

SSB 5851 - S AMD 177
By Senator Bailey

PULLED 04/25/2013

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

3 "PART I

4 SHORT TITLE AND INTENT

5 NEW SECTION. **Sec. 101.** This act may be known and cited as the
6 public employee defined contribution retirement plan act.

7 NEW SECTION. **Sec. 102.** The legislature recognizes the need for
8 public employees, public safety employees, teachers, and school
9 employees, to have a secure and viable retirement benefit, not only for
10 their own financial protection, but also so that public funds are spent
11 prudently for their intended purpose. The legislature also recognizes
12 the need for public employers and taxpayers to have consistent and
13 predictable pension funding obligations in support of employee
14 retirement benefits. Therefore, it is the intent of the legislature to
15 provide a defined contribution retirement plan option for new public
16 employees, teachers, and school employees that uses best practices of
17 defined contribution plans to provide opportunity and flexibility to
18 accrue a viable retirement benefit, while providing stable funding
19 requirements for public employers and taxpayers. These best practices
20 include minimizing the investment risk borne by the participants,
21 whether through lack of investment knowledge or lack of access to the
22 full variety of investment classes, and providing a distribution option
23 that would ensure participants do not outlive their savings.

24 PART II

25 RETIREMENT SYSTEM

1 NEW SECTION. **Sec. 201.** This chapter applies only to members of
2 the Washington public employees' savings plan created under this
3 chapter.

4 NEW SECTION. **Sec. 202.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Accumulated contributions" means the sum of all contributions
7 standing to the credit of a member in the member's individual account,
8 together with the earnings thereon.

9 (2)(a) "Compensation earnable" means salaries or wages earned by a
10 member during a payroll period for personal services, including
11 overtime payments, and shall include wages and salaries deferred under
12 provisions established pursuant to sections 403(b), 414(h), and 457 of
13 the internal revenue code, but excludes nonmoney maintenance
14 compensation and lump sum or other payments for deferred annual sick
15 leave, unused accumulated vacation leave, unused accumulated annual
16 leave, or any form of severance pay.

17 (b) "Compensation earnable" also includes the following actual or
18 imputed payments, which are not paid for personal services:

19 (i) Retroactive payments to an individual by an employer on
20 reinstatement of the employee in a position, or payments by an employer
21 to an individual in lieu of reinstatement in a position which are
22 awarded or granted as the equivalent of the salary or wage which the
23 individual would have earned during a payroll period is considered
24 compensation earnable to the extent provided in this subsection (2),
25 and the individual shall receive the equivalent service;

26 (ii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
27 and 72.09.240;

28 (iii) Compensation that a member would have received but for a
29 disability occurring in the line of duty only as authorized by RCW
30 41.40.038;

31 (iv) Compensation that a member receives due to participation in
32 the leave sharing program only as authorized by RCW 41.04.650 through
33 41.04.670; and

34 (v) Compensation that a member receives for being in standby
35 status. For the purposes of this section, a member is in standby
36 status when not being paid for time actually worked and the employer

1 requires the member to be prepared to report immediately for work, if
2 the need arises, although the need may not arise.

3 (3) "Department" means the department of retirement systems created
4 in chapter 41.50 RCW.

5 (4) "Director" means the director of the department.

6 (5) "Eligible position" means any position that meets the
7 definition of eligible position in chapters 41.32, 41.35, 41.37, and
8 41.40 RCW shall be considered an eligible position under this chapter.

9 (6) "Employee" or "employed" means a person who is providing
10 services for compensation to an employer, unless the person is free
11 from the employer's direction and control over the performance of work.
12 The department shall adopt rules and interpret this subsection
13 consistent with common law.

14 (7)(a) "Employer" means every branch, department, agency,
15 commission, board, and office of the state, and any political
16 subdivision and municipal corporation of the state admitted into the
17 retirement system, including school districts, educational service
18 districts, and public agencies created pursuant to RCW 35.63.070,
19 36.70.060, and 39.34.030. Any employer who is participating in the
20 retirement systems established in chapters 41.32, 41.35, 41.37, and
21 41.40 RCW on the effective date of this section is an employer under
22 this chapter. Any entity that becomes an employer under chapters
23 41.32, 41.35, 41.37, and 41.40 RCW after the effective date of this
24 section is also an employer under this chapter.

25 (b) Except as otherwise specifically provided in this chapter,
26 "employer" does not include a government contractor. For purposes of
27 this subsection, a "government contractor" is any entity, including a
28 partnership, limited liability company, for-profit or nonprofit
29 corporation, or person, that provides services pursuant to a contract
30 with an employer. The determination whether an employer-employee
31 relationship has been established is not based on the relationship
32 between a government contractor and an employer, but is based solely on
33 the relationship between a government contractor's employee and an
34 employer under this chapter.

35 (8) "Ineligible position" means any position that does not conform
36 with the requirements set forth in subsection (5) of this section.

37 (9) "Leave of absence" means the period of time a member is

1 authorized by the employer to be absent from service without being
2 separated from membership.

3 (10) "Member" means any employee included in the membership of the
4 retirement system, as provided for in section 204 of this act.

5 (11) "Member account" or "member's account" means the sum of the
6 member and employer contributions and earnings on behalf of the member.

7 (12) "Regular interest" means the rate the director determines.

8 (13) "Retirement system" means the Washington public employees'
9 savings plan created in this chapter.

10 (14) "Separation from service" occurs when a person has terminated
11 all employment with an employer. Separation from service or employment
12 does not occur, and if claimed by an employer or employee may be a
13 violation of RCW 41.40.055, when an employee and employer have a
14 written or oral agreement to resume employment with the same employer
15 following termination. Mere expressions or inquiries about
16 postretirement employment by an employer or employee that do not
17 constitute a commitment to reemploy the employee after retirement are
18 not an agreement under this subsection.

19 (15)(a) "Service" means periods of employment by a member in an
20 eligible position or positions for one or more employers for which
21 compensation earnable is paid. Time spent in standby status, whether
22 compensated or not, is not service. Educational employees who are
23 compensated for work in at least nine months from September to August
24 shall be provided one year of service.

25 (b) Service in any state elective position is service.

26 (16) "State actuary" or "actuary" means the person appointed
27 pursuant to RCW 44.44.010(2).

28 (17) "State elective position" means any position held by any
29 person elected or appointed to statewide office or elected or appointed
30 as a member of the legislature.

31 (18) "State treasurer" means the treasurer of the state of
32 Washington.

33 (19) "Substitute employee" means any substitute employee as defined
34 in RCW 41.35.010 and any substitute teacher as defined in RCW
35 41.32.010.

36 (20) "Transferable plan" means the plans 2 and plans 3 of the
37 retirement systems established under chapters 41.32, 41.34, 41.35,
38 41.37, and 41.40 RCW.

1 NEW SECTION. **Sec. 203.** A public employees' savings plan is hereby
2 created for the employees of the state of Washington and its political
3 subdivisions. The administration and management of the savings plan,
4 the responsibility for making effective the provisions of this chapter,
5 and the authority to make all rules and regulations necessary therefor
6 are hereby vested in the department. All such rules and regulations
7 shall be governed by the provisions of chapter 34.05 RCW. The
8 retirement system created in this chapter shall be known as the
9 Washington public employees' savings plan.

10 NEW SECTION. **Sec. 204.** Membership in the retirement system
11 consists of:

12 (1) All regularly compensated employees, substitute employees, and
13 appointive and elective officials who:

14 (a) Are eligible for membership in plan 2 or plan 3 of the
15 retirement systems established under chapters 41.32, 41.35, 41.37, or
16 41.40 RCW;

17 (b) First become employed by an employer on or after July 1, 2014;
18 and

19 (c) Make an irrevocable choice to become a member of the system, or
20 become a member by default, as provided in subsection (3) of this
21 section. However, a member may not participate in another defined
22 contribution retirement plan or annuity retirement plan which includes
23 an employer contribution for the same period of employment with an
24 employer.

25 (2) All regularly compensated employees and appointive and elective
26 officials employed by an employer who first established service in a
27 transferable plan prior to July 1, 2014, and who made an irrevocable
28 choice to transfer into the system as provided in section 206 of this
29 act.

30 (3)(a) All individuals who meet the requirements of subsection (1)
31 of this section have a period of ninety days to make an irrevocable
32 choice to either become a member of the public employees' savings plan
33 or to instead elect to become a member, if eligible, of plan 2 or plan
34 3 of a retirement system established under chapters 41.32, 41.35,
35 41.37, and 41.40 RCW. If an individual does not make a choice to
36 become a member of plan 2 or plan 3 of the state defined benefit

1 retirement system for which he or she is eligible under the rules of
2 that system, the individual will become a member of the public
3 employees' savings plan.

4 (b) For administrative efficiency, until a member makes a choice or
5 becomes a public employees' savings plan member by default, as provided
6 in (a) of this subsection, the member shall be reported to the
7 department in plan 2 of the state defined benefit retirement system
8 listed in (a) of this subsection for which they are eligible, with
9 member and employer contributions. Upon becoming a member of the
10 public employees' savings plan, all member and employer accumulated
11 contributions will be credited to the member's account in the public
12 employees' savings plan, subject to the vesting requirements in section
13 207 of this act.

14 NEW SECTION. **Sec. 205.** Substitute employees may establish
15 membership and service in the plan under the provisions of RCW
16 41.32.013 or 41.35.033.

17 NEW SECTION. **Sec. 206.** (1) Between January 1, 2015, and July 1,
18 2015, every member of a transferable plan employed by an employer in an
19 eligible position has a one-time and irrevocable option to transfer to
20 the public employees' savings plan. Contributions to this plan shall
21 begin the first day of the pay cycle in which the employee becomes a
22 member. Members electing this option must transfer service from each
23 transferable plan in which the member has established service credit.

24 (2) Service in each transferable plan for which a transferring
25 member has established service credit will be transferred to the public
26 employees' savings plan on July 1, 2015. This service applies to the
27 eligibility for vesting in employer matching contributions as provided
28 in section 207 of this act.

29 (3) Retirement benefits in each transferable plan for which a
30 transferring member has established service credit will be transferred
31 to the public employees' savings plan and credited to member accounts
32 in the public employees' savings plan as follows:

33 (a) Plan 2 members' accumulated contributions from each
34 transferable plan 2 will be transferred on July 1, 2015, including all
35 accrued interest as of the transfer date;

1 (b) Plan 3 members' member accounts from each transferable plan 3
2 will be transferred on July 1, 2015;

3 (c) An additional transfer payment from each transferable plan will
4 be credited to qualified members' accounts in the public employees'
5 savings plan on July 1, 2017. The transfer payment represents the
6 employer provided portion of the member's accrued retirement benefit
7 and is equal to the actuarial equivalent value of the member's accrued
8 retirement benefit on June 30, 2015, as determined by the director in
9 consultation with the state actuary, less any amounts transferred under
10 (a) of this subsection. In no event may the additional transfer
11 payment result in a decrease in the value of a member's account;

12 (d) For purposes of determining the actuarial equivalent value of
13 the accrued benefit transferred under (c) of this subsection, the
14 department shall include both expected future salary increases and
15 expected future service credit for benefit eligibility purposes.
16 However, only service credit earned as of June 30, 2015, shall be used
17 to determine the portion of the present value of future benefits that
18 the transferring member has accrued at the date of the transfer;

19 (e) The additional transfer payment provided under (c) of this
20 subsection must be increased with regular interest, as determined by
21 the director, for the period of time between the transfer date and the
22 date of the additional transfer payment;

23 (f) To qualify for the transfer payment provided under (c) of this
24 subsection, a transferring member must remain employed by an employer
25 in an eligible position through July 1, 2017;

26 (g) Members and beneficiaries are fully vested in each amount
27 transferred under (a), (b), (c), and (e) of this subsection when the
28 amount is credited to the member's account in the public employees'
29 savings plan.

30 (4) Members transferring to the public employees' savings plan
31 forfeit all service and benefits from all transferable plans and may
32 not reestablish membership in any transferable plan.

33 (5) The department shall notify potentially eligible members of
34 their option to transfer to the public employees' savings plan and
35 shall provide estimates of the amounts potentially available for
36 transfer to their member accounts.

1 NEW SECTION. **Sec. 207.** (1) A member shall contribute five percent
2 of his or her compensation earnable until age thirty-five, and seven
3 and one-half percent thereafter.

4 (2) The employer of a member shall contribute to the member's
5 account an amount equal to eighty percent of the contributions made by
6 a member.

7 (3) Members with less than five years of service are not vested in
8 employer contributions to member accounts and the earnings on those
9 contributions. Once members have attained five years of service, they
10 become fully vested in the employer contributions and the earnings on
11 those contributions. Members do not have any right to receive employer
12 contributions or the earnings on those contributions in which they are
13 not vested.

14 (4) Contributions shall begin the first day of the pay cycle in
15 which the employee becomes a member.

16 NEW SECTION. **Sec. 208.** In addition to contributions made to
17 members' accounts, employers shall make contributions to the unfunded
18 actuarial accrued liability in plan 1 of the teachers' retirement
19 system and plan 1 of the public employees' retirement system as
20 follows:

21 (1) School districts and educational service districts shall
22 contribute to plan 1 of the teachers' retirement system the amounts
23 specified in RCW 41.45.060(8) (b) and (c) on earnable compensation paid
24 to teachers as defined in RCW 41.32.010.

25 (2) School districts and educational service districts shall
26 contribute to plan 1 of the public employees' retirement system the
27 amounts specified in RCW 41.45.060(6) (b) and (c) on earnable
28 compensation paid to classified employees as defined in RCW 41.35.010.

29 (3) Employers other than school districts and educational service
30 districts shall contribute to plan 1 of the public employees'
31 retirement system the amounts specified in RCW 41.45.060(6) (b) and
32 (c).

33 NEW SECTION. **Sec. 209.** (1) Members may self-direct their
34 investments as set forth in section 210 of this act and RCW 43.33A.190.
35 If a member does not select investments, the member's account shall be
36 invested in the default investment option of the retirement strategy

1 fund that is closest to the retirement target date of the member.
2 "Retirement strategy fund" means one of several diversified asset
3 allocation portfolios managed by investment advisors under contract to
4 the state investment board. The asset mix of the portfolios adjusts
5 over time depending on a target retirement date.

6 (2) The department shall adopt rules that will allow members the
7 option to roll over moneys from other tax qualified accounts into their
8 public employees' savings plan member account. This option is subject
9 to internal revenue service requirements for favorable tax
10 qualification. The department is not required to allow all roll-overs
11 that may be permitted under internal revenue service regulations.

12 NEW SECTION. **Sec. 210.** (1) The state investment board has the
13 full authority to invest all self-directed investment moneys in
14 accordance with RCW 43.84.150 and 43.33A.140, and cumulative investment
15 directions received pursuant to section 209 of this act and this
16 section. In carrying out this authority the state investment board,
17 after consultation with the department, shall provide a set of options
18 for members to choose from for self-directed investment.

19 (2) All investment and operating costs of the state investment
20 board associated with making self-directed investments shall be paid by
21 members and recovered under procedures agreed to by the department and
22 the state investment board pursuant to the principles set forth in RCW
23 43.33A.160 and 43.84.160. All other expenses caused by self-directed
24 investment shall be paid by the member in accordance with rules
25 established by the department. With the exception of these expenses,
26 all earnings from self-directed investments shall accrue to the
27 member's account.

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

33 (ii) The department's duties related to individual member accounts
34 include conducting the activities of trade instruction, settlement
35 activities, and direction of cash movement and related wire transfers
36 with the custodian bank and outside investment firms.

1 (iii) The department has sole responsibility for contracting with
2 any recordkeepers for individual member accounts and shall manage the
3 performance of recordkeepers under those contracts.

4 (b)(i) The department's duties under (a)(ii) of this subsection do
5 not limit the authority of the state investment board to conduct its
6 responsibilities for asset management and balancing of the defined
7 contribution funds.

8 (ii) The state investment board has sole responsibility for
9 contracting with outside investment firms to provide investment
10 management for the defined contribution funds and shall manage the
11 performance of investment managers under those contracts.

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

14 NEW SECTION. **Sec. 211.** (1) If the member terminates employment,
15 the balance in the member's account may be distributed in accordance
16 with an option selected by the member either as a lump sum or pursuant
17 to other options authorized by the department. A distribution from the
18 member account shall not result in loss of service for purposes of
19 vesting in employer contributions under section 207 of this act.

20 (2) If the member dies while in service, the balance of the
21 member's account may be distributed in accordance with an option
22 selected by the member either as a lump sum or pursuant to other
23 options authorized by the department. The distribution is as follows:

24 (a) The distribution shall be made to the person or persons the
25 member nominated by written designation duly executed and filed with
26 the department;

27 (b) If there is no designated person or persons still living at the
28 time of the member's death, the balance of the member's account in the
29 retirement system shall be paid to the member's surviving spouse as if
30 in fact the spouse had been nominated by written designation;

31 (c) If there is no surviving spouse, then to the person or persons,
32 trust, or organization as the member has nominated by written
33 designation duly executed and filed with the department; or

34 (d) If there is no designated person or persons still living at the
35 time of the member's death, then to the member's legal representatives.

36 (3) The distribution under subsections (1) and (2) of this section
37 is less:

1 (a) Any amount identified as owing to an obligee upon withdrawal
2 pursuant to a court order filed under RCW 41.50.670; and

3 (b) Any employer contributions and the earnings on those
4 contributions in which the member is not vested as provided for in
5 section 207 of this act.

6 (4) Upon any distribution from a member account under this section,
7 any employer contributions and the earnings on those contributions in
8 which the member is not vested as provided for in section 207 of this
9 act are forfeited by the member. Amounts forfeited under this
10 subsection will be credited, under rules developed by the department,
11 to the unfunded actuarial accrued liability in plan 1 of the teachers'
12 retirement system or plan 1 of the public employees' retirement system.

13 (5) The department, in consultation with the state investment
14 board, shall adopt rules providing members and survivors an option to
15 purchase, using funds in the member's account, an annuity from a
16 state-administered fund. The offering of this option is subject to
17 favorable tax determination by the internal revenue service.

18 NEW SECTION. **Sec. 212.** (1) Subject to subsections (2) and (3) of
19 this section, the right of a person to an annuity or any other right
20 accrued or accruing to any person under the provisions of this chapter,
21 the various funds created by this chapter, and all moneys and
22 investments and income thereof, are hereby exempt from any state,
23 county, municipal, or other local tax, and is not subject to execution,
24 garnishment, attachment, the operation of bankruptcy or insolvency
25 laws, or other process of law whatsoever, whether the same be in actual
26 possession of the person or be deposited or loaned and shall be
27 unassignable.

28 (2)(a) This section does not prohibit a beneficiary of an annuity
29 from authorizing deductions therefrom for payment of premiums due on
30 any group insurance policy or plan issued for the benefit of a group
31 comprised of public employees of the state of Washington or its
32 political subdivisions and which has been approved for deduction in
33 accordance with rules that may be adopted by the state health care
34 authority and/or the department. This section does not prohibit a
35 beneficiary of an annuity from authorizing deductions therefrom for
36 payment of dues and other membership fees to any retirement association
37 or organization the membership of which is composed of retired public

1 employees, if a total of three hundred or more of such retired
2 employees have authorized such deduction for payment to the same
3 retirement association or organization.

4 (b) This section does not prohibit a beneficiary of an annuity from
5 authorizing deductions from that allowance for charitable purposes on
6 the same terms as employees and public officers under RCW 41.04.035 and
7 41.04.036.

8 (3) Subsection (1) of this section does not prohibit the department
9 from complying with (a) a wage assignment order for child support
10 issued pursuant to chapter 26.18 RCW, (b) an order to withhold and
11 deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll
12 deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits
13 assignment order issued by the department, (e) a court order directing
14 the department of retirement systems to pay benefits directly to an
15 obligee under a dissolution order as defined in RCW 41.50.500(3) which
16 fully complies with RCW 41.50.670 and 41.50.700, or (f) any
17 administrative or court order expressly authorized by federal law.

18 NEW SECTION. **Sec. 213.** (1) The retirement plan created by this
19 chapter must be administered so as to comply with the internal revenue
20 code, Title 26 U.S.C., and specifically with plan qualification
21 requirements imposed on governmental plans by section 401(a) of the
22 internal revenue code.

23 (2) Any section or provision of this chapter which is susceptible
24 to more than one construction must be interpreted in favor of the
25 construction most likely to satisfy requirements imposed by section
26 401(a) of the internal revenue code.

27 (3) If any section or provision of this chapter is found to be in
28 conflict with the plan qualification requirements for governmental
29 plans in section 401(a) of the internal revenue code, the conflicting
30 part of this chapter is hereby inoperative solely to the extent of the
31 conflict, and such finding does not affect the operation of the
32 remainder of this chapter.

33 NEW SECTION. **Sec. 214.** (1) A state board, commission, or agency,
34 or any officer, employee, or member thereof, is not liable for any loss
35 or deficiency resulting from member investments selected or required
36 pursuant to section 210 (1) or (3) of this act.

1 (2) Neither the department, nor director or any employee, nor the
2 state investment board, nor any officer, employee, or member thereof,
3 is liable for any loss or deficiency resulting from a member investment
4 in the default option pursuant to section 209 of this act or reasonable
5 efforts to implement investment directions pursuant to section 210 (1)
6 or (3) of this act.

7 (3) The state investment board, or any officer, employee, or member
8 thereof, is not liable with respect to any declared unit valuations or
9 crediting of rates of return, or any other exercise of powers or
10 duties, including discretion, under section 210(2) of this act.

11 (4) The department, or any officer or employee thereof, is not
12 liable for crediting rates of return which are consistent with the
13 state investment board's declaration of unit valuations pursuant to
14 section 210(2) of this act.

15 NEW SECTION. **Sec. 215.** For the purposes of this chapter, the
16 terms spouse, marriage, marital, husband, wife, widow, widower, next of
17 kin, and family apply equally to state registered domestic partnerships
18 or individuals in state registered domestic partnerships as well as to
19 marital relationships and married persons, and references to
20 dissolution of marriage apply equally to state registered domestic
21 partnerships that have been terminated, dissolved, or invalidated, to
22 the extent that such interpretation does not conflict with federal law.
23 When necessary to implement chapter 521, Laws of 2009, gender-specific
24 terms such as husband and wife used in any statute, rule, or other law
25 are gender neutral, and applicable to individuals in state registered
26 domestic partnerships.

27 NEW SECTION. **Sec. 216.** Sections 201 through 215 of this act
28 constitute a new chapter in Title 41 RCW.

29 **PART III**
30 **CHANGES TO EXISTING RETIREMENT SYSTEMS**

31 **Sec. 301.** RCW 41.04.440 and 2007 c 492 s 3 are each amended to
32 read as follows:

33 (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the
34 members of the retirement systems created in chapters 2.10, 2.12,

1 41.26, 41.32, 41.35, 41.37, 41.40, 41.34, 41.--- (the new chapter
2 created in section 216 of this act), and 43.43 RCW to enjoy the tax
3 deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of
4 1984 does not alter in any manner the provisions of RCW 41.45.060,
5 41.45.061, and 41.45.067 which require that the member contribution
6 rates shall be set so as to provide fifty percent of the cost of the
7 respective retirement plans.

8 (2) Should the legislature revoke any benefit allowed under 26
9 U.S.C. 414(h), no affected employee shall be entitled thereafter to
10 receive such benefit as a matter of contractual right.

11 **Sec. 302.** RCW 41.04.445 and 2007 c 492 s 4 are each amended to
12 read as follows:

13 (1) This section applies to all members who are:

14 (a) Judges under the retirement system established under chapter
15 2.10, 2.12, or 2.14 RCW;

16 (b) Employees of the state under the retirement system established
17 by chapter 41.32, 41.37, 41.40, 41.--- (the new chapter created in
18 section 216 of this act), or 43.43 RCW;

19 (c) Employees of school districts under the retirement system
20 established by chapter 41.32 (~~((or))~~), 41.40, or 41.--- (the new chapter
21 created in section 216 of this act) RCW, except for substitute teachers
22 as defined by RCW 41.32.010;

23 (d) Employees of educational service districts under the retirement
24 system established by chapter 41.32 (~~((or))~~), 41.40, or 41.--- (the new
25 chapter created in section 216 of this act) RCW; or

26 (e) Employees of community college districts under the retirement
27 system established by chapter 41.32 (~~((or))~~), 41.40, or 41.--- (the new
28 chapter created in section 216 of this act) RCW.

29 (2) Only for compensation earned after the effective date of the
30 implementation of this section and as provided by section 414(h) of the
31 federal internal revenue code, the employer of all the members
32 specified in subsection (1) of this section shall pick up only those
33 member contributions as required under:

34 (a) RCW 2.10.090(1);

35 (b) RCW 2.12.060;

36 (c) RCW 2.14.090;

37 (d) RCW 41.32.263;

- 1 (e) RCW 41.32.350;
- 2 (f) RCW 41.40.330 (1) and (3);
- 3 (g) RCW 41.45.061 and 41.45.067;
- 4 (h) RCW 41.34.070; and
- 5 (i) ((~~RCW 43.43.300~~; and
- 6 (~~jj~~)) RCW 41.34.040.

7 (3) Only for the purposes of federal income taxation, the gross
8 income of the member shall be reduced by the amount of the contribution
9 to the respective retirement system picked up by the employer.

10 (4) All member contributions to the respective retirement system
11 picked up by the employer as provided by this section, plus the accrued
12 interest earned thereon, shall be paid to the member upon the
13 withdrawal of funds or lump sum payment of accumulated contributions as
14 provided under the provisions of the retirement systems.

15 (5) At least forty-five days prior to implementing this section,
16 the employer shall provide:

- 17 (a) A complete explanation of the effects of this section to all
18 members; and
- 19 (b) Notification of such implementation to the director of the
20 department of retirement systems.

21 **Sec. 303.** RCW 41.04.450 and 2007 c 492 s 5 are each amended to
22 read as follows:

23 (1) Employers of those members under chapters 41.26, 41.34, 41.35,
24 41.37, 41.--- (the new chapter created in section 216 of this act), and
25 41.40 RCW who are not specified in RCW 41.04.445 may choose to
26 implement the employer pick up of all member contributions without
27 exception under RCW 41.26.080(1)(a), 41.26.450, 41.40.330(1),
28 41.45.060, 41.45.061, and 41.45.067 and chapters 41.34, and 41.--- (the
29 new chapter created in section 216 of this act) RCW. If the employer
30 does so choose, the employer and members shall be subject to the
31 conditions and limitations of RCW 41.04.445 (3), (4), and (5) and
32 41.04.455.

33 (2) An employer exercising the option under this section may later
34 choose to withdraw from and/or reestablish the employer pick up of
35 member contributions only once in a calendar year following forty-five
36 days prior notice to the director of the department of retirement
37 systems.

1 NEW SECTION. **Sec. 304.** A new section is added to chapter 41.32
2 RCW under the subchapter heading "plan 3" to read as follows:

3 (1) All teachers who first become employed by an employer in an
4 eligible position on or after July 1, 2014, must make an irrevocable
5 choice to become a member of either the teacher's retirement system, or
6 the public employees' savings plan established under chapter 41.--- RCW
7 (the new chapter created in section 216 of this act). If the employee
8 does not make a choice to become a member of the teachers' retirement
9 system, he or she becomes a member of the public employees' savings
10 plan.

11 (2) For administrative efficiency, until a member makes a choice or
12 becomes a public employees' savings plan member by default, as provided
13 in subsection (1) of this section, the member shall be reported to the
14 department in plan 2 of the state defined benefit retirement system
15 listed in subsection (1) of this section for which they are eligible,
16 with member and employer contributions. Upon becoming a member of the
17 public employees' savings plan, all member and employer accumulated
18 contributions shall be credited to the member's account in the public
19 employees' savings plan, subject to the vesting requirements in section
20 207 of this act.

21 NEW SECTION. **Sec. 305.** A new section is added to chapter 41.35
22 RCW under the subchapter heading "plan 3" to read as follows:

23 (1) All classified employees who first become employed by an
24 employer in an eligible position on or after July 1, 2014, must make an
25 irrevocable choice to become a member of either the school employees'
26 retirement system, or the public employees' savings plan established
27 under chapter 41.--- RCW (the new chapter created in section 216 of
28 this act). If the employee does not make a choice to become a member
29 of the school employees' retirement system, he or she becomes a member
30 of the public employees' savings plan.

31 (2) For administrative efficiency, until a member makes a choice or
32 becomes a public employees' savings plan member by default, as provided
33 in subsection (1) of this section, the member shall be reported to the
34 department in plan 2 of the state defined benefit retirement system
35 listed in subsection (1) of this section for which they are eligible,
36 with member and employer contributions. Upon becoming a member of the
37 public employees' savings plan, all member and employer accumulated

1 contributions shall be credited to the member's account in the public
2 employees' savings plan, subject to the vesting requirements in section
3 207 of this act.

4 NEW SECTION. **Sec. 306.** A new section is added to chapter 41.37
5 RCW to read as follows:

6 (1) All public safety employees who first become employed by an
7 employer in an eligible position on or after July 1, 2014, must make an
8 irrevocable choice to become a member of either the public safety
9 employees' retirement system, or the public employees' savings plan
10 established under chapter 41.--- RCW (the new chapter created in
11 section 216 of this act). If the employee does not make a choice to
12 become a member of the school employees' retirement system, he or she
13 becomes a member of the public employees' savings plan.

14 (2) For administrative efficiency, until a member makes a choice or
15 becomes a public employees' savings plan member by default, as provided
16 in subsection (1) of this section, the member shall be reported to the
17 department in plan 2 of the state defined benefit retirement system
18 listed in subsection (1) of this section for which they are eligible,
19 with member and employer contributions. Upon becoming a member of the
20 public employees' savings plan, all member and employer accumulated
21 contributions shall be credited to the member's account in the public
22 employees' savings plan, subject to the vesting requirements in section
23 207 of this act.

24 NEW SECTION. **Sec. 307.** A new section is added to chapter 41.40
25 RCW under the subchapter heading "plan 3" to read as follows:

26 (1) All employees who first become employed by an employer in an
27 eligible position on or after July 1, 2014, must make an irrevocable
28 choice to become a member of either the public employees' retirement
29 system, or the public employees' savings plan established under chapter
30 41.--- RCW (the new chapter created in section 216 of this act). If
31 the employee does not make a choice to become a member of the public
32 employees' retirement system, he or she becomes a member of the public
33 employees' savings plan.

34 (2) For administrative efficiency, until a member makes a choice or
35 becomes a public employees' savings plan member by default, as provided
36 in subsection (1) of this section, the member shall be reported to the

1 department in plan 2 of the state defined benefit retirement system
2 listed in subsection (1) of this section for which they are eligible,
3 with member and employer contributions. Upon becoming a member of the
4 public employees' savings plan, all member and employer accumulated
5 contributions shall be credited to the member's account in the public
6 employees' savings plan, subject to the vesting requirements in section
7 207 of this act.

8 NEW SECTION. **Sec. 308.** A new section is added to chapter 41.50
9 RCW to read as follows:

10 If the department determines that due to employer error a member of
11 the public employees' savings plan has suffered a loss of investment
12 return, the employer shall pay the department for credit to the
13 member's account the amount determined by the department as necessary
14 to correct the error.

15 **Sec. 309.** RCW 41.50.030 and 2011 1st sp.s. c 47 s 20 are each
16 amended to read as follows:

17 (1) As soon as possible but not more than one hundred and eighty
18 days after March 19, 1976, there is transferred to the department of
19 retirement systems, except as otherwise provided in this chapter, all
20 powers, duties, and functions of:

- 21 (a) The Washington public employees' retirement system;
- 22 (b) The Washington state teachers' retirement system;
- 23 (c) The Washington law enforcement officers' and firefighters'
24 retirement system;
- 25 (d) The Washington state patrol retirement system;
- 26 (e) The Washington judicial retirement system; and
- 27 (f) The state treasurer with respect to the administration of the
28 judges' retirement fund imposed pursuant to chapter 2.12 RCW.

29 (2) On July 1, 1996, there is transferred to the department all
30 powers, duties, and functions of the deferred compensation committee.

31 (3) The department shall administer chapter 41.34 RCW.

32 (4) The department shall administer the Washington school
33 employees' retirement system created under chapter 41.35 RCW.

34 (5) The department shall administer the Washington public safety
35 employees' retirement system created under chapter 41.37 RCW.

1 (6) The department shall administer the collection of employer
2 contributions and initial prefunding of the higher education retirement
3 plan supplemental benefits, also referred to as the annuity or
4 retirement income plans created under chapter 28B.10 RCW.

5 (7) The department shall administer the Washington public
6 employees' savings plan created in chapter 41.--- RCW (the new chapter
7 created in section 216 of this act).

8 **Sec. 310.** RCW 41.50.110 and 2011 1st sp.s. c 50 s 936 and 2011 1st
9 sp.s. c 47 s 22 are each reenacted and amended to read as follows:

10 (1) Except as provided by RCW 41.50.255 and subsection (6) of this
11 section, all expenses of the administration of the department, the
12 expenses of administration of the retirement systems, and the expenses
13 of the administration of the office of the state actuary created in
14 chapters 2.10, 2.12, 28B.10, 41.26, 41.32, 41.40, 41.34, 41.35, 41.37,
15 41.--- (the new chapter created in section 216 of this act), 43.43, and
16 44.44 RCW shall be paid from the department of retirement systems
17 expense fund.

18 (2) In order to reimburse the department of retirement systems
19 expense fund on an equitable basis the department shall ascertain and
20 report to each employer, as defined in RCW 28B.10.400, 41.26.030,
21 41.32.010, 41.35.010, 41.37.010, section 202 of this act, or 41.40.010,
22 the sum necessary to defray its proportional share of the entire
23 expense of the administration of the retirement system that the
24 employer participates in during the ensuing biennium or fiscal year
25 whichever may be required. Such sum is to be computed in an amount
26 directly proportional to the estimated entire expense of the
27 administration as the ratio of monthly salaries of the employer's
28 members bears to the total salaries of all members in the entire
29 system. It shall then be the duty of all such employers to include in
30 their budgets or otherwise provide the amounts so required.

31 (3) The department shall compute and bill each employer, as defined
32 in RCW 28B.10.400, 41.26.030, 41.32.010, 41.35.010, 41.37.010, section
33 202 of this act, or 41.40.010, at the end of each month for the amount
34 due for that month to the department of retirement systems expense fund
35 and the same shall be paid as are its other obligations. Such
36 computation as to each employer shall be made on a percentage rate of
37 salary established by the department. However, the department may at

1 its discretion establish a system of billing based upon calendar year
2 quarters in which event the said billing shall be at the end of each
3 such quarter.

4 (4) The director may adjust the expense fund contribution rate for
5 each system at any time when necessary to reflect unanticipated costs
6 or savings in administering the department.

7 (5) An employer who fails to submit timely and accurate reports to
8 the department may be assessed an additional fee related to the
9 increased costs incurred by the department in processing the deficient
10 reports. Fees paid under this subsection shall be deposited in the
11 retirement system expense fund.

12 (a) Every six months the department shall determine the amount of
13 an employer's fee by reviewing the timeliness and accuracy of the
14 reports submitted by the employer in the preceding six months. If
15 those reports were not both timely and accurate the department may
16 prospectively assess an additional fee under this subsection.

17 (b) An additional fee assessed by the department under this
18 subsection shall not exceed fifty percent of the standard fee.

19 (c) The department shall adopt rules implementing this section.

20 (6) Expenses other than those under RCW 41.34.060(~~(+3)~~) (4) shall
21 be paid pursuant to subsection (1) of this section.

22 (7) During the 2009-2011 and 2011-2013 fiscal biennia, the
23 legislature may transfer from the department of retirement systems'
24 expense fund to the state general fund such amounts as reflect the
25 excess fund balance of the fund.

26 **Sec. 311.** RCW 43.33A.190 and 2000 c 247 s 701 are each amended to
27 read as follows:

28 Pursuant to RCW 41.34.130 and section 210 of this act, the state
29 investment board shall invest all self-directed investment moneys under
30 the public employees' savings plan, the teachers' retirement system
31 plan 3, the school employees' retirement system plan 3, and the public
32 employees' retirement system plan 3 with full power to establish
33 investment policy, develop investment options, and manage self-directed
34 investment funds.

35 **PART IV**

1

ADDITIONAL PROVISIONS

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NEW SECTION. **Sec. 401.** This act takes effect July 1, 2014.

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NEW SECTION. **Sec. 402.** The benefits provided pursuant to this act

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are not provided to employees as a matter of contractual right prior to

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July 1, 2014. The legislature retains the right to alter or abolish

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these benefits at any time prior to July 1, 2014."

SSB 5851 - S AMD
By Senator Bailey

PULLED 04/25/2013

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On page 1, line 2 of the title, after "employees;" strike the remainder of the title and insert "amending RCW 41.04.440, 41.04.445, 41.04.450, 41.50.030, and 43.33A.190; reenacting and amending RCW 41.50.110; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter 41.37 RCW; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.50 RCW; adding a new chapter to Title 41 RCW; creating new sections; and providing an effective date."

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