

ESSB 6573 - H AMD 1519

By Representative Ericks

ADOPTED AS AMENDED 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.

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

36 (1) The local law enforcement officers' and firefighters'
37 retirement system benefits improvement account (benefits account) is

1 created within the law enforcement officers' and firefighters'
2 retirement system plan 2 fund. All receipts from section 2(1) of this
3 act must be deposited into the account.

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

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

25 (4) The state investment board has the full power to invest,
26 reinvest, manage, contract, sell, or exchange investment money in the
27 benefits account. The state investment board is authorized to adopt
28 investment policies for the money in the benefits account. All
29 investment and operating costs associated with the investment of money
30 within the benefits account shall be paid pursuant to RCW 43.33A.160
31 and 43.84.160. With the exception of these expenses, the earnings from
32 the investment of the money shall be retained by the benefits account.

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

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

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

9 (8) The state investment board shall routinely consult with and
10 communicate with the law enforcement officers' and firefighters' plan
11 2 retirement board on the investment policy, earnings of the trust, and
12 related needs of the benefits account.

13 (9) Funds in the benefits account cannot be used to finance future
14 benefit improvements if the state actuary determines that the actuarial
15 present value of fully projected benefits for current and future
16 members for all benefits being financed from this account exceeds the
17 actuarial present value of the revenue provided under section 4 of this
18 act and the accrued earnings of the benefits account. When making the
19 determination under this subsection, the state actuary shall select
20 assumptions and methods to reduce the risk that the actual revenue
21 received is less than the assumed revenue.

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

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

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

34 (3) By September 30, 2015, if the prior fiscal biennium's general
35 state revenues exceed the previous fiscal biennium's revenues by more
36 than five percent, subject to appropriation by the legislature, the

1 state treasurer shall transfer twenty million dollars to the local
2 public safety enhancement account.

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

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

11 (1) The board of trustees have the following powers and duties and
12 shall:

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

34 (b)(i) Provide for the design and implementation of increased
35 benefits for members and beneficiaries of the plan, subject to the
36 contribution limitations under RCW 41.26.725. An increased benefit may
37 not be approved by the board until an actuarial cost of the benefit has

1 been determined by the actuary and contribution rates adjusted as may
2 be required to maintain the plan on a sound actuarial basis. Increased
3 benefits as approved by the board shall be presented to the legislature
4 on January 1st of each year. The increased benefits as approved by the
5 board shall become effective within ninety days unless a bill is
6 enacted in the next ensuing session of the legislature, by majority
7 vote of each house of the legislature, repealing the action of the
8 board;

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

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

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

24 (e) Provide an annual report to the governor and the legislature
25 setting forth the actuarial funding status of the plan and making
26 recommendations for improvements in those aspects of retirement
27 administration directed by the legislature or administered by the
28 department;

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

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

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

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

3 (2) Meetings of the board of trustees shall be conducted as
4 follows:

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

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

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

13 (d) The board may establish, with the assistance of the appropriate
14 office of state government, an internet web site providing for
15 interactive communication with state government, members and
16 beneficiaries of the plan, and the public.

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

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

22 (5) A law enforcement officers' and firefighters' retirement system
23 plan 2 expense fund is established for the purpose of defraying the
24 expenses of the board. The board shall cause an annual budget to be
25 prepared consistent with the requirements of chapter 43.88 RCW and
26 shall draw the funding for the budget from the investment income of the
27 trust. Board members shall be reimbursed for travel and education
28 expenses as provided in RCW 43.03.050 and 43.03.060. The board shall
29 make an annual report to the governor, legislature, and state auditor
30 setting forth a summary of the costs and expenditures of the plan for
31 the preceding year. The board shall also retain the services of an
32 independent, certified public accountant who shall annually audit the
33 expenses of the fund and whose report shall be included in the board's
34 annual report."

35 Correct the title.

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