

ESSB 6573 - H AMD

By Representative Ericks

ADOPTED AND ENGROSSED 03/07/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** The legislature finds that local
4 governments need additional revenues to provide public safety resources
5 in order to protect the citizens of Washington from fire and crime.
6 The legislature finds that the current benefit formula and
7 contributions for the law enforcement officers' and firefighters' plan
8 2 are inadequate to modify that formula in recognition of the shorter
9 working careers for firefighters and police officers. The legislature
10 recognizes that although some officers and firefighters are able to
11 work comfortably beyond twenty-five years, the combat nature of fire
12 suppression and law enforcement generally require earlier retirement
13 ages. In recognition of the physical demands of the professions and
14 the inherent risks faced by law enforcement officers and firefighters,
15 eligibility for retirement in the law enforcement officers' and
16 firefighters' plan 2 system has been set at age fifty-three. However,
17 the benefit formula is designed for careers of thirty-five to forty
18 years, making retirement at age fifty-three an unrealistic option for
19 many.

20 Therefore, the legislature declares that it is the purpose of this
21 act to provide local government public safety employers and the law
22 enforcement officers' and firefighters' plan 2 pension plan with
23 additional shared revenues when general state revenues exceed by more
24 than five percent the previous fiscal biennium's revenue.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.26 RCW
26 to read as follows:

27 The local public safety enhancement account is created in the state
28 treasury. Moneys in the account may be spent only after appropriation.

1 All receipts from section 4 of this act must be deposited into the
2 account. Expenditures from the account may be used as follows:

3 (1) Following appropriation, fifty percent of the money in the
4 account shall be transferred to the law enforcement officers' and
5 firefighters' retirement system benefits improvement account
6 established in section 3 of this act.

7 (2) Following appropriation, the balance shall be distributed by
8 the state treasurer to all jurisdictions with law enforcement officers'
9 and firefighters' plan 2 members. Each year, the department of
10 retirement systems will determine each jurisdictions' proportionate
11 share of funds based on the number of plan 2 members each jurisdiction
12 has on June 1st of the prior year divided by the total number of plan
13 2 members in the system. The department of retirement systems shall
14 provide the distribution allocation to the state treasurer.
15 Distributions by the state treasurer shall be made annually each
16 January 1st with one-half of the appropriation being distributed in the
17 first year of the appropriation and any remainder the following year.
18 If an appropriation is made for a single fiscal year, the entire
19 appropriation shall be distributed the following January 1st.
20 Jurisdictions that contract with other eligible jurisdictions for law
21 enforcement services or fire protection services must agree on the
22 distribution of funds between the contracting parties and must inform
23 the department of retirement systems as to how the distribution is to
24 be made. Distributions will continue to be made under the terms of the
25 agreement until the department of retirement systems is notified by the
26 eligible jurisdiction of any agreement revisions. If there is no
27 agreement within six months of the distribution date, the moneys lapse
28 to the state treasury. Moneys distributed from the balance of the
29 public safety enhancement account may be used for the following
30 purposes: (a) Criminal justice, including those where an ancillary
31 benefit to the civil justice occurs, and includes domestic violence
32 programs; (b) information and assistance to parents and families
33 dealing with at-risk or runaway youth; or (c) public safety. Money
34 distributed from the account shall not supplant existing funds used for
35 these purposes. For purposes of this subsection, "existing funds"
36 means the actual operating expenditures for the calendar year prior to
37 the first distribution from the account. Actual operating expenditures
38 excludes lost federal funds, lost or expired state grants or loans,

1 extraordinary events not likely to reoccur, change in contract
2 provisions beyond the control of the jurisdiction receiving the
3 services, and major capital expenditures.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.26 RCW
5 to read as follows:

6 (1) The local law enforcement officers' and firefighters'
7 retirement system benefits improvement account (benefits account) is
8 created within the law enforcement officers' and firefighters'
9 retirement system plan 2 fund. All receipts from section 2(1) of this
10 act must be deposited into the account.

11 (2) The funds in the benefits account shall not be included by the
12 actuary retained by the board in the calculation of the market value of
13 assets of the law enforcement officers' and firefighters' retirement
14 system plan 2 fund until the board directs the actuary retained by the
15 board in writing to do so for purposes of financing benefits enacted by
16 the legislature. The board shall, in consultation with the state
17 investment board and within ninety days of the transfer of funds into
18 the benefits account, provide the actuary retained by the board, in
19 writing, the market value of the amount directed from the benefits
20 account for inclusion in the calculation of the market value of assets
21 of the law enforcement officers' and firefighters' retirement system
22 plan 2 fund. The market value of the amount directed from the benefits
23 account shall be an amount determined by the state actuary to
24 sufficiently offset the unfunded actuarial accrued liabilities of
25 benefit improvements financed from this account. The market value of
26 the amount directed from the benefits account shall be determined as of
27 the date of the direction from the board to include this amount for
28 purposes of financing benefits enacted by the legislature.

29 (3) The law enforcement officers' and firefighters' plan 2
30 retirement board shall administer the fund in an actuarially sound
31 manner.

32 (4) The state investment board has the full power to invest,
33 reinvest, manage, contract, sell, or exchange investment money in the
34 benefits account. The state investment board is authorized to adopt
35 investment policies for the money in the benefits account. All
36 investment and operating costs associated with the investment of money

1 within the benefits account shall be paid pursuant to RCW 43.33A.160
2 and 43.84.160. With the exception of these expenses, the earnings from
3 the investment of the money shall be retained by the benefits account.

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

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

10 (7) The authority to establish all policies relating to the
11 benefits account, other than the investment policies set forth in this
12 section, resides with the law enforcement officers' and firefighters'
13 plan 2 retirement board. Other than investments by and expenses of the
14 state investment board, disbursements from this fund may be made only
15 on the authorization of the law enforcement officers' and firefighters'
16 plan 2 retirement board for purposes of funding the member, employer,
17 and state cost of financing benefits enacted by the legislature.

18 (8) The state investment board shall routinely consult with and
19 communicate with the law enforcement officers' and firefighters' plan
20 2 retirement board on the investment policy, earnings of the trust, and
21 related needs of the benefits account.

22 (9) Funds in the benefits account cannot be used to finance future
23 benefit improvements if the state actuary determines that the actuarial
24 present value of fully projected benefits for current and future
25 members for all benefits being financed from this account exceeds the
26 actuarial present value of the revenue provided under section 4 of this
27 act and the accrued earnings of the benefits account. When making the
28 determination under this subsection, the state actuary shall select
29 assumptions and methods to reduce the risk that the actual revenue
30 received is less than the assumed revenue.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.26 RCW
32 to read as follows:

33 (1) By September 30, 2011, if the prior fiscal biennium's general
34 state revenues exceed the previous fiscal biennium's revenues by more
35 than five percent, subject to appropriation by the legislature, the
36 state treasurer shall transfer five million dollars to the local public
37 safety enhancement account.

1 (2) By September 30, 2013, if the prior fiscal biennium's general
2 state revenues exceed the previous fiscal biennium's revenues by more
3 than five percent, subject to appropriation by the legislature, the
4 state treasurer shall transfer ten million dollars to the local public
5 safety enhancement account.

6 (3) By September 30, 2015, if the prior fiscal biennium's general
7 state revenues exceed the previous fiscal biennium's revenues by more
8 than five percent, subject to appropriation by the legislature, the
9 state treasurer shall transfer twenty million dollars to the local
10 public safety enhancement account.

11 (4) By September 30, 2017, and by September 30 of each odd-numbered
12 year thereafter, if the prior fiscal biennium's general state revenues
13 exceed the previous fiscal biennium's revenues by more than five
14 percent, subject to appropriation by the legislature, the state
15 treasurer shall transfer the lesser of one-third of the increase, or
16 fifty million dollars, to the local public safety enhancement account.

17 **Sec. 5.** RCW 41.26.720 and 2003 c 2 s 5 are each amended to read as
18 follows:

19 (1) The board of trustees have the following powers and duties and
20 shall:

21 (a) Adopt actuarial tables, assumptions, and cost methodologies in
22 consultation with an enrolled actuary retained by the board. The state
23 actuary shall provide assistance when the board requests. The actuary
24 retained by the board shall utilize the aggregate actuarial cost
25 method, or other recognized actuarial cost method based on a level
26 percentage of payroll, as that term is employed by the American academy
27 of actuaries. The actuary retained by the board shall adjust the
28 actuarial cost method to recognize the actuarial present value of
29 future revenue that will be included in the calculation of the market
30 value of assets pursuant to section 3(2) of this act, using the methods
31 and assumptions employed by the state actuary in section 3(9) of this
32 act. In determining the reasonableness of actuarial valuations,
33 assumptions, and cost methodologies, the actuary retained by the board
34 shall provide a copy of all such calculations to the state actuary. If
35 the two actuaries concur on the calculations, contributions shall be
36 made as set forth in the report of the board's actuary. If the two
37 actuaries cannot agree, they shall appoint a third, independent,

1 enrolled actuary who shall review the calculations of the actuary
2 retained by the board and the state actuary. Thereafter, contributions
3 shall be based on the methodology most closely following that of the
4 third actuary;

5 (b)(i) Provide for the design and implementation of increased
6 benefits for members and beneficiaries of the plan, subject to the
7 contribution limitations under RCW 41.26.725. An increased benefit may
8 not be approved by the board until an actuarial cost of the benefit has
9 been determined by the actuary and contribution rates adjusted as may
10 be required to maintain the plan on a sound actuarial basis. Increased
11 benefits as approved by the board shall be presented to the legislature
12 on January 1st of each year. The increased benefits as approved by the
13 board shall become effective within ninety days unless a bill is
14 enacted in the next ensuing session of the legislature, by majority
15 vote of each house of the legislature, repealing the action of the
16 board;

17 (ii) As an alternative to the procedure in (b)(i) of this
18 subsection, recommend to the legislature changes in the benefits for
19 members and beneficiaries, without regard to the cost limitations in
20 RCW 41.26.725(3). Benefits adopted in this manner shall have the same
21 contractual protections as the minimum benefits in the plan. The
22 recommendations of the board shall be presented to the legislature on
23 January 1st of each year. These measures shall take precedence over
24 all other measures in the legislature, except appropriations bills, and
25 shall be either enacted or rejected without change or amendment by the
26 legislature before the end of such regular session;

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

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

32 (e) Provide an annual report to the governor and the legislature
33 setting forth the actuarial funding status of the plan and making
34 recommendations for improvements in those aspects of retirement
35 administration directed by the legislature or administered by the
36 department;

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

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

4 (h) (~~The board shall publish~~ ~~[Publish]~~) Publish on an annual
5 basis a schedule of increased benefits together with a summary of the
6 minimum benefits as established by the legislature which shall
7 constitute the official plan document; and

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

10 (2) Meetings of the board of trustees shall be conducted as
11 follows:

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

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

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

20 (d) The board may establish, with the assistance of the appropriate
21 office of state government, an internet web site providing for
22 interactive communication with state government, members and
23 beneficiaries of the plan, and the public.

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

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

29 (5) A law enforcement officers' and firefighters' retirement system
30 plan 2 expense fund is established for the purpose of defraying the
31 expenses of the board. The board shall cause an annual budget to be
32 prepared consistent with the requirements of chapter 43.88 RCW and
33 shall draw the funding for the budget from the investment income of the
34 trust. Board members shall be reimbursed for travel and education
35 expenses as provided in RCW 43.03.050 and 43.03.060. The board shall
36 make an annual report to the governor, legislature, and state auditor
37 setting forth a summary of the costs and expenditures of the plan for
38 the preceding year. The board shall also retain the services of an

1 independent, certified public accountant who shall annually audit the
2 expenses of the fund and whose report shall be included in the board's
3 annual report."

4 Correct the title.

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