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**SUBSTITUTE HOUSE BILL 2197**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Conway, Benson, Grant, McDonald, Dunshee, Cox, Ruderman, Buck, Miloscia, Delvin, Cooper, Hinkle, Gombosky, Campbell, Simpson, Linville, Hunt, Berkey and Bush)

READ FIRST TIME 03/10/03.

1 AN ACT Relating to implementing Initiative Measure No. 790;  
2 amending RCW 44.44.040 and 41.45.060; reenacting and amending RCW  
3 41.45.070 and 43.79A.040; adding new sections to chapter 41.26 RCW;  
4 adding a new section to chapter 41.45 RCW; creating a new section; and  
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The law enforcement officers' and fire  
8 fighters' plan 2 retirement board established in section 4, chapter 2,  
9 Laws of 2003 has the following duties and powers in addition to any  
10 other duties or powers authorized or required by law. The board:

11 (1) Shall employ staff as necessary to implement the purposes of  
12 chapter 2, Laws of 2003. Staff must be state employees under Title 41  
13 RCW;

14 (2) Shall adopt an annual budget as provided in section 5, chapter  
15 2, Laws of 2003. Expenses of the board are paid from the expense fund  
16 created in section 6 of this act;

17 (3) May make, execute, and deliver contracts, conveyances, and  
18 other instruments necessary to exercise and discharge its powers and  
19 duties;

1 (4) May contract for all or part of the services necessary for the  
2 management and operation of the board with other state or nonstate  
3 entities authorized to do business in the state; and

4 (5) May contract with actuaries, auditors, and other consultants as  
5 necessary to carry out its responsibilities.

6 **Sec. 2.** RCW 44.44.040 and 1987 c 25 s 3 are each amended to read  
7 as follows:

8 The office of the state actuary shall have the following powers and  
9 duties:

10 (1) Perform all actuarial services for the department of retirement  
11 systems, including all studies required by law. Reimbursement for such  
12 services shall be made to the state actuary pursuant to the provisions  
13 of RCW 39.34.130 as now or hereafter amended.

14 (2) Advise the legislature and the governor regarding pension  
15 benefit provisions, and funding policies and investment policies of the  
16 state investment board.

17 (3) Consult with the legislature and the governor concerning  
18 determination of actuarial assumptions used by the department of  
19 retirement systems.

20 (4) Prepare a report, to be known as the actuarial fiscal note, on  
21 each pension bill introduced in the legislature which briefly explains  
22 the financial impact of the bill. The actuarial fiscal note shall  
23 include: (a) The statutorily required contribution for the biennium  
24 and the following twenty-five years; (b) the biennial cost of the  
25 increased benefits if these exceed the required contribution; and (c)  
26 any change in the present value of the unfunded accrued benefits. An  
27 actuarial fiscal note shall also be prepared for all amendments which  
28 are offered in committee or on the floor of the house of  
29 representatives or the senate to any pension bill. However, a majority  
30 of the members present may suspend the requirement for an actuarial  
31 fiscal note for amendments offered on the floor of the house of  
32 representatives or the senate.

33 (5) Provide such actuarial services to the legislature as may be  
34 requested from time to time.

35 (6) Provide staff and assistance to the committee established under  
36 RCW (~~46.44.050~~) 44.44.050.

1       (7) Provide actuarial assistance to the law enforcement officers'  
2 and fire fighters' plan 2 retirement board as provided in chapter 2,  
3 Laws of 2003. Reimbursement for services shall be made to the state  
4 actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of 2003.

5       **Sec. 3.** RCW 41.45.060 and 2002 c 26 s 2 are each amended to read  
6 as follows:

7       (1) The state actuary shall provide actuarial valuation results  
8 based on the economic assumptions and asset value smoothing technique  
9 included in RCW 41.45.035 or adopted by the council under RCW 41.45.030  
10 or 41.45.035.

11       (2) Not later than September 30, 2002, and every two years  
12 thereafter, consistent with the economic assumptions and asset value  
13 smoothing technique included in RCW 41.45.035 or adopted under RCW  
14 41.45.030 or 41.45.035, the council shall adopt and may make changes  
15 to:

16       (a) A basic state contribution rate for the law enforcement  
17 officers' and fire fighters' retirement system plan 1;

18       (b) Basic employer contribution rates for the public employees'  
19 retirement system, the teachers' retirement system, and the Washington  
20 state patrol retirement system to be used in the ensuing biennial  
21 period; and

22       (c) A basic employer contribution rate for the school employees'  
23 retirement system for funding both that system and the public  
24 employees' retirement system plan 1.

25       The contribution rates adopted by the council shall be subject to  
26 revision by the legislature.

27       (3) The employer and state contribution rates adopted by the  
28 council shall be the level percentages of pay that are needed:

29       (a) To fully amortize the total costs of the public employees'  
30 retirement system plan 1, the teachers' retirement system plan 1, and  
31 the law enforcement officers' and fire fighters' retirement system plan  
32 1 not later than June 30, 2024, except as provided in subsection (5) of  
33 this section; and

34       (b) To also continue to fully fund the public employees' retirement  
35 system plans 2 and 3, the teachers' retirement system plans 2 and 3,  
36 and the school employees' retirement system plans 2 and 3(~~(, and the~~

1 ~~law enforcement officers' and fire fighters' retirement system plan 2))~~  
2 in accordance with RCW 41.45.061, 41.45.067, and this section(~~(i) and~~  
3 ~~(c) For the law enforcement officers' and fire fighters' system~~  
4 ~~plan 2 the rate charged to employers, except as provided in RCW~~  
5 ~~41.26.450, shall be thirty percent of the cost of the retirement system~~  
6 ~~and the rate charged to the state shall be twenty percent of the cost~~  
7 ~~of the retirement system)).~~

8 (4) The aggregate actuarial cost method shall be used to calculate  
9 a combined plan 2 and 3 employer contribution rate and a Washington  
10 state patrol retirement system contribution rate.

11 (5) The council shall immediately notify the directors of the  
12 office of financial management and department of retirement systems of  
13 the state and employer contribution rates adopted. The rates shall be  
14 effective for the ensuing biennial period, subject to any legislative  
15 modifications.

16 (6) The director of the department of retirement systems shall  
17 collect the rates established in RCW 41.45.053 through June 30, 2003.  
18 Thereafter, the director shall collect those rates adopted by the  
19 council. The rates established in RCW 41.45.053, or by the council,  
20 shall be subject to revision by the council.

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

23 (1) Not later than September 30, 2004, and every even-numbered year  
24 thereafter, the law enforcement officers' and fire fighters' plan 2  
25 retirement board shall adopt contribution rates for the law enforcement  
26 officers' and fire fighters' retirement system plan 2 as provided in  
27 RCW 41.26.720(1)(a).

28 (2) The law enforcement officers' and fire fighters' plan 2  
29 retirement board shall immediately notify the directors of the office  
30 of financial management and department of retirement systems of the  
31 state, employer, and employee rates adopted. Thereafter, the director  
32 shall collect those rates adopted by the board. The rates shall be  
33 effective for the ensuing biennial period, subject to any legislative  
34 modifications.

35 **Sec. 5.** RCW 41.45.070 and 2001 2nd sp.s. c 11 s 16 and 2001 2nd  
36 sp.s. c 11 s 15 are each reenacted and amended to read as follows:

1 (1) In addition to the basic employer contribution rate established  
2 in RCW 41.45.060 (~~or 41.45.053~~), the department shall also charge  
3 employers of public employees' retirement system, teachers' retirement  
4 system, school employees' retirement system, or Washington state patrol  
5 retirement system members an additional supplemental rate to pay for  
6 the cost of additional benefits, if any, granted to members of those  
7 systems. Except as provided in subsections (6) and (7) of this  
8 section, the supplemental contribution rates required by this section  
9 shall be calculated by the state actuary and shall be charged  
10 regardless of language to the contrary contained in the statute which  
11 authorizes additional benefits.

12 (2) In addition to the basic member, employer, and state  
13 contribution rate established in (~~RCW 41.45.060 or 41.45.053~~) section  
14 4 of this act for the law enforcement officers' and fire fighters'  
15 retirement system plan 2, the department shall also establish (~~a~~)  
16 supplemental rates to pay for the cost of additional benefits, if any,  
17 granted to members of the law enforcement officers' and fire fighters'  
18 retirement system plan 2. Except as provided in subsection (6) of this  
19 section, (~~this~~) these supplemental rates shall be calculated by the  
20 actuary retained by the law enforcement officers' and fire fighters'  
21 board and the state actuary through the process provided in RCW  
22 41.26.720(1)(a) and the state treasurer shall transfer the additional  
23 required contributions regardless of language to the contrary contained  
24 in the statute which authorizes the additional benefits.

25 (3) The supplemental rate charged under this section to fund  
26 benefit increases provided to active members of the public employees'  
27 retirement system plan 1, the teachers' retirement system plan 1, and  
28 Washington state patrol retirement system, shall be calculated as the  
29 level percentage of all members' pay needed to fund the cost of the  
30 benefit not later than June 30, 2024.

31 (4) The supplemental rate charged under this section to fund  
32 benefit increases provided to active and retired members of the public  
33 employees' retirement system plan 2 and plan 3, the teachers'  
34 retirement system plan 2 and plan 3, or the school employees'  
35 retirement system plan 2 and plan 3(~~, or the law enforcement officers'~~  
36 ~~and fire fighters' retirement system plan 2,~~) shall be calculated as  
37 the level percentage of all members' pay needed to fund the cost of the  
38 benefit, as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

1 (5) The supplemental rate charged under this section to fund  
2 postretirement adjustments which are provided on a nonautomatic basis  
3 to current retirees shall be calculated as the percentage of pay needed  
4 to fund the adjustments as they are paid to the retirees. The  
5 supplemental rate charged under this section to fund automatic  
6 postretirement adjustments for active or retired members of the public  
7 employees' retirement system plan 1 and the teachers' retirement system  
8 plan 1 shall be calculated as the level percentage of pay needed to  
9 fund the cost of the automatic adjustments not later than June 30,  
10 2024.

11 (6) A supplemental rate shall not be charged to pay for the cost of  
12 additional benefits granted to members pursuant to chapter 340, Laws of  
13 1998.

14 (7) A supplemental rate shall not be charged to pay for the cost of  
15 additional benefits granted to members pursuant to chapter 41.31A RCW;  
16 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,  
17 Laws of 1998.

18 NEW SECTION. **Sec. 6.** (1) A law enforcement officers' and fire  
19 fighters' retirement system plan 2 expense fund is created within the  
20 law enforcement officers' and fire fighters' retirement system plan 2  
21 fund.

22 (2) The state investment board has the full power to invest,  
23 reinvest, manage, contract, sell, or exchange investment money in the  
24 expense fund. The state investment board is authorized to adopt  
25 investment policies for the money in the expense fund. All investment  
26 and operating costs associated with the investment of money shall be  
27 paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of  
28 these expenses, the earnings from the investment of the money shall be  
29 retained by the law enforcement officers' and fire fighters' retirement  
30 system plan 2 fund.

31 (3) All investments made by the investment board shall be made with  
32 the exercise of that degree of judgment and care pursuant to RCW  
33 43.33A.140 and the investment policy established by the state  
34 investment board.

35 (4) When appropriate for investment purposes, the state investment  
36 board may commingle money in the expense fund with other funds.

1 (5) The authority to establish all policies relating to the expense  
2 fund, other than the investment policies as set forth in subsections  
3 (2) through (4) of this section, resides with the law enforcement  
4 officers' and fire fighters' plan 2 retirement board. With the  
5 exception of investments by, and expenses of, the state investment  
6 board set forth in subsection (2) of this section, disbursements from  
7 this expense fund may be made only on the authorization of the law  
8 enforcement officers' and fire fighters' plan 2 retirement board, and  
9 money in the expense fund may be spent only for the purposes of  
10 defraying the expenses of the law enforcement officers' and fire  
11 fighters' plan 2 retirement board as provided in section 5, chapter 2,  
12 Laws of 2003.

13 (6) The state investment board shall routinely consult and  
14 communicate with the law enforcement officers' and fire fighters' plan  
15 2 retirement board on the investment policy, earnings of the trust, and  
16 related needs of the expense fund.

17 (7) The law enforcement officers' and fire fighters' plan 2  
18 retirement board shall administer the expense fund in a manner  
19 reasonably designed to be actuarially sound. The assets of the expense  
20 fund must be sufficient to defray the obligations of the account  
21 including the costs of administration. Money used for administrative  
22 expenses is subject to the allotment of all expenditures pursuant to  
23 chapter 43.88 RCW. However, an appropriation is not required for  
24 expenditures. Administrative expenses include, but are not limited to,  
25 the salaries and expenses of law enforcement officers' and fire  
26 fighters' plan 2 retirement board personnel including lease payments,  
27 travel, and goods and services necessary for operation of the board,  
28 audits, and other general costs of conducting the business of the  
29 board.

30 (8) The state investment board shall allocate from the law  
31 enforcement officers' and fire fighters' retirement system plan 2 fund  
32 to the expense fund the amount necessary to cover the expenses of the  
33 law enforcement officers' and fire fighters' plan 2 retirement board.

34 NEW SECTION. **Sec. 7.** All expenses of the department and the  
35 office of the state actuary related to the implementation of chapter 2,  
36 Laws of 2003 shall be reimbursed from the law enforcement officers' and  
37 fire fighters' retirement system expense fund under RCW 39.34.130.

1           **Sec. 8.** RCW 43.79A.040 and 2002 c 322 s 5, 2002 c 204 s 7, and  
2 2002 c 61 s 6 are each reenacted and amended to read as follows:

3           (1) Money in the treasurer's trust fund may be deposited, invested,  
4 and reinvested by the state treasurer in accordance with RCW 43.84.080  
5 in the same manner and to the same extent as if the money were in the  
6 state treasury.

7           (2) All income received from investment of the treasurer's trust  
8 fund shall be set aside in an account in the treasury trust fund to be  
9 known as the investment income account.

10           (3) The investment income account may be utilized for the payment  
11 of purchased banking services on behalf of treasurer's trust funds  
12 including, but not limited to, depository, safekeeping, and  
13 disbursement functions for the state treasurer or affected state  
14 agencies. The investment income account is subject in all respects to  
15 chapter 43.88 RCW, but no appropriation is required for payments to  
16 financial institutions. Payments shall occur prior to distribution of  
17 earnings set forth in subsection (4) of this section.

18           (4)(a) Monthly, the state treasurer shall distribute the earnings  
19 credited to the investment income account to the state general fund  
20 except under (b) and (c) of this subsection.

21           (b) The following accounts and funds shall receive their  
22 proportionate share of earnings based upon each account's or fund's  
23 average daily balance for the period: The Washington promise  
24 scholarship account, the college savings program account, the  
25 Washington advanced college tuition payment program account, the  
26 agricultural local fund, the American Indian scholarship endowment  
27 fund, the basic health plan self-insurance reserve account, the  
28 Washington state combined fund drive account, the Washington  
29 international exchange scholarship endowment fund, the developmental  
30 disabilities endowment trust fund, the energy account, the fair fund,  
31 the fruit and vegetable inspection account, the game farm alternative  
32 account, the grain inspection revolving fund, the juvenile  
33 accountability incentive account, the law enforcement officers' and  
34 fire fighters' plan 2 expense fund, the rural rehabilitation account,  
35 the stadium and exhibition center account, the youth athletic facility  
36 account, the self-insurance revolving fund, the sulfur dioxide  
37 abatement account, and the children's trust fund. However, the



1 earnings to be distributed shall first be reduced by the allocation to  
2 the state treasurer's service fund pursuant to RCW 43.08.190.

3 (c) The following accounts and funds shall receive eighty percent  
4 of their proportionate share of earnings based upon each account's or  
5 fund's average daily balance for the period: The advanced right of way  
6 revolving fund, the advanced environmental mitigation revolving  
7 account, the city and county advance right-of-way revolving fund, the  
8 federal narcotics asset forfeitures account, the high occupancy vehicle  
9 account, the local rail service assistance account, and the  
10 miscellaneous transportation programs account.

11 (5) In conformance with Article II, section 37 of the state  
12 Constitution, no trust accounts or funds shall be allocated earnings  
13 without the specific affirmative directive of this section.

14 NEW SECTION. **Sec. 9.** Sections 1, 6, and 7 of this act are each  
15 added to chapter 41.26 RCW and codified with the subchapter heading of  
16 "plan 2 governance."

17 NEW SECTION. **Sec. 10.** In the event a final judicial decision  
18 renders Initiative Measure No. 790 unenforceable, in whole or in part,  
19 making this act or parts of this act unnecessary, unreasonable, or  
20 impossible to implement, the director of the department of retirement  
21 systems shall adopt rules as necessary to implement chapters 41.26 and  
22 41.45 RCW as they existed on November 1, 2002. The director shall  
23 prepare and submit corrective legislation to the legislature.

24 NEW SECTION. **Sec. 11.** If any provision of this act or its  
25 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. 12.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 immediately.

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