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HOUSE BILL 2931

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Conway, Delvin, Simpson, Armstrong, Cooper, Benson, Reardon, Morell, Cairnes, Sullivan, Santos, Berkey, Campbell, Van Luvan and Woods

Read first time 02/07/2002. Referred to Committee on Appropriations.

1 AN ACT Relating to governing the law enforcement officers' and fire  
2 fighters' retirement system, plan 2; adding a new chapter to Title 41  
3 RCW; creating a new section; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE 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 managed by the  
7 legislature's joint committee on pension policy with ratification by  
8 the members of the legislature and is administered by the department of  
9 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 and employers that  
12 will guaranty viability of the plan, subject to the limitations  
13 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 the effective date of this act.
- 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 does not include the classifications of  
14 employment eligible to participate in the plan.

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

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

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

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

36 (d) One board member shall be a member of the house of  
37 representatives who is appointed by the governor based on the  
38 recommendation of the speaker of the house of representatives.

1 (e) One board member shall be a member of the senate who is  
2 appointed by the governor based on the recommendation of the majority  
3 leader of the senate.

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

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

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

15 (1) The board of trustees have the following powers and duties and  
16 shall:

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

33 (b) Provide for the design and implementation of increased benefits  
34 for members and beneficiaries of the plan, subject to the contribution  
35 limitations under section 6 of this act. An increased benefit may not  
36 be approved by the board until an actuarial cost of the benefit has  
37 been determined by the actuary and contribution rates adjusted as may  
38 be required to maintain the plan on a sound actuarial basis. Increased

1 benefits as approved by the board shall be presented to the legislature  
2 on January 1st of each year. The increased benefits as approved by the  
3 board shall become effective within ninety days unless not less than  
4 two-thirds of each house of the legislature shall vote to the contrary;

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

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

10 (e) Provide an annual report to the governor and the legislature  
11 setting forth the actuarial funding status of the plan and making  
12 recommendations for improvements in those aspects of retirement  
13 administration directed by the legislature or administered by the  
14 department;

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

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

20 (h) The board shall publish annually the official plan document  
21 comprised of a schedule of increased benefits and a summary of the  
22 minimum benefits established by the legislature; and

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

25 (2) Meetings of the board of trustees shall be conducted as  
26 follows:

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

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

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

35 (d) The board may establish, with the assistance of the appropriate  
36 office of state government, an internet web site providing for  
37 interactive communication with state government, members and  
38 beneficiaries of the plan, and the public.

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

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

6 (5) A law enforcement officers' and fire fighters' retirement  
7 system plan 2 expense account is established for the purpose of  
8 defraying the expenses of the board. The board shall prepare an annual  
9 budget consistent with chapter 43.88 RCW and shall draw the funding for  
10 the budget from the investment income of the trust. Board members  
11 shall be reimbursed for travel and education expenses as provided in  
12 RCW 43.03.050 and 43.03.060. The board shall make an annual report to  
13 the governor, legislature, and state auditor setting forth a summary of  
14 the costs and expenditures of the plan for the preceding year. The  
15 board shall also retain the services of an independent, certified  
16 public accountant who shall annually audit the expenses of the account  
17 and whose report shall be included in the board's annual report.

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

22 Employee contributions 50%

23 Employer contributions 30%

24 State contributions 20%

25 (2) The minimum benefits are a contractual obligation of the state  
26 and the contributing employers and may not be reduced below the levels  
27 in effect on the effective date of this act. The state and the  
28 contributing employers shall maintain the minimum benefits on a sound  
29 actuarial basis in accordance with the actuarial standards adopted by  
30 the board.

31 (3) Increased benefits provided under section 5 of this act may not  
32 exceed the contributions provided for in this section. In addition to  
33 the contributions necessary to maintain the minimum benefits, for any  
34 increased benefits provided for by the board, the employee contribution  
35 shall not exceed the greater of fifty percent of the actuarial cost of  
36 the benefit or ten percent of covered payroll without the consent of a  
37 majority of the affected employees. Employer contributions shall not  
38 exceed the greater of thirty percent of the cost or six percent of

1 covered payroll. State contributions shall not exceed the greater of  
2 twenty percent of the cost or four percent of covered payroll.  
3 Employer contributions may not be increased above the maximum under  
4 this section without the consent of the governing body of the employer.  
5 State contributions may not be increased above the maximum provided in  
6 this section without the consent of the legislature. In the event that  
7 the cost of maintaining the increased benefits on a sound actuarial  
8 basis exceeds the aggregate contributions provided in this section, the  
9 board shall submit to the affected members of the plan the option of  
10 paying the increased costs or having the increased benefits reduced to  
11 a level sufficient to be maintained by the aggregate contributions. A  
12 reduction of benefits under this subsection is not a violation of the  
13 contractual rights of the members, provided the reduction does not  
14 result in benefits being lower than the level of the minimum benefits.

15 (4) The board shall manage the trust in a manner that maintains  
16 reasonable contributions and administrative costs. Providing  
17 additional benefits to members and beneficiaries is the board's  
18 priority.

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

22 NEW SECTION. **Sec. 7.** ASSET MANAGEMENT. Assets of the plan shall  
23 be managed by the state investment board as provided by law.

24 NEW SECTION. **Sec. 8.** SEVERABILITY. If any provision of this act  
25 or its application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 9.** CAPTIONS NOT LAW. Captions used in this act  
29 are not any part of the law.

30 NEW SECTION. **Sec. 10.** IMPLEMENTING LEGISLATION. The department  
31 of retirement systems and the office of the state actuary shall prepare  
32 and submit to the fiscal committees of the legislature by December 15,  
33 2002, proposed legislation for implementing this act.

1        NEW SECTION.   **Sec. 11.**   CODIFICATION.   Sections 1 through 9 and 12  
2 of this act constitute a new chapter in Title 41 RCW.

3        NEW SECTION.   **Sec. 12.**   EFFECTIVE DATE.   This act takes effect July  
4 1, 2003.

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