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**SENATE BILL 5240**

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

**By** Senators Carlyle and Braun

AN ACT Relating to investing the assets of the first-class cities' retirement systems; amending RCW 43.33A.020, 43.33A.150, 35.39.060, 35.39.070, 35.39.080, 35.39.090, 41.28.080, and 41.28.085; adding a new section to chapter 43.33A RCW; adding a new section to chapter 35.39 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that the retirement systems operated by the first-class cities pursuant to chapter 41.28 RCW each administer retirement funds that are too small and cost too much to administer relative to the commingled trust fund administered by the Washington state investment board for the state-administered retirement plans. Over time, the higher administrative costs and the more limited investment and diversification opportunities available to the smaller cities' pension funds lead to both less investment return and more risk over time.

(2) In order to reduce the cost of the first-class cities' retirement plans over time, the legislature intends to authorize the board to enter into agreements with the first-class cities to manage the investment of the assets of the first-class cities' retirement systems along with the assets of the state-administered retirement plans in the commingled trust fund.

(3) The legislature intends that the investment management agreements between first-class cities and the Washington state investment board be irrevocable after entry, as the investment strategies that are necessary to best meet the long-term demands of pension funds require diverse forms of investment, some of which are incompatible with an investment responsibility of uncertain duration.

(4) The legislature does not intend that the board enter any agreement for the management of the assets of the first-class cities' retirement systems that is not in the best interests of both the state and the members and beneficiaries of the Washington state retirement systems. Any agreement entered must be consistent with the fiduciary duties of the board as provided in RCW 43.33A.140.

(5) By authorizing the board to enter into asset management agreements with the first-class cities' retirement systems, the legislature assumes no liability or other responsibility for the benefits owed by each city to the members and beneficiaries of the respective systems.

NEW SECTION. **Sec.**  A new section is added to chapter 43.33A RCW to read as follows:

(1) The state investment board is authorized to enter into agreements with the city councils or commissions of first-class cities to assume the duties of investing the retirement funds of the first-class cities' retirement systems created in RCW 41.28.070. The board shall only enter such agreements under terms that are in the best interests of the members and beneficiaries of the employers that participate in the state-administered retirement funds which it invests.

(2) Once entered into, an agreement to assume management of retirement funds created in RCW 41.28.070 between the board and a first-class city is irrevocable, but may be amended from time to time by mutual agreement in order to facilitate efficient administration of the retirement funds for both the board and first-class city.

**Sec.**  RCW 43.33A.020 and 2002 c 303 s 1 are each amended to read as follows:

There is hereby created the state investment board to consist of fifteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and firefighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) One member who is an active member of the school employees' retirement system and has at least five years of service credit. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(11) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

(12) Upon reaching agreement with three first-class cities for the management of the assets of pension funds, an additional nonvoting member who is a member of a first-class cities' retirement system with assets managed by the board shall be appointed by the governor.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority.

**Sec.**  RCW 43.33A.150 and 2007 c 215 s 4 are each amended to read as follows:

(1) The state investment board shall prepare written reports at least quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

(2) At least annually, the board shall report on the board's investment activities for the department of labor and industries' accident, medical aid, and reserve funds to the senate financial institutions and insurance committee, the senate economic development and labor committee, and the house commerce and labor committee, or appropriate successor committees.

(3) At least annually, the board shall report on the board's investment activities for the higher education permanent funds to the house capital budget committee and the senate ways and means committee.

(4) At least annually, the board shall report to the first-class cities' legislative authorities and retirement boards on the board's investment activities for the first-class cities' retirement funds managed under an agreement reached under section 2 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 35.39 RCW to read as follows:

(1) A city council or city commission may enter into an agreement with the Washington state investment board to manage the retirement fund of that city.

(2) A city council or city commission may delegate the authority in subsection (1) of this section to the city investment board.

**Sec.**  RCW 35.39.060 and 2013 c 23 s 62 are each amended to read as follows:

(1) Until such time that the city council or city commission enters an agreement with the Washington state investment board to manage the retirement fund of that city, any city or town now or hereafter operating an employees' pension system with the approval of the board otherwise responsible for management of its respective funds may invest, reinvest, manage, contract, sell, or exchange investments acquired. Investments shall be made in accordance with investment policy duly established and published by the board. In discharging its duties under this section, the board shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; shall diversify the investments of the employees' pension system so as to minimize the risk of large losses; and shall act in accordance with the documents and instruments governing the employees' pension system, insofar as such documents and instruments are consistent with the provisions of this title.

(2) Upon a city council or city commission's decision to enter an agreement with the Washington state investment board to manage the retirement fund of that city, the state investment board shall invest those funds entrusted to it consistent with the policies and standards provided in chapter 43.33A RCW.

**Sec.**  RCW 35.39.070 and 1982 c 166 s 2 are each amended to read as follows:

Until such time that the city council or city commission enters an agreement with the Washington state investment board to manage the retirement fund of that city, the city treasurer may cause any securities in which the city retirement system deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the city treasurer, the federal reserve system, the designee of the city treasurer, or at the election of the designee and upon approval of the city treasurer, the Pacific Securities Depository Trust Company Inc. or the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only on the direction of the retirement board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities shall be vested in the actual owners of the securities, and not in the nominee.

**Sec.**  RCW 35.39.080 and 1982 c 166 s 3 are each amended to read as follows:

The retirement board of any city which is responsible for the management of an employees' retirement system established to provide retirement benefits for nonpublic safety employees shall appoint an investment advisory committee consisting of at least three members who are considered experienced and qualified in the field of investments. At such time that the Washington state investment board has assumed the duties of investing the retirement fund of that city under an agreement reached pursuant to section 2 of this act, the retirement board of that city shall cease the activities of the investment advisory committee appointed under this section.

**Sec.**  RCW 35.39.090 and 1982 c 166 s 4 are each amended to read as follows:

(1) Except as provided by subsection (2) of this section, in addition to its other powers and duties, the investment advisory committee shall:

((~~(1)~~)) (a) Make recommendations as to general investment policies, practices, and procedures to the retirement board;

((~~(2)~~)) (b) Review the investment transactions of the retirement board annually;

((~~(3)~~)) (c) Prepare a written report of its activities during each fiscal year. Each report shall be submitted not more than thirty days after the end of each fiscal year to the retirement board and to any other person who has submitted a request therefor.

(2) Upon a city council or city commission's decision to enter an agreement with the Washington state investment board to manage the retirement fund of that city under section 2 of this act, and the commencement of the investment duties by the state investment board, the investment advisory committee shall no longer perform the duties under subsection (1) of this section.

**Sec.**  RCW 41.28.080 and 2012 c 117 s 47 are each amended to read as follows:

(1) There is hereby created and established a board of administration in each city coming under this chapter, which shall, under the provisions of this chapter and the direction of the city council or city commission, administer the retirement system and the retirement fund created by this chapter. Under and pursuant to the direction of the city council or city commission, the board shall provide for the proper investment of the moneys in the ((~~said~~)) retirement fund until such time that the city council or city commission enters an agreement with the Washington state investment board under section 2 of this act to manage the retirement fund of that city.

(2) The board of administration shall consist of seven members, as follows: Three members appointed by the regular appointing authority of the city, and three employees who are eligible to membership in the retirement system, to be elected by the employees. The above six members shall appoint the seventh member.

(3) Until such time that the city council or city commission enters an agreement with the Washington state investment board under section 2 of this act to manage the retirement fund of that city:

(a) The investment of all or any part of the retirement fund shall be subject to chapter 35.39 RCW((~~.~~)); and

((~~(4)~~)) (b) Subject to such provisions as may be prescribed by law for the deposit of municipal funds in banks, cash belonging to the retirement fund may be deposited in any licensed national bank or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of the state of Washington.

((~~(5)~~)) (4) The city treasurer shall be the custodian of the retirement fund. All payments from said fund shall be made by the city treasurer but only upon warrant duly executed by the city comptroller.

((~~(6)~~)) (5) Except as herein provided, no member and no employee of the board of administration shall have any interest, direct or indirect, in the making of any investments from the retirement fund, or in the gains or profits accruing therefrom. And no member or employee of said board, directly or indirectly, for himself or herself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an endorser or surety or become in any manner an obligor for moneys invested by the board.

**Sec.**  RCW 41.28.085 and 1969 ex.s. c 211 s 3 are each amended to read as follows:

(1) Until such time as a city council or city commission enters an agreement with the Washington state investment board under section 2 of this act to manage the retirement fund of that city, and in order that the intent of the legislature may be made clear with respect to investments, but without restricting the necessary flexibility that must exist for successful investing of the retirement and pension funds, the legislature makes this declaration of its desire that the investment authority shall give primary consideration to dealing with brokerage firms which maintain offices in the state of Washington so that the investment programs may make a meaningful contribution to the economy of the state. It is further the desire of the legislature that the retirement and pension funds shall be used as much as reasonably possible to benefit and expand the business and economic climate within the state of Washington so long as such use would be consistent with sound investment policy.

(2) Upon a city council or city commission's decision to enter an agreement with the Washington state investment board under section 2 of this act to manage the retirement fund of that city, the state investment board shall invest those funds entrusted to it consistent with the policies and standards provided in chapter 43.33A RCW.

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