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HOUSE BILL 1771

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State of Washington                      60th Legislature                      2007 Regular Session

By Representative Sommers; by request of Office of Financial Management

Read first time 01/26/2007. Referred to Committee on Appropriations.

1            AN ACT Relating to public pensions that revises gain-sharing  
2 provisions and makes certain changes in benefits for the teachers'  
3 retirement system, the school employees' retirement system, and the  
4 public employees' retirement system; amending RCW 41.34.020, 41.34.040,  
5 41.34.060, 41.31A.020, 41.34.110, 41.32.835, 41.32.840, 41.35.610,  
6 41.35.620, 41.40.790, 41.31.010, and 41.31.020; adding new sections to  
7 chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding  
8 new sections to chapter 41.40 RCW; adding new sections to chapter 41.34  
9 RCW; creating a new section; decodifying RCW 41.31A.020, 41.31.010, and  
10 41.31.020; providing an effective date; and declaring an emergency.

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

12            **Sec. 1.** RCW 41.34.020 and 2000 c 247 s 401 are each amended to  
13 read as follows:

14            As used in this chapter, the following terms have the meanings  
15 indicated:

16            (1) "Actuary" means the state actuary or the office of the state  
17 actuary.

18            (2) "Assured benefit program" means the provisions of this chapter  
19 allowing certain members the option to contribute a specified

1 percentage of their compensation, invest that contribution in the  
2 Washington state investment board investment program, and receive a  
3 specified benefit.

4 (3) "Assured benefit subaccount" means a portion of a member  
5 account that must be directed to the Washington state investment board  
6 investment program.

7 (4) "Board" means the employee retirement benefits board authorized  
8 in chapter 41.50 RCW.

9 ~~((+3))~~ (5) "Department" means the department of retirement  
10 systems.

11 ~~((+4))~~ (6)(a) "Compensation" for teachers for purposes of this  
12 chapter is the same as "earnable compensation" for plan 3 in chapter  
13 41.32 RCW except that the compensation may be reported when paid,  
14 rather than when earned.

15 (b) "Compensation" for classified employees for purposes of this  
16 chapter is the same as "compensation earnable" for plan 3 in RCW  
17 41.35.010, except that the compensation may be reported when paid,  
18 rather than when earned.

19 (c) "Compensation" for public employees for purposes of this  
20 chapter is the same as "compensation earnable" for plan 3 in RCW  
21 41.40.010, except that the compensation may be reported when paid,  
22 rather than when earned.

23 ~~((+5))~~ (7)(a) "Employer" for teachers for purposes of this chapter  
24 means the same as "employer" for plan 3 in chapter 41.32 RCW.

25 (b) "Employer" for classified employees for purposes of this  
26 chapter means the same as "employer" for plan 3 in RCW 41.35.010.

27 (c) "Employer" for public employees for purposes of this chapter  
28 means the same as "employer" for plan 3 in RCW 41.40.010.

29 ~~((+6))~~ (8) "Member" means any employee included in the membership  
30 of a retirement system as provided for in chapter 41.32 RCW of plan 3,  
31 chapter 41.35 RCW of plan 3, or chapter 41.40 RCW of plan 3.

32 ~~((+7))~~ (9) "Member account" or "member's account" means the sum of  
33 the contributions and earnings on behalf of the member.

34 ~~((+8))~~ (10) "Retiree" means any member in receipt of an allowance  
35 or other benefit provided by this chapter resulting from service  
36 rendered to an employer by such member.

37 ~~((+9))~~ (11) "Teacher" means a member of the teachers' retirement  
38 system plan 3 as defined in RCW 41.32.010(29).

1        ~~((10))~~ (12) "Classified employee" means a member of the school  
2 employees' retirement system plan 3 as defined in RCW 41.35.010.

3        ~~((11))~~ (13) "Public employee" means a member of the public  
4 employees' retirement system plan 3 as defined in RCW 41.40.010.

5        **Sec. 2.** RCW 41.34.040 and 2003 c 156 s 1 are each amended to read  
6 as follows:

7        (1)(a) Members of the public employees', school employees', and  
8 teachers' retirement systems participating in the assured benefit  
9 program shall contribute from his or her compensation according to one  
10 of the rate structures in (c) of this subsection in addition to the  
11 mandatory minimum of five percent. However, the total contribution  
12 rate must be at least equal to his or her system's assured benefit base  
13 rate in (d) of this subsection. The assured benefit base rate  
14 contributions are deposited in the member's assured benefit subaccount  
15 and are directed to the Washington state investment board investment  
16 program.

17        (b) A member not participating in the assured benefit program shall  
18 contribute from his or her compensation according to one of the  
19 ~~(following)~~ rate structures in (c) of this subsection in addition to  
20 the mandatory minimum five percent(~~(+)~~).

21        (c)

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	0.0% fixed
<u>Option B</u>	
Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
<u>Option C</u>	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
<u>Option D</u>	
All Ages	2.0%
<u>Option E</u>	
All Ages	5.0%
<u>Option F</u>	

2	<u>(d) System</u>	<u>Assured Benefit Base Rate</u>
3	<u>Teachers' Retirement System</u>	<u>fixed 6%</u>
4	<u>School Employees' Retirement System</u>	<u>fixed 5%</u>
5	<u>Public Employees' Retirement System</u>	<u>fixed 5%</u>

6 (2) The board shall have the right to offer contribution rate  
7 options in addition to those listed in subsection (1) of this section,  
8 provided that no significant additional administrative costs are  
9 created. All options offered by the board shall conform to the  
10 requirements stated in subsections (3) and (5) of this section.

11 (3)(a) For members of the teachers' retirement system entering plan  
12 3 under RCW 41.32.835 or members of the school employees' retirement  
13 system entering plan 3 under RCW 41.35.610, within ninety days of  
14 becoming a member he or she has an option to choose one of the above  
15 contribution rate structures. If the member does not select an option  
16 within the ninety-day period, he or she shall be assigned option A.

17 (b) For members of the public employees' retirement system entering  
18 plan 3 under RCW 41.40.785, within the ninety days described in RCW  
19 41.40.785 an employee who irrevocably chooses plan 3 shall select one  
20 of the above contribution rate structures. If the member does not  
21 select an option within the ninety-day period, he or she shall be  
22 assigned option A.

23 (c) For members of the teachers' retirement system transferring to  
24 plan 3 under RCW 41.32.817, members of the school employees' retirement  
25 system transferring to plan 3 under RCW 41.35.510, or members of the  
26 public employees' retirement system transferring to plan 3 under RCW  
27 41.40.795, upon election to plan 3 he or she must choose one of the  
28 above contribution rate structures.

29 (d) Within ninety days of the date that an employee changes  
30 employers, he or she has an option to choose one of the above  
31 contribution rate structures. If the member does not select an option  
32 within this ninety-day period, he or she shall be assigned option A.

33 (4) Each year, members may change their contribution rate option by  
34 notifying their employer in writing during the month of January.

35 (5) Contributions shall begin the first day of the pay cycle in  
36 which the rate option is made, or the first day of the pay cycle in  
37 which the end of the ninety-day period occurs.

1       **Sec. 3.** RCW 41.34.060 and 2001 c 180 s 2 are each amended to read  
2 as follows:

3       (1) Except as provided in subsection (3) of this section, the  
4 member's account shall be invested by the state investment board. In  
5 order to reduce transaction costs and address liquidity issues, based  
6 upon recommendations of the state investment board, the department may  
7 require members to provide up to ninety days' notice prior to moving  
8 funds from the state investment board portfolio to self-directed  
9 investment options provided under subsection (3) of this section.

10       (a) For members of the retirement system as provided for in chapter  
11 41.32 RCW of plan 3, investment shall be in the same portfolio as that  
12 of the teachers' retirement system combined plan 2 and 3 fund under RCW  
13 41.50.075(2).

14       (b) For members of the retirement system as provided for in chapter  
15 41.35 RCW of plan 3, investment shall be in the same portfolio as that  
16 of the school employees' retirement system combined plan 2 and 3 fund  
17 under RCW 41.50.075(4).

18       (c) For members of the retirement system as provided for in chapter  
19 41.40 RCW of plan 3, investment shall be in the same portfolio as that  
20 of the public employees' retirement system combined plan 2 and 3 fund  
21 under RCW 41.50.075(3).

22       (2) The state investment board shall declare monthly unit values  
23 for the portfolios or funds, or portions thereof, utilized under  
24 subsection (1)(a), (b), and (c) of this section. The declared values  
25 shall be an approximation of portfolio or fund values, based on  
26 internal procedures of the state investment board. Such declared unit  
27 values and internal procedures shall be in the sole discretion of the  
28 state investment board. The state investment board may delegate any of  
29 the powers and duties under this subsection, including discretion,  
30 pursuant to RCW 43.33A.030. Member accounts shall be credited by the  
31 department with a rate of return based on changes to such unit values.

32       (3)(a) Members may elect to self-direct their investments as set  
33 forth in RCW 41.34.130 and 43.33A.190.

34       (b) Members who elect to participate in the assured benefit program  
35 may elect to self-direct only that portion of their investment that is  
36 outside their assured benefit program subaccount.

1       **Sec. 4.** RCW 41.31A.020 and 2003 c 294 s 4 are each amended to read  
2 as follows:

3       (1) On January 1, 2004, and on January 1st of even-numbered years  
4 (~~thereafter~~) through January 1, 2008, the member account of a person  
5 meeting the requirements of this section shall be credited by the  
6 extraordinary investment gain amount. After January 1, 2008, no  
7 further amount under this section shall either accrue, be credited, or  
8 be paid to member accounts.

9       (2) Through January 1, 2008, the following persons shall be  
10 eligible for the benefit provided in subsection (1) of this section:

11       (a) Any member of the teachers' retirement system plan 3, the  
12 Washington school employees' retirement system plan 3, or the public  
13 employees' retirement system plan 3 who earned service credit during  
14 the twelve-month period from September 1st to August 31st immediately  
15 preceding the distribution and had a balance of at least one thousand  
16 dollars in their member account on August 31st of the year immediately  
17 preceding the distribution; or

18       (b) Any person in receipt of a benefit pursuant to RCW 41.32.875,  
19 41.35.680, or 41.40.820; or

20       (c) Any person who is a retiree pursuant to RCW 41.34.020(~~(+8)~~)  
21 (10) and who:

22       (i) Completed ten service credit years; or

23       (ii) Completed five service credit years, including twelve service  
24 months after attaining age fifty-four; or

25       (d) Any teacher who is a retiree pursuant to RCW 41.34.020(~~(+8)~~)  
26 (10) and who has completed five service credit years by July 1, 1996,  
27 under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

28       (e) Any classified employee who is a retiree pursuant to RCW  
29 41.34.020(~~(+8)~~) (10) and who has completed five service credit years  
30 by September 1, 2000, and who transferred to plan 3 under RCW  
31 41.35.510; or

32       (f) Any public employee who is a retiree pursuant to RCW  
33 41.34.020(~~(+8)~~) (10) and who has completed five service credit years  
34 by March 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

35       (g) Any person who had a balance of at least one thousand dollars  
36 in their member account on August 31st of the year immediately  
37 preceding the distribution and who:

38       (i) Completed ten service credit years; or

1 (ii) Completed five service credit years, including twelve service  
2 months after attaining age fifty-four; or

3 (h) Any teacher who had a balance of at least one thousand dollars  
4 in their member account on August 31st of the year immediately  
5 preceding the distribution and who has completed five service credit  
6 years by July 1, 1996, under plan 2 and who transferred to plan 3 under  
7 RCW 41.32.817; or

8 (i) Any classified employee who had a balance of at least one  
9 thousand dollars in their member account on August 31st of the year  
10 immediately preceding the distribution and who has completed five  
11 service credit years by September 1, 2000, and who transferred to plan  
12 3 under RCW 41.35.510; or

13 (j) Any public employee who had a balance of at least one thousand  
14 dollars in their member account on August 31st of the year immediately  
15 preceding the distribution and who has completed five service credit  
16 years by March 1, 2002, and who transferred to plan 3 under RCW  
17 41.40.795. After January 1, 2008, no member shall be eligible for the  
18 benefit provided in subsection (1) of this section.

19 (3) Through July 1, 2007, the extraordinary investment gain amount  
20 shall be calculated as follows:

21 (a) One-half of the sum of the value of the net assets held in  
22 trust for pension benefits in the teachers' retirement system combined  
23 plan 2 and 3 fund, the Washington school employees' retirement system  
24 combined plan 2 and 3 fund, and the public employees' retirement system  
25 combined plan 2 and 3 fund at the close of the previous state fiscal  
26 year not including the amount attributable to member accounts;

27 (b) Multiplied by the amount which the compound average of  
28 investment returns on those assets over the previous four state fiscal  
29 years exceeds ten percent;

30 (c) Multiplied by the proportion of:

31 (i) The sum of the service credit on August 31st of the previous  
32 year of all persons eligible for the benefit provided in subsection (1)  
33 of this section; to

34 (ii) The sum of the service credit on August 31st of the previous  
35 year of:

36 (A) All persons eligible for the benefit provided in subsection (1)  
37 of this section;

1 (B) Any person who earned service credit in the teachers'  
2 retirement system plan 2, the Washington school employees' retirement  
3 system plan 2, or the public employees' retirement system plan 2 during  
4 the twelve-month period from September 1st to August 31st immediately  
5 preceding the distribution;

6 (C) Any person in receipt of a benefit pursuant to RCW 41.32.765,  
7 41.35.420, or 41.40.630; and

8 (D) Any person with five or more years of service in the teachers'  
9 retirement system plan 2, the Washington school employees' retirement  
10 system plan 2, or the public employees' retirement system plan 2;

11 (d) Divided proportionally among persons eligible for the benefit  
12 provided in subsection (1) of this section on the basis of their  
13 service credit total on August 31st of the previous year. After July  
14 1, 2007, no extraordinary gain shall be calculated.

15 (4) The legislature reserves the right to amend or repeal this  
16 section in the future and no member or beneficiary has a contractual  
17 right to receive this distribution not granted prior to that time.

18 **Sec. 5.** RCW 41.34.110 and 1996 c 39 s 12 are each amended to read  
19 as follows:

20 (1) A member who separates from service and then reestablishes  
21 membership may restore contributions to the member account.

22 (2) A member electing to participate in the assured benefit  
23 program, who separates from service and then reestablishes membership,  
24 may continue to be eligible for benefits under RCW 41.32.840(2),  
25 41.35.620(2), or 41.40.790(2)(a)(i) by restoring all contributions and  
26 earnings to the member account made after the election, plus interest  
27 as determined by the director.

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.32 RCW  
29 under the subchapter heading "plan 1" to read as follows:

30 Beginning July 1, 2009, the annual increase amount as defined in  
31 RCW 41.32.010(46) shall be increased by an amount equal to \$0.23 minus  
32 the 2008 gain sharing increase amount under RCW 41.31.010 per month per  
33 year of service. This adjustment shall not decrease the annual  
34 increase amount, and is not to exceed \$0.05 per month per year of  
35 service.



1       **Sec. 7.** RCW 41.32.835 and 1995 c 239 s 105 are each amended to  
2 read as follows:

3       (1) All teachers who first become employed by an employer in an  
4 eligible position on or after ((July 1, 1996, shall be members of plan  
5 3)) July 1, 2007, shall have a period of ninety days to make an  
6 irrevocable choice to become a member of plan 2 or plan 3. At the end  
7 of ninety days, if the member has not made a choice to become a member  
8 of plan 2, he or she becomes a member of plan 3.

9       (2) For administrative efficiency, until a member elects to become  
10 a member of plan 3, or becomes a member of plan 3 by default under  
11 subsection (1) of this section, the member shall be reported to the  
12 department in plan 2, with member and employer contributions. Upon  
13 becoming a member of plan 3 by election or by default, all service  
14 credit shall be transferred to the member's plan 3 defined benefit, and  
15 all employee accumulated contributions shall be transferred to the  
16 member's plan 3 defined contribution account.

17       NEW SECTION. **Sec. 8.** A new section is added to chapter 41.32 RCW  
18 under the subchapter heading "plan 3" to read as follows:

19       Beginning July 1, 2008, and through September 30, 2008, plan 3  
20 members who first became plan 3 members prior to July 1, 2007, may make  
21 an irrevocable election, filed in writing with the department, to  
22 participate in the assured benefit program prospective provisions under  
23 RCW 41.32.840(2) and 41.34.040.

24       **Sec. 9.** RCW 41.32.840 and 1996 c 39 s 4 are each amended to read  
25 as follows:

26       (1) A member of the retirement system shall receive a retirement  
27 allowance equal to one percent of such member's average final  
28 compensation for each service credit year.

29       (2)(a) A member of the retirement system who elects to participate  
30 in the assured benefit program shall receive an additional benefit  
31 under one of (a)(i) through (iv) of this subsection. The member shall  
32 select the form of their additional benefit from among these options at  
33 retirement from service. However, a minimum of five years from the  
34 date a member elects to participate in the assured benefit program must  
35 elapse before the member can begin drawing a prospective assured  
36 benefit under (a)(ii) through (iv) of this subsection.

1       (i) The member may elect to terminate the assured benefit  
2 subaccount and have the funds in the subaccount, including any  
3 investment earnings, returned to the member's defined contribution  
4 account;

5       (ii) The member, at time of retirement from service, may elect to  
6 receive at normal retirement age, an assured benefit of one percent of  
7 the member's average final compensation for each year of service credit  
8 during participation in the assured benefit program, with  
9 postretirement cost-of-living adjustments calculated as under RCW  
10 41.32.845;

11       (iii) The member who has attained at least age fifty-five and has  
12 completed at least ten years of service, at time of retirement from  
13 service, may elect to receive an assured benefit of one percent of the  
14 member's average final compensation for each year of service credit  
15 during participation in the assured benefit program, with  
16 postretirement cost-of-living adjustments calculated under RCW  
17 41.32.845, and adjusted for early retirement under RCW 41.32.875(2); or

18       (iv) The member who has attained at least age fifty-five and has  
19 completed at least thirty years of service, at time of retirement from  
20 service, may elect to receive an assured benefit of one percent of the  
21 member's average final compensation for each year of service credit  
22 during participation in the assured benefit program, with  
23 postretirement cost-of-living adjustments calculated under RCW  
24 41.32.845, and adjusted for alternate early retirement under RCW  
25 41.32.875(3).

26       If the member chooses to receive the assured benefit, the assured  
27 benefit subaccount balance will be reduced by an amount that is  
28 actuarially equivalent to the value of the assured benefit and that  
29 amount will be transferred to the pension reserve as defined in RCW  
30 41.32.010(18). If funds in the subaccount exceed that amount, the  
31 excess shall be returned to the member's defined contribution account.  
32 If the funds in the subaccount are less than that amount, the entire  
33 subaccount balance will be transferred.

34       The assured benefit is subject to the same conditions as the  
35 retirement allowance in subsection (1) of this section, including but  
36 not limited to provisions for retirement and return to work, early  
37 retirement, death, and disability, and is subject to adjustments under  
38 this chapter.

1       (b) For the purposes of this section, "actuarially equivalent"  
2 means of equal value when computed on the basis of mortality tables and  
3 rules adopted by the director.

4       (3) The retirement allowance payable under RCW 41.32.875 to a  
5 member who separates after having completed at least twenty service  
6 credit years shall be increased by twenty-five one-hundredths of one  
7 percent, compounded for each month from the date of separation to the  
8 date that the retirement allowance commences.

9       **Sec. 10.** RCW 41.35.610 and 1998 c 341 s 202 are each amended to  
10 read as follows:

11       (1) All classified employees who first become employed by an  
12 employer in an eligible position on or after ((September 1, 2000, shall  
13 be members of plan 3)) July 1, 2007, shall have a period of ninety days  
14 to make an irrevocable choice to become a member of plan 2 or plan 3.  
15 At the end of ninety days, if the member has not made a choice to  
16 become a member of plan 2, he or she becomes a member of plan 3.

17       (2) For administrative efficiency, until a member elects to become  
18 a member of plan 3, or becomes a member of plan 3 by default under  
19 subsection (1) of this section, the member shall be reported to the  
20 department in plan 2, with member and employer contributions. Upon  
21 becoming a member of plan 3 by election or by default, all service  
22 credit shall be transferred to the member's plan 3 defined benefit, and  
23 all employee accumulated contributions shall be transferred to the  
24 member's plan 3 defined contribution account.

25       NEW SECTION. **Sec. 11.** A new section is added to chapter 41.35 RCW  
26 under the subchapter heading "plan 3" to read as follows:

27       Beginning July 1, 2008, and through September 30, 2008, plan 3  
28 members who first became members of plan 3 prior to July 1, 2007, may  
29 make an irrevocable election, filed in writing with the department, to  
30 participate in the assured benefit program prospective provisions under  
31 RCW 41.34.040 and 41.35.620(2).

32       **Sec. 12.** RCW 41.35.620 and 1998 c 341 s 203 are each amended to  
33 read as follows:

34       (1) A member of the retirement system shall receive a retirement

1 allowance equal to one percent of such member's average final  
2 compensation for each service credit year.

3 (2)(a) A member of the retirement system who elects to participate  
4 in the assured benefit program shall receive an additional benefit  
5 under one of (a)(i) through (iv) of this subsection. The member shall  
6 select the form of their additional benefit from among these options at  
7 retirement from service. However, a minimum of five years from the  
8 date a member elects to participate in the assured benefit program must  
9 elapse before the member can begin drawing a prospective assured  
10 benefit under (a)(ii) through (iv) of this subsection.

11 (i) The member may elect to terminate the assured benefit  
12 subaccount and have the funds in the subaccount, including any  
13 investment earnings, returned to the member's defined contribution  
14 account;

15 (ii) The member, at time of retirement from service, may elect to  
16 receive at normal retirement age an assured benefit of one percent of  
17 the member's average final compensation for each year of service credit  
18 during participation in the assured benefit program, with  
19 postretirement cost-of-living adjustments calculated as under RCW  
20 41.35.210;

21 (iii) The member who has attained at least age fifty-five and has  
22 completed at least ten years of service, at time of retirement from  
23 service, may elect to receive an assured benefit of one percent of the  
24 member's average final compensation for each year of service credit  
25 during participation in the assured benefit program, with  
26 postretirement cost-of-living adjustments calculated under RCW  
27 41.35.210, and adjusted for early retirement under RCW 41.35.680(2); or

28 (iv) The member who has attained at least age fifty-five and has  
29 completed at least thirty years of service, at time of retirement from  
30 service, may elect to receive an assured benefit of one percent of the  
31 member's average final compensation for each year of service credit  
32 during participation in the assured benefit program, with  
33 postretirement cost-of-living adjustments calculated under RCW  
34 41.35.210, and adjusted for alternate early retirement under RCW  
35 41.35.680(3).

36 If the member chooses to receive the assured benefit, the assured  
37 benefit subaccount balance will be reduced by an amount that is  
38 actuarially equivalent to the value of the assured benefit and that

1 amount will be transferred to the school employees' retirement system.  
2 If funds in the subaccount exceed that amount, the excess shall be  
3 returned to the member's defined contribution account. If the funds in  
4 the subaccount are less than that amount, the entire subaccount balance  
5 will be transferred.

6 The assured benefit is subject to the same conditions as the  
7 retirement allowance in subsection (1) of this section, including but  
8 not limited to provisions for retirement and return to work, early  
9 retirement, death, and disability, and is subject to adjustment under  
10 this chapter.

11 (b) For the purposes of this section, "actuarially equivalent"  
12 means of equal value when computed on the basis of mortality tables and  
13 rules adopted by the director.

14 (3) The retirement allowance payable under RCW 41.35.680 to a  
15 member who separates after having completed at least twenty service  
16 credit years shall be increased by twenty-five one-hundredths of one  
17 percent, compounded for each month from the date of separation to the  
18 date that the retirement allowance commences.

19 NEW SECTION. Sec. 13. A new section is added to chapter 41.40 RCW  
20 under the subchapter heading "plan 1" to read as follows:

21 Beginning July 1, 2009, the annual increase amount as defined in  
22 RCW 41.40.010(41) shall be increased by an amount equal to \$0.23 minus  
23 the 2008 gain-sharing increase amount under RCW 41.31.010 per month per  
24 year of service. This adjustment shall not decrease the annual  
25 increase amount, and is not to exceed \$0.05 per month per year of  
26 service.

27 NEW SECTION. Sec. 14. A new section is added to chapter 41.40 RCW  
28 under the subchapter heading "plan 3" to read as follows:

29 Beginning July 1, 2008, and through September 30, 2008, plan 3  
30 members who first became members of plan 3 prior to July 1, 2007, may  
31 make an irrevocable election, filed in writing with the department, to  
32 participate in the assured benefit program prospective provisions under  
33 RCW 41.34.040 and 41.40.790(2).

34 **Sec. 15.** RCW 41.40.790 and 2000 c 247 s 303 are each amended to  
35 read as follows:

1 (1) A member of the retirement system shall receive a retirement  
2 allowance equal to one percent of such member's average final  
3 compensation for each service credit year.

4 (2)(a) A member of the retirement system who elects to participate  
5 in the assured benefit program shall receive an additional benefit  
6 under one of (a)(i) through (iv) of this subsection. The member shall  
7 select the form of their additional benefit from among these options at  
8 retirement from service. However, a minimum of five years from the  
9 date a member elects to participate in the assured benefit program must  
10 elapse before the member can begin drawing a prospective assured  
11 benefit under (a)(ii) through (iv) of this subsection.

12 (i) The member may elect to terminate the assured benefit  
13 subaccount and have the funds in the subaccount, including any  
14 investment earnings, returned to the member's defined contribution  
15 account; or

16 (ii) The member, at time of retirement from service, may elect to  
17 receive at normal retirement age an assured benefit of one percent of  
18 the member's average final compensation for each year of service credit  
19 year during participation in the assured benefit program, with  
20 postretirement cost-of-living adjustments calculated as under RCW  
21 41.40.840;

22 (iii) The member who has attained at least age fifty-five and has  
23 completed at least ten years of service, at time of retirement from  
24 service, may elect to receive an assured benefit of one percent of the  
25 member's average final compensation for each year of service credit  
26 during participation in the assured benefit program, with  
27 postretirement cost-of-living adjustments calculated under RCW  
28 41.40.840, and adjusted for early retirement under RCW 41.40.815(2); or

29 (iv) The member who has attained at least age fifty-five and has  
30 completed at least thirty years of service, at time of retirement from  
31 service, may elect to receive an assured benefit of one percent of the  
32 member's average final compensation for each year of service credit  
33 during participation in the assured benefit program, with  
34 postretirement cost-of-living adjustments calculated under RCW  
35 41.40.840, and adjusted for alternate early retirement under RCW  
36 41.40.815(3).

37 If the member chooses to receive the assured benefit, the assured  
38 benefit subaccount balance will be reduced by an amount that is

1 actuarially equivalent to the value of the assured benefit and that  
2 amount will be transferred to the public employees' retirement system.  
3 If funds in the subaccount exceed that amount, the excess shall be  
4 returned to the member's defined contribution account. If the funds in  
5 the subaccount are less than that amount, the entire subaccount balance  
6 will be transferred.

7 (b) For the purposes of this section, "actuarially equivalent"  
8 means of equal value when computed on the basis of mortality tables and  
9 rules adopted by the director.

10 The assured benefit is subject to the same conditions as the  
11 retirement allowance in subsection (1) of this section, including but  
12 not limited to provisions for retirement and return to work, early  
13 retirement, death, and disability, and is subject to adjustment under  
14 this chapter.

15 (3) The retirement allowance payable under RCW 41.40.820 to a  
16 member who separates after having completed at least twenty service  
17 credit years shall be increased by twenty-five one-hundredths of one  
18 percent, compounded for each month from the date of separation to the  
19 date that the retirement allowance commences.

20 **Sec. 16.** RCW 41.31.010 and 1998 c 340 s 1 are each amended to read  
21 as follows:

22 Beginning July 1, 1998, and on January 1st of even-numbered years  
23 thereafter, through 2008, the annual increase amount as defined in RCW  
24 41.32.010 and 41.40.010 shall be increased by the gain-sharing increase  
25 amount, if any. No further amount shall either accrue, be credited, or  
26 be paid to member accounts after January 1, 2008. The monthly  
27 retirement allowance of a person in receipt of the benefit provided in  
28 RCW 41.32.489 or 41.40.197 shall immediately be adjusted to reflect any  
29 increase.

30 **Sec. 17.** RCW 41.31.020 and 1998 c 340 s 2 are each amended to read  
31 as follows:

32 (1) Through January 1, 2008, the gain-sharing increase amount shall  
33 be the amount of increase, rounded to the nearest cent, that can be  
34 fully funded in actuarial present value by the amount of extraordinary  
35 investment gains, if any. Through January 1, 2008, the amount of  
36 extraordinary investment gains shall be calculated as follows:

1 (a) One-half of the sum of the value of the net assets held in  
2 trust for pension benefits in the teachers' retirement system plan 1  
3 fund and the public employees' retirement system plan 1 fund at the  
4 close of the previous state fiscal year;

5 (b) Multiplied by the amount which the compound average of  
6 investment returns on those assets over the previous four state fiscal  
7 years exceeds ten percent. After July 1, 2007, no extraordinary gain  
8 shall be calculated.

9 (2) The gain-sharing increase amount for July 1998, as provided for  
10 in RCW 41.31.010, is ten cents.

11 NEW SECTION. Sec. 18. A new section is added to chapter 41.34 RCW  
12 to read as follows:

13 The department of retirement systems is authorized to adopt rules  
14 to ensure that assured benefits under RCW 41.32.840(2)(a)(ii) through  
15 (iv), 41.35.620(2)(a)(ii) through (iv), and 41.40.790 (2)(a)(ii)  
16 through (iv) are treated equivalently to defined benefits.

17 NEW SECTION. Sec. 19. A new section is added to chapter 41.34 RCW  
18 to read as follows:

19 The benefits provided pursuant to this act are not provided to  
20 employees as a matter of contractual right prior to July 1, 2008. The  
21 legislature retains the right to alter or abolish these benefits at any  
22 time prior to July 1, 2008.

23 NEW SECTION. Sec. 20. RCW 41.31A.020, 41.31.010, and 41.31.020  
24 are decodified, effective January 2, 2008.

25 NEW SECTION. Sec. 21. If any part of this act is found to be in  
26 conflict with a final determination by the federal internal revenue  
27 service that is a prescribed condition to favorable tax treatment of  
28 one or more of the retirement plans, the conflicting part of this act  
29 is inoperative solely to the extent of the conflict and with respect to  
30 the individual members directly affected. This finding does not affect  
31 the operation of the remainder of this act in its application to the  
32 members concerned. The legislature reserves the right to amend or  
33 repeal this act in the future as may be required to comply with a final



1 federal determination that amendment or repeal is necessary to maintain  
2 the favorable tax treatment of a plan.

3 NEW SECTION. **Sec. 22.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 23.** This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of the  
9 state government and its existing public institutions, and takes effect  
10 July 1, 2007.

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