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SENATE BILL 5494

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State of Washington                      62nd Legislature                      2011 Regular Session

By Senators Brown, Zarelli, and Shin

Read first time 01/27/11. Referred to Committee on Ways & Means.

1            AN ACT Relating to changing the default investment option for new  
2 members of the defined contribution portion of the plan 3 retirement  
3 systems; and amending RCW 41.34.130, 41.34.060, and 41.34.140.

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

5            **Sec. 1.** RCW 41.34.130 and 2010 1st sp.s. c 7 s 34 are each amended  
6 to read as follows:

7            (1) The state investment board has the full authority to invest all  
8 self-directed investment moneys in accordance with RCW 43.84.150 and  
9 43.33A.140, the default investment options set forth in RCW  
10 41.34.060(1), and cumulative investment directions received pursuant to  
11 RCW 41.34.060 and this section. In carrying out this authority the  
12 state investment board, after consultation with the department  
13 regarding any recommendations made pursuant to RCW 41.50.088(1)(b),  
14 shall provide a set of options for members to choose from for self-  
15 directed investment.

16            (2) All investment and operating costs of the state investment  
17 board associated with making self-directed investments or the default  
18 investment options set forth in RCW 41.34.060(1) shall be paid by  
19 members and recovered under procedures agreed to by the department and

1 the state investment board pursuant to the principles set forth in RCW  
2 43.33A.160 and 43.84.160. All other expenses caused by self-directed  
3 investment shall be paid by the member in accordance with rules  
4 established by the department under RCW 41.50.088. With the exception  
5 of these expenses, all earnings from self-directed investments shall  
6 accrue to the member's account.

7 (3)(a)(i) The department shall keep or cause to be kept full and  
8 adequate accounts and records of each individual member's account. The  
9 department shall account for and report on the investment of defined  
10 contribution assets or may enter into an agreement with the state  
11 investment board for such accounting and reporting under this chapter.

12 (ii) The department's duties related to individual participant  
13 accounts include conducting the activities of trade instruction,  
14 settlement activities, and direction of cash movement and related wire  
15 transfers with the custodian bank and outside investment firms.

16 (iii) The department has sole responsibility for contracting with  
17 any recordkeepers for individual participant accounts and shall manage  
18 the performance of recordkeepers under those contracts.

19 (b)(i) The department's duties under (a)(ii) of this subsection do  
20 not limit the authority of the state investment board to conduct its  
21 responsibilities for asset management and balancing of the deferred  
22 compensation funds.

23 (ii) The state investment board has sole responsibility for  
24 contracting with outside investment firms to provide investment  
25 management for the deferred compensation funds and shall manage the  
26 performance of investment managers under those contracts.

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

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

31 (1) (~~Except as provided in subsection (3) of this section, the~~  
32 ~~member's account shall be~~) Members may select investments as provided  
33 in subsections (2) and (4) of this section. If a member of the public  
34 employees' retirement system entering plan 3 under RCW 41.40.785, a  
35 member of the teachers' retirement system entering plan 3 under RCW  
36 41.32.835, or a member of the school employees' retirement system  
37 entering plan 3 under RCW 41.35.610 does not select investments, the

1 member's account shall be invested in the default investment option of  
2 the retirement strategy fund that is closest to the retirement target  
3 date of the member. Retirement strategy fund means one of several  
4 diversified asset allocation portfolios managed by investment advisors  
5 under contract to the state investment board. The asset mix of the  
6 portfolios adjusts over time depending on a target retirement date.

7 (2) Members may elect to have their account invested by the state  
8 investment board. In order to reduce transaction costs and address  
9 liquidity issues, based upon recommendations of the state investment  
10 board, the department may require members to provide up to ninety days'  
11 notice prior to moving funds from the state investment board portfolio  
12 to self-directed investment options provided under subsection ~~((+3))~~  
13 (4) of this section.

14 (a) For members of the retirement system as provided for in chapter  
15 41.32 RCW of plan 3, investment shall be in the same portfolio as that  
16 of the teachers' retirement system combined plan 2 and 3 fund under RCW  
17 41.50.075(2).

18 (b) For members of the retirement system as provided for in chapter  
19 41.35 RCW of plan 3, investment shall be in the same portfolio as that  
20 of the school employees' retirement system combined plan 2 and 3 fund  
21 under RCW 41.50.075(4).

22 (c) For members of the retirement system as provided for in chapter  
23 41.40 RCW of plan 3, investment shall be in the same portfolio as that  
24 of the public employees' retirement system combined plan 2 and 3 fund  
25 under RCW 41.50.075(3).

26 ~~((+2))~~ (3) The state investment board shall declare monthly unit  
27 values for the portfolios or funds, or portions thereof, utilized under  
28 subsection ~~((+1))~~ (2)(a), (b), and (c) of this section. The declared  
29 values shall be an approximation of portfolio or fund values, based on  
30 internal procedures of the state investment board. Such declared unit  
31 values and internal procedures shall be in the sole discretion of the  
32 state investment board. The state investment board may delegate any of  
33 the powers and duties under this subsection, including discretion,  
34 pursuant to RCW 43.33A.030. Member accounts shall be credited by the  
35 department with a rate of return based on changes to such unit values.

36 ~~((+3))~~ (4) Members may elect to self-direct their investments as  
37 set forth in RCW 41.34.130 and 43.33A.190.

1           **Sec. 3.** RCW 41.34.140 and 2010 1st sp.s. c 7 s 35 are each amended  
2 to read as follows:

3           (1) A state board or commission, agency, or any officer, employee,  
4 or member thereof is not liable for any loss or deficiency resulting  
5 from member defined contribution investments selected, made, or  
6 required pursuant to RCW 41.34.060 (1), (2), or (~~(3)~~) (4).

7           (2) Neither the department, nor director or any employee, nor the  
8 state investment board, nor any officer, employee, or member thereof is  
9 liable for any loss or deficiency resulting from a member investment in  
10 the default option pursuant to RCW 41.34.060(1) or reasonable efforts  
11 to implement investment directions pursuant to RCW 41.34.060 (1), (2),  
12 or (~~(3)~~) (4).

13           (3) The state investment board, or any officer, employee, or member  
14 thereof is not liable with respect to any declared monthly unit  
15 valuations or crediting of rates of return, or any other exercise of  
16 powers or duties, including discretion, under RCW 41.34.060(~~(2)~~) (3).

17           (4) The department, or any officer or employee thereof, is not  
18 liable for crediting rates of return which are consistent with the  
19 state investment board's declaration of monthly unit valuations  
20 pursuant to RCW 41.34.060(~~(2)~~) (3).

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