
HOUSE BILL 1889

State of Washington

58th Legislature

2003 Regular Session

By Representatives Kirby, Delvin, Lovick, Chase, O'Brien, Cooper, Simpson and Conway

Read first time 02/13/2003. Referred to Committee on Appropriations.

1 AN ACT Relating to the law enforcement officers' and fire fighters'
2 retirement system, plan 1; adding new sections to chapter 41.26 RCW;
3 adding a new section to chapter 44.44 RCW; adding a new section to
4 chapter 41.45 RCW; creating new sections; and providing an effective
5 date.

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

7 NEW SECTION. **Sec. 1.** OVERVIEW. The law enforcement officers' and
8 fire fighters' retirement system plan 1 is currently subject to
9 policymaking by the legislature's joint committee on pension policy
10 with ratification by the members of the legislature and is administered
11 by the department of retirement systems.

12 Members of the plan have no direct input into the management of
13 their retirement program. Forty-six other states currently have member
14 representation in their pension management. This act is intended to
15 give management of the retirement program to the people whose lives are
16 directly affected by it and who provide loyal and valiant service to
17 ensure the health, safety, and welfare of the citizens of the state of
18 Washington.

1 NEW SECTION. **Sec. 2.** INTENT. It is the intent of this act to:

2 (1) Establish a board of trustees responsible for the adoption of
3 actuarial standards to be applied to the plan;

4 (2) Provide for additional benefits for fire fighters and law
5 enforcement officers subject to the cost limitations provided for in
6 this act;

7 (3) Exercise fiduciary responsibility in the oversight of those
8 pension management functions assigned to the board;

9 (4) Provide effective monitoring of the plan by providing an annual
10 report to the legislature, to the members and beneficiaries of the
11 plan, and to the public;

12 (5) Establish contribution rates for employees and employers that
13 will guaranty viability of the plan, subject to the limitations
14 provided for in this act;

15 (6) Provide for an annual budget and to pay costs from the trust,
16 as part of the normal cost of the plan; and

17 (7) Enable the board of trustees to retain professional and
18 technical advisors as necessary for the fulfillment of their statutory
19 responsibilities.

20 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
21 section apply throughout this act unless the context clearly requires
22 otherwise.

23 (1) "Member" or "beneficiary" means:

24 (a) Current law enforcement officers and fire fighters who are
25 contributing to the plan;

26 (b) Retired employees or their named beneficiaries who receive
27 benefits from the plan; and

28 (c) Separated vested members of the plan who are not currently
29 receiving benefits.

30 (2) "Plan" means the law enforcement officers' and fire fighters'
31 retirement system plan 1.

32 (3) "Actuary" means the actuary employed by the board of trustees.

33 (4) "State actuary" means the actuary employed by the department.

34 (5) "Board" means the board of trustees.

35 (6) "Board member" means a member of the board of trustees.

36 (7) "Department" means the department of retirement systems.

1 (8) "Minimum benefits" means those benefits provided for in this
2 chapter as of July 1, 2004.

3 (9) "Employer" means the same as under RCW 41.26.030(2)(a).

4 (10) "Enrolled actuary" means an actuary who is enrolled under the
5 employee retirement income security act of 1974 (Subtitle C of Title
6 III) and who is a member of the society of actuaries or the American
7 academy of actuaries.

8 (11) "Increased benefit" means a benefit in addition to the minimum
9 benefits.

10 (12) "Trust" means the assets of the plan.

11 (13) "Benefits" means the age or service or combination thereof
12 required for retirement, the level of service and disability retirement
13 benefits, survivorship benefits, payment options including a deferred
14 retirement option plan, average final compensation, postretirement
15 cost-of-living adjustments, including health care and the elements of
16 compensation. Benefits shall not include the classifications of
17 employment eligible to participate in the plan.

18 (14) "Actuarially sound" means the plan is sufficiently funded to
19 meet its projected liabilities and to defray the reasonable expenses of
20 its operation based upon commonly accepted, sound actuarial principles.

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

24 (a) Of the initial appointments, one of the board members shall be
25 an active law enforcement officer who is a participant in the plan and
26 two appointees must be retired members of the plan. Beginning with the
27 first vacancy on or after January 1, 2008, all board appointments shall
28 be retired law enforcement officers who are members of the plan. The
29 law enforcement officer board members shall be appointed by the
30 governor from (i) a list provided by a recognized statewide
31 organization whose officers are elected by the members representing
32 state and local government police officers, deputies, and sheriffs and
33 excludes federal law enforcement officers, or (ii) a list of individual
34 members who submit their names for consideration for appointment.

35 (b) Of the initial appointments, one of the board members shall be
36 an active fire fighter who is a participant in the plan and two
37 appointees must be retired members of the plan. Beginning with the

1 first vacancy on or after January 1, 2008, all board appointments shall
2 be retired fire fighters who are members of the plan. The fire fighter
3 board member shall be appointed by the governor from (i) a list
4 provided by a recognized statewide organization whose officers are
5 elected by the members representing the interests of fire fighters, or
6 (ii) a list of individual members who submit their names for
7 consideration for appointment.

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

10 (d) One board member shall be a member of the house of
11 representatives who is appointed by the governor based on the
12 recommendation of the speaker of the house of representatives.

13 (e) One board member shall be a member of the senate who is
14 appointed by the governor based on the recommendation of the majority
15 leader of the senate.

16 (2) The initial law enforcement officer and fire fighter board
17 members shall serve terms of six, four, and two years, respectively.
18 Thereafter, law enforcement officer and fire fighter board members
19 serve terms of six years. The remaining board members serve terms of
20 four years. Board members may be reappointed to succeeding terms
21 without limitation. Board members shall serve until their successors
22 are appointed and seated.

23 (3) In the event of a vacancy on the board, the vacancy shall be
24 filled in the same manner as prescribed for an initial appointment.
25 However, after January 1, 2008, all appointees must be retired members
26 of the plan.

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

29 (1) The board of trustees have the following powers and duties and
30 shall:

31 (a) Adopt actuarial tables, assumptions, and cost methodologies in
32 consultation with an enrolled actuary retained by the board. The state
33 actuary shall provide assistance when the board requests. The actuary
34 retained by the board shall utilize the aggregate actuarial cost
35 method, or other recognized actuarial cost method based on a level
36 percentage of payroll, as that term is employed by the American academy
37 of actuaries. In determining the reasonableness of actuarial

1 valuations, assumptions, and cost methodologies, the actuary retained
2 by the board shall provide a copy of all such calculations to the state
3 actuary. If the two actuaries concur on the calculations,
4 contributions shall be made as set forth in the report of the board's
5 actuary. If the two actuaries cannot agree, they shall appoint a
6 third, independent, enrolled actuary who shall review the calculations
7 of the actuary retained by the board and the state actuary.
8 Thereafter, contributions shall be based on the methodology most
9 closely following that of the third actuary;

10 (b)(i) Provide for the design and implementation of increased
11 benefits for members and beneficiaries of the plan, subject to the
12 contribution limitations under section 6 of this act. An increased
13 benefit may not be approved by the board until an actuarial cost of the
14 benefit has been determined by the actuary and contribution rates
15 adjusted as may be required to maintain the plan on a sound actuarial
16 basis. Increased benefits as approved by the board shall be presented
17 to the legislature on January 1st of each year. The increased benefits
18 as approved by the board shall become effective within ninety days
19 unless a bill is enacted in the next ensuing session of the
20 legislature, by majority vote of each house of the legislature,
21 repealing the action of the board;

22 (ii) As an alternative to the procedure in (b)(i) of this
23 subsection, recommend to the legislature changes in the benefits for
24 members and beneficiaries, without regard to the cost limitations in
25 section 6(3) of this act. Benefits adopted in this manner shall have
26 the same contractual protections as the minimum benefits in the plan.
27 The recommendations of the board shall be presented to the legislature
28 on January 1st of each year. These measures shall take precedence over
29 all other measures in the legislature, except appropriations bills, and
30 shall be either enacted or rejected without change or amendment by the
31 legislature before the end of such regular session;

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

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

37 (e) Provide an annual report to the governor and the legislature
38 setting forth the actuarial funding status of the plan and making

1 recommendations for improvements in those aspects of retirement
2 administration directed by the legislature or administered by the
3 department;

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

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

9 (h) The board shall publish on an annual basis a schedule of
10 increased benefits together with a summary of the minimum benefits as
11 established by the legislature which shall constitute the official plan
12 document; and

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

15 (2) Meetings of the board of trustees shall be conducted as
16 follows:

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

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

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

25 (d) The board may establish, with the assistance of the appropriate
26 office of state government, an internet web site providing for
27 interactive communication with state government, members and
28 beneficiaries of the plan, and the public.

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

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

34 (5) A law enforcement officers' and fire fighters' retirement
35 system plan 1 expense fund is established for the purpose of defraying
36 the expenses of the board. The board shall cause an annual budget to
37 be prepared consistent with the requirements of chapter 43.88 RCW and
38 shall draw the funding for the budget from the investment income of the

1 trust. Board members shall be reimbursed for travel and education
2 expenses as provided in RCW 43.03.050 and 43.03.060. The board shall
3 make an annual report to the governor, legislature, and state auditor
4 setting forth a summary of the costs and expenditures of the plan for
5 the preceding year. The board shall also retain the services of an
6 independent, certified public accountant who shall annually audit the
7 expenses of the fund and whose report shall be included in the board's
8 annual report.

9 NEW SECTION. **Sec. 6.** CONTRIBUTIONS. (1) The board of trustees
10 shall establish contributions as set forth in this section. The cost
11 of the minimum benefits as defined in this plan shall be funded as set
12 forth in chapters 41.26 and 41.45 RCW.

13 (2) The minimum benefits shall constitute a contractual obligation
14 of the state and the contributing employers and may not be reduced
15 below the levels in effect on July 1, 2004. The state and the
16 contributing employers shall maintain the minimum benefits on a sound
17 actuarial basis in accordance with the actuarial standards adopted by
18 the board.

19 (3) Increased benefits created as provided for in section 5 of this
20 act are granted on a basis not to exceed the contributions provided for
21 in subsection (1) of this section. In the event that the cost of
22 maintaining the increased benefits on a sound actuarial basis exceeds
23 the aggregate contributions provided for in this section, the board may
24 submit to the affected members of the plan the option of paying the
25 increased costs or of having the increased benefits reduced to a level
26 sufficient to be maintained by the aggregate contributions. The
27 reduction of benefits in accordance with this section shall not be
28 deemed a violation of the contractual rights of the members, provided
29 that no reduction may result in benefits being lower than the level of
30 the minimum benefits.

31 (4) The board shall manage the trust in a manner that maintains
32 reasonable contributions and administrative costs. Providing
33 additional benefits to members and beneficiaries is the board's
34 priority.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 44.44 RCW
36 to read as follows:

1 The joint committee on pension policy has no authority over matters
2 under sections 1 through 6, 9, and 10 of this act.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 41.45 RCW
4 to read as follows:

5 The pension funding council has no authority over matters under
6 sections 1 through 6, 9, and 10 of this act.

7 NEW SECTION. **Sec. 9.** ASSET MANAGEMENT. Assets of the plan shall
8 be managed by the state investment board as provided by law.

9 NEW SECTION. **Sec. 10.** SEVERABILITY. If any provision of this act
10 or its application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 11.** CAPTIONS NOT LAW. Captions used in this
14 act are not any part of the law.

15 NEW SECTION. **Sec. 12.** IMPLEMENTING LEGISLATION. The department
16 of retirement systems and the office of the state actuary shall prepare
17 and submit to the fiscal committees of the legislature by January 15,
18 2004, proposed legislation for implementing this act.

19 NEW SECTION. **Sec. 13.** CODIFICATION. Sections 1 through 6, 9, and
20 10 of this act are each added to chapter 41.26 RCW and codified with
21 the subchapter heading of "plan 1 management."

22 NEW SECTION. **Sec. 14.** EFFECTIVE DATE. Except for section 12 of
23 this act, the remainder of this act takes effect July 1, 2004.

--- END ---