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**SENATE BILL 5360**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Conway, Hobbs, Saldaña, Dhingra, Keiser, Pedersen, and Hunt; by request of Select Committee on Pension Policy

AN ACT Relating to plan membership default provisions in the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system; amending RCW 41.32.835, 41.35.610, and 41.40.785; and declaring an emergency.

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

**Sec.**  RCW 41.32.835 and 2007 c 491 s 3 are each amended to read as follows:

(1) All teachers who first become employed by an employer in an eligible position on or after July 1, 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3 or plan 2 as follows:

(a) Becomes a member of plan 3 if first employed by an employer in an eligible position on or after July 1, 2007, but prior to July 1, 2019;

(b) Becomes a member of plan 2 if first employed by an employer in an eligible position on or after July 1, 2019.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

((~~(3) The plan choice provision as set forth in section 3, chapter 491, Laws of 2007 was intended by the legislature as a replacement benefit for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to plan choice under this section is noncontractual, and the legislature reserves the right to amend or repeal this section. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, all teachers who first become employed by an employer in an eligible position on or after July 1, 2007, may choose either plan 2 or plan 3 under this section. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then all teachers who first become employed by an employer in an eligible position on or after the date of such reinstatement shall be members of plan 3.~~))

**Sec.**  RCW 41.35.610 and 2007 c 491 s 7 are each amended to read as follows:

(1) All classified employees who first become employed by an employer in an eligible position on or after July 1, 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3 or plan 2 as follows:

(a) Becomes a member of plan 3 if first employed by an employer in an eligible position on or after July 1, 2007, but prior to July 1, 2019;

(b) Becomes a member of plan 2 if first employed by an employer in an eligible position on or after July 1, 2019.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

((~~(3) The plan choice provision as set forth in section 7, chapter 491, Laws of 2007 was intended by the legislature as a replacement benefit for gain-sharing. Until there is legal certainty with respect to the repeal of chapter 41.31A RCW, the right to plan choice under this section is noncontractual, and the legislature reserves the right to amend or repeal this section. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, all classified employees who first become employed by an employer in an eligible position on or after July 1, 2007, may choose either plan 2 or plan 3 under this section. If the repeal of chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then all classified employees who first become employed by an employer in an eligible position on or after the date of such reinstatement shall be members of plan 3.~~))

**Sec.**  RCW 41.40.785 and 2000 c 247 s 302 are each amended to read as follows:

(1) All employees who first become employed by an employer in an eligible position on or after March 1, 2002, for state agencies or institutes of higher education, or September 1, 2002, for other employers, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3 or plan 2 as follows:

(a) Becomes a member of plan 3 if first employed by an employer in an eligible position on or after March 1, 2002, but prior to July 1, 2019, for state agencies or institutions of higher education, or on or after September 1, 2002, but prior to July 1, 2019, for other employers;

(b) Becomes a member of plan 2 if first employed by an employer in an eligible position on or after July 1, 2019.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default pursuant to subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

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

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**