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SENATE BILL 6516

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State of Washington

61st Legislature

2010 Regular Session

By Senator Hobbs

Read first time 01/15/10. Referred to Committee on Ways & Means.

1 AN ACT Relating to plan membership default provisions in the public  
2 employees' retirement system, the teachers' retirement system, and the  
3 school employees' retirement system; and amending RCW 41.32.835,  
4 41.35.610, and 41.40.785.

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

6 **Sec. 1.** RCW 41.32.835 and 2007 c 491 s 3 are each amended to read  
7 as follows:

8 (1) All teachers who first become employed by an employer in an  
9 eligible position on or after July 1, 2007, shall have a period of  
10 ninety days to make an irrevocable choice to become a member of plan 2  
11 or plan 3. At the end of ninety days, if the member has not made a  
12 choice to become a member of plan 2, he or she becomes a member of plan  
13 3 or plan 2 as follows:

14 (a) Becomes a member of plan 3 if first employed by an employer in  
15 an eligible position on or after July 1, 2007, but prior to July 1,  
16 2010;

17 (b) Becomes a member of plan 2 if first employed by an employer in  
18 an eligible position on or after July 1, 2010.

1       These plan choice and default provisions are subject to the rights  
2 reserved by the legislature in subsection (3) of this section.

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

11       (3) The plan choice provision as set forth in section 3, chapter  
12 491, Laws of 2007 was intended by the legislature as a replacement  
13 benefit for gain-sharing. Until there is legal certainty with respect  
14 to the repeal of chapter 41.31A RCW, the right to plan choice under  
15 this section is noncontractual, and the legislature reserves the right  
16 to amend or repeal this section. Legal certainty includes, but is not  
17 limited to, the expiration of any: Applicable limitations on actions;  
18 and periods of time for seeking appellate review, up to and including  
19 reconsideration by the Washington supreme court and the supreme court  
20 of the United States. Until that time, all teachers who first become  
21 employed by an employer in an eligible position on or after July 1,  
22 2007, may choose either plan 2 or plan 3 under this section. If the  
23 repeal of chapter 41.31A RCW is held to be invalid in a final  
24 determination of a court of law, and the court orders reinstatement of  
25 gain-sharing or other alternate benefits as a remedy, then all teachers  
26 who first become employed by an employer in an eligible position on or  
27 after the date of such reinstatement shall be members of plan 3.

28       **Sec. 2.** RCW 41.35.610 and 2007 c 491 s 7 are each amended to read  
29 as follows:

30       (1) All classified employees who first become employed by an  
31 employer in an eligible position on or after July 1, 2007, shall have  
32 a period of ninety days to make an irrevocable choice to become a  
33 member of plan 2 or plan 3. At the end of ninety days, if the member  
34 has not made a choice to become a member of plan 2, he or she becomes  
35 a member of plan 3 or plan 2 as follows:

36       (a) Becomes a member of plan 3 if first employed by an employer in

1 an eligible position on or after July 1, 2007, but prior to July 1,  
2 2010;

3 (b) Becomes a member of plan 2 if first employed by an employer in  
4 an eligible position on or after July 1, 2010.

5 These plan choice and default provisions are subject to the rights  
6 reserved by the legislature in subsection (3) of this section.

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

15 (3) The plan choice provision as set forth in section 7, chapter  
16 491, Laws of 2007 was intended by the legislature as a replacement  
17 benefit for gain-sharing. Until there is legal certainty with respect  
18 to the repeal of chapter 41.31A RCW, the right to plan choice under  
19 this section is noncontractual, and the legislature reserves the right  
20 to amend or repeal this section. Legal certainty includes, but is not  
21 limited to, the expiration of any: Applicable limitations on actions;  
22 and periods of time for seeking appellate review, up to and including  
23 reconsideration by the Washington supreme court and the supreme court  
24 of the United States. Until that time, all classified employees who  
25 first become employed by an employer in an eligible position on or  
26 after July 1, 2007, may choose either plan 2 or plan 3 under this  
27 section. If the repeal of chapter 41.31A RCW is held to be invalid in  
28 a final determination of a court of law, and the court orders  
29 reinstatement of gain-sharing or other alternate benefits as a remedy,  
30 then all classified employees who first become employed by an employer  
31 in an eligible position on or after the date of such reinstatement  
32 shall be members of plan 3.

33 **Sec. 3.** RCW 41.40.785 and 2000 c 247 s 302 are each amended to  
34 read as follows:

35 (1) All employees who first become employed by an employer in an  
36 eligible position on or after March 1, 2002, for state agencies or  
37 institutes of higher education, or September 1, 2002, for other

1 employers, shall have a period of ninety days to make an irrevocable  
2 choice to become a member of plan 2 or plan 3. At the end of ninety  
3 days, if the member has not made a choice to become a member of plan 2,  
4 he or she becomes a member of plan 3 or plan 2 as follows:

5 (a) Becomes a member of plan 3 if first employed by an employer in  
6 an eligible position on or after March 1, 2002, but prior to July 1,  
7 2010, for state agencies or institutions of higher education, or on or  
8 after September 1, 2002, but prior to July 1, 2010, for other  
9 employers;

10 (b) Becomes a member of plan 2 if first employed by an employer in  
11 an eligible position on or after July 1, 2010.

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

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

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