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**SENATE BILL 5240**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Carlyle and Braun

1 AN ACT Relating to investing the assets of the first-class  
2 cities' retirement systems; amending RCW 43.33A.020, 43.33A.150,  
3 35.39.060, 35.39.070, 35.39.080, 35.39.090, 41.28.080, and 41.28.085;  
4 adding a new section to chapter 43.33A RCW; adding a new section to  
5 chapter 35.39 RCW; and creating a new section.

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

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

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

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

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

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

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.33A  
19 RCW to read as follows:

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

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

33 **Sec. 3.** RCW 43.33A.020 and 2002 c 303 s 1 are each amended to  
34 read as follows:

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

37 (1) One member who is an active member of the public employees'  
38 retirement system and has been an active member for at least five

1 years. This member shall be appointed by the governor, subject to  
2 confirmation by the senate, from a list of nominations submitted by  
3 organizations representing active members of the system. The initial  
4 term of appointment shall be one year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (4) At least annually, the board shall report to the first-class  
38 cities' legislative authorities and retirement boards on the board's

1 investment activities for the first-class cities' retirement funds  
2 managed under an agreement reached under section 2 of this act.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.39  
4 RCW to read as follows:

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

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

10 **Sec. 6.** RCW 35.39.060 and 2013 c 23 s 62 are each amended to  
11 read as follows:

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

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

35 **Sec. 7.** RCW 35.39.070 and 1982 c 166 s 2 are each amended to  
36 read as follows:

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

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

19 **Sec. 8.** RCW 35.39.080 and 1982 c 166 s 3 are each amended to  
20 read as follows:

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

31 **Sec. 9.** RCW 35.39.090 and 1982 c 166 s 4 are each amended to  
32 read as follows:

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

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

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

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

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

13       **Sec. 10.** RCW 41.28.080 and 2012 c 117 s 47 are each amended to  
14 read as follows:

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

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

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

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

36       (~~(4)~~) (b) Subject to such provisions as may be prescribed by  
37 law for the deposit of municipal funds in banks, cash belonging to  
38 the retirement fund may be deposited in any licensed national bank or  
39 in any bank, banks or corporations authorized or licensed to do a

1 banking business and organized under the laws of the state of  
2 Washington.

3 ~~((+5))~~ (4) The city treasurer shall be the custodian of the  
4 retirement fund. All payments from said fund shall be made by the  
5 city treasurer but only upon warrant duly executed by the city  
6 comptroller.

7 ~~((+6))~~ (5) Except as herein provided, no member and no employee  
8 of the board of administration shall have any interest, direct or  
9 indirect, in the making of any investments from the retirement fund,  
10 or in the gains or profits accruing therefrom. And no member or  
11 employee of said board, directly or indirectly, for himself or  
12 herself or as an agent or partner of others, shall borrow any of its  
13 funds or deposits or in any manner use the same except to make such  
14 current and necessary payments as are authorized by said board; nor  
15 shall any member or employee of said board become an endorser or  
16 surety or become in any manner an obligor for moneys invested by the  
17 board.

18 **Sec. 11.** RCW 41.28.085 and 1969 ex.s. c 211 s 3 are each amended  
19 to read as follows:

20 (1) Until such time as a city council or city commission enters  
21 an agreement with the Washington state investment board under section  
22 2 of this act to manage the retirement fund of that city, and in  
23 order that the intent of the legislature may be made clear with  
24 respect to investments, but without restricting the necessary  
25 flexibility that must exist for successful investing of the  
26 retirement and pension funds, the legislature makes this declaration  
27 of its desire that the investment authority shall give primary  
28 consideration to dealing with brokerage firms which maintain offices  
29 in the state of Washington so that the investment programs may make a  
30 meaningful contribution to the economy of the state. It is further  
31 the desire of the legislature that the retirement and pension funds  
32 shall be used as much as reasonably possible to benefit and expand  
33 the business and economic climate within the state of Washington so  
34 long as such use would be consistent with sound investment policy.

35 (2) Upon a city council or city commission's decision to enter an  
36 agreement with the Washington state investment board under section 2  
37 of this act to manage the retirement fund of that city, the state

1 investment board shall invest those funds entrusted to it consistent  
2 with the policies and standards provided in chapter 43.33A RCW.

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