

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1214

Chapter 181, Laws of 2001

57th Legislature
2001 Regular Session

EMPLOYEE RETIREMENT BENEFITS BOARD

EFFECTIVE DATE: 7/22/01

Passed by the House March 9, 2001
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

CLYDE BALLARD

Speaker of the House of Representatives

Passed by the Senate April 10, 2001
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved May 7, 2001

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1214** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN

Chief Clerk

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 7, 2001 - 1:23 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1214

Passed Legislature - 2001 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives H. Sommers, Lambert, Doumit and Delvin; by request of Joint Committee on Pension Policy)

READ FIRST TIME 02/8/01.

1 AN ACT Relating to the composition and responsibilities of the
2 employee retirement benefits board; amending RCW 41.50.086 and
3 41.34.130; and reenacting and amending RCW 41.50.780.

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

5 **Sec. 1.** RCW 41.50.086 and 1998 c 341 s 506 are each amended to
6 read as follows:

7 (1) The employee retirement benefits board is created within the
8 department of retirement systems.

9 (2) The board shall be composed of (~~eleven~~) twelve members
10 appointed by the governor and one ex officio member as follows:

11 (a) Three members representing the public employees' retirement
12 system: One retired, two active. The members shall be appointed from
13 a list of nominations submitted by organizations representing each
14 category. The initial term of appointment shall be two years for the
15 retired member, one year for one active member, and three years for the
16 remaining active member.

17 (b) Three members representing the teachers' retirement system:
18 One retired, two active. The members shall be appointed from a list of
19 nominations submitted by organizations representing each category. The

1 initial term of appointment shall be one year for the retired member,
2 two years for one active member, and three years for the remaining
3 active member.

4 (c) Three members representing the school employees' retirement
5 system: One retired, two active. The members shall be appointed from
6 a list of nominations submitted by organizations representing each
7 category. The initial term of appointment shall be one year for the
8 retired member, two years for one active member, and three years for
9 the remaining active member.

10 (d) Two members with experience in defined contribution plan
11 administration. The initial term for these members shall be two years
12 for one member and three years for the remaining member.

13 (e) One member representing the deferred compensation program. The
14 member shall be a deferred compensation program participant chosen from
15 a list of nominations submitted by organizations representing employees
16 eligible to participate in the deferred compensation program. The
17 initial term of appointment for this member shall be three years.

18 (f) The director of the department shall serve ex officio and shall
19 be the chair of the board.

20 (3) After the initial appointments, members shall be appointed to
21 three-year terms.

22 (4) The board shall meet at least quarterly during the calendar
23 year, at the call of the chair.

24 (5) Members of the board shall serve without compensation but shall
25 receive travel expenses as provided for in RCW 43.03.050 and 43.03.060.
26 Such travel expenses shall be reimbursed by the department from the
27 retirement system expense fund.

28 (6) The board shall adopt rules governing its procedures and
29 conduct of business.

30 (7) The actuary shall perform all actuarial services for the board
31 and provide advice and support.

32 **Sec. 2.** RCW 41.50.780 and 1998 c 245 s 42 and 1998 c 116 s 12 are
33 each reenacted and amended to read as follows:

34 (1) The deferred compensation principal account is hereby created
35 in the state treasury. (~~Any deficiency in the deferred compensation~~
36 ~~administrative account caused by an excess of administrative expenses~~
37 ~~disbursed from that account over balances credited to that account~~

1 ~~shall be eliminated by transferring moneys to that account from the~~
2 ~~deferred compensation principal account.)~~)

3 (2) The amount of compensation deferred by employees under
4 agreements entered into under the authority contained in RCW 41.50.770
5 shall be paid into the deferred compensation principal account and
6 shall be sufficient to cover costs of administration and staffing in
7 addition to such other amounts as determined by the department. The
8 deferred compensation principal account shall be used to carry out the
9 purposes of RCW 41.50.770. All eligible state employees shall be given
10 the opportunity to participate in agreements entered into by the
11 department under RCW 41.50.770. State agencies shall cooperate with the
12 department in providing employees with the opportunity to participate.

13 (3) Any county, municipality, or other subdivision of the state may
14 elect to participate in any agreements entered into by the department
15 under RCW 41.50.770, including the making of payments therefrom to the
16 employees participating in a deferred compensation plan upon their
17 separation from state or other qualifying service. Accordingly, the
18 deferred compensation principal account shall be considered to be a
19 public pension or retirement fund within the meaning of Article XXIX,
20 section 1 of the state Constitution, for the purpose of determining
21 eligible investments and deposits of the moneys therein.

22 (4) All moneys in the state deferred compensation principal account
23 and the state deferred compensation administrative account, all
24 property and rights purchased therewith, and all income attributable
25 thereto, shall be held in trust by the state investment board, as set
26 forth under RCW 43.33A.030, for the exclusive benefit of the state
27 deferred compensation plan's participants and their beneficiaries.
28 Neither the participant, nor the participant's beneficiary or
29 beneficiaries, nor any other designee, has any right to commute, sell,
30 assign, transfer, or otherwise convey the right to receive any payments
31 under the plan. These payments and right thereto are nonassignable and
32 nontransferable. Unpaid accumulated deferrals are not subject to
33 attachment, garnishment, or execution and are not transferable by
34 operation of law in event of bankruptcy or insolvency, except to the
35 extent otherwise required by law.

36 (5) The state investment board has the full power to invest moneys
37 in the state deferred compensation principal account and the state
38 deferred compensation administrative account in accordance with RCW
39 43.84.150, 43.33A.140, and 41.50.770, and cumulative investment

1 directions received pursuant to RCW 41.50.770. All investment and
2 operating costs of the state investment board associated with the
3 investment of the deferred compensation plan assets shall be paid
4 pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these
5 expenses, one hundred percent of all earnings from these investments
6 shall accrue directly to the deferred compensation principal account.

7 (6)(a) No state board or commission, agency, or any officer,
8 employee, or member thereof is liable for any loss or deficiency
9 resulting from participant investments selected pursuant to RCW
10 41.50.770(3).

11 (b) Neither the employee retirement benefits board nor the state
12 investment board, nor any officer, employee, or member thereof is
13 liable for any loss or deficiency resulting from reasonable efforts to
14 implement investment directions pursuant to RCW 41.50.770(3).

15 (7) The deferred compensation administrative account is hereby
16 created in the state treasury. All expenses of the department
17 pertaining to the deferred compensation plan including staffing and
18 administrative expenses shall be paid out of the deferred compensation
19 administrative account. Any excess balances credited to this account
20 over administrative expenses disbursed from this account shall be
21 transferred to the deferred compensation principal account at such time
22 and in such amounts as may be determined by the department with the
23 approval of the office of financial management. Any deficiency in the
24 deferred compensation administrative account caused by an excess of
25 administrative expenses disbursed from this account shall be
26 transferred to this account from the deferred compensation principal
27 account.

28 (8) In addition to the duties specified in this section and RCW
29 41.50.770, the department shall administer the salary reduction plan
30 established in RCW 41.04.600 through 41.04.645.

31 (9)(a)(i) The department shall keep or cause to be kept full and
32 adequate accounts and records of the assets of each individual
33 participant, obligations, transactions, and affairs of any deferred
34 compensation plans created under RCW 41.50.770 and this section. The
35 department shall account for and report on the investment of state
36 deferred compensation plan assets or may enter into an agreement with
37 the state investment board for such accounting and reporting.

38 (ii) The department's duties related to individual participant
39 accounts include conducting the activities of trade instruction,

1 settlement activities, and direction of cash movement and related wire
2 transfers with the custodian bank and outside investment firms.

3 (iii) The department has sole responsibility for contracting with
4 any recordkeepers for individual participant accounts and shall manage
5 the performance of recordkeepers under those contracts.

6 (b)(i) The department's duties under (a)(ii) of this subsection do
7 not limit the authority of the state investment board to conduct its
8 responsibilities for asset management and balancing of the deferred
9 compensation funds.

10 (ii) The state investment board has sole responsibility for
11 contracting with outside investment firms to provide investment
12 management for the deferred compensation funds and shall manage the
13 performance of investment managers under those contracts.

14 (c) The state treasurer shall designate and define the terms of
15 engagement for the custodial banks.

16 (10) The department may adopt rules necessary to carry out ((the
17 purposes of)) its responsibilities under RCW 41.50.770 and this
18 section.

19 **Sec. 3.** RCW 41.34.130 and 1998 c 341 s 307 are each amended to
20 read as follows:

21 (1) The state investment board has the full authority to invest all
22 self-directed investment moneys in accordance with RCW 43.84.150 and
23 43.33A.140, and cumulative investment directions received pursuant to
24 RCW 41.34.060 and this section. In carrying out this authority the
25 state investment board, after consultation with the employee retirement
26 benefits board regarding any recommendations made pursuant to RCW
27 41.50.088((+2)) (1)(b), shall provide a set of options for members to
28 choose from for self-directed investment.

29 (2) All investment and operating costs of the state investment
30 board associated with making self-directed investments shall be paid by
31 members and recovered under procedures agreed to by the board and the
32 state investment board pursuant to the principles set forth in RCW
33 43.33A.160 and 43.84.160. All other expenses caused by self-directed
34 investment shall be paid by the member in accordance with rules
35 established by the board under RCW 41.50.088. With the exception of
36 these expenses, all earnings from self-directed investments shall
37 accrue to the member's account.

1 (3)(a)(i) The department shall keep or cause to be kept full and
2 adequate accounts and records of each individual member's account. The
3 department shall account for and report on the investment of defined
4 contribution assets or may enter into an agreement with the state
5 investment board for such accounting and reporting under this chapter.

6 (ii) The department's duties related to individual participant
7 accounts include conducting the activities of trade instruction,
8 settlement activities, and direction of cash movement and related wire
9 transfers with the custodian bank and outside investment firms.

10 (iii) The department has sole responsibility for contracting with
11 any recordkeepers for individual participant accounts and shall manage
12 the performance of recordkeepers under those contracts.

13 (b)(i) The department's duties under (a)(ii) of this subsection do
14 not limit the authority of the state investment board to conduct its
15 responsibilities for asset management and balancing of the deferred
16 compensation funds.

17 (ii) The state investment board has sole responsibility for
18 contracting with outside investment firms to provide investment
19 management for the deferred compensation funds and shall manage the
20 performance of investment managers under those contracts.

21 (c) The state treasurer shall designate and define the terms of
22 engagement for the custodial banks.

Passed the House March 9, 2001.

Passed the Senate April 10, 2001.

Approved by the Governor May 7, 2001.

Filed in Office of Secretary of State May 7, 2001.