
SENATE BILL 5774

State of Washington

58th Legislature

2003 Regular Session

By Senators Carlson and Esser

Read first time 02/11/2003. Referred to Committee on Financial Services, Insurance & Housing.

1 AN ACT Relating to creating the Washington voluntary accounts
2 program; reenacting and amending RCW 43.84.092; and adding a new
3 chapter to Title 41 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that many workers do
6 not have access to an employment-based retirement plan. Workers who
7 are unable to build up pensions and savings risk living on low incomes
8 in their old age and are more likely to become dependent on state
9 services. The Washington voluntary accounts program will provide a
10 simple and inexpensive way for workers to save for retirement and
11 employers to offer an employee benefit.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Program" means the Washington voluntary accounts program
15 created under section 3 of this act.

16 (2) "Director" means the director of the department of retirement
17 systems.

1 (3) "Participating employee" means any workers in this state that
2 choose to participate in the program.

3 (4) "Participating employer" means any private employer, with a
4 place of business in this state, and with employees that have chosen to
5 participate in the program.

6 NEW SECTION. **Sec. 3.** The Washington voluntary accounts program is
7 created. The director may adopt rules as necessary to implement this
8 chapter. Sections 4 and 5 of this act may not be implemented until any
9 approvals from federal agencies that may be necessary, including the
10 favorable tax treatment of the plan, have been granted, and appropriate
11 funds for start-up costs of the program have been identified.

12 NEW SECTION. **Sec. 4.** (1) Private employers shall cooperate with
13 the department in providing employees with the opportunity to
14 participate in the Washington voluntary accounts program, including
15 payroll deductions to those employees who elect to contribute to
16 individual retirement accounts. Each participating employer is
17 authorized to contract with a participating employee to defer a portion
18 of that employee's income, in accordance with the internal revenue
19 service code or other relevant federal regulations.

20 (2) Participating employees shall self-direct the investment of the
21 deferred portion of their income through the selection of investment
22 options as set forth in subsection (3) of this section.

23 (3) The director may provide those individual retirement account
24 plans determined to be in the interests of participating employees. In
25 addition to the types of investments described in this section, the
26 state investment board, with respect to the program, shall invest the
27 deferred portion of participating employees' income, without limitation
28 as to amount, in accordance with RCW 43.84.150, 43.33A.140, and
29 41.50.780, and pursuant to investment policy established by the state
30 investment board for the program. The state investment board shall
31 provide a set of options for participants to choose from for investment
32 of the deferred portion of their income.

33 NEW SECTION. **Sec. 5.** The director may also provide plans,
34 including 401(k) and savings incentive match plan for employees
35 individual retirement account plans, the employers may elect to

1 participate in for the benefit of their employees. However, this
2 section and section 4 of this act do not require private employers to
3 provide these plans for their employees. Those employers that elect to
4 participate in the plans are responsible for complying with any
5 applicable federal regulations.

6 NEW SECTION. **Sec. 6.** (1) The Washington voluntary accounts
7 program principal account is created in the state treasury.

8 (2) The amount of compensation deferred by participating employees
9 under agreements entered into under sections 3 and 4 of this act shall
10 be paid into the Washington voluntary accounts program principal
11 account and shall be sufficient to cover costs of administration and
12 staffing in addition to such other amounts as determined by the
13 director. The account shall be used to carry out the purposes of this
14 chapter.

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

30 (4) The state investment board has the full power to invest moneys
31 in the Washington voluntary accounts program principal account and the
32 Washington voluntary accounts program administrative account in
33 accordance with RCW 43.84.150, 43.33A.140, and 41.50.770, and
34 cumulative investment directions received under this chapter. All
35 investment and operating costs of the state investment board associated
36 with the investment of the program assets shall be paid under RCW
37 43.33A.160 and 43.84.160. With the exception of these expenses, one

1 hundred percent of all earnings from these investments shall accrue
2 directly to the Washington voluntary accounts program principal
3 account.

4 (5)(a) No state board, commission, or agency, or any officer,
5 employee, or member is liable for any loss or deficiency resulting from
6 participant investments selected under this chapter.

7 (b) The state investment board, or any officer, employee, or member
8 is not liable for any loss or deficiency resulting from reasonable
9 efforts to implement investment directions under this chapter.

10 (6) The Washington voluntary accounts program administrative
11 account is created in the state treasury. All expenses of the
12 department pertaining to the Washington voluntary accounts program
13 including staffing and administrative expenses shall be paid out of the
14 Washington voluntary accounts program administrative account. Any
15 excess balances credited to this account over administrative expenses
16 disbursed from this account shall be transferred to the Washington
17 voluntary accounts program principal account at such time and in such
18 amounts as may be determined by the director with the approval of the
19 director of financial management. Any deficiency in the Washington
20 voluntary accounts program administrative account caused by an excess
21 of administrative expenses disbursed from this account shall be
22 transferred to this account from the Washington voluntary accounts
23 program principal account.

24 (7)(a)(i) The director shall keep or cause to be kept full and
25 adequate accounts and records of the assets of each individual
26 participant, obligations, transactions, and affairs of the program.
27 The department shall account for and report on the investment of
28 program assets or may enter into an agreement with the state investment
29 board for accounting and reporting.

30 (ii) The director's duties related to individual participant
31 accounts include conducting the activities of trade instruction,
32 settlement activities, and direction of cash movement and related wire
33 transfers with the custodian bank and outside investment firms.

34 (iii) The director has sole responsibility for contracting with any
35 recordkeepers for individual participant accounts and shall manage the
36 performance of recordkeepers under those contracts.

37 (b)(i) The director's duties under (a)(ii) of this subsection do

1 not limit the authority of the state investment board to conduct its
2 responsibilities for asset management and balancing of program funds.

3 (ii) The state investment board has sole responsibility for
4 contracting with outside investment firms to provide investment
5 management for program funds and shall manage the performance of
6 investment managers under those contracts.

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

9 **Sec. 7.** RCW 43.84.092 and 2002 c 242 s 2, 2002 c 114 s 24, and
10 2002 c 56 s 402 are each reenacted and amended to read as follows:

11 (1) All earnings of investments of surplus balances in the state
12 treasury shall be deposited to the treasury income account, which
13 account is hereby established in the state treasury.

14 (2) The treasury income account shall be utilized to pay or receive
15 funds associated with federal programs as required by the federal cash
16 management improvement act of 1990. The treasury income account is
17 subject in all respects to chapter 43.88 RCW, but no appropriation is
18 required for refunds or allocations of interest earnings required by
19 the cash management improvement act. Refunds of interest to the
20 federal treasury required under the cash management improvement act
21 fall under RCW 43.88.180 and shall not require appropriation. The
22 office of financial management shall determine the amounts due to or
23 from the federal government pursuant to the cash management improvement
24 act. The office of financial management may direct transfers of funds
25 between accounts as deemed necessary to implement the provisions of the
26 cash management improvement act, and this subsection. Refunds or
27 allocations shall occur prior to the distributions of earnings set
28 forth in subsection (4) of this section.

29 (3) Except for the provisions of RCW 43.84.160, the treasury income
30 account may be utilized for the payment of purchased banking services
31 on behalf of treasury funds including, but not limited to, depository,
32 safekeeping, and disbursement functions for the state treasury and
33 affected state agencies. The treasury income account is subject in all
34 respects to chapter 43.88 RCW, but no appropriation is required for
35 payments to financial institutions. Payments shall occur prior to
36 distribution of earnings set forth in subsection (4) of this section.

1 (4) Monthly, the state treasurer shall distribute the earnings
2 credited to the treasury income account. The state treasurer shall
3 credit the general fund with all the earnings credited to the treasury
4 income account except:

5 (a) The following accounts and funds shall receive their
6 proportionate share of earnings based upon each account's and fund's
7 average daily balance for the period: The capitol building
8 construction account, the Cedar River channel construction and
9 operation account, the Central Washington University capital projects
10 account, the charitable, educational, penal and reformatory
11 institutions account, the common school construction fund, the county
12 criminal justice assistance account, the county sales and use tax
13 equalization account, the data processing building construction
14 account, the deferred compensation administrative account, the deferred
15 compensation principal account, the department of retirement systems
16 expense account, the drinking water assistance account, the drinking
17 water assistance administrative account, the drinking water assistance
18 repayment account, the Eastern Washington University capital projects
19 account, the education construction fund, the emergency reserve fund,
20 the federal forest revolving account, the health services account, the
21 public health services account, the health system capacity account, the
22 personal health services account, the state higher education
23 construction account, the higher education construction account, the
24 highway infrastructure account, the industrial insurance premium refund
25 account, the judges' retirement account, the judicial retirement
26 administrative account, the judicial retirement principal account, the
27 local leasehold excise tax account, the local real estate excise tax
28 account, the local sales and use tax account, the medical aid account,
29 the mobile home park relocation fund, the multimodal transportation
30 account, the municipal criminal justice assistance account, the
31 municipal sales and use tax equalization account, the natural resources
32 deposit account, the oyster reserve land account, the perpetual
33 surveillance and maintenance account, the public employees' retirement
34 system plan 1 account, the public employees' retirement system combined
35 plan 2 and plan 3 account, the public facilities construction loan
36 revolving account beginning July 1, 2004, the public health
37 supplemental account, the Puyallup tribal settlement account, the
38 regional transportation investment district account, the resource

1 management cost account, the site closure account, the special wildlife
2 account, the state employees' insurance account, the state employees'
3 insurance reserve account, the state investment board expense account,
4 the state investment board commingled trust fund accounts, the
5 supplemental pension account, the Tacoma Narrows toll bridge account,
6 the teachers' retirement system plan 1 account, the teachers'
7 retirement system combined plan 2 and plan 3 account, the tobacco
8 prevention and control account, the tobacco settlement account, the
9 transportation infrastructure account, the tuition recovery trust fund,
10 the University of Washington bond retirement fund, the University of
11 Washington building account, the volunteer fire fighters' and reserve
12 officers' relief and pension principal fund, the volunteer fire
13 fighters' and reserve officers' administrative fund, the Washington
14 fruit express account, the Washington judicial retirement system
15 account, the Washington law enforcement officers' and fire fighters'
16 system plan 1 retirement account, the Washington law enforcement
17 officers' and fire fighters' system plan 2 retirement account, the
18 Washington school employees' retirement system combined plan 2 and 3
19 account, the Washington state health insurance pool account, the
20 Washington state patrol retirement account, the Washington State
21 University building account, the Washington State University bond
22 retirement fund, the Washington voluntary accounts program
23 administrative account, the Washington voluntary accounts program
24 principal account, the water pollution control revolving fund, and the
25 Western Washington University capital projects account. Earnings
26 derived from investing balances of the agricultural permanent fund, the
27 normal school permanent fund, the permanent common school fund, the
28 scientific permanent fund, and the state university permanent fund
29 shall be allocated to their respective beneficiary accounts. All
30 earnings to be distributed under this subsection (4)(a) shall first be
31 reduced by the allocation to the state treasurer's service fund
32 pursuant to RCW 43.08.190.

33 (b) The following accounts and funds shall receive eighty percent
34 of their proportionate share of earnings based upon each account's or
35 fund's average daily balance for the period: The aeronautics account,
36 the aircraft search and rescue account, the county arterial
37 preservation account, the department of licensing services account, the
38 essential rail assistance account, the ferry bond retirement fund, the

1 grade crossing protective fund, the high capacity transportation
2 account, the highway bond retirement fund, the highway safety account,
3 the motor vehicle fund, the motorcycle safety education account, the
4 pilotage account, the public transportation systems account, the Puget
5 Sound capital construction account, the Puget Sound ferry operations
6 account, the recreational vehicle account, the rural arterial trust
7 account, the safety and education account, the special category C
8 account, the state patrol highway account, the transportation equipment
9 fund, the transportation fund, the transportation improvement account,
10 the transportation improvement board bond retirement account, and the
11 urban arterial trust account.

12 (5) In conformance with Article II, section 37 of the state
13 Constitution, no treasury accounts or funds shall be allocated earnings
14 without the specific affirmative directive of this section.

15 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute
16 a new chapter in Title 41 RCW.

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