
HOUSE BILL 2197

State of Washington

58th Legislature

2003 Regular Session

By Representatives Conway, Benson, Grant, McDonald, Dunshee, Cox, Ruderman, Buck, Miloscia, Delvin, Cooper, Hinkle, Gombosky, Campbell, Simpson, Linville, Hunt and Berkey

Read first time 03/04/2003. Referred to Committee on Appropriations.

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 41.45.061 and 41.45.070; adding new sections to chapter 41.26 RCW;
4 creating new sections; providing an effective date; and declaring an
5 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 5 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
33 ~~((+5))~~ (6) of 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(~~(, 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 law enforcement officers' and fire fighters' plan 2
12 retirement board shall adopt contributions rates for the law
13 enforcement officers' and fire fighters' retirement system plan 2 as
14 provided in chapter 2, Laws of 2003.

15 (6) The council and the law enforcement officers' and fire
16 fighters' plan 2 retirement board shall immediately notify the
17 directors of the office of financial management and department of
18 retirement systems of the state and employer contribution rates
19 adopted. The rates shall be effective for the ensuing biennial period,
20 subject to any legislative modifications.

21 ~~((6) The director of the department of retirement systems shall~~
22 ~~collect the rates established in RCW 41.45.053 through June 30, 2003.~~
23 ~~Thereafter,)) (7) The director shall collect those rates adopted by the~~
24 ~~council or the law enforcement officers' and fire fighters' plan 2~~
25 ~~retirement board. The rates established ((in RCW 41.45.053, or)) by~~
26 ~~the council((, shall be)) are subject to revision by the council.~~

27 **Sec. 4.** RCW 41.45.061 and 2001 2nd sp.s. c 11 s 13, 2001 2nd sp.s.
28 c 11 s 12, and 2001 c 180 s 1 are each reenacted and amended to read as
29 follows:

30 (1) The required contribution rate for members of the plan 2
31 teachers' retirement system shall be fixed at the rates in effect on
32 July 1, 1996, subject to the following:

33 (a) Beginning September 1, 1997, except as provided in (b) of this
34 subsection, the employee contribution rate shall not exceed the
35 employer plan 2 and 3 rates adopted under RCW 41.45.060(~~(, 41.45.053,)~~)
36 and 41.45.070 for the teachers' retirement system;

1 (b) In addition, the employee contribution rate for plan 2 shall be
2 increased by fifty percent of the contribution rate increase caused by
3 any plan 2 benefit increase passed after July 1, 1996;

4 (c) In addition, the employee contribution rate for plan 2 shall
5 not be increased as a result of any distributions pursuant to section
6 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

7 (2) The required contribution rate for members of the school
8 employees' retirement system plan 2 shall equal the school employees'
9 retirement system employer plan 2 and 3 contribution rate adopted under
10 RCW 41.45.060(~~(, 41.45.053,)~~) and 41.45.070, except as provided in
11 subsection (3) of this section.

12 (3) The member contribution rate for the school employees'
13 retirement system plan 2 shall be increased by fifty percent of the
14 contribution rate increase caused by any plan 2 benefit increase passed
15 after September 1, 2000.

16 (4) The required contribution rate for members of the public
17 employees' retirement system plan 2 shall be set at the same rate as
18 the employer combined plan 2 and plan 3 rate.

19 (5) The required contribution rate for members of the law
20 enforcement officers' and fire fighters' retirement system plan 2 shall
21 be set (~~(at fifty percent of the cost of the retirement system)~~) as
22 provided in chapter 2, Laws of 2003.

23 (6) The employee contribution rates for plan 2 under subsections
24 (3) and (4) of this section shall not include any increase as a result
25 of any distributions pursuant to RCW 41.31A.020 and 41.31A.030.

26 (7) The required plan 2 and 3 contribution rates for employers
27 shall be adopted in the manner described in RCW 41.45.060(~~(, 41.45.053,)~~)
28 and 41.45.070.

29 NEW SECTION. Sec. 5. (1) A law enforcement officers' and fire
30 fighters' retirement system plan 2 expense fund is created within the
31 law enforcement officers' and fire fighters' retirement system plan 2
32 fund.

33 (2) The state investment board has the full power to invest,
34 reinvest, manage, contract, sell, or exchange money in the expense
35 fund. The state investment board is authorized to adopt investment
36 policies for the money in the expense fund. All investment and
37 operating costs associated with the investment of money shall be paid

1 pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these
2 expenses, the earnings from the investment of the money shall be
3 retained by the law enforcement officers' and fire fighters' retirement
4 system plan 2 fund.

5 (3) All investments made by the investment board shall be made with
6 the exercise of that degree of judgment and care pursuant to RCW
7 43.33A.140 and the investment policy established by the state
8 investment board.

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

11 (5) The authority to establish all policies relating to the expense
12 fund, other than the investment policies established by the state
13 investment board as set forth in subsections (2) through (4) of this
14 section, resides with the law enforcement officers' and fire fighters'
15 plan 2 retirement board. With the exception of investments by, and
16 expenses of, the state investment board set forth in subsection (2) of
17 this section, disbursements from this expense fund may be made only on
18 the authorization of the law enforcement officers' and fire fighters'
19 plan 2 retirement board, and money in the expense fund may be spent
20 only for the purposes of defraying the expenses of the law enforcement
21 officers' and fire fighters' plan 2 retirement board as provided in
22 section 5, chapter 2, Laws of 2003.

23 (6) The state investment board shall routinely consult and
24 communicate with the law enforcement officers' and fire fighters' plan
25 2 retirement board on the investment policy, earnings of the trust, and
26 related needs of the expense fund.

27 (7) The law enforcement officers' and fire fighters' plan 2
28 retirement board shall administer the expense fund in a manner
29 reasonably designed to be sound. The assets of the expense fund must
30 be sufficient to defray the obligations of the fund including the costs
31 of administration. Money used for administrative expenses is subject
32 to the allotment of all expenditures pursuant to chapter 43.88 RCW.
33 However, an appropriation is not required for expenditures.
34 Administrative expenses include, but are not limited to, the salaries
35 and expenses of law enforcement officers' and fire fighters' plan 2
36 retirement board personnel including lease payments, travel, and goods
37 and services necessary for operation of the board, audits, and other
38 general costs of conducting the business of the board.

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

5 **Sec. 6.** RCW 41.45.070 and 2001 2nd sp.s. c 11 s 16 and 2001 2nd
6 sp.s. c 11 s 15 are each reenacted and amended to read as follows:

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

18 (2) In addition to the basic state contribution rate established in
19 RCW 41.45.060 (~~(or 41.45.053)~~) for the law enforcement officers' and
20 fire fighters' retirement system plan 2, the department shall also
21 establish a supplemental rate to pay for the cost of additional
22 benefits, if any, granted to members of the law enforcement officers'
23 and fire fighters' retirement system plan 2. Except as provided in
24 subsection (6) of this section, this supplemental rate shall be
25 calculated by the (~~(state actuary)~~) law enforcement officers' and fire
26 fighters' plan 2 retirement board under chapter 2, Laws of 2003 and the
27 state treasurer shall transfer the additional required contributions
28 regardless of language to the contrary contained in the statute which
29 authorizes the additional benefits.

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

36 (4) The supplemental rate charged under this section to fund
37 benefit increases provided to active and retired members of the public

1 employees' retirement system plan 2 and plan 3, the teachers'
2 retirement system plan 2 and plan 3, the school employees' retirement
3 system plan 2 and plan 3, or the law enforcement officers' and fire
4 fighters' retirement system plan 2, shall be calculated as the level
5 percentage of all members' pay needed to fund the cost of the benefit,
6 as calculated under RCW 41.45.060, 41.45.061, (~~(or)~~) 41.45.067, or
7 chapter 2, Laws of 2003.

8 (5) The supplemental rate charged under this section to fund
9 postretirement adjustments which are provided on a nonautomatic basis
10 to current retirees shall be calculated as the percentage of pay needed
11 to fund the adjustments as they are paid to the retirees. The
12 supplemental rate charged under this section to fund automatic
13 postretirement adjustments for active or retired members of the public
14 employees' retirement system plan 1 and the teachers' retirement system
15 plan 1 shall be calculated as the level percentage of pay needed to
16 fund the cost of the automatic adjustments not later than June 30,
17 2024.

18 (6) A supplemental rate shall not be charged to pay for the cost of
19 additional benefits granted to members pursuant to chapter 340, Laws of
20 1998.

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

25 NEW SECTION. Sec. 7. All expenses of the department and the
26 office of the state actuary related to the implementation of chapter 2,
27 Laws of 2003 shall be reimbursed under RCW 39.34.130.

28 NEW SECTION. Sec. 8. If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. Sec. 9. This act is intended to facilitate the
33 operation of chapter 2, Laws of 2003 and shall be liberally construed
34 to achieve that purpose.

1 NEW SECTION. **Sec. 10.** Sections 1, 5, and 7 of this act are each
2 added to chapter 41.26 RCW and codified with the subchapter heading of
3 "plan 2 governance."

4 NEW SECTION. **Sec. 11.** In the event a final judicial decision
5 renders Initiative Measure No. 790 unenforceable, in whole or in part,
6 making this act or parts of this act unnecessary, unreasonable, or
7 impossible to implement, the director of retirement systems shall adopt
8 rules as necessary to implement chapters 41.26 and 41.45 RCW as they
9 existed on November 1, 2002. The director shall prepare and submit
10 corrective legislation to the legislature.

11 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 July 1, 2003.

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