneficiary who is currently receiving  
8 benefits.

9 (3) A participant who is not currently receiving benefits is  
10 entitled without charge to one statement under subsection (2) of this  
11 section during any fiscal year. An administrator may charge a  
12 reasonable fee to cover the cost of providing other statements. The  
13 administrator shall provide the statements within thirty days after the  
14 participant or beneficiary's request or, if a fee is charged, within  
15 thirty days after receiving payment.

16 NEW SECTION. **Sec. 42.** REPORTS TO AGENCY. An administrator shall  
17 file with the department of retirement systems a copy of:

18 (1) The governing law of the retirement program and system within  
19 four months after the system becomes subject to this subchapter and an  
20 updated copy at least once every year thereafter;

21 (2) The summary plan description within four months after the  
22 system becomes subject to this subchapter and of updated summary plan  
23 descriptions at the same time they are first furnished to any  
24 participant or beneficiary under section 41(1)(c) of this act;

25 (3) Any summary description of modifications or changes within  
26 seven months after the end of the fiscal year in which a modification  
27 or change has been made; and

28 (4) The annual disclosure of financial and actuarial status and  
29 annual report within seven months after the end of each fiscal year.

30 NEW SECTION. **Sec. 43.** SUMMARY PLAN DESCRIPTION. (1) A summary  
31 plan description and a summary description of modifications or changes  
32 under section 40(1)(b) of this act must be written in a manner  
33 calculated to be understood by the average participant and be accurate  
34 and sufficiently comprehensive reasonably to inform the participants  
35 and beneficiaries of their rights and obligations under the retirement  
36 program.

37 (2) A summary plan description must contain:

- 1 (a) The name of the retirement program and system and type of  
2 administration;
- 3 (b) The name and business address of the administrator;
- 4 (c) The name and business address of each agent for service of  
5 process;
- 6 (d) Citations to the governing law of the retirement program and  
7 system;
- 8 (e) A description of the program's requirements respecting  
9 eligibility for participation and benefits;
- 10 (f) A description of the program's provisions providing for  
11 nonforfeitable benefits;
- 12 (g) A description of circumstances that may result in  
13 disqualification, ineligibility, or denial or loss of benefits;
- 14 (h) A description of the benefits provided by the program,  
15 including the manner of calculating benefits and any benefits provided  
16 for spouses and survivors;
- 17 (i) The source of financing for the program;
- 18 (j) The identity of any organization through which benefits are  
19 provided;
- 20 (k) The date the fiscal year ends;
- 21 (l) The procedures to claim benefits under the program and the  
22 administrative procedures available under the program for the redress  
23 of claims that are denied in whole or in part; and
- 24 (m) Notice of the availability of additional information pursuant  
25 to sections 40 (2) and (3), 41 (2) and (3), and 42 of this act.

26 NEW SECTION. **Sec. 44.** ANNUAL DISCLOSURE OF FINANCIAL AND  
27 ACTUARIAL STATUS. (1) As used in this section, "qualified public  
28 accountant" means:

29 (a) An auditing agency of this state, or a political subdivision of  
30 this state, which has no direct relationship with the functions or  
31 activities of a retirement system or its fiduciaries other than:

32 (i) Functions relating to this subchapter; or

33 (ii) A relationship between the system and the agency's employees  
34 as participants or beneficiaries on the same basis as other  
35 participants and beneficiaries; or

36 (b) A person who is an independent public accountant, certified or  
37 licensed by a regulatory authority of a state.



1 (2) As used in this section, "related person" of an individual  
2 means:

3 (a) The individual's spouse or a parent or sibling of the spouse;

4 (b) The individual's descendant, sibling, or parent, or the spouse  
5 of the individual's descendant, sibling, or parent;

6 (c) Another individual residing in the same household as the  
7 individual;

8 (d) A trust or estate in which an individual described in (a)  
9 through (c) of this subsection has a substantial interest;

10 (e) A trust or estate for which the individual has fiduciary  
11 responsibilities; or

12 (f) An incompetent, ward, or minor for whom the individual has  
13 fiduciary responsibilities.

14 (3) An annual disclosure of financial and actuarial status must  
15 contain:

16 (a) The name of the retirement system and identification of each  
17 retirement program and, if programs are in an appropriate grouping of  
18 programs, of each appropriate grouping of programs;

19 (b) The name and business address of the administrator;

20 (c) The name and business address of each trustee and each member  
21 of a board of trustees and a brief description of how the trustee or  
22 member was selected;

23 (d) The name and business address of each agent for service of  
24 process;

25 (e) The number of employees covered by each retirement program not  
26 in an appropriate grouping of programs, or by each appropriate grouping  
27 of programs, or both;

28 (f) The name and business address of each fiduciary;

29 (g) The current statement of investment objectives and policies  
30 required by section 35(2) of this act;

31 (h) Financial statements and notes to the financial statements in  
32 conformity with generally accepted accounting principles;

33 (i) An opinion on the financial statements by a qualified public  
34 accountant in conformity with generally accepted auditing standards;

35 (j) In the case of a defined benefit plan, actuarial schedules and  
36 notes to the actuarial schedules in conformity with generally accepted  
37 actuarial principles and practices for measuring pension obligations;

38 (k) In the case of a defined benefit plan, an opinion by a  
39 qualified actuary that the actuarial schedules are complete and

1 accurate to the best of the actuary's knowledge, that each assumption  
2 and method used in preparing the schedules is reasonable, that the  
3 assumptions and methods in the aggregate are reasonable, and that the  
4 assumptions and methods in combination offer the actuary's best  
5 estimate of anticipated experience;

6 (l) A description of any material interest, other than the interest  
7 in the retirement program itself, held by any public employer  
8 participating in the system or any employee organization representing  
9 employees covered by the system in any material transaction with the  
10 system within the last three years or proposed to be effected;

11 (m) A description of any material interest held by any trustee,  
12 administrator, or employee who is a fiduciary with respect to the  
13 investment and management of assets of the system, and, if the  
14 fiduciary is an individual, by a related person of the beneficiary, in  
15 any material transaction with the system within the last three years or  
16 proposed to be effected;

17 (n) A schedule of the rates of return, net of total investment  
18 expense, on assets of the system overall and on assets aggregated by  
19 category over the most recent one-year, three-year, five-year, and  
20 ten-year periods, to the extent available, and the rates of return on  
21 appropriate benchmarks for assets of the system overall and for each  
22 category over each period;

23 (o) A schedule of the sum of total investment expense and total  
24 general administrative expense for the fiscal year expressed as a  
25 percentage of the fair value of assets of the system on the last day of  
26 the fiscal year, and an equivalent percentage for the preceding five  
27 fiscal years; and

28 (p) A schedule of all assets held for investment purposes on the  
29 last day of the fiscal year aggregated and identified by issuer,  
30 borrower, lessor, or similar party to the transaction stating, if  
31 relevant, the asset's maturity date, rate of interest, par or maturity  
32 value, number of shares, cost, and fair value and identifying any asset  
33 that is in default or classified as uncollectible.

34 NEW SECTION. **Sec. 45.** ANNUAL REPORT. An annual report must  
35 contain:

36 (1) The name and business address of each trustee and each member  
37 of a board of trustees;

1 (2) The financial statements, but not the notes, required by  
2 section 44(3)(h) of this act;

3 (3) For defined benefit plans, the actuarial schedules, but not the  
4 notes, required by section 44(3)(j) of this act;

5 (4) The schedules described in section 44(3) (n) and (o) of this  
6 act;

7 (5) A brief description of and information about how to interpret  
8 the statements and schedules;

9 (6) Other material necessary to summarize fairly and accurately the  
10 annual disclosure of financial and actuarial status; and

11 (7) Notice of the availability of additional information pursuant  
12 to sections 40 (2) and (3), 41 (2) and (3), and 42 of this act.

13 NEW SECTION. **Sec. 46.** ENFORCEMENT. (1) A public employer,  
14 participant, beneficiary, or fiduciary may maintain an action:

15 (a) To enjoin an act, practice, or omission that violates this  
16 subchapter;

17 (b) For appropriate equitable relief for breach of trust under  
18 section 38 of this act; or

19 (c) For other appropriate equitable relief to redress the violation  
20 of or to enforce this subchapter.

21 (2) The department of retirement systems may maintain an action to  
22 enjoin a violation of section 42 of this act.

23 (3) In an action under this section by a participant, beneficiary,  
24 or fiduciary, the court may award reasonable attorneys' fees and costs  
25 to either party.

26 NEW SECTION. **Sec. 47.** STATUTE OF LIMITATIONS. An action under  
27 section 46 of this act must be commenced within the period of  
28 limitations in this state, if any, for actions for breach of trust or,  
29 if none, within three years.

30 NEW SECTION. **Sec. 48.** ALIENATION OF BENEFITS. Benefits of a  
31 retirement program may not be assigned or alienated and are exempt from  
32 claims of creditors, except to the extent expressly permitted by other  
33 law of this state.

34 NEW SECTION. **Sec. 49.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.  
35 In applying and construing this subchapter, consideration must be given

1 to the need to promote uniformity of the law with respect to its  
2 subject among states that enact it.

3 NEW SECTION. **Sec. 50.** Captions and subchapter headings used in  
4 this act are not any part of the law.

5 NEW SECTION. **Sec. 51.** Sections 1 through 14 and 27 through 49 of  
6 this act constitute a new chapter in Title 41 RCW. Sections 1 through  
7 14 of this act are under subchapter heading "Pension Board." Sections  
8 27 through 49 of this act are under subchapter heading "Uniform  
9 Management of Public Employee Retirement Systems."

10 NEW SECTION. **Sec. 52.** (1) Section 17 of this act is necessary for  
11 the immediate preservation of the public peace, health, or safety, or  
12 support of the state government and its existing public institutions,  
13 and takes effect immediately.

14 (2) Sections 1 through 16 and 27 through 49 of this act take effect  
15 December 1, 2001.

16 (3) Section 19 of this act takes effect March 1, 2002.

17 NEW SECTION. **Sec. 53.** Sections 18, 25, and 26 of this act expire  
18 March 1, 2002.

19 NEW SECTION. **Sec. 54.** If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

--- END ---