

# HOUSE BILL REPORT

## HB 2408

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**As Passed House:**  
February 13, 2014

**Title:** An act relating to removing the statutory provision that allows members of plan 3 of the public employees' retirement system, school employees' retirement system, and teachers' retirement system to select a new contribution rate option each year.

**Brief Description:** Removing the statutory provision that allows members of plan 3 of the public employees' retirement system, school employees' retirement system, and teachers' retirement system to select a new contribution rate option each year.

**Sponsors:** Representatives Ormsby, Chandler, Sullivan and Haler; by request of Select Committee on Pension Policy.

**Brief History:**

**Committee Activity:**

Appropriations: 1/23/14, 1/27/14 [DP].

**Floor Activity:**

Passed House: 2/13/14, 94-3.

**Brief Summary of Bill**

- Removes the option of Plan 3 members of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), and the School Employees' Retirement System (SERS) to select a new contribution rate option each year for their individual defined contribution accounts.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 30 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Christian, Cody, Dahlquist, Dunshee, Fagan, Green, Haigh, Haler, Harris, Hudgins, G. Hunt, S. Hunt, Jinkins, Kagi, Lytton, Morrell, Parker, Schmick, Seaquist, Springer, Sullivan, Taylor and Tharinger.

**Staff:** David Pringle (786-7310).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

The Teachers' Retirement System Plan 3 (TRS 3) provides retirement benefits to employees certificated by the Superintendent of Public Instruction to teach for educational service or school districts, as well as to state educational service and school district superintendents and assistant superintendents. The School Employees' Retirement System Plan 3 (SERS 3) provides retirement benefits to classified school district employees. The Public Employees' Retirement System Plan 3 (PERS) provides benefits for regularly compensated public employees and appointed and elected officials unless they fall under a specific exemption from membership, such as qualification for another of the state retirement systems. The PERS-covered employers include all state agencies and subdivisions and most local government employees not employed by the cities of Seattle, Tacoma, and Spokane.

Each of these plans are operated consistent with federal tax laws which provide that contributions made to the plans by members and employers are not subject to income taxes at the time contributions are made. A pension plan that operates within the rules permitting preferential tax treatment is generally referred to as a "qualified plan."

Since 2007 membership in the TRS 3 and the SERS 3 has been optional for new members of each of the retirement plans. New hires choosing Plan 3 of the PERS, the TRS, or the SERS must choose a contribution rate option for their Defined Contribution (DC) accounts. For members of the PERS 3 and the SERS 3, this selection is permanent. The only way for those members to change rate options is to change employers. Members of the TRS 3 can choose to change their contribution rate option in January of each year, by notifying their employer in writing.

The rate flexibility option was enacted in statute for the PERS 3, the TRS 3, and the SERS 3 in 2003. The Department of Retirement Systems received approval from the federal Internal Revenue Service (IRS) to implement annual rate choice for the TRS 3. However, the DRS has not administered the provision for the PERS 3 and the SERS 3 due to conflict with the IRS and interpretation of the Internal Revenue Code (IRC) provisions relating to contribution rate changes in IRC section 401(a) governmental pension plans. Consequently, only members of the TRS 3 have been able to change their rate option each year. In February 2013 the IRS re-qualified the TRS 3 under the condition that the Legislature remove the option for TRS 3 members to change their rate option every January.

**Summary of Bill:**

The option of Plan 3 members of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), and the School Employees' Retirement System (SERS) to select a new contribution rate option each year for their individual defined contribution accounts is removed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Nobody wants to jeopardize the favorable tax treatment of the TRS 3, so this change should be made. The State has no choice, but this change does reduce the value of the retirement plan. The Department of Retirement Systems will be making some additional efforts to explain to the impacted employees some of the options that exist to mitigate the flexibility being lost in the TRS 3, including use of the Deferred Compensation Program.

(In support with concerns) This bill should be supported with reluctance.

(Opposed) None.

**Persons Testifying:** (In support) Representative Ormsby, prime sponsor; and Dave Nelsen, Department of Retirement Systems.

(In support with concerns) Fred Yancey, Association of Washington School Principals.

**Persons Signed In To Testify But Not Testifying:** None.