
SENATE BILL 5116

State of Washington 65th Legislature 2017 Regular Session

By Senators Carlyle, Chase, Frockt, and Saldaña

Read first time 01/12/17. Referred to Committee on Ways & Means.

1 AN ACT Relating to investing the assets of the first-class
2 cities' retirement systems; amending RCW 43.33A.020, 43.33A.150,
3 35.39.060, 35.39.070, 35.39.080, 35.39.090, 41.28.080, and 41.28.085;
4 adding a new section to chapter 43.33A RCW; and creating a new
5 section.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
8 retirement systems operated by the first-class cities pursuant to
9 chapter 41.28 RCW each administer retirement funds that are too small
10 and cost too much to administer relative to the commingled trust fund
11 administered by the Washington state investment board for the state-
12 administered retirement plans. Over time, the higher administrative
13 costs and the more limited investment and diversification
14 opportunities available to the smaller cities' pension funds lead to
15 both less investment return and more risk over time.

16 (2) In order to reduce the cost of the first-class cities'
17 retirement plans over time, the legislature intends to authorize the
18 board to enter into agreements with the first-class cities to manage
19 the investment of the assets of the first-class cities' retirement
20 systems along with the assets of the state-administered retirement
21 plans in the commingled trust fund.

1 (3) The legislature intends that the investment management
2 agreements between first-class cities and the Washington state
3 investment board be irrevocable after entry, as the investment
4 strategies that are necessary to best meet the long-term demands of
5 pension funds require diverse forms of investment, some of which are
6 incompatible with an investment responsibility of uncertain duration.

7 (4) The legislature does not intend that the board enter any
8 agreement for the management of the assets of the first-class cities'
9 retirement systems that is not in the best interests of both the
10 state and the members and beneficiaries of the Washington state
11 retirement systems. Any agreement entered must be consistent with the
12 fiduciary duties of the board as provided in RCW 43.33A.140.

13 (5) By authorizing the board to enter into asset management
14 agreements with the first-class cities' retirement systems, the
15 legislature assumes no liability or other responsibility for the
16 benefits owed by each city to the members and beneficiaries of the
17 respective systems.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.33A
19 RCW to read as follows:

20 (1) The state investment board is authorized to enter into
21 agreements with the city councils or commissions of first-class
22 cities to assume the duties of investing the retirement funds of the
23 first-class cities' retirement systems created in RCW 41.28.070. The
24 board shall only enter such agreements under terms that are in the
25 best interests of the members and beneficiaries of the employers that
26 participate in the state-administered retirement funds which it
27 invests.

28 (2) Once entered into, an agreement to assume management of
29 retirement funds created in RCW 41.28.070 between the board and a
30 first-class city is irrevocable, but may be amended from time to time
31 by mutual agreement in order to facilitate efficient administration
32 of the retirement funds for both the board and first-class city.

33 **Sec. 3.** RCW 43.33A.020 and 2002 c 303 s 1 are each amended to
34 read as follows:

35 There is hereby created the state investment board to consist of
36 fifteen members to be appointed as provided in this section.

37 (1) One member who is an active member of the public employees'
38 retirement system and has been an active member for at least five

1 years. This member shall be appointed by the governor, subject to
2 confirmation by the senate, from a list of nominations submitted by
3 organizations representing active members of the system. The initial
4 term of appointment shall be one year.

5 (2) One member who is an active member of the law enforcement
6 officers' and firefighters' retirement system and has been an active
7 member for at least five years. This member shall be appointed by the
8 governor, subject to confirmation by the senate, from a list of
9 nominations submitted by organizations representing active members of
10 the system. The initial term of appointment shall be two years.

11 (3) One member who is an active member of the teachers'
12 retirement system and has been an active member for at least five
13 years. This member shall be appointed by the superintendent of public
14 instruction subject to confirmation by the senate. The initial term
15 of appointment shall be three years.

16 (4) The state treasurer or the assistant state treasurer if
17 designated by the state treasurer.

18 (5) A member of the state house of representatives. This member
19 shall be appointed by the speaker of the house of representatives.

20 (6) A member of the state senate. This member shall be appointed
21 by the president of the senate.

22 (7) One member who is a retired member of a state retirement
23 system shall be appointed by the governor, subject to confirmation by
24 the senate. The initial term of appointment shall be three years.

25 (8) The director of the department of labor and industries.

26 (9) The director of the department of retirement systems.

27 (10) One member who is an active member of the school employees'
28 retirement system and has at least five years of service credit. This
29 member shall be appointed by the superintendent of public instruction
30 subject to confirmation by the senate. The initial term of
31 appointment shall be three years.

32 (11) Five nonvoting members appointed by the state investment
33 board who are considered experienced and qualified in the field of
34 investments.

35 (12) Upon reaching agreement with three first-class cities for
36 the management of the assets of pension funds, an additional
37 nonvoting member who is a member of a first-class cities' retirement
38 system with assets managed by the board shall be appointed by the
39 governor.

1 The legislative members shall serve terms of two years. The
2 initial legislative members appointed to the board shall be appointed
3 no sooner than January 10, 1983. The position of a legislative member
4 on the board shall become vacant at the end of that member's term on
5 the board or whenever the member ceases to be a member of the senate
6 or house of representatives from which the member was appointed.

7 After the initial term of appointment, all other members of the
8 state investment board, except ex officio members, shall serve terms
9 of three years and shall hold office until successors are appointed.
10 Members' terms, except for ex officio members, shall commence on
11 January 1 of the year in which the appointments are made.

12 Members may be reappointed for additional terms. Appointments for
13 vacancies shall be made for the unexpired terms in the same manner as
14 the original appointments. Any member may be removed from the board
15 for cause by the member's respective appointing authority.

16 **Sec. 4.** RCW 43.33A.150 and 2007 c 215 s 4 are each amended to
17 read as follows:

18 (1) The state investment board shall prepare written reports at
19 least quarterly summarizing the investment activities of the state
20 investment board, which reports shall be sent to the governor, the
21 senate ways and means committee, the house appropriations committee,
22 the department of retirement systems, and other agencies having a
23 direct financial interest in the investment of funds by the board,
24 and to other persons on written request. The state investment board
25 shall provide information to the department of retirement systems
26 necessary for the preparation of monthly reports.

27 (2) At least annually, the board shall report on the board's
28 investment activities for the department of labor and industries'
29 accident, medical aid, and reserve funds to the senate financial
30 institutions and insurance committee, the senate economic development
31 and labor committee, and the house commerce and labor committee, or
32 appropriate successor committees.

33 (3) At least annually, the board shall report on the board's
34 investment activities for the higher education permanent funds to the
35 house capital budget committee and the senate ways and means
36 committee.

37 (4) At least annually, the board shall report to the first-class
38 cities' legislative authorities and retirement boards on the board's

1 investment activities for the first-class cities' retirement funds
2 managed under an agreement reached under section 2 of this act.

3 **Sec. 5.** RCW 35.39.060 and 2013 c 23 s 62 are each amended to
4 read as follows:

5 (1) Until such time that the city council or city commission
6 enters an agreement with the Washington state investment board to
7 manage the retirement fund of that city, any city or town now or
8 hereafter operating an employees' pension system with the approval of
9 the board otherwise responsible for management of its respective
10 funds may invest, reinvest, manage, contract, sell, or exchange
11 investments acquired. Investments shall be made in accordance with
12 investment policy duly established and published by the board. In
13 discharging its duties under this section, the board shall act with
14 the care, skill, prudence, and diligence under the circumstances then
15 prevailing that a prudent person acting in a like capacity and
16 familiar with such matters would use in the conduct of an enterprise
17 of a like character and with like aims; shall diversify the
18 investments of the employees' pension system so as to minimize the
19 risk of large losses; and shall act in accordance with the documents
20 and instruments governing the employees' pension system, insofar as
21 such documents and instruments are consistent with the provisions of
22 this title.

23 (2) Upon a city council or city commission's decision to enter an
24 agreement with the Washington state investment board to manage the
25 retirement fund of that city, the state investment board shall invest
26 those funds entrusted to it consistent with the policies and
27 standards provided in chapter 43.33A RCW.

28 **Sec. 6.** RCW 35.39.070 and 1982 c 166 s 2 are each amended to
29 read as follows:

30 Until such time that the city council or city commission enters
31 an agreement with the Washington state investment board to manage the
32 retirement fund of that city, the city treasurer may cause any
33 securities in which the city retirement system deals to be registered
34 in the name of a nominee without mention of any fiduciary
35 relationship, except that adequate records shall be maintained to
36 identify the actual owner of the security so registered. The
37 securities so registered shall be held in the physical custody of the
38 city treasurer, the federal reserve system, the designee of the city

1 treasurer, or at the election of the designee and upon approval of
2 the city treasurer, the Pacific Securities Depository Trust Company
3 Inc. or the Depository Trust Company of New York City or its
4 designees.

5 With respect to the securities, the nominee shall act only on the
6 direction of the retirement board. All rights to the dividends,
7 interest, and sale proceeds from the securities and all voting rights
8 of the securities shall be vested in the actual owners of the
9 securities, and not in the nominee.

10 **Sec. 7.** RCW 35.39.080 and 1982 c 166 s 3 are each amended to
11 read as follows:

12 The retirement board of any city which is responsible for the
13 management of an employees' retirement system established to provide
14 retirement benefits for nonpublic safety employees shall appoint an
15 investment advisory committee consisting of at least three members
16 who are considered experienced and qualified in the field of
17 investments. At such time that the Washington state investment board
18 has assumed the duties of investing the retirement fund of that city
19 under an agreement reached pursuant to section 2 of this act, the
20 retirement board of that city shall cease the activities of the
21 investment advisory committee appointed under this section.

22 **Sec. 8.** RCW 35.39.090 and 1982 c 166 s 4 are each amended to
23 read as follows:

24 (1) Except as provided by subsection (2) of this section, in
25 addition to its other powers and duties, the investment advisory
26 committee shall:

27 ~~((1))~~ (a) Make recommendations as to general investment
28 policies, practices, and procedures to the retirement board;

29 ~~((2))~~ (b) Review the investment transactions of the retirement
30 board annually;

31 ~~((3))~~ (c) Prepare a written report of its activities during
32 each fiscal year. Each report shall be submitted not more than thirty
33 days after the end of each fiscal year to the retirement board and to
34 any other person who has submitted a request therefor.

35 (2) Upon a city council or city commission's decision to enter an
36 agreement with the Washington state investment board to manage the
37 retirement fund of that city under section 2 of this act, and the
38 commencement of the investment duties by the state investment board,

1 the investment advisory committee shall no longer perform the duties
2 under subsection (1) of this section.

3 **Sec. 9.** RCW 41.28.080 and 2012 c 117 s 47 are each amended to
4 read as follows:

5 (1) There is hereby created and established a board of
6 administration in each city coming under this chapter, which shall,
7 under the provisions of this chapter and the direction of the city
8 council or city commission, administer the retirement system and the
9 retirement fund created by this chapter. Under and pursuant to the
10 direction of the city council or city commission, the board shall
11 provide for the proper investment of the moneys in the ~~((said))~~
12 retirement fund until such time that the city council or city
13 commission enters an agreement with the Washington state investment
14 board under section 2 of this act to manage the retirement fund of
15 that city.

16 (2) The board of administration shall consist of seven members,
17 as follows: Three members appointed by the regular appointing
18 authority of the city, and three employees who are eligible to
19 membership in the retirement system, to be elected by the employees.
20 The above six members shall appoint the seventh member.

21 (3) Until such time that the city council or city commission
22 enters an agreement with the Washington state investment board under
23 section 2 of this act to manage the retirement fund of that city:

24 (a) The investment of all or any part of the retirement fund
25 shall be subject to chapter 35.39 RCW~~((-))~~; and

26 ~~((+4))~~ (b) Subject to such provisions as may be prescribed by
27 law for the deposit of municipal funds in banks, cash belonging to
28 the retirement fund may be deposited in any licensed national bank or
29 in any bank, banks or corporations authorized or licensed to do a
30 banking business and organized under the laws of the state of
31 Washington.

32 ~~((+5))~~ (4) The city treasurer shall be the custodian of the
33 retirement fund. All payments from said fund shall be made by the
34 city treasurer but only upon warrant duly executed by the city
35 comptroller.

36 ~~((+6))~~ (5) Except as herein provided, no member and no employee
37 of the board of administration shall have any interest, direct or
38 indirect, in the making of any investments from the retirement fund,
39 or in the gains or profits accruing therefrom. And no member or

1 employee of said board, directly or indirectly, for himself or
2 herself or as an agent or partner of others, shall borrow any of its
3 funds or deposits or in any manner use the same except to make such
4 current and necessary payments as are authorized by said board; nor
5 shall any member or employee of said board become an endorser or
6 surety or become in any manner an obligor for moneys invested by the
7 board.

8 **Sec. 10.** RCW 41.28.085 and 1969 ex.s. c 211 s 3 are each amended
9 to read as follows:

10 (1) Until such time as a city council or city commission enters
11 an agreement with the Washington state investment board under section
12 2 of this act to manage the retirement fund of that city, and in
13 order that the intent of the legislature may be made clear with
14 respect to investments, but without restricting the necessary
15 flexibility that must exist for successful investing of the
16 retirement and pension funds, the legislature makes this declaration
17 of its desire that the investment authority shall give primary
18 consideration to dealing with brokerage firms which maintain offices
19 in the state of Washington so that the investment programs may make a
20 meaningful contribution to the economy of the state. It is further
21 the desire of the legislature that the retirement and pension funds
22 shall be used as much as reasonably possible to benefit and expand
23 the business and economic climate within the state of Washington so
24 long as such use would be consistent with sound investment policy.

25 (2) Upon a city council or city commission's decision to enter an
26 agreement with the Washington state investment board under section 2
27 of this act to manage the retirement fund of that city, the state
28 investment board shall invest those funds entrusted to it consistent
29 with the policies and standards provided in chapter 43.33A RCW.

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