

# SENATE BILL REPORT

## SB 6321

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As Passed Senate, February 13, 2014

**Title:** An act relating to removing the statutory provision that allows members of plan 3 of the public employees' retirement system, school employees' retirement system, and teachers' retirement system to select a new contribution rate option each year.

**Brief Description:** Removing the statutory provision that allows members of plan 3 of the public employees' retirement system, school employees' retirement system, and teachers' retirement system to select a new contribution rate option each year.

**Sponsors:** Senators Bailey and Conway; by request of Select Committee on Pension Policy.

**Brief History:**

**Committee Activity:** Ways & Means: 1/28/14, 1/30/14 [DP].  
Passed Senate: 2/13/14, 49-0.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Billig, Braun, Conway, Dammeier, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Kohl-Welles, Padden, Parlette, Rivers, Schoesler and Tom.

**Staff:** Pete Cutler (786-7474)

**Background:** The Teachers' Retirement System Plan 3 (TRS 3) provides retirement benefits to certificated employees of school districts and educational service districts. The School Employees' Retirement System Plan 3 (SERS 3) provides retirement benefits to classified school district employees. The Public Employees' Retirement System Plan 3 (PERS 3) provides benefits for regularly compensated public employees and appointed and elected officials unless they fall under a specific exemption from membership, such as qualification for another of the state retirement systems. PERS-covered employers include all state agencies and most local government entities other than the cities of Seattle, Tacoma, and Spokane. Since 2007 membership in TRS 3, SERS 3, and PERS 3 has been optional for new members of each of the retirement plans. New hires choosing Plan 3 must choose a contribution rate option for their Defined Contribution accounts. For members of PERS 3

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and SERS 3, this selection is permanent. The only way for those members to change rate options is to change employers. Members of TRS 3 can choose to change their contribution rate option in January of each year by notifying their employer in writing.

All of the state retirement plans are operated consistent with federal tax laws which provide that contributions made to the plans by members and employers are not subject to income taxes at the time contributions are made. A pension plan that complies with the Internal Revenue Code (IRC) provisions that define when preferential tax treatment is given to pension plan contributions and investment income is generally referred to as a tax-qualified plan. After TRS 3 was created in 1995, the Department of Retirement Systems (DRS) was informed by the federal Internal Revenue Service (IRS) that TRS 3 members could be given an annual option to change their contribution rate without TRS 3 losing its status as a tax-qualified plan. In 2003 a statutory change was made to give members of PERS 3, TRS 3, and SERS 3 an annual option to change their contribution rates. However, the DRS has not administered the 2003 statutory change for PERS 3 and SERS 3 members due to a change in the IRS position regarding member contribution rate changes in governmental employee pension plans under IRC section 401(a).

Currently only members of TRS 3 are able to change their rate option each year. In February 2013, the IRS informed DRS that TRS 3 would remain a tax-qualified plan only if the Legislature removes the option for TRS 3 members to change their contribution rate each year.

**Summary of Bill:** The option of PERS 3, TRS 3, and SERS 3 members to select a new contribution rate option each year for their individual defined contribution accounts is removed. The change is effective after January 2015 for members of TRS 3.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This change is necessary to preserve the status of TRS 3 as a tax-qualified plan under IRS rules.

**Persons Testifying:** PRO: Dave Nelsen, DRS.