

1 of the legislature to provide a defined contribution retirement plan
2 option for elected officials that uses best practices to provide the
3 opportunity and flexibility to accrue a viable retirement benefit,
4 while providing stable funding requirements for public employers and
5 taxpayers.

6 **PART II**
7 **RETIREMENT SYSTEM**

8 NEW SECTION. **Sec. 201.** This chapter applies only to members of
9 the Washington elected officials retirement savings plan created under
10 this chapter.

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

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

16 (2) "Compensation earnable" means salaries or wages earned by a
17 member during a payroll period for service as an elected official,
18 including wages and salaries deferred under provisions established
19 pursuant to sections 403(b), 414(h), and 457 of the internal revenue
20 code, but excludes nonmoney maintenance compensation and lump sum or
21 other payments for deferred annual sick leave, unused accumulated
22 vacation leave, unused accumulated annual leave, or any form of
23 severance pay.

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

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

27 (5) "Eligible position" means any position as a state or local
28 elected official, but not including elected judges and justices, that
29 also meets the definition of eligible position in chapter 41.40 RCW.

30 (6) "Employee" or "employed" means a person who is providing
31 services as an elected official for an employer.

32 (7) "Employer" means every branch, commission, board, and office of
33 the state, and any political subdivision and municipal corporation of
34 the state admitted into the retirement system. Any employer who is
35 participating in the retirement systems established in chapter 41.40

1 RCW on the effective date of this section is an employer under this
2 chapter. Any entity that becomes an employer under chapter 41.40 RCW
3 after the effective date of this section is also an employer under this
4 chapter.

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

7 (9) "Member" means any employee included in the membership of the
8 retirement system, as provided for in section 204 of this act.

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

11 (11) "Regular interest" means the rate the director determines.

12 (12) "Retirement system" means the Washington elected officials
13 retirement savings plan created in this chapter.

14 (13) "Separation from service" occurs when a person has terminated
15 all elected service with an employer.

16 (14) "Service" means periods of elected service by a member.

17 (15) "State actuary" or "actuary" means the person appointed
18 pursuant to RCW 44.44.010(2).

19 (16) "State elective position" means any position held by any
20 person elected or appointed to statewide office or elected or appointed
21 as a member of the legislature.

22 (17) "State treasurer" means the treasurer of the state of
23 Washington.

24 NEW SECTION. **Sec. 203.** A Washington elected officials retirement
25 savings plan is hereby created for the elected officials of the state
26 of Washington and its political subdivisions. The administration and
27 management of the savings plan, the responsibility for making effective
28 the provisions of this chapter, and the authority to make all rules and
29 regulations necessary therefor are hereby vested in the department.
30 All such rules and regulations shall be governed by the provisions of
31 chapter 34.05 RCW. The retirement system created in this chapter shall
32 be known as the Washington elected officials retirement savings plan.

33 NEW SECTION. **Sec. 204.** (1) Except as provided in subsection (2)
34 of this section, membership in the retirement system consists of all
35 persons elected to state or local government office, but not an elected
36 judicial office, on or after July 1, 2016, including persons who have

1 previously served as elected officials, who make an irrevocable
2 election within ninety days of taking office to become a member of the
3 system. Membership in the retirement system will begin on the first
4 day of the term of office for those who elect to join the retirement
5 system. Those who do not elect to become members of the system may not
6 be a member of any other retirement plan for their service as elected
7 officials.

8 (2) Persons who are age fifty or older at the time of being elected
9 to state or local government office after July 1, 2016, and who are
10 members of a retirement plan established under chapter 41.40 RCW prior
11 to being elected may continue membership in the plan under chapter
12 41.40 RCW for their elected service or may make an irrevocable election
13 to become a member of the retirement system pursuant to subsection (1)
14 of this section.

15 (3) Membership in the retirement system shall not prevent persons
16 from also participating in a retirement plan established under chapter
17 41.26, 41.32, 41.35, 41.37, or 41.40 RCW for periods of nonelected
18 service. The hours of service rendered in elected positions eligible
19 for coverage in the retirement system, and the compensation received in
20 the elected positions, may not be included in the calculation of
21 benefits provided pursuant to chapters 41.26, 41.32, 41.35, 41.37, and
22 41.40 RCW.

23 NEW SECTION. **Sec. 205.** (1) A member shall contribute five percent
24 of his or her compensation earnable until age thirty-five, and seven
25 and one-half percent thereafter. Persons who are age fifty or older at
26 the time of being elected to state or local government office and who
27 elect to become a member of the retirement system pursuant to section
28 204(2) of this act shall contribute an amount equal to their prior
29 contribution rate under chapter 41.40 RCW.

30 (2) The employer of a member shall contribute to the member's
31 account an amount equal to eighty percent of the contributions made by
32 a member. The employers of members who elected to join the retirement
33 system pursuant to section 204(2) of this act shall contribute four
34 percent of compensation earnable until age thirty-five and six percent
35 thereafter for those members.

36 (3) Contributions shall begin the first day of the pay cycle in
37 which the employee becomes a member.

1 NEW SECTION. **Sec. 206.** In addition to contributions made to
2 members' accounts, employers shall make contributions to the unfunded
3 actuarial accrued liability in plan 1 of the public employees'
4 retirement system in the amounts specified in RCW 41.45.060(6) (b) and
5 (c).

6 NEW SECTION. **Sec. 207.** (1) Members may self-direct their
7 investments as set forth in section 208 of this act and RCW 43.33A.190.
8 If a member does not select investments, the member's account shall be
9 invested in the default investment option of the retirement strategy
10 fund that is closest to the retirement target date of the member.
11 "Retirement strategy fund" means one of several diversified asset
12 allocation portfolios managed by investment advisors under contract to
13 the state investment board. The asset mix of the portfolios adjusts
14 over time depending on a target retirement date.

15 (2) The department shall adopt rules that will allow members the
16 option to roll over moneys from other tax qualified accounts into their
17 elected officials retirement savings plan member account. This option
18 is subject to internal revenue service requirements for favorable tax
19 qualification. The department is not required to allow all roll-overs
20 that may be permitted under internal revenue service regulations.

21 NEW SECTION. **Sec. 208.** (1) The state investment board has the
22 full authority to invest all self-directed investment moneys in
23 accordance with RCW 43.84.150 and 43.33A.140, and cumulative investment
24 directions received pursuant to section 207 of this act and this
25 section. In carrying out this authority the state investment board,
26 after consultation with the department, shall provide a set of options
27 for members to choose from for self-directed investment.

28 (2) All investment and operating costs of the state investment
29 board associated with making self-directed investments shall be paid by
30 members and recovered under procedures agreed to by the department and
31 the state investment board pursuant to the principles set forth in RCW
32 43.33A.160 and 43.84.160. All other expenses caused by self-directed
33 investment shall be paid by the member in accordance with rules
34 established by the department. With the exception of these expenses,
35 all earnings from self-directed investments shall accrue to the
36 member's account.

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

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

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

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

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

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

23 NEW SECTION. **Sec. 209.** (1) If the member terminates service as an
24 elected official, the balance in the member's account may be
25 distributed in accordance with an option selected by the member either
26 as a lump sum or pursuant to other options authorized by the
27 department.

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

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

35 (b) If there is no designated person or persons still living at the
36 time of the member's death, the balance of the member's account in the

1 retirement system shall be paid to the member's surviving spouse as if
2 in fact the spouse had been nominated by written designation;

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

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

8 (3) The distribution under subsections (1) and (2) of this section
9 is less any amount identified as owing to an obligee upon withdrawal
10 pursuant to a court order filed under RCW 41.50.670.

11 (4) The department, in consultation with the state investment
12 board, may adopt rules providing members and survivors an option to
13 purchase, using funds in the member's account, an annuity. The
14 offering of this option is subject to favorable tax determination by
15 the internal revenue service.

16 NEW SECTION. **Sec. 210.** (1) Subject to subsections (2) and (3) of
17 this section, the right of a person to an annuity or any other right
18 accrued or accruing to any person under the provisions of this chapter,
19 the various funds created by this chapter, and all moneys and
20 investments and income thereof, are hereby exempt from any state,
21 county, municipal, or other local tax, and is not subject to execution,
22 garnishment, attachment, the operation of bankruptcy or insolvency
23 laws, or other process of law whatsoever, whether the same be in actual
24 possession of the person or be deposited or loaned and shall be
25 unassignable.

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

1 employees have authorized such deduction for payment to the same
2 retirement association or organization.

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

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

17 NEW SECTION. **Sec. 211.** (1) The retirement plan created by this
18 chapter must be administered so as to comply with the internal revenue
19 code, Title 26 U.S.C., and specifically with plan qualification
20 requirements imposed on governmental plans by section 401(a) of the
21 internal revenue code.

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

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

32 NEW SECTION. **Sec. 212.** (1) A state board, commission, or agency,
33 or any officer, employee, or member thereof, is not liable for any loss
34 or deficiency resulting from member investments selected or required
35 pursuant to section 208 (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 207 of this act or reasonable
5 efforts to implement investment directions pursuant to section 208 (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 208(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 208(2) of this act.

15 NEW SECTION. **Sec. 213.** 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. 214.** Sections 201 through 213 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 214 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 214 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 214 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 214 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 214 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 ~~(j)~~)) 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 214 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 214 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 41.50
2 RCW to read as follows:

3 If the department determines that due to employer error a member of
4 the elected officials retirement savings plan has suffered a loss of
5 investment return, the employer shall pay the department for credit to
6 the member's account the amount determined by the department as
7 necessary to correct the error.

8 **Sec. 305.** RCW 41.50.030 and 2011 1st sp.s. c 47 s 20 are each
9 amended to read as follows:

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

- 14 (a) The Washington public employees' retirement system;
- 15 (b) The Washington state teachers' retirement system;
- 16 (c) The Washington law enforcement officers' and firefighters'
17 retirement system;
- 18 (d) The Washington state patrol retirement system;
- 19 (e) The Washington judicial retirement system; and
- 20 (f) The state treasurer with respect to the administration of the
21 judges' retirement fund imposed pursuant to chapter 2.12 RCW.

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

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

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

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

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

33 (7) The department shall administer the Washington elected
34 officials retirement savings plan created in chapter 41.--- RCW (the
35 new chapter created in section 214 of this act).

1 **Sec. 306.** RCW 41.50.110 and 2011 1st sp.s. c 50 s 936 and 2011 1st
2 sp.s. c 47 s 22 are each reenacted and amended to read as follows:

3 (1) Except as provided by RCW 41.50.255 and subsection (6) of this
4 section, all expenses of the administration of the department, the
5 expenses of administration of the retirement systems, and the expenses
6 of the administration of the office of the state actuary created in
7 chapters 2.10, 2.12, 28B.10, 41.26, 41.32, 41.40, 41.34, 41.35, 41.37,
8 41.--- (the new chapter created in section 214 of this act), 43.43, and
9 44.44 RCW shall be paid from the department of retirement systems
10 expense fund.

11 (2) In order to reimburse the department of retirement systems
12 expense fund on an equitable basis the department shall ascertain and
13 report to each employer, as defined in RCW 28B.10.400, 41.26.030,
14 41.32.010, 41.35.010, 41.37.010, section 202 of this act, or 41.40.010,
15 the sum necessary to defray its proportional share of the entire
16 expense of the administration of the retirement system that the
17 employer participates in during the ensuing biennium or fiscal year
18 whichever may be required. Such sum is to be computed in an amount
19 directly proportional to the estimated entire expense of the
20 administration as the ratio of monthly salaries of the employer's
21 members bears to the total salaries of all members in the entire
22 system. It shall then be the duty of all such employers to include in
23 their budgets or otherwise provide the amounts so required.

24 (3) The department shall compute and bill each employer, as defined
25 in RCW 28B.10.400, 41.26.030, 41.32.010, 41.35.010, 41.37.010, section
26 202 of this act, or 41.40.010, at the end of each month for the amount
27 due for that month to the department of retirement systems expense fund
28 and the same shall be paid as are its other obligations. Such
29 computation as to each employer shall be made on a percentage rate of
30 salary established by the department. However, the department may at
31 its discretion establish a system of billing based upon calendar year
32 quarters in which event the said billing shall be at the end of each
33 such quarter.

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

37 (5) An employer who fails to submit timely and accurate reports to
38 the department may be assessed an additional fee related to the

1 increased costs incurred by the department in processing the deficient
2 reports. Fees paid under this subsection shall be deposited in the
3 retirement system expense fund.

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

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

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

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

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

18 **Sec. 307.** RCW 43.33A.190 and 2000 c 247 s 701 are each amended to
19 read as follows:

20 Pursuant to RCW 41.34.130 and section 208 of this act, the state
21 investment board shall invest all self-directed investment moneys under
22 the elected officials retirement savings plan, the teachers' retirement
23 system plan 3, the school employees' retirement system plan 3, and the
24 public employees' retirement system plan 3 with full power to establish
25 investment policy, develop investment options, and manage self-directed
26 investment funds.

27 **PART IV**

28 **ADDITIONAL PROVISIONS**

29 NEW SECTION. **Sec. 401.** This act takes effect July 1, 2016.

30 NEW SECTION. **Sec. 402.** The benefits provided pursuant to this act
31 are not provided to employees as a matter of contractual right prior to
32 July 1, 2016. The legislature retains the right to alter or abolish

1 these benefits at any time prior to July 1, 2016.

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