
SENATE BILL 5152

State of Washington

57th Legislature

2001 Regular Session

By Senators Fraser, Carlson, Franklin, Long, Honeyford and Jacobsen;
by request of Joint Committee on Pension Policy

Read first time 01/12/2001. Referred to Committee on Ways & Means.

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
13 from a list of nominations submitted by organizations representing
14 each category. The initial term of appointment shall be two years
15 for 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
7 from a list of nominations submitted by organizations representing
8 each category. The initial term of appointment shall be one year
9 for the retired member, two years for one active member, and three
10 years 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,)) employee
32 retirement benefits board for the exclusive benefit of the state
33 deferred compensation plan's participants and their
34 beneficiaries. Neither the participant, nor the participant's
35 beneficiary or beneficiaries, nor any other designee, has any
36 right to commute, sell, assign, transfer, or otherwise convey the
37 right to receive any payments under the plan. These payments and
38 right thereto are nonassignable and nontransferable. Unpaid

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

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

16 (6)(a) No state board or commission, agency, or any officer,
17 employee, or member thereof is liable for any loss or deficiency
18 resulting from participant investments selected pursuant to RCW
19 41.50.770(3).

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

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

1 (8) In addition to the duties specified in this section and RCW
2 41.50.770, the department shall administer the salary reduction
3 plan established in RCW 41.04.600 through 41.04.645.

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

12 (10) The department may adopt rules necessary to carry out the
13 purposes of RCW 41.50.770 and this section.

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

16 (1) The state investment board has the full authority to invest
17 all self-directed investment moneys in accordance with RCW
18 43.84.150 and 43.33A.140, and cumulative investment directions
19 received pursuant to RCW 41.34.060 and this section. In carrying
20 out this authority the state investment board, after consultation
21 with the employee retirement benefits board regarding any
22 recommendations made pursuant to RCW 41.50.088(~~(+2)~~) (1)(b),
23 shall provide a set of options for members to choose from for self-
24 directed investment.

25 (2) All investment and operating costs of the state investment
26 board associated with making self-directed investments shall be
27 paid by members and recovered under procedures agreed to by the
28 board and the state investment board pursuant to the principles
29 set forth in RCW 43.33A.160 and 43.84.160. All other expenses
30 caused by self-directed investment shall be paid by the member in
31 accordance with rules established by the board under RCW
32 41.50.088. With the exception of these expenses, all earnings from
33 self-directed investments shall accrue to the member's account.

34 (3) The department shall keep or cause to be kept full and
35 adequate accounts and records of each individual member's
36 account. The department shall account for and report on the
37 investment of defined contribution assets or may enter into an

1 agreement with the state investment board for such accounting and
2 reporting under this chapter. Recordkeeping duties shall include
3 conducting the activities of trade instruction, settlement
4 activities, and direction of cash movement and related wire
5 transfers with the custodian bank and outside investment firms. The
6 department is the sole contracting agency with any recordkeepers
7 for individual member accounts and will manage the performance of
8 recordkeepers under those contracts.

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