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**SUBSTITUTE SENATE BILL 5152**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Carlson, Franklin, Long, Honeyford and Jacobsen; by request of Joint Committee on Pension Policy)

READ FIRST TIME 02/26/01.

1       AN ACT Relating to the composition and responsibilities of the  
2 employee retirement benefits board; amending RCW 41.50.086 and  
3 41.34.130; and reenacting and amending RCW 41.50.780.

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

5       **Sec. 1.** RCW 41.50.086 and 1998 c 341 s 506 are each amended to  
6 read as follows:

7       (1) The employee retirement benefits board is created within  
8 the department of retirement systems.

9       (2) The board shall be composed of (~~eleven~~) twelve members  
10 appointed by the governor and one ex officio member as follows:

11       (a) Three members representing the public employees' retirement  
12 system: One retired, two active. The members shall be appointed from  
13 a list of nominations submitted by organizations representing each  
14 category. The initial term of appointment shall be two years for  
15 the retired member, one year for one active member, and three  
16 years for the remaining active member.

17       (b) Three members representing the teachers' retirement system:  
18 One retired, two active. The members shall be appointed from a

1 list of nominations submitted by organizations representing each  
2 category. The initial term of appointment shall be one year for the  
3 retired member, two years for one active member, and three years  
4 for the remaining active member.

5 (c) Three members representing the school employees' retirement  
6 system: One retired, two active. The members shall be appointed from  
7 a list of nominations submitted by organizations representing each  
8 category. The initial term of appointment shall be one year for the  
9 retired member, two years for one active member, and three years  
10 for the remaining active member.

11 (d) Two members with experience in defined contribution plan  
12 administration. The initial term for these members shall be two  
13 years for one member and three years for the remaining member.

14 (e) One member representing the deferred compensation program.  
15 The member shall be a deferred compensation program participant  
16 chosen from a list of nominations submitted by organizations  
17 representing employees eligible to participate in the deferred  
18 compensation program. The initial term of appointment for this  
19 member shall be three years.

20 (f) The director of the department shall serve ex officio and  
21 shall be the chair of the board.

22 (3) After the initial appointments, members shall be appointed  
23 to three-year terms.

24 (4) The board shall meet at least quarterly during the calendar  
25 year, at the call of the chair.

26 (5) Members of the board shall serve without compensation but  
27 shall receive travel expenses as provided for in RCW 43.03.050 and  
28 43.03.060. Such travel expenses shall be reimbursed by the  
29 department from the retirement system expense fund.

30 (6) The board shall adopt rules governing its procedures and  
31 conduct of business.

32 (7) The actuary shall perform all actuarial services for the  
33 board and provide advice and support.

34 **Sec. 2.** RCW 41.50.780 and 1998 c 245 s 42 and 1998 c 116 s 12 are  
35 each reenacted and amended to read as follows:

36 (1) The deferred compensation principal account is hereby  
37 created in the state treasury. (~~Any deficiency in the deferred~~

1 ~~compensation administrative account caused by an excess of~~  
2 ~~administrative expenses disbursed from that account over balances~~  
3 ~~credited to that account shall be eliminated by transferring~~  
4 ~~moneys to that account from the deferred compensation principal~~  
5 ~~account.)~~)

6 (2) The amount of compensation deferred by employees under  
7 agreements entered into under the authority contained in RCW  
8 41.50.770 shall be paid into the deferred compensation principal  
9 account and shall be sufficient to cover costs of administration  
10 and staffing in addition to such other amounts as determined by  
11 the department. The deferred compensation principal account shall  
12 be used to carry out the purposes of RCW 41.50.770. All eligible  
13 state employees shall be given the opportunity to participate in  
14 agreements entered into by the department under RCW 41.50.770.  
15 State agencies shall cooperate with the department in providing  
16 employees with the opportunity to participate.

17 (3) Any county, municipality, or other subdivision of the state  
18 may elect to participate in any agreements entered into by the  
19 department under RCW 41.50.770, including the making of payments  
20 therefrom to the employees participating in a deferred  
21 compensation plan upon their separation from state or other  
22 qualifying service. Accordingly, the deferred compensation  
23 principal account shall be considered to be a public pension or  
24 retirement fund within the meaning of Article XXIX, section 1 of  
25 the state Constitution, for the purpose of determining eligible  
26 investments and deposits of the moneys therein.

27 (4) All moneys in the state deferred compensation principal  
28 account and the state deferred compensation administrative  
29 account, all property and rights purchased therewith, and all  
30 income attributable thereto, shall be held in trust by the state  
31 investment board, as set forth under RCW 43.33A.030, for the  
32 exclusive benefit of the state deferred compensation plan's  
33 participants and their beneficiaries. Neither the participant, nor  
34 the participant's beneficiary or beneficiaries, nor any other  
35 designee, has any right to commute, sell, assign, transfer, or  
36 otherwise convey the right to receive any payments under the  
37 plan. These payments and right thereto are nonassignable and  
38 nontransferable. Unpaid accumulated deferrals are not subject to

1 attachment, garnishment, or execution and are not transferable by  
2 operation of law in event of bankruptcy or insolvency, except to  
3 the extent otherwise required by law.

4 (5) The state investment board has the full power to invest  
5 moneys in the state deferred compensation principal account and  
6 the state deferred compensation administrative account in  
7 accordance with RCW 43.84.150, 43.33A.140, and 41.50.770, and  
8 cumulative investment directions received pursuant to RCW  
9 41.50.770. All investment and operating costs of the state  
10 investment board associated with the investment of the deferred  
11 compensation plan assets shall be paid pursuant to RCW 43.33A.160  
12 and 43.84.160. With the exception of these expenses, one hundred  
13 percent of all earnings from these investments shall accrue  
14 directly to the deferred compensation principal account.

15 (6)(a) No state board or commission, agency, or any officer,  
16 employee, or member thereof is liable for any loss or deficiency  
17 resulting from participant investments selected pursuant to RCW  
18 41.50.770(3).

19 (b) Neither the employee retirement benefits board nor the  
20 state investment board, nor any officer, employee, or member  
21 thereof is liable for any loss or deficiency resulting from  
22 reasonable efforts to implement investment directions pursuant to  
23 RCW 41.50.770(3).

24 (7) The deferred compensation administrative account is hereby  
25 created in the state treasury. All expenses of the department  
26 pertaining to the deferred compensation plan including staffing  
27 and administrative expenses shall be paid out of the deferred  
28 compensation administrative account. Any excess balances credited  
29 to this account over administrative expenses disbursed from this  
30 account shall be transferred to the deferred compensation  
31 principal account at such time and in such amounts as may be  
32 determined by the department with the approval of the office of  
33 financial management. Any deficiency in the deferred compensation  
34 administrative account caused by an excess of administrative  
35 expenses disbursed from this account shall be transferred to this  
36 account from the deferred compensation principal account.

37 (8) In addition to the duties specified in this section and RCW

1 41.50.770, the department shall administer the salary reduction  
2 plan established in RCW 41.04.600 through 41.04.645.

3 (9)(a)(i) The department shall keep or cause to be kept full  
4 and adequate accounts and records of the assets of each individual  
5 participant, obligations, transactions, and affairs of any  
6 deferred compensation plans created under RCW 41.50.770 and this  
7 section. The department shall account for and report on the  
8 investment of state deferred compensation plan assets or may enter  
9 into an agreement with the state investment board for such  
10 accounting and reporting.

11 (ii) The department's duties related to individual participant  
12 accounts include conducting the activities of trade instruction,  
13 settlement activities, and direction of cash movement and related  
14 wire transfers with the custodian bank and outside investment  
15 firms.

16 (iii) The department has sole responsibility for contracting  
17 with any recordkeepers for individual participant accounts and  
18 shall manage the performance of recordkeepers under those  
19 contracts.

20 (b)(i) The department's duties under (a)(ii) of this subsection  
21 do not limit the authority of the state investment board to  
22 conduct its responsibilities for asset management and balancing of  
23 the deferred compensation funds.

24 (ii) The state investment board has sole responsibility for  
25 contracting with outside investment firms to provide investment  
26 management for the deferred compensation funds and shall manage  
27 the performance of investment managers under those contracts.

28 (c) The state treasurer shall designate and define the terms of  
29 engagement for the custodial banks.

30 (10) The department may adopt rules necessary to carry out  
31 ~~((the purposes of))~~ its responsibilities under RCW 41.50.770 and  
32 this section.

33 **Sec. 3.** RCW 41.34.130 and 1998 c 341 s 307 are each amended to  
34 read as follows:

35 (1) The state investment board has the full authority to invest  
36 all self-directed investment moneys in accordance with RCW  
37 43.84.150 and 43.33A.140, and cumulative investment directions

1 received pursuant to RCW 41.34.060 and this section. In carrying  
2 out this authority the state investment board, after consultation  
3 with the employee retirement benefits board regarding any  
4 recommendations made pursuant to RCW 41.50.088(~~(+2)~~) (1)(b),  
5 shall provide a set of options for members to choose from for self-  
6 directed investment.

7 (2) All investment and operating costs of the state investment  
8 board associated with making self-directed investments shall be  
9 paid by members and recovered under procedures agreed to by the  
10 board and the state investment board pursuant to the principles  
11 set forth in RCW 43.33A.160 and 43.84.160. All other expenses  
12 caused by self-directed investment shall be paid by the member in  
13 accordance with rules established by the board under RCW  
14 41.50.088. With the exception of these expenses, all earnings from  
15 self-directed investments shall accrue to the member's account.

16 (3)(a)(i) The department shall keep or cause to be kept full  
17 and adequate accounts and records of each individual member's  
18 account. The department shall account for and report on the  
19 investment of defined contribution assets or may enter into an  
20 agreement with the state investment board for such accounting and  
21 reporting under this chapter.

22 (ii) The department's duties related to individual participant  
23 accounts include conducting the activities of trade instruction,  
24 settlement activities, and direction of cash movement and related  
25 wire transfers with the custodian bank and outside investment  
26 firms.

27 (iii) The department has sole responsibility for contracting  
28 with any recordkeepers for individual participant accounts and  
29 shall manage the performance of recordkeepers under those  
30 contracts.

31 (b)(i) The department's duties under (a)(ii) of this subsection  
32 do not limit the authority of the state investment board to  
33 conduct its responsibilities for asset management and balancing of  
34 the deferred compensation funds.

35 (ii) The state investment board has sole responsibility for  
36 contracting with outside investment firms to provide investment  
37 management for the deferred compensation funds and shall manage  
38 the performance of investment managers under those contracts.

1        (c) The state treasurer shall designate and define the terms of  
2 engagement for the custodial banks.

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