

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5360**

66th Legislature  
2019 Regular Session

Passed by the Senate April 26, 2019  
Yeas 36 Nays 13

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**President of the Senate**

Passed by the House April 16, 2019  
Yeas 73 Nays 22

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5360** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SENATE BILL 5360**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

**State of Washington                      66th Legislature                      2019 Regular Session**

**By** Senators Conway, Hobbs, Saldaña, Dhingra, Keiser, Pedersen, and Hunt; by request of Select Committee on Pension Policy

Read first time 01/18/19. Referred to Committee on Ways & Means.

1            AN ACT Relating to plan membership default provisions in the  
2 public employees' retirement system, the teachers' retirement system,  
3 and the school employees' retirement system; amending RCW 41.32.835,  
4 41.35.610, and 41.40.785; and declaring an emergency.

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

6            **Sec. 1.** RCW 41.32.835 and 2007 c 491 s 3 are each amended to  
7 read as follows:

8            (1) All teachers who first become employed by an employer in an  
9 eligible position on or after July 1, 2007, shall have a period of  
10 ninety days to make an irrevocable choice to become a member of plan  
11 2 or plan 3. At the end of ninety days, if the member has not made a  
12 choice to become a member of plan 2, he or she becomes a member of  
13 plan 3 or plan 2 as follows:

14            (a) Becomes a member of plan 3 if first employed by an employer  
15 in an eligible position on or after July 1, 2007, but prior to July  
16 1, 2020;

17            (b) Becomes a member of plan 2 if first employed by an employer  
18 in an eligible position on or after July 1, 2020.

19            (2) For administrative efficiency, until a member elects to  
20 become a member of plan 3, or becomes a member of plan 3 by default  
21 under subsection (1) of this section, the member shall be reported to

1 the department in plan 2, with member and employer contributions.  
2 Upon becoming a member of plan 3 by election or by default, all  
3 service credit shall be transferred to the member's plan 3 defined  
4 benefit, and all employee accumulated contributions shall be  
5 transferred to the member's plan 3 defined contribution account.

6 ~~((3) The plan choice provision as set forth in section 3,  
7 chapter 491, Laws of 2007 was intended by the legislature as a  
8 replacement benefit for gain-sharing. Until there is legal certainty  
9 with respect to the repeal of chapter 41.31A RCW, the right to plan  
10 choice under this section is noncontractual, and the legislature  
11 reserves the right to amend or repeal this section. Legal certainty  
12 includes, but is not limited to, the expiration of any: Applicable  
13 limitations on actions; and periods of time for seeking appellate  
14 review, up to and including reconsideration by the Washington supreme  
15 court and the supreme court of the United States. Until that time,  
16 all teachers who first become employed by an employer in an eligible  
17 position on or after July 1, 2007, may choose either plan 2 or plan 3  
18 under this section. If the repeal of chapter 41.31A RCW is held to be  
19 invalid in a final determination of a court of law, and the court  
20 orders reinstatement of gain-sharing or other alternate benefits as a  
21 remedy, then all teachers who first become employed by an employer in  
22 an eligible position on or after the date of such reinstatement shall  
23 be members of plan 3.))~~

24 **Sec. 2.** RCW 41.35.610 and 2007 c 491 s 7 are each amended to  
25 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, 2007, shall have  
28 a period of ninety days to make an irrevocable choice to become a  
29 member of plan 2 or plan 3. At the end of ninety days, if the member  
30 has not made a choice to become a member of plan 2, he or she becomes  
31 a member of plan 3 or plan 2 as follows:

32 (a) Becomes a member of plan 3 if first employed by an employer  
33 in an eligible position on or after July 1, 2007, but prior to July  
34 1, 2020;

35 (b) Becomes a member of plan 2 if first employed by an employer  
36 in an eligible position on or after July 1, 2020.

37 (2) For administrative efficiency, until a member elects to  
38 become a member of plan 3, or becomes a member of plan 3 by default  
39 under subsection (1) of this section, the member shall be reported to

1 the department in plan 2, with member and employer contributions.  
2 Upon becoming a member of plan 3 by election or by default, all  
3 service credit shall be transferred to the member's plan 3 defined  
4 benefit, and all employee accumulated contributions shall be  
5 transferred to the member's plan 3 defined contribution account.

6 ~~((3) The plan choice provision as set forth in section 7,  
7 chapter 491, Laws of 2007 was intended by the legislature as a  
8 replacement benefit for gain-sharing. Until there is legal certainty  
9 with respect to the repeal of chapter 41.31A RCW, the right to plan  
10 choice under this section is noncontractual, and the legislature  
11 reserves the right to amend or repeal this section. Legal certainty  
12 includes, but is not limited to, the expiration of any: Applicable  
13 limitations on actions; and periods of time for seeking appellate  
14 review, up to and including reconsideration by the Washington supreme  
15 court and the supreme court of the United States. Until that time,  
16 all classified employees who first become employed by an employer in  
17 an eligible position on or after July 1, 2007, may choose either plan  
18 2 or plan 3 under this section. If the repeal of chapter 41.31A RCW  
19 is held to be invalid in a final determination of a court of law, and  
20 the court orders reinstatement of gain-sharing or other alternate  
21 benefits as a remedy, then all classified employees who first become  
22 employed by an employer in an eligible position on or after the date  
23 of such reinstatement shall be members of plan 3.))~~

24 **Sec. 3.** RCW 41.40.785 and 2000 c 247 s 302 are each amended to  
25 read as follows:

26 (1) All employees who first become employed by an employer in an  
27 eligible position on or after March 1, 2002, for state agencies or  
28 institutes of higher education, or September 1, 2002, for other  
29 employers, shall have a period of ninety days to make an irrevocable  
30 choice to become a member of plan 2 or plan 3. At the end of ninety  
31 days, if the member has not made a choice to become a member of plan  
32 2, he or she becomes a member of plan 3 or plan 2 as follows:

33 (a) Becomes a member of plan 3 if first employed by an employer  
34 in an eligible position on or after March 1, 2002, but prior to July  
35 1, 2020, for state agencies or institutions of higher education, or  
36 on or after September 1, 2002, but prior to July 1, 2020, for other  
37 employers;

38 (b) Becomes a member of plan 2 if first employed by an employer  
39 in an eligible position on or after July 1, 2020.

1           (2) For administrative efficiency, until a member elects to  
2 become a member of plan 3, or becomes a member of plan 3 by default  
3 pursuant to subsection (1) of this section, the member shall be  
4 reported to the department in plan 2, with member and employer  
5 contributions. Upon becoming a member of plan 3 by election or by  
6 default, all service credit shall be transferred to the member's plan  
7 3 defined benefit, and all employee accumulated contributions shall  
8 be transferred to the member's plan 3 defined contribution account.

9           NEW SECTION.   **Sec. 4.** If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

13           NEW SECTION.   **Sec. 5.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of  
15 the state government and its existing public institutions, and takes  
16 effect immediately.

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