
SECOND SUBSTITUTE SENATE BILL 5544

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel, Fairley, Brandland, Keiser, Franklin, Benson and Kohl-Welles)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to creating the Washington voluntary accounts
2 program; amending RCW 43.33A.070 and 43.84.092; adding a new chapter to
3 Title 41 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that many workers do
6 not have access to an employment-based retirement plan. Workers who
7 are unable to build up pensions and savings risk living on low incomes
8 in their old age and are more likely to become dependent on state
9 services. The Washington voluntary accounts program will provide a
10 simple and inexpensive way for workers to save for retirement and
11 employers to offer an employee benefit.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Program" means the Washington voluntary accounts program
15 created under section 3 of this act.

16 (2) "Director" means the director of the department of retirement
17 systems.

1 (3) "Participating employee" means any workers in this state that
2 choose to participate in the program.

3 (4) "Participating employer" means any private employer, with a
4 place of business in this state, and with employees that have chosen to
5 participate in the program.

6 NEW SECTION. **Sec. 3.** The Washington voluntary accounts program is
7 created. The director may adopt rules as necessary to implement this
8 chapter. No part of this chapter, except for the creation of the
9 principal and administrative accounts in section 6 of this act, may be
10 implemented until funds sufficient for plan design and tax-
11 qualification, as determined by the director, have been deposited into
12 the Washington voluntary accounts program administrative account.

13 Sections 4 and 5 of this act shall not be implemented until
14 appropriate start-up funds for operating the program have been
15 identified and an appropriation is made specifically referencing these
16 sections in the operating budget.

17 The Washington voluntary accounts program is designed to provide an
18 inexpensive way for low-income workers to save, and a large group of
19 participants is required to administer the program at a low cost to
20 each participant. If at the end of the sixth year after the program
21 first began accepting participating employees the Washington voluntary
22 accounts program has not reached the size necessary to be self-
23 supporting with an appropriate level of administrative fees, the
24 director shall recommend to the fiscal committees of the legislature a
25 method of terminating the program. At no time shall funds from the
26 department of retirement systems expense fund be used to administer the
27 program or to obtain program funding.

28 NEW SECTION. **Sec. 4.** (1) Private employers shall, in cooperation
29 with the department, provide employees with the opportunity to
30 participate in the Washington voluntary accounts program, including
31 payroll deductions for those employees who elect to contribute to
32 individual retirement accounts. Each participating employer is
33 authorized to contract with a participating employee to defer or
34 otherwise contribute a portion of that employee's compensation, in
35 accordance with the internal revenue code or other applicable federal
36 laws.

1 (2) Participating employees may self-direct the investment of their
2 account balances through selection among investment options to the
3 extent provided in subsection (3) of this section.

4 (3) The director may provide the individual retirement account
5 plans as the department determines to be advisable. The state
6 investment board, with respect to the program, shall invest the
7 contributions of participating employees, in accordance with federal
8 law, and to the extent permissible under federal law, in accordance
9 with RCW 43.84.150, 43.33A.140, and 41.50.780, and pursuant to
10 investment policy established by the state investment board for the
11 program. The state investment board shall provide investment options
12 for participants to choose from, and may establish an investment plan
13 for participants who choose not to self-direct their investments.

14 NEW SECTION. **Sec. 5.** The director may also provide plans,
15 including 401(k) plans and savings incentive match plan for employees
16 individual retirement account plans, that employers may elect to adopt
17 for the benefit of their employees, and that comply with applicable
18 federal laws. However, this act does not require employers to provide
19 plans for their employees. Those employers that elect to adopt plans
20 are responsible for complying with any applicable federal laws and
21 regulations.

22 NEW SECTION. **Sec. 6.** (1) The Washington voluntary accounts
23 program principal account is created in the state treasury and shall be
24 administered in compliance with applicable federal law and as set forth
25 in this section. The department shall make arrangements with financial
26 institutions to serve as trustees or custodians of Washington voluntary
27 accounts as may be required or advisable to comply with applicable
28 federal law and to provide for the efficient implementation and
29 administration of the program.

30 (2) The contributions elected by participating employees in
31 accordance with sections 4 and 5 of this act shall be paid into the
32 Washington voluntary accounts program principal account and shall be
33 sufficient to cover costs of administration and staffing in addition to
34 such other amounts as may be determined by the director. The account
35 shall be used to carry out the purposes of this chapter.

1 (3) All moneys in the Washington voluntary accounts program
2 principal account and the Washington voluntary accounts program
3 administrative account, all property and rights purchased therewith,
4 and all income attributable thereto, shall be held in trust by the
5 state investment board, as set forth under RCW 43.33A.030, for the
6 exclusive benefit of the Washington voluntary accounts program
7 participants and their beneficiaries, and, notwithstanding any other
8 provision of this or related acts, shall be held separate from other
9 types of funds to the extent required by federal law. Neither the
10 participating employee, nor the participant's beneficiary or
11 beneficiaries, nor any other designee, has any right to commute, sell,
12 assign, transfer, or otherwise convey the right to receive any payments
13 under the program. These payments and rights are nonassignable and
14 nontransferable. Account balances are not subject to attachment,
15 garnishment, or execution and are not transferable by operation of law
16 in event of bankruptcy or insolvency, except to the extent otherwise
17 required by law.

18 (4) The state investment board has the full power to invest moneys
19 in the Washington voluntary accounts program principal account and the
20 Washington voluntary accounts program administrative account in
21 accordance with RCW 43.84.150, 43.33A.140, and 41.50.770, and
22 cumulative investment directions received under this chapter. All
23 investment and operating costs of the state investment board associated
24 with the investment of the program assets shall be paid under RCW
25 43.33A.160 and 43.84.160. With the exception of these expenses, one
26 hundred percent of all earnings from these investments shall accrue
27 directly to the Washington voluntary accounts program principal
28 account.

29 (5)(a) No state board, commission, or agency, or any officer,
30 employee, or member is liable for any loss or deficiency resulting from
31 participant investments selected under this chapter.

32 (b) The state investment board, or any officer, employee, or member
33 is not liable for any loss or deficiency resulting from reasonable
34 efforts to implement investment directions under this chapter.

35 (6) The Washington voluntary accounts program administrative
36 account is created in the state treasury. All expenses of the
37 department pertaining to the Washington voluntary accounts program
38 including staffing and administrative expenses shall be paid out of the

1 Washington voluntary accounts program administrative account. Any
2 excess balances credited to this account over administrative expenses
3 disbursed from this account shall be transferred to the Washington
4 voluntary accounts program principal account at such time and in such
5 amounts as may be determined by the director with the approval of the
6 director of financial management. Any deficiency in the Washington
7 voluntary accounts program administrative account caused by an excess
8 of administrative expenses disbursed from this account shall be
9 transferred to this account from the Washington voluntary accounts
10 program principal account.

11 (7)(a)(i) The director shall keep or cause to be kept full and
12 adequate accounts and records of the assets of each individual
13 participant, obligations, transactions, and affairs of the program.
14 The department shall account for and report on the investment of
15 program assets or may enter into an agreement with the state investment
16 board for accounting and reporting.

17 (ii) The director's duties related to individual participant
18 accounts include conducting the activities of trade instruction,
19 settlement activities, and direction of cash movement and related wire
20 transfers with the custodian bank and outside investment firms.

21 (iii) The director has sole responsibility for contracting with any
22 recordkeepers for individual participant accounts and shall manage the
23 performance of recordkeepers under those contracts.

24 (b)(i) The director's duties under (a)(ii) of this subsection do
25 not limit the authority of the state investment board to conduct its
26 responsibilities for asset management and balancing of program funds.

27 (ii) The state investment board has sole responsibility for
28 contracting with outside investment firms to provide investment
29 management for program funds and shall manage the performance of
30 investment managers under those contracts.

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

33 **Sec. 7.** RCW 43.33A.070 and 1981 c 3 s 7 are each amended to read
34 as follows:

35 No member of the state investment board is liable for the
36 negligence, default, or failure of any other person or other member of
37 the board to perform the duties of the member's office and no member of

1 the board shall be considered or held to be an insurer of the funds or
2 assets of any of the trust and retirement funds, including funds or
3 assets of the voluntary accounts program, nor is any nonvoting member
4 liable for actions performed with the exercise of reasonable diligence
5 within the scope of the member's authorized activities as a member of
6 the board.

7 **Sec. 8.** RCW 43.84.092 and 2004 c 242 s 60 are each amended to read
8 as follows:

9 (1) All earnings of investments of surplus balances in the state
10 treasury shall be deposited to the treasury income account, which
11 account is hereby established in the state treasury.

12 (2) The treasury income account shall be utilized to pay or receive
13 funds associated with federal programs as required by the federal cash
14 management improvement act of 1990. The treasury income account is
15 subject in all respects to chapter 43.88 RCW, but no appropriation is
16 required for refunds or allocations of interest earnings required by
17 the cash management improvement act. Refunds of interest to the
18 federal treasury required under the cash management improvement act
19 fall under RCW 43.88.180 and shall not require appropriation. The
20 office of financial management shall determine the amounts due to or
21 from the federal government pursuant to the cash management improvement
22 act. The office of financial management may direct transfers of funds
23 between accounts as deemed necessary to implement the provisions of the
24 cash management improvement act, and this subsection. Refunds or
25 allocations shall occur prior to the distributions of earnings set
26 forth in subsection (4) of this section.

27 (3) Except for the provisions of RCW 43.84.160, the treasury income
28 account may be utilized for the payment of purchased banking services
29 on behalf of treasury funds including, but not limited to, depository,
30 safekeeping, and disbursement functions for the state treasury and
31 affected state agencies. The treasury income account is subject in all
32 respects to chapter 43.88 RCW, but no appropriation is required for
33 payments to financial institutions. Payments shall occur prior to
34 distribution of earnings set forth in subsection (4) of this section.

35 (4) Monthly, the state treasurer shall distribute the earnings
36 credited to the treasury income account. The state treasurer shall

1 credit the general fund with all the earnings credited to the treasury
2 income account except:

3 (a) The following accounts and funds shall receive their
4 proportionate share of earnings based upon each account's and fund's
5 average daily balance for the period: The capitol building
6 construction account, the Cedar River channel construction and
7 operation account, the Central Washington University capital projects
8 account, the charitable, educational, penal and reformatory
9 institutions account, the common school construction fund, the county
10 criminal justice assistance account, the county sales and use tax
11 equalization account, the data processing building construction
12 account, the deferred compensation administrative account, the deferred
13 compensation principal account, the department of retirement systems
14 expense account, the drinking water assistance account, the drinking
15 water assistance administrative account, the drinking water assistance
16 repayment account, the Eastern Washington University capital projects
17 account, the education construction fund, the election account, the
18 emergency reserve fund, The Evergreen State College capital projects
19 account, the federal forest revolving account, the health services
20 account, the public health services account, the health system capacity
21 account, the personal health services account, the state higher
22 education construction account, the higher education construction
23 account, the highway infrastructure account, the industrial insurance
24 premium refund account, the judges' retirement account, the judicial
25 retirement administrative account, the judicial retirement principal
26 account, the local leasehold excise tax account, the local real estate
27 excise tax account, the local sales and use tax account, the medical
28 aid account, the mobile home park relocation fund, the multimodal
29 transportation account, the municipal criminal justice assistance
30 account, the municipal sales and use tax equalization account, the
31 natural resources deposit account, the oyster reserve land account, the
32 perpetual surveillance and maintenance account, the public employees'
33 retirement system plan 1 account, the public employees' retirement
34 system combined plan 2 and plan 3 account, the public facilities
35 construction loan revolving account beginning July 1, 2004, the public
36 health supplemental account, the public works assistance account, the
37 Puyallup tribal settlement account, the regional transportation
38 investment district account, the resource management cost account, the

1 site closure account, the special wildlife account, the state
2 employees' insurance account, the state employees' insurance reserve
3 account, the state investment board expense account, the state
4 investment board commingled trust fund accounts, the supplemental
5 pension account, the Tacoma Narrows toll bridge account, the teachers'
6 retirement system plan 1 account, the teachers' retirement system
7 combined plan 2 and plan 3 account, the tobacco prevention and control
8 account, the tobacco settlement account, the transportation
9 infrastructure account, the tuition recovery trust fund, the University
10 of Washington bond retirement fund, the University of Washington
11 building account, the volunteer fire fighters' and reserve officers'
12 relief and pension principal fund, the volunteer fire fighters' and
13 reserve officers' administrative fund, the Washington fruit express
14 account, the Washington judicial retirement system account, the
15 Washington law enforcement officers' and fire fighters' system plan 1
16 retirement account, the Washington law enforcement officers' and fire
17 fighters' system plan 2 retirement account, the Washington public
18 safety employees' plan 2 retirement account, the Washington school
19 employees' retirement system combined plan 2 and 3 account, the
20 Washington state health insurance pool account, the Washington state
21 patrol retirement account, the Washington State University building
22 account, the Washington State University bond retirement fund, the
23 Washington voluntary accounts program administrative account, the
24 Washington voluntary accounts program principal account, the water
25 pollution control revolving fund, and the Western Washington University
26 capital projects account. Earnings derived from investing balances of
27 the agricultural permanent fund, the normal school permanent fund, the
28 permanent common school fund, the scientific permanent fund, and the
29 state university permanent fund shall be allocated to their respective
30 beneficiary accounts. All earnings to be distributed under this
31 subsection (4)(a) shall first be reduced by the allocation to the state
32 treasurer's service fund pursuant to RCW 43.08.190.

33 (b) The following accounts and funds shall receive eighty percent
34 of their proportionate share of earnings based upon each account's or
35 fund's average daily balance for the period: The aeronautics account,
36 the aircraft search and rescue account, the county arterial
37 preservation account, the department of licensing services account, the
38 essential rail assistance account, the ferry bond retirement fund, the

1 grade crossing protective fund, the high capacity transportation
2 account, the highway bond retirement fund, the highway safety account,
3 the motor vehicle fund, the motorcycle safety education account, the
4 pilotage account, the public transportation systems account, the Puget
5 Sound capital construction account, the Puget Sound ferry operations
6 account, the recreational vehicle account, the rural arterial trust
7 account, the safety and education account, the special category C
8 account, the state patrol highway account, the transportation 2003
9 account (nickel account), the transportation equipment fund, the
10 transportation fund, the transportation improvement account, the
11 transportation improvement board bond retirement account, and the urban
12 arterial trust account.

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

16 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act constitute
17 a new chapter in Title 41 RCW.

18 NEW SECTION. **Sec. 10.** This act takes effect July 1, 2006.

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