

INITIATIVE 790

To the People

Chapter 2, Laws of 2003

LAW ENFORCEMENT, FIRE FIGHTERS' RETIREMENT SYSTEM

EFFECTIVE DATE: 7/1/03 - Except section 11, which becomes effective 12/5/02.

Approved by the
People of the State of Washington
in the General Election on
November 5, 2002

ORIGINALLY FILED

February 4, 2002

**Secretary of State
State of Washington**

1 AN ACT Relating to the law enforcement officers' and fire fighters'
2 retirement system, plan 2; adding new sections to chapter 41.26 RCW;
3 creating new sections; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** OVERVIEW. The law enforcement officers' and
6 fire fighters' retirement system plan 2 is currently subject to
7 policymaking by the legislature's joint committee on pension policy
8 with ratification by the members of the legislature and is administered
9 by the department of retirement systems.

10 Members of the plan have no direct input into the management of
11 their retirement program. Forty-six other states currently have member
12 representation in their pension management. This act is intended to
13 give management of the retirement program to the people whose lives are
14 directly affected by it and who provide loyal and valiant service to
15 ensure the health, safety, and welfare of the citizens of the state of
16 Washington.

17 NEW SECTION. **Sec. 2.** INTENT. It is the intent of this act to:

- 1 (1) Establish a board of trustees responsible for the adoption of
2 actuarial standards to be applied to the plan;
- 3 (2) Provide for additional benefits for fire fighters and law
4 enforcement officers subject to the cost limitations provided for in
5 this act;
- 6 (3) Exercise fiduciary responsibility in the oversight of those
7 pension management functions assigned to the board;
- 8 (4) Provide effective monitoring of the plan by providing an annual
9 report to the legislature, to the members and beneficiaries of the
10 plan, and to the public;
- 11 (5) Establish contribution rates for employees, employers, and the
12 state of Washington that will guaranty viability of the plan, subject
13 to the limitations provided for in this act;
- 14 (6) Provide for an annual budget and to pay costs from the trust,
15 as part of the normal cost of the plan; and
- 16 (7) Enable the board of trustees to retain professional and
17 technical advisors as necessary for the fulfillment of their statutory
18 responsibilities.

19 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
20 section apply throughout this act unless the context clearly requires
21 otherwise.

22 (1) "Member" or "beneficiary" means:

23 (a) Current and future law enforcement officers and fire fighters
24 who are contributing to the plan;

25 (b) Retired employees or their named beneficiaries who receive
26 benefits from the plan; and

27 (c) Separated vested members of the plan who are not currently
28 receiving benefits.

29 (2) "Plan" means the law enforcement officers' and fire fighters'
30 retirement system plan 2.

31 (3) "Actuary" means the actuary employed by the board of trustees.

32 (4) "State actuary" means the actuary employed by the department.

33 (5) "Board" means the board of trustees.

34 (6) "Board member" means a member of the board of trustees.

35 (7) "Department" means the department of retirement systems.

36 (8) "Minimum benefits" means those benefits provided for in chapter
37 41.26 RCW as of July 1, 2003.

38 (9) "Employer" means the same as under RCW 41.26.030(2)(b).

1 (10) "Enrolled actuary" means an actuary who is enrolled under the
2 employee retirement income security act of 1974 (Subtitle C of Title
3 III) and who is a member of the society of actuaries or the American
4 academy of actuaries.

5 (11) "Increased benefit" means a benefit in addition to the minimum
6 benefits.

7 (12) "Trust" means the assets of the plan.

8 (13) "Benefits" means the age or service or combination thereof
9 required for retirement, the level of service and disability retirement
10 benefits, survivorship benefits, payment options including a deferred
11 retirement option plan, average final compensation, postretirement cost
12 of living adjustments, including health care and the elements of
13 compensation. Benefits shall not include the classifications of
14 employment eligible to participate in the plan.

15 (14) "Actuarially sound" means the plan is sufficiently funded to
16 meet its projected liabilities and to defray the reasonable expenses of
17 its operation based upon commonly accepted, sound actuarial principles.

18 NEW SECTION. **Sec. 4.** BOARD OF TRUSTEES CREATED--SELECTION OF
19 TRUSTEES--TERMS OF OFFICE--VACANCIES. (1) An eleven member board of
20 trustees is hereby created.

21 (a) Three of the board members shall be active law enforcement
22 officers who are participants in the plan. Beginning with the first
23 vacancy on or after January 1, 2007, one board member shall be a
24 retired law enforcement officer who is a member of the plan. The law
25 enforcement officer board members shall be appointed by the governor
26 from a list provided by a recognized statewide council whose membership
27 consists exclusively of guilds, associations, and unions representing
28 state and local government police officers, deputies, and sheriffs and
29 excludes federal law enforcement officers.

30 (b) Three of the board members shall be active fire fighters who
31 are participants in the plan. Beginning with the first vacancy on or
32 after January 1, 2007, one board member shall be a retired fire fighter
33 who is a member of the plan. The fire fighter board member shall be
34 appointed by the governor from a list provided by a recognized
35 statewide council, affiliated with an international association
36 representing the interests of fire fighters.

37 (c) Three of the board members shall be representatives of
38 employers and shall be appointed by the governor.

1 (d) One board member shall be a member of the house of
2 representatives who is appointed by the governor based on the
3 recommendation of the speaker of the house of representatives.

4 (e) One board member shall be a member of the senate who is
5 appointed by the governor based on the recommendation of the majority
6 leader of the senate.

7 (2) The initial law enforcement officer and fire fighter board
8 members shall serve terms of six, four, and two years, respectively.
9 Thereafter, law enforcement officer and fire fighter board members
10 serve terms of six years. The remaining board members serve terms of
11 four years. Board members may be reappointed to succeeding terms
12 without limitation. Board members shall serve until their successors
13 are appointed and seated.

14 (3) In the event of a vacancy on the board, the vacancy shall be
15 filled in the same manner as prescribed for an initial appointment.

16 NEW SECTION. **Sec. 5.** POWERS OF THE BOARD OF TRUSTEES--MEETING
17 PROCEDURES--QUORUM--JUDICIAL REVIEW--BUDGET OF THE BOARD OF TRUSTEES.

18 (1) The board of trustees have the following powers and duties and
19 shall:

20 (a) Adopt actuarial tables, assumptions, and cost methodologies in
21 consultation with an enrolled actuary retained by the board. The state
22 actuary shall provide assistance when the board requests. The actuary
23 retained by the board shall utilize the aggregate actuarial cost
24 method, or other recognized actuarial cost method based on a level
25 percentage of payroll, as that term is employed by the American academy
26 of actuaries. In determining the reasonableness of actuarial
27 valuations, assumptions, and cost methodologies, the actuary retained
28 by the board shall provide a copy of all such calculations to the state
29 actuary. If the two actuaries concur on the calculations,
30 contributions shall be made as set forth in the report of the board's
31 actuary. If the two actuaries cannot agree, they shall appoint a
32 third, independent, enrolled actuary who shall review the calculations
33 of the actuary retained by the board and the state actuary.
34 Thereafter, contributions shall be based on the methodology most
35 closely following that of the third actuary;

36 (b)(i) Provide for the design and implementation of increased
37 benefits for members and beneficiaries of the plan, subject to the
38 contribution limitations under section 6 of this act. An increased

1 benefit may not be approved by the board until an actuarial cost of the
2 benefit has been determined by the actuary and contribution rates
3 adjusted as may be required to maintain the plan on a sound actuarial
4 basis. Increased benefits as approved by the board shall be presented
5 to the legislature on January 1st of each year. The increased benefits
6 as approved by the board shall become effective within ninety days
7 unless a bill is enacted in the next ensuing session of the
8 legislature, by majority vote of each house of the legislature,
9 repealing the action of the board;

10 (ii) As an alternative to the procedure in (b)(i) of this
11 subsection, recommend to the legislature changes in the benefits for
12 members and beneficiaries, without regard to the cost limitations in
13 section 6(3) of this act. Benefits adopted in this manner shall have
14 the same contractual protections as the minimum benefits in the plan.
15 The recommendations of the board shall be presented to the legislature
16 on January 1st of each year. These measures shall take precedence over
17 all other measures in the legislature, except appropriations bills, and
18 shall be either enacted or rejected without change or amendment by the
19 legislature before the end of such regular session;

20 (c) Retain professional and technical advisors necessary for the
21 accomplishment of its duties. The cost of these services may be
22 withdrawn from the trust;

23 (d) Consult with the department for the purpose of improving
24 benefit administration and member services;

25 (e) Provide an annual report to the governor and the legislature
26 setting forth the actuarial funding status of the plan and making
27 recommendations for improvements in those aspects of retirement
28 administration directed by the legislature or administered by the
29 department;

30 (f) Establish uniform administrative rules and operating policies
31 in the manner prescribed by law;

32 (g) Engage administrative staff and acquire office space
33 independent of, or in conjunction with, the department. The department
34 shall provide funding from its budget for these purposes;

35 (h) The board shall publish on an annual basis a schedule of
36 increased benefits together with a summary of the minimum benefits as
37 established by the legislature which shall constitute the official plan
38 document; and

1 (i) Be the fiduciary of the plan and discharge the board's duties
2 solely in the interest of the members and beneficiaries of the plan.

3 (2) Meetings of the board of trustees shall be conducted as
4 follows:

5 (a) All board meetings are open to the public, preceded by timely
6 public notice;

7 (b) All actions of the board shall be taken in open public session,
8 except for those matters which may be considered in executive session
9 as provided by law;

10 (c) The board shall retain minutes of each meeting setting forth
11 the names of those board members present and absent, and their voting
12 record on any voted issue; and

13 (d) The board may establish, with the assistance of the appropriate
14 office of state government, an internet web site providing for
15 interactive communication with state government, members and
16 beneficiaries of the plan, and the public.

17 (3) A quorum of the board is six board members. All board actions
18 require six concurring votes.

19 (4) The decisions of the board shall be made in good faith and are
20 final, binding, and conclusive on all parties. The decisions of the
21 board shall be subject to judicial review as provided by law.

22 (5) A law enforcement officers' and fire fighters' retirement
23 system plan 2 expense fund is established for the purpose of defraying
24 the expenses of the board. The board shall cause an annual budget to
25 be prepared consistent with the requirements of chapter 43.88 RCW and
26 shall draw the funding for the budget from the investment income of the
27 trust. Board members shall be reimbursed for travel and education
28 expenses as provided in RCW 43.03.050 and 43.03.060. The board shall
29 make an annual report to the governor, legislature, and state auditor
30 setting forth a summary of the costs and expenditures of the plan for
31 the preceding year. The board shall also retain the services of an
32 independent, certified public accountant who shall annually audit the
33 expenses of the fund and whose report shall be included in the board's
34 annual report.

35 NEW SECTION. **Sec. 6.** CONTRIBUTIONS. (1) The board of trustees
36 shall establish contributions as set forth in this section. The cost
37 of the minimum benefits as defined in this plan shall be funded on the
38 following ratio:

1 Employee contributions 50%
2 Employer contributions 30%
3 State contributions 20%

4 (2) The minimum benefits shall constitute a contractual obligation
5 of the state and the contributing employers and may not be reduced
6 below the levels in effect on July 1, 2003. The state and the
7 contributing employers shall maintain the minimum benefits on a sound
8 actuarial basis in accordance with the actuarial standards adopted by
9 the board.

10 (3) Increased benefits created as provided for in section 5 of this
11 act are granted on a basis not to exceed the contributions provided for
12 in this section. In addition to the contributions necessary to
13 maintain the minimum benefits, for any increased benefits provided for
14 by the board, the employee contribution shall not exceed fifty percent
15 of the actuarial cost of the benefit. In no instance shall the
16 employee cost exceed ten percent of covered payroll without the consent
17 of a majority of the affected employees. Employer contributions shall
18 not exceed thirty percent of the cost, but in no instance shall the
19 employer contribution exceed six percent of covered payroll. State
20 contributions shall not exceed twenty percent of the cost, but in no
21 instance shall the state contribution exceed four percent of covered
22 payroll. Employer contributions may not be increased above the maximum
23 under this section without the consent of the governing body of the
24 employer. State contributions may not be increased above the maximum
25 provided for in this section without the consent of the legislature.
26 In the event that the cost of maintaining the increased benefits on a
27 sound actuarial basis exceeds the aggregate contributions provided for
28 in this section, the board shall submit to the affected members of the
29 plan the option of paying the increased costs or of having the
30 increased benefits reduced to a level sufficient to be maintained by
31 the aggregate contributions. The reduction of benefits in accordance
32 with this section shall not be deemed a violation of the contractual
33 rights of the members, provided that no reduction may result in
34 benefits being lower than the level of the minimum benefits.

35 (4) The board shall manage the trust in a manner that maintains
36 reasonable contributions and administrative costs. Providing
37 additional benefits to members and beneficiaries is the board's
38 priority.

1 (5) All earnings of the trust in excess of the actuarially assumed
2 rate of investment return shall be used exclusively for additional
3 benefits for members and beneficiaries.

4 NEW SECTION. **Sec. 7.** NONAPPLICABILITY OF JOINT COMMITTEE ON
5 PENSION POLICY AND PENSION FUNDING COUNCIL. The joint committee on
6 pension policy established in RCW 44.44.050, and the pension funding
7 council created in RCW 41.45.100, shall have no applicability or
8 authority over matters relating to this plan.

9 NEW SECTION. **Sec. 8.** ASSET MANAGEMENT. Assets of the plan shall
10 be managed by the state investment board as provided by law.

11 NEW SECTION. **Sec. 9.** SEVERABILITY. If any provision of this act
12 or its application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 10.** CAPTIONS NOT LAW. Captions used in this
16 act are not any part of the law.

17 NEW SECTION. **Sec. 11.** IMPLEMENTING LEGISLATION. The department
18 of retirement systems and the office of the state actuary shall prepare
19 and submit to the fiscal committees of the legislature by January 15,
20 2003, proposed legislation for implementing this act.

21 NEW SECTION. **Sec. 12.** CODIFICATION. Sections 1 through 9 of this
22 act are each added to chapter 41.26 RCW.

23 NEW SECTION. **Sec. 13.** EFFECTIVE DATE. Except for section 11 of
24 this act, the remainder of this act takes effect July 1, 2003.

Originally filed in Office of Secretary of State February 4, 2002.
Approved by the People of the State of Washington in the General
Election on November 5, 2002.