
HOUSE BILL 1527

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Linville and Locke; by request of Office of
Financial Management

Read first time 01/29/93. Referred to Committee on Appropriations.

1 AN ACT Relating to funding of the dependent care program; amending
2 RCW 41.04.615 and 41.04.260; providing an effective date; and declaring
3 an emergency.

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

5 **Sec. 1.** RCW 41.04.615 and 1987 c 475 s 4 are each amended to read
6 as follows:

7 (1) A plan document describing the salary reduction plan shall be
8 adopted and administered by the committee. The committee shall
9 represent the state in all matters concerning the administration of the
10 plan. The state through the committee, may engage the services of a
11 professional consultant or administrator on a contractual basis to
12 serve as an agent to assist the committee in carrying out the purposes
13 of RCW 41.04.600 through 41.04.645.

14 (2) The committee shall formulate and establish policies and
15 procedures for the administration of the salary reduction plan that are
16 consistent with existing state law, the internal revenue code, and the
17 regulations adopted by the internal revenue service as they may apply
18 to the benefits offered to participants under the plan.

1 (3) The funds held by the state for the dependent care program
2 shall be deposited in the salary reduction account in the state
3 treasury. Any interest in excess of the amount used to defray the cost
4 of administering the salary reduction plan shall become a part of the
5 ~~((general fund))~~ dependent care administrative account as shall
6 unclaimed moneys remaining in the salary reduction account at the end
7 of a plan year after all timely submitted claims for that plan year
8 have been processed. The committee may assess each participant a fee
9 for administering the salary reduction plan. In addition to moneys for
10 initial costs, moneys ~~((shall))~~ may be appropriated from the general
11 fund or dependent care administrative account for any expense relating
12 to the administration of the salary reduction plan. ~~((The~~
13 ~~appropriation may be funded from an amount equivalent to actually~~
14 ~~realized savings experienced due to reductions in employer~~
15 ~~contributions required under the social security act, from other~~
16 ~~similar savings, from interest earned from the salary reduction account~~
17 ~~credited to the general fund, from any unclaimed moneys in the salary~~
18 ~~reduction account at the end of the plan year, and from fees charged to~~
19 ~~the participants.))~~

20 (4) The dependent care administrative account is created in the
21 state treasury. The committee may periodically bill agencies for
22 employer savings experienced as the result of dependent care program
23 participation by employees. All receipts from the following shall be
24 deposited in the account: (a) Charges to agencies for all or a portion
25 of the actually realized savings due to reductions in employer
26 contributions under the social security act; (b) charges for other
27 similar savings; (c) interest earned from the salary reduction account
28 credited to the dependent care administrative account; (d) unclaimed
29 moneys in the salary reduction account at the end of the plan year
30 after all timely submitted claims for that plan year have been
31 processed; and (e) fees charged to participants. Moneys in the account
32 may be spent only after appropriation. Expenditures from the account
33 may be used only for any expense related to the administration of the
34 salary reduction plan.

35 (5) Every action taken by the committee in administering RCW
36 41.04.600 through 41.04.645 shall be presumed to be a fair and
37 reasonable exercise of the authority vested in or the duties imposed
38 upon it. The committee shall be presumed to have exercised reasonable
39 care, diligence, and prudence and to have acted impartially as to all

1 persons interested unless the contrary be proved by clear and
2 convincing affirmative evidence.

3 **Sec. 2.** RCW 41.04.260 and 1991 sp.s. c 13 s 101 are each amended
4 to read as follows:

5 (1) There is hereby created a committee for deferred compensation
6 to be composed of five members appointed by the governor, one of whom
7 shall be a representative of an employee association or union certified
8 as an exclusive representative of at least one bargaining unit of
9 classified employees, one who shall be a representative of either a
10 credit union, savings and loan association, mutual savings bank or
11 bank, one who possesses expertise in the area of insurance or
12 investment of public funds, one who shall be the state attorney general
13 or his designee, and one additional member selected by the governor.
14 The committee shall serve without compensation but shall receive travel
15 expenses as provided for in RCW 43.03.050 and 43.03.060 as now existing
16 or hereafter amended.

17 (2) The deferred compensation principal account is hereby created
18 in the state treasury. Any deficiency in the deferred compensation
19 administrative account caused by an excess of administrative expenses
20 disbursed from that account over earnings of investments of balances
21 credited to that account shall be eliminated by transferring moneys to
22 that account from the deferred compensation principal account.

23 The amount of compensation deferred by employees under agreements
24 entered into under the authority contained in RCW 41.04.250 shall be
25 paid into the deferred compensation principal account and shall be
26 sufficient to cover costs of administration and staffing in addition to
27 such other amounts as determined by this committee. The deferred
28 compensation principal account shall be used to carry out the purposes
29 of RCW 41.04.250. All eligible state employees shall be given the
30 opportunity to participate in agreements entered into by the committee
31 under RCW 41.04.250. State agencies shall cooperate with the committee
32 in providing employees with the opportunity to participate. Any
33 county, municipality, or other subdivision of the state may elect to
34 participate in any agreements entered into by the committee under RCW
35 41.04.250, including the making of payments therefrom to the employees
36 participating in a deferred compensation plan upon their separation
37 from state or other qualifying service. Accordingly, the deferred
38 compensation principal account shall be considered to be a public

1 pension or retirement fund within the meaning of Article XXIX, section
2 1 of the state Constitution, for the purpose of determining eligible
3 investments and deposits of the moneys therein. All moneys in the
4 deferred compensation principal account, all property and rights
5 purchased therewith, and all income attributable thereto, shall remain
6 (until made available to the participating employee or other
7 beneficiary) solely the money, property, and rights of the state and
8 participating counties, municipalities and subdivisions (without being
9 restricted to the provision of benefits under the plan) subject only to
10 the claims of the state's and participating jurisdictions' general
11 creditors. Participating jurisdictions shall each retain property
12 rights separately.

13 (3) The state investment board, at the request of the deferred
14 compensation committee, is authorized to invest moneys in the deferred
15 compensation principal account in accordance with RCW 43.84.150.
16 Except as provided in RCW 43.33A.160, one hundred percent of all
17 earnings from these investments shall accrue directly to the deferred
18 compensation principal account.

19 (4) The deferred compensation administrative account is hereby
20 created in the state treasury. All expenses of the committee
21 pertaining to the deferred compensation plan including staffing and
22 administrative expenses shall be paid out of the deferred compensation
23 administrative account. Any excess of earnings of investments of
24 balances credited to this account over administrative expenses
25 disbursed from this account shall be transferred to the deferred
26 compensation principal account. Any deficiency in the deferred
27 compensation administrative account caused by an excess of
28 administrative expenses disbursed from this account over earnings of
29 investments of balances credited to this account shall be transferred
30 to this account from the deferred compensation principal account.

31 (5) In addition to the duties specified in this section and RCW
32 41.04.250, the deferred compensation committee shall administer the
33 salary reduction plan established in RCW 41.04.600 through 41.04.645.

34 (6) The deferred compensation committee shall keep or cause to be
35 kept full and adequate accounts and records of the assets, obligations,
36 transactions, and affairs of any deferred compensation plans created
37 under RCW 41.04.250 through 41.04.260.

38 The deferred compensation committee shall file an annual report of
39 the financial condition, transactions, and affairs of the deferred

1 compensation plans under the committee's jurisdiction. A copy of the
2 annual report shall be filed with the speaker of the house of
3 representatives, the president of the senate, the governor, and the
4 state auditor.

5 (7) Members of the deferred compensation committee shall be deemed
6 to stand in a fiduciary relationship to the employees participating in
7 the deferred compensation plans created under RCW 41.04.250 through
8 41.04.260 and shall discharge the duties of their respective positions
9 in good faith and with that diligence, care, and skill which ordinary
10 prudent persons would exercise under similar circumstances in like
11 positions.

12 (8) The committee may adopt rules necessary to carry out the
13 purposes of RCW 41.04.250 and 41.04.260.

14 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect July 1, 1993.

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