
SUBSTITUTE SENATE BILL 5851

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Bailey, Hill, and Baumgartner)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to creating a defined contribution retirement plan
2 option for public employees; amending RCW 41.04.440, 41.04.445,
3 41.04.450, 41.50.030, and 43.33A.190; reenacting and amending RCW
4 41.50.110; adding a new section to chapter 41.32 RCW; adding a new
5 section to chapter 41.35 RCW; adding a new section to chapter 41.37
6 RCW; adding a new section to chapter 41.40 RCW; adding a new chapter to
7 Title 41 RCW; creating new sections; and providing an effective date.

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

9 **PART I**

10 **SHORT TITLE AND INTENT**

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

13 NEW SECTION. **Sec. 102.** The legislature recognizes the need for
14 public employees, public safety employees, teachers, and school
15 employees, to have a secure and viable retirement benefit, not only for
16 their own financial protection, but also so that public funds are spent
17 prudently for their intended purpose. The legislature also recognizes

1 the need for public employers and taxpayers to have consistent and
2 predictable pension funding obligations in support of employee
3 retirement benefits. Therefore, it is the intent of the legislature to
4 provide a defined contribution retirement plan option for new public
5 employees, teachers, and school employees that uses best practices of
6 defined contribution plans to provide opportunity and flexibility to
7 accrue a viable retirement benefit, while providing stable funding
8 requirements for public employers and taxpayers. These best practices
9 include minimizing the investment risk borne by the participants,
10 whether through lack of investment knowledge or lack of access to the
11 full variety of investment classes, and providing a distribution option
12 that would ensure participants do not outlive their savings.

13 **PART II**
14 **RETIREMENT SYSTEM**

15 NEW SECTION. **Sec. 201.** This chapter applies only to members of
16 the Washington public employees' savings plan created under this
17 chapter.

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

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

23 (2)(a) "Compensation earnable" means salaries or wages earned by a
24 member during a payroll period for personal services, including
25 overtime payments, and shall include wages and salaries deferred under
26 provisions established pursuant to sections 403(b), 414(h), and 457 of
27 the internal revenue code, but excludes nonmoney maintenance
28 compensation and lump sum or other payments for deferred annual sick
29 leave, unused accumulated vacation leave, unused accumulated annual
30 leave, or any form of severance pay.

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

33 (i) Retroactive payments to an individual by an employer on
34 reinstatement of the employee in a position, or payments by an employer
35 to an individual in lieu of reinstatement in a position which are

1 awarded or granted as the equivalent of the salary or wage which the
2 individual would have earned during a payroll period is considered
3 compensation earnable to the extent provided in this subsection (2),
4 and the individual shall receive the equivalent service credit;

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

7 (iii) Compensation that a member would have received but for a
8 disability occurring in the line of duty only as authorized by RCW
9 41.40.038;

10 (iv) Compensation that a member receives due to participation in
11 the leave sharing program only as authorized by RCW 41.04.650 through
12 41.04.670; and

13 (v) Compensation that a member receives for being in standby
14 status. For the purposes of this section, a member is in standby
15 status when not being paid for time actually worked and the employer
16 requires the member to be prepared to report immediately for work, if
17 the need arises, although the need may not arise.

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

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

21 (5) "Eligible position" means:

22 (a) Any position that, as defined by the employer, normally
23 requires five or more months of service a year for which regular
24 compensation for at least seventy hours is earned by the occupant
25 thereof. For purposes of this chapter, an employer may not define
26 "position" in such a manner that an employee's monthly work for that
27 employer is divided into more than one position; and

28 (b) Any position occupied by an elected official or person
29 appointed directly by the governor, or appointed by the chief justice
30 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
31 compensation is paid.

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

37 (7)(a) "Employer" means every branch, department, agency,
38 commission, board, and office of the state, and any political

1 subdivision and municipal corporation of the state admitted into the
2 retirement system, including public agencies created pursuant to RCW
3 35.63.070, 36.70.060, and 39.34.030.

4 (b) Except as otherwise specifically provided in this chapter,
5 "employer" does not include a government contractor. For purposes of
6 this subsection, a "government contractor" is any entity, including a
7 partnership, limited liability company, for-profit or nonprofit
8 corporation, or person, that provides services pursuant to a contract
9 with an employer. The determination whether an employer-employee
10 relationship has been established is not based on the relationship
11 between a government contractor and an employer, but is based solely on
12 the relationship between a government contractor's employee and an
13 employer under this chapter.

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

16 (9) "Leave of absence" means the period of time a member is
17 authorized by the employer to be absent from service without being
18 separated from membership.

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

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

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

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

26 (14) "Separation from service" occurs when a person has terminated
27 all employment with an employer. Separation from service or employment
28 does not occur, and if claimed by an employer or employee may be a
29 violation of RCW 41.40.055, when an employee and employer have a
30 written or oral agreement to resume employment with the same employer
31 following termination. Mere expressions or inquiries about
32 postretirement employment by an employer or employee that do not
33 constitute a commitment to reemploy the employee after retirement are
34 not an agreement under this subsection.

35 (15)(a) "Service" means periods of employment by a member in an
36 eligible position or positions for one or more employers for which
37 compensation earnable is paid. Time spent in standby status, whether
38 compensated or not, is not service.

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

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

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

7 (18) "State treasurer" means the treasurer of the state of
8 Washington.

9 (19) "Transferable plan" means the plans 2 and plans 3 of the
10 retirement systems established under chapters 41.32, 41.34, 41.35,
11 41.37, and 41.40 RCW.

12 NEW SECTION. **Sec. 203.** A public employees' savings plan is hereby
13 created for the employees of the state of Washington and its political
14 subdivisions. The administration and management of the savings plan,
15 the responsibility for making effective the provisions of this chapter,
16 and the authority to make all rules and regulations necessary therefor
17 are hereby vested in the department. All such rules and regulations
18 shall be governed by the provisions of chapter 34.05 RCW. The
19 retirement system created in this chapter shall be known as the
20 Washington public employees' savings plan.

21 NEW SECTION. **Sec. 204.** Membership in the retirement system
22 consists of:

23 (1) All regularly compensated employees and appointive and elective
24 officials who:

25 (a) Are eligible for membership in plan 2 or plan 3 of the
26 retirement systems established under chapters 41.32, 41.35, 41.37, or
27 41.40 RCW;

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

30 (c) Who make an irrevocable choice to become a member of the
31 system, or become a member by default, as provided in subsection (3) of
32 this section. However, individuals may not participate in another
33 defined contribution pension plan qualified under section 401 of the
34 internal revenue code, or an annuity or retirement plan under chapter
35 28B.10 RCW, in addition to being a member of the retirement system for
36 the same period of employment with an employer.

1 (2) All regularly compensated employees and appointive and elective
2 officials employed by an employer who first established service in a
3 transferable plan prior to July 1, 2014, and who made an irrevocable
4 choice to transfer into the system as provided in section 205 of this
5 act.

6 (3)(a) All individuals who meet the requirements of subsection (1)
7 of this section have a period of ninety days to make an irrevocable
8 choice to either become a member of the public employees' savings plan
9 or to instead elect to become a member, if eligible, of plan 2 or plan
10 3 of a retirement system established under chapters 41.32, 41.35,
11 41.37, and 41.40 RCW. If an individual does not make a choice to
12 become a member of plan 2 or plan 3 of the state defined benefit
13 retirement system for which he or she is eligible under the rules of
14 that system, the individual will become a member of the public
15 employees savings plan.

16 (b) For administrative efficiency, until a member makes a choice or
17 becomes a public employees savings plan member by default, as provided
18 in (a) of this subsection, the member shall be reported to the
19 department in plan 2 of the state defined benefit retirement system
20 listed in (a) of this subsection for which they are eligible, with
21 member and employer contributions. Upon becoming a member of the
22 public employees' savings plan, all member accumulated contributions
23 will be credited to the member's account in the public employees'
24 savings plan, subject to the vesting requirements in section 206 of
25 this act.

26 NEW SECTION. **Sec. 205.** (1) Between January 1, 2015, and July 1,
27 2015, every member of a transferable plan employed by an employer in an
28 eligible position has a one-time and irrevocable option to transfer to
29 the public employees' savings plan. Members electing this option must
30 transfer service from each transferable plan in which the member has
31 established service credit.

32 (2) Service in each transferable plan for which a transferring
33 member has established service credit will be transferred to the public
34 employees' savings plan on July 1, 2015. This service applies to the
35 eligibility for vesting in employer matching contributions as provided
36 in section 206 of this act.

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

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

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

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

19 (d) For purposes of determining the actuarial equivalent value of
20 the accrued benefit transferred under (c) of this subsection, the
21 department shall include both expected future salary increases and
22 expected future service credit for benefit eligibility purposes.
23 However, only service credit earned as of June 30, 2015, shall be used
24 to determine the portion of the present value of future benefits that
25 the transferring member has accrued at the date of the transfer;

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

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

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

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

1 (5) The department shall notify potentially eligible members of
2 their option to transfer to the public employees' savings plan and
3 shall provide estimates of the amounts potentially available for
4 transfer to their member accounts.

5 NEW SECTION. **Sec. 206.** (1) A member shall contribute five percent
6 of his or her compensation earnable until age thirty-five, and seven
7 and one-half percent thereafter.

8 (2) The employer of a member shall contribute an amount equal to
9 eighty percent of the contributions made by a member.

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

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

19 NEW SECTION. **Sec. 207.** In addition to contributions made to
20 members' accounts, employers shall make contributions to the unfunded
21 actuarial accrued liability in plan 1 of the teachers' retirement
22 system and plan 1 of the public employees' retirement system as
23 follows:

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

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

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

1 NEW SECTION. **Sec. 208.** (1) Members may self-direct their
2 investments as set forth in section 209 of this act and RCW 43.33A.190.
3 If a member does not select investments, the member's account shall be
4 invested in the default investment option of the retirement strategy
5 fund that is closest to the retirement target date of the member.
6 "Retirement strategy fund" means one of several diversified asset
7 allocation portfolios managed by investment advisors under contract to
8 the state investment board. The asset mix of the portfolios adjusts
9 over time depending on a target retirement date.

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

16 NEW SECTION. **Sec. 209.** (1) The state investment board has the
17 full authority to invest all self-directed investment moneys in
18 accordance with RCW 43.84.150 and 43.33A.140, and cumulative investment
19 directions received pursuant to section 208 of this act and this
20 section. In carrying out this authority the state investment board,
21 after consultation with the department, shall provide a set of options
22 for members to choose from for self-directed investment.

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

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

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

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

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

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

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

18 NEW SECTION. **Sec. 210.** (1) If the member terminates employment,
19 the balance in the member's account may be distributed in accordance
20 with an option selected by the member either as a lump sum or pursuant
21 to other options authorized by the department.

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

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

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

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

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

1 (3) If a member has a terminal illness and terminates from
2 employment, the member may choose to have the balance in the member's
3 account distributed as a lump sum payment based on the most recent
4 valuation in order to expedite the distribution. The department shall
5 make this payment within ten working days after receipt of notice of
6 termination of employment, documentation verifying the terminal
7 illness, and an application for payment.

8 (4) The distribution under subsections (1) through (3) of this
9 section is less:

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

12 (b) Any employer contributions and the earnings on those
13 contributions in which the member is not vested as provided for in
14 section 206 of this act.

15 (5) Upon any distribution from a member account under this section,
16 any employer contributions and the earnings on those contributions in
17 which the member is not vested as provided for in section 206 of this
18 act are forfeited by the member. Amounts forfeited under this
19 subsection will be credited, under rules developed by the department,
20 to the employer who made the contributions.

21 (6) The department shall adopt rules providing members and
22 survivors an option to purchase, using funds in the member's account,
23 an annuity from a state-administered fund. The offering of this option
24 is subject to favorable tax determination by the internal revenue
25 service.

26 NEW SECTION. **Sec. 211.** (1) Subject to subsections (2) and (3) of
27 this section, the right of a person to an annuity or any other right
28 accrued or accruing to any person under the provisions of this chapter,
29 the various funds created by this chapter, and all moneys and
30 investments and income thereof, are hereby exempt from any state,
31 county, municipal, or other local tax, and is not subject to execution,
32 garnishment, attachment, the operation of bankruptcy or insolvency
33 laws, or other process of law whatsoever, whether the same be in actual
34 possession of the person or be deposited or loaned and shall be
35 unassignable.

36 (2)(a) This section does not prohibit a beneficiary of an annuity
37 from authorizing deductions therefrom for payment of premiums due on

1 any group insurance policy or plan issued for the benefit of a group
2 comprised of public employees of the state of Washington or its
3 political subdivisions and which has been approved for deduction in
4 accordance with rules that may be adopted by the state health care
5 authority and/or the department. This section does not prohibit a
6 beneficiary of an annuity from authorizing deductions therefrom for
7 payment of dues and other membership fees to any retirement association
8 or organization the membership of which is composed of retired public
9 employees, if a total of three hundred or more of such retired
10 employees have authorized such deduction for payment to the same
11 retirement association or organization.

12 (b) This section does not prohibit a beneficiary of an annuity from
13 authorizing deductions from that allowance for charitable purposes on
14 the same terms as employees and public officers under RCW 41.04.035 and
15 41.04.036.

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

26 NEW SECTION. **Sec. 212.** (1) The retirement plan created by this
27 chapter must be administered so as to comply with the internal revenue
28 code, Title 26 U.S.C., and specifically with plan qualification
29 requirements imposed on governmental plans by section 401(a) of the
30 internal revenue code.

31 (2) Any section or provision of this chapter which is susceptible
32 to more than one construction must be interpreted in favor of the
33 construction most likely to satisfy requirements imposed by section
34 401(a) of the internal revenue code.

35 (3) If any section or provision of this chapter is found to be in
36 conflict with the plan qualification requirements for governmental
37 plans in section 401(a) of the internal revenue code, the conflicting

1 part of this chapter is hereby inoperative solely to the extent of the
2 conflict, and such finding does not affect the operation of the
3 remainder of this chapter.

4 NEW SECTION. **Sec. 213.** (1) A state board, commission, or agency,
5 or any officer, employee, or member thereof, is not liable for any loss
6 or deficiency resulting from member investments selected or required
7 pursuant to section 209 (1) or (3) of this act.

8 (2) Neither the department, nor director or any employee, nor the
9 state investment board, nor any officer, employee, or member thereof,
10 is liable for any loss or deficiency resulting from reasonable efforts
11 to implement investment directions pursuant to section 209 (1) or (3)
12 of this act.

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 section 209(2) of this
17 act.

18 (4) The department, or any officer or employee thereof, is not
19 liable for crediting rates of return which are consistent with the
20 state investment board's declaration of monthly unit valuations
21 pursuant to section 209(2) of this act.

22 NEW SECTION. **Sec. 214.** For the purposes of this chapter, the
23 terms spouse, marriage, marital, husband, wife, widow, widower, next of
24 kin, and family apply equally to state registered domestic partnerships
25 or individuals in state registered domestic partnerships as well as to
26 marital relationships and married persons, and references to
27 dissolution of marriage apply equally to state registered domestic
28 partnerships that have been terminated, dissolved, or invalidated, to
29 the extent that such interpretation does not conflict with federal law.
30 When necessary to implement chapter 521, Laws of 2009, gender-specific
31 terms such as husband and wife used in any statute, rule, or other law
32 are gender neutral, and applicable to individuals in state registered
33 domestic partnerships.

34 NEW SECTION. **Sec. 215.** Sections 201 through 214 of this act
35 constitute a new chapter in Title 41 RCW.

1 PART III

2 CHANGES TO EXISTING RETIREMENT SYSTEMS

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

5 (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the
6 members of the retirement systems created in chapters 2.10, 2.12,
7 41.26, 41.32, 41.35, 41.37, 41.40, 41.34, 41.--- (the new chapter
8 created in section 215 of this act), and 43.43 RCW to enjoy the tax
9 deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of
10 1984 does not alter in any manner the provisions of RCW 41.45.060,
11 41.45.061, and 41.45.067 which require that the member contribution
12 rates shall be set so as to provide fifty percent of the cost of the
13 respective retirement plans.

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

17 Sec. 302. RCW 41.04.445 and 2007 c 492 s 4 are each amended to
18 read as follows:

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

20 (a) Judges under the retirement system established under chapter
21 2.10, 2.12, or 2.14 RCW;

22 (b) Employees of the state under the retirement system established
23 by chapter 41.32, 41.37, 41.40, 41.--- (the new chapter created in
24 section 215 of this act), or 43.43 RCW;

25 (c) Employees of school districts under the retirement system
26 established by chapter 41.32 (~~(or)~~), 41.40, or 41.--- (the new chapter
27 created in section 215 of this act) RCW, except for substitute teachers
28 as defined by RCW 41.32.010;

29 (d) Employees of educational service districts under the retirement
30 system established by chapter 41.32 (~~(or)~~), 41.40, or 41.--- (the new
31 chapter created in section 215 of this act) RCW; or

32 (e) Employees of community college districts under the retirement
33 system established by chapter 41.32 (~~(or)~~), 41.40, or 41.--- (the new
34 chapter created in section 215 of this act) RCW.

35 (2) Only for compensation earned after the effective date of the
36 implementation of this section and as provided by section 414(h) of the

1 federal internal revenue code, the employer of all the members
2 specified in subsection (1) of this section shall pick up only those
3 member contributions as required under:

- 4 (a) RCW 2.10.090(1);
- 5 (b) RCW 2.12.060;
- 6 (c) RCW 2.14.090;
- 7 (d) RCW 41.32.263;
- 8 (e) RCW 41.32.350;
- 9 (f) RCW 41.40.330 (1) and (3);
- 10 (g) RCW 41.45.061 and 41.45.067;
- 11 (h) RCW 41.34.070; and
- 12 (i) (~~RCW 43.43.300~~ and
- 13 ~~(j)~~) RCW 41.34.040.

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

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

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

24 (a) A complete explanation of the effects of this section to all
25 members; and

26 (b) Notification of such implementation to the director of the
27 department of retirement systems.

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

30 (1) Employers of those members under chapters 41.26, 41.34, 41.35,
31 41.37, 41.--- (the new chapter created in section 215 of this act), and
32 41.40 RCW who are not specified in RCW 41.04.445 may choose to
33 implement the employer pick up of all member contributions without
34 exception under RCW 41.26.080(1)(a), 41.26.450, 41.40.330(1),
35 41.45.060, 41.45.061, and 41.45.067 and chapters 41.34, and 41.--- (the
36 new chapter created in section 215 of this act) RCW. If the employer

1 does so choose, the employer and members shall be subject to the
2 conditions and limitations of RCW 41.04.445 (3), (4), and (5) and
3 41.04.455.

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

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

11 (1) All teachers who first become employed by an employer in an
12 eligible position on or after July 1, 2014, must make an irrevocable
13 choice to become a member of either the teacher's retirement system, or
14 the public employees' savings plan established under chapter 41.--- RCW
15 (the new chapter created in section 215 of this act). If the employee
16 does not make a choice to become a member of the teachers' retirement
17 system, he or she becomes a member of the public employees' savings
18 plan.

19 (2) The system choice provided in this section only applies to
20 employees who are eligible for membership in both retirement systems
21 under the rules of the systems. This section does not confer
22 retirement system membership on an employee who is not otherwise
23 eligible.

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

26 (1) All classified employees who first become employed by an
27 employer in an eligible position on or after July 1, 2014, must make an
28 irrevocable choice to become a member of either the school employees'
29 retirement system, or the public employees' savings plan established
30 under chapter 41.--- RCW (the new chapter created in section 215 of
31 this act). If the employee does not make a choice to become a member
32 of the school employees' retirement system, he or she becomes a member
33 of the public employees' savings plan.

34 (2) The system choice provided in this section only applies to
35 employees who are eligible for membership in both retirement systems

1 under the rules of the systems. This section does not confer
2 retirement system membership on an employee who is not otherwise
3 eligible.

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 215 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) The system choice provided in this section only applies to
15 employees who are eligible for membership in both retirement systems
16 under the rules of the systems. This section does not confer
17 retirement system membership on an employee who is not otherwise
18 eligible.

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

21 (1) All employees who first become employed by an employer in an
22 eligible position on or after July 1, 2014, must make an irrevocable
23 choice to become a member of either the public employees' retirement
24 system, or the public employees' savings plan established under chapter
25 41.--- RCW (the new chapter created in section 215 of this act). If
26 the employee does not make a choice to become a member of the public
27 employees' retirement system, he or she becomes a member of the public
28 employees' savings plan.

29 (2) The system choice provided in this section only applies to
30 employees who are eligible for membership in both retirement systems
31 under the rules of the systems. This section does not confer
32 retirement system membership on an employee who is not otherwise
33 eligible.

34 **Sec. 308.** RCW 41.50.030 and 2011 1st sp.s. c 47 s 20 are each
35 amended to read as follows:

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

5 (a) The Washington public employees' retirement system;

6 (b) The Washington state teachers' retirement system;

7 (c) The Washington law enforcement officers' and firefighters'
8 retirement system;

9 (d) The Washington state patrol retirement system;

10 (e) The Washington judicial retirement system; and

11 (f) The state treasurer with respect to the administration of the
12 judges' retirement fund imposed pursuant to chapter 2.12 RCW.

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

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

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

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

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

24 (7) The department shall administer the Washington public
25 employees' savings plan created in chapter 41.--- RCW (the new chapter
26 created in section 215 of this act).

27 **Sec. 309.** RCW 41.50.110 and 2011 1st sp.s. c 50 s 936 and 2011 1st
28 sp.s. c 47 s 22 are each reenacted and amended to read as follows:

29 (1) Except as provided by RCW 41.50.255 and subsection (6) of this
30 section, all expenses of the administration of the department, the
31 expenses of administration of the retirement systems, and the expenses
32 of the administration of the office of the state actuary created in
33 chapters 2.10, 2.12, 28B.10, 41.26, 41.32, 41.40, 41.34, 41.35, 41.37,
34 41.--- (the new chapter created in section 215 of this act), 43.43, and
35 44.44 RCW shall be paid from the department of retirement systems
36 expense fund.

1 (2) In order to reimburse the department of retirement systems
2 expense fund on an equitable basis the department shall ascertain and
3 report to each employer, as defined in RCW 28B.10.400, 41.26.030,
4 41.32.010, 41.35.010, 41.37.010, section 202 of this act, or 41.40.010,
5 the sum necessary to defray its proportional share of the entire
6 expense of the administration of the retirement system that the
7 employer participates in during the ensuing biennium or fiscal year
8 whichever may be required. Such sum is to be computed in an amount
9 directly proportional to the estimated entire expense of the
10 administration as the ratio of monthly salaries of the employer's
11 members bears to the total salaries of all members in the entire
12 system. It shall then be the duty of all such employers to include in
13 their budgets or otherwise provide the amounts so required.

14 (3) The department shall compute and bill each employer, as defined
15 in RCW 28B.10.400, 41.26.030, 41.32.010, 41.35.010, 41.37.010, section
16 202 of this act, or 41.40.010, at the end of each month for the amount
17 due for that month to the department of retirement systems expense fund
18 and the same shall be paid as are its other obligations. Such
19 computation as to each employer shall be made on a percentage rate of
20 salary established by the department. However, the department may at
21 its discretion establish a system of billing based upon calendar year
22 quarters in which event the said billing shall be at the end of each
23 such quarter.

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

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

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

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

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

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

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

8 **Sec. 310.** RCW 43.33A.190 and 2000 c 247 s 701 are each amended to
9 read as follows:

10 Pursuant to RCW 41.34.130 and section 209 of this act, the state
11 investment board shall invest all self-directed investment moneys under
12 the public employees' savings plan, the teachers' retirement system
13 plan 3, the school employees' retirement system plan 3, and the public
14 employees' retirement system plan 3 with full power to establish
15 investment policy, develop investment options, and manage self-directed
16 investment funds.

17

PART IV

18

ADDITIONAL PROVISIONS

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

20 NEW SECTION. **Sec. 402.** The benefits provided pursuant to this act
21 are not provided to employees as a matter of contractual right prior to
22 July 1, 2014. The legislature retains the right to alter or abolish
23 these benefits at any time prior to July 1, 2014.

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