

INITIATIVE 835

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 835 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to establishing a pension board for Washington
2 state public retirement system employees; amending RCW 44.44.040;
3 adding a new section to chapter 44.44 RCW; adding a new section to
4 chapter 41.45 RCW; adding a new chapter to Title 41 RCW; and creating
5 a new section.

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

7 NEW SECTION. **Sec. 1.** OVERVIEW. Washington state is the only
8 state where public pensions are still directly managed by a state
9 legislature. Washington state public pension systems need to be placed
10 under the supervision of a board of trustees representing the
11 employees, the public, and the legislature. Managing public pensions
12 should be done by trustees, not the state of Washington.

13 This act will create a board of trustees for most Washington public
14 employees at no increased cost to the taxpayers of Washington state.
15 The board of trustees does not have the authority to increase benefits
16 or raise taxes on its own. Safeguards built into the act require that
17 public pension systems be administered to ensure the long-term
18 viability of the pension funds. All pension law changes proposed by

1 the board of trustees must be approved by the legislature in an open
2 vote.

3 This act will permit input in the management of the public pension
4 systems by employees, the public, and the legislature. Now, the
5 ability to amend public pension law remains with the legislature alone.

6 NEW SECTION. **Sec. 2.** INTENT. It is the intent of this act to:

7 (1) Modernize the management of Washington state public retirement
8 systems;

9 (2) Establish a pension board responsible for the adoption of
10 actuarial standards to be applied to the systems and plans;

11 (3) Provide for additional benefits for members and beneficiaries
12 of public pension systems and plans that will allow them to retire with
13 dignity, subject to the cost limitations provided for in this act;

14 (4) Define the fiduciary responsibilities in the oversight of those
15 pension management functions assigned to the pension board and the
16 department of retirement systems;

17 (5) Exercise fiduciary responsibility in the oversight of those
18 pension management functions assigned to the trustees of the pension
19 board;

20 (6) Provide effective monitoring of the plan by providing timely
21 annual reports to the legislature, to the members and beneficiaries of
22 the systems and plans, and to the public;

23 (7) Establish contribution rates for employees, employers, and the
24 state of Washington that will guaranty viability of the systems and
25 plans subject to the limitations provided for in this act;

26 (8) Provide for an annual budget to pay costs of the pension
27 systems and plans listed in this act;

28 (9) Enable the pension board to retain professional and technical
29 advisors as necessary for the fulfillment of their statutory
30 responsibilities; and

31 (10) Maintain the current functions of the state investment board.

32 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
33 section apply throughout this chapter unless the context clearly
34 requires otherwise.

35 (1) "Members" or "beneficiaries" means:

36 (a) Current or future employees who are contributing to a state
37 public retirement system or plan;

1 (b) Retired employees or their named beneficiaries who receive
2 benefits from a state public retirement system or plan; and
3 (c) Prior employees who are vested in a state public retirement
4 system or plan but are not currently receiving benefits.
5 (2) "Pension trust funds," "pension funds," or "funds" means those
6 moneys attributed to each pension system and plan.
7 (3) "Pension board" or "board" means the thirteen members of the
8 Washington pension board created in section 4 of this act who are the
9 fiduciary trustees of the pension trust funds.
10 (4) "Surplus" means trust fund assets over what is actuarially
11 established as full funding.
12 (5) "Department" means the department of retirement systems.
13 (6) "Director" means the director of the department of retirement
14 systems.
15 (7) "Retirement systems and plans" means:
16 (a) "Teachers' retirement system plan 1," "teachers' retirement
17 system plan 2," and "teachers' retirement system plan 3" mean the
18 benefits and funding provisions under chapter 41.32 RCW.
19 (b) "School employees' retirement system plan 2" and "school
20 employees' retirement system plan 3" mean the benefits and funding
21 provisions under chapter 41.35 RCW.
22 (c) "Public employees' retirement system plan 1," "public
23 employees' retirement system plan 2," and "public employees' retirement
24 system plan 3" mean the benefits and funding provisions under chapter
25 41.40 RCW.
26 (d) "Washington state patrol retirement system" means the benefits
27 and funding provisions under chapter 43.43 RCW.
28 (e) "Law enforcement officers' and fire fighters' plan 1" means
29 benefits and funding provisions under chapter 41.26 RCW.
30 (8) "Pension pool" means that pool of persons, either employed or
31 retired, who are normally identified as members of the retirement
32 system identified.
33 (9) "Actuary for pensions" or "pension actuary" means the actuary
34 employed by the Washington pension board. The actuary must be the
35 holder of an advanced degree in actuarial science and certified by the
36 American academy of actuaries or the international actuarial
37 association.
38 (10) "State actuary" means the actuary employed by the state of
39 Washington.

1 (11) "Unfunded liability" means the actuarially determined
2 liability of the state of Washington to its public retirement systems
3 or plans.

4 (12) "Task force" means the task force convened every four years to
5 review all reporting related to pension systems in order to improve
6 monitoring and the dissemination of information to members,
7 beneficiaries, and public.

8 NEW SECTION. **Sec. 4.** WASHINGTON PENSION BOARD CREATED. (1) The
9 Washington pension board is created and consists of the following
10 thirteen members:

11 (a) Two active and one retired member from the teachers' and school
12 employees' retirement systems. Two active and one retired member from
13 the public employees' retirement system. One active and one retired
14 member from the law enforcement officers' and fire fighters' and
15 Washington state patrol retirement systems.

16 (b) Three members representing the public who are not participants
17 in a Washington state public pension system or plan appointed by the
18 governor.

19 (c) One member with experience in investing, banking, or pension
20 management who is not a participant in a Washington state public
21 pension system or plan representing the house of representatives
22 appointed by the governor based upon the recommendation of the speaker
23 of the house of representatives.

24 (d) One member with experience in investing, banking, or pension
25 management who is not a participant in a Washington state public
26 pension system or plan representing the senate appointed by the
27 governor based upon the recommendation of the majority leader of the
28 senate.

29 (2) Terms of office for member and beneficiary board members shall
30 be staggered, six-year terms with initial members assigned to two,
31 four, or six-year terms. The term of office for the remaining pension
32 board members is four years. Pension board members may be reelected or
33 reappointed.

34 (3) Composition of the elected members of the board must ensure
35 that each member and beneficiary is represented by at least one board
36 member.

37 (4) All pension board members may vote upon business issues.

1 (5) Elected and appointed pension board members shall be reimbursed
2 for per diem with compensation plus expenses as provided in RCW
3 43.03.050 and 43.03.060.

4 NEW SECTION. **Sec. 5.** WASHINGTON PENSION BOARD PROCEDURES. (1)
5 All pension board meetings are open to the public preceded by timely
6 public announcements.

7 (2) All actions are taken in open public session, except those
8 matters which may be considered in executive session as provided by
9 law.

10 (3) No pension board actions may be voted without consideration in
11 a prior scheduled meeting and notification of impacted members.

12 (4) A quorum of not less than seven voting members is required.

13 (5) Pension board actions require seven affirmative votes.

14 (6) The minutes of each pension board meeting must record board
15 members present and absent, and their voting record upon each voted
16 issue. These minutes are open to the public upon request.

17 (7) Minutes of pension board meetings must be promptly posted on an
18 internet web site established and maintained under the direction of the
19 pension board.

20 NEW SECTION. **Sec. 6.** DUTIES OF THE WASHINGTON PENSION BOARD. (1)
21 The Washington pension board shall establish policies and procedures
22 for its internal management, including a budget as follows:

23 (a) These policies and procedures may include hiring of
24 professional, legal, and support staff needed for the recording of
25 minutes and other office functions.

26 (b) It is acceptable for board members to exchange data via
27 electronic communication provided a staff person holds copies of those
28 communications and they are accessible to the public upon request.

29 (2) The pension board may appoint or remove the actuary for
30 pensions.

31 (3) The pension board shall provide open and fair review of public
32 pension policy issues, establish state retirement system and plan
33 contribution rates and the long-term assumptions used in developing
34 those rates, provide oversight and set priorities for the actuary for
35 pensions, and establish rules for determining benefit calculations.

1 (4) The board shall set pension contribution rates being guided by
2 the history of this function and the law and rules in effect July 1st
3 of the year prior to the implementation of this act.

4 (5) Contribution rate changes shall be sent to the legislature by
5 October 1st of each year.

6 (6) Subject to the limitations of this chapter, providing
7 additional benefits to members and beneficiaries while maintaining
8 fiscal viability of the trust funds are the pension board's principal
9 responsibilities.

10 (7) The pension board shall provide for the design and
11 implementation of increased benefits for members and beneficiaries of
12 the systems and plans.

13 (8) An increased benefit may not be approved by the pension board
14 until an actuarial cost of the benefit has been determined by the
15 actuary for pensions and contribution rates adjusted as may be required
16 to maintain the plan on a sound actuarial basis.

17 (9) The board shall advise the legislature and submit proposed
18 changes in pension policy legislation to the legislature.

19 (10) The board shall advise the department of retirement systems on
20 the preparation of the summary level and consolidated annual financial
21 report.

22 (11) The pension board shall assist the department of retirement
23 systems in producing timely and readable annual reports.

24 (12) The board shall from time to time make written recommendations
25 to the legislature concerning deficiencies, conflicts, or obsolete
26 provisions that need revision. The board shall prepare legislation for
27 submission to the legislature for the correction or removal of those
28 deficiencies, conflicts, or obsolete provisions.

29 (13) Actions approved by the board relative to subsection (9) of
30 this section shall be brought to the floor of the house of
31 representatives and senate before the end of the session and voted on
32 without amendment.

33 (14)(a) Beginning in 2005, and every four years thereafter, the
34 pension board shall convene a task force comprised of representatives
35 of the department of retirement systems, the office of the actuary for
36 pensions, the state investment board, the office of financial
37 management, and the office of the state auditor. This task force shall
38 review all the major reports prepared by state agencies concerning the

1 state retirement systems and examine the best practices from other
2 states.

3 (b) The goals of the task force are to determine what information
4 needs to be reported and to seek ways to promote more effective
5 monitoring of the public retirement systems, streamline reporting,
6 become more efficient in the production and distribution of the
7 information, minimize redundancies and confusion, and maximize the
8 public's investment in these reports.

9 (c) The task force shall convene by the end of October. When the
10 task force is convened, it shall report to the pension board with
11 recommendations for changing and consolidating reports.

12 (15) The pension board shall discharge its duties:

13 (a) Solely in the interest of the members and beneficiaries;

14 (b) Impartially protecting the interests of members and
15 beneficiaries; and

16 (c) In accordance with a good faith interpretation of the law
17 governing the retirement systems.

18 NEW SECTION. **Sec. 7.** OFFICE OF THE ACTUARY FOR PENSIONS. (1)
19 There is hereby created an office within the executive branch to be
20 known as the office of the actuary for pensions.

21 (2) The executive head of the office of the actuary for pensions
22 shall hold the title of "actuary for pensions" or "pension actuary" as
23 defined in section 3 of this act.

24 (3) The actuary for pensions shall sign all actuarial valuations,
25 legislative fiscal notes, and experience studies performed for systems
26 and plans represented on the pension board.

27 (4) The office of the state actuary shall provide assistance to the
28 actuary for pensions when the pension board requests.

29 (5) The actuary for pensions shall utilize the aggregate actuarial
30 cost method, or other recognized actuarial cost method based on a level
31 percentage of payrolls, as that term is employed by the American
32 academy of actuaries. In determining the reasonableness of actuarial
33 valuations, assumptions, and cost methodologies, the actuary retained
34 by the pension board shall provide a copy of all such calculations to
35 the state actuary. If the two actuaries concur on the calculations,
36 contributions shall be made as set forth in the report of the board's
37 actuary. If the two actuaries cannot agree, they shall appoint a
38 third, independent, enrolled actuary who shall review the calculations

1 of the actuary retained by the board and the state actuary.
2 Thereafter, contributions shall be based on the methodology most
3 closely following that of the third actuary.

4 (6) The actuary for pensions shall provide, upon request by any
5 citizen, all data and assumptions used in making projections and
6 conclusions.

7 (7) The state auditor shall conduct actuarial audits of valuations
8 used to administer the state's pension systems every two years
9 beginning one year after the implementation of this act.

10 **Sec. 8.** RCW 44.44.040 and 1987 c 25 s 3 are each amended to read
11 as follows:

12 The office of the state actuary shall have the following powers and
13 duties:

14 (1) Perform ~~((all))~~ actuarial services for the department of
15 retirement systems ~~((, including all studies required by law))~~.
16 Reimbursement for such services shall be made to the state actuary
17 pursuant to the provisions of RCW 39.34.130 ~~((as now or hereafter
18 amended))~~.

19 (2) Advise the legislature and the governor regarding ~~((pension
20 benefit provisions, and funding policies and))~~ investment policies of
21 the state investment board.

22 (3) Consult with the ~~((legislature and the governor))~~ actuary for
23 pensions concerning determination of actuarial assumptions used by the
24 department of retirement systems.

25 (4) Prepare a report, to be known as the actuarial fiscal note, on
26 each pension bill not covered under chapter 41.-- RCW (sections 1
27 through 7, 9, and 10 of this act) introduced in the legislature which
28 briefly explains the financial impact of the bill. ~~((The actuarial
29 fiscal note shall include: (a) The statutorily required contribution
30 for the biennium and the following twenty five years; (b) the biennial
31 cost of the increased benefits if these exceed the required
32 contribution; and (c) any change in the present value of the unfunded
33 accrued benefits. An actuarial fiscal note shall also be prepared for
34 all amendments which are offered in committee or on the floor of the
35 house of representatives or the senate to any pension bill. However,
36 a majority of the members present may suspend the requirement for an
37 actuarial fiscal note for amendments offered on the floor of the house
38 of representatives or the senate.))~~

1 (5) Provide such actuarial services to the legislature as may be
2 requested from time to time.

3 (6) Provide staff and assistance to the committee established under
4 RCW ((~~46.44.050~~)) 44.44.050.

5 NEW SECTION. **Sec. 9.** FUNDING THE WASHINGTON PENSION BOARD. (1)
6 All funding for the Washington pension board shall be derived from the
7 department of retirement systems expense account established in RCW
8 41.50.110.

9 (2) The department shall prepare an initial budget for the pension
10 board in preparation for the first year of operation. This budget is
11 temporary pending the formation of the pension board.

12 (3) Subsequent annual budgets are the responsibility of the pension
13 board.

14 (4) The board shall establish and manage its budget regarding
15 office space and equipment, actuarial services, legal services, and
16 clerical needs.

17 NEW SECTION. **Sec. 10.** NOMINATION AND ELECTION OF PENSION BOARD
18 MEMBERS. (1) There shall exist six pension pools of members and
19 beneficiaries: Public employees active; public employees retired;
20 teachers and school employees active; teachers and school employees
21 retired; law enforcement officers and fire fighters and the state
22 patrol active; and law enforcement officers and fire fighters and the
23 state patrol retired.

24 (2) The department shall advertise each election making a good
25 faith effort to ensure that all affected persons are contacted.

26 (a) Elections must be completed in time to allow seating of members
27 to the pension board by July 1 of election years.

28 (b) Each member or beneficiary is eligible to declare candidacy for
29 membership on the board representing the pension pool to which he or
30 she belongs, if he or she provides, with the declaration form, a
31 petition of support containing signatures of one hundred supporting
32 members of his or her pension pool.

33 (c) Each retiree pension pool is entitled to elect one candidate.

34 (d) Each active pool is entitled to elect two candidates, except
35 for the law enforcement officers and fire fighters and the state patrol
36 active pool which shall elect one candidate. The teachers and school

1 employees active pool shall elect one teacher candidate and one school
2 employee candidate.

3 (e) Potential candidates, in declaring their candidacy, must comply
4 with rules established by the department.

5 (f) Write-in candidates are not permitted.

6 (g) The department shall publish candidate briefs to be distributed
7 with ballots and instructions for voting and returning completed
8 ballots.

9 (h) Members and beneficiaries shall vote only on candidates from
10 their own pool.

11 (i) The department shall immediately notify all candidates and the
12 governor of the election results. This notification must be made at
13 the earliest possible time following the election.

14 (j) The department shall publicly announce the names of the elected
15 members of the pension board not later than June 16th following an
16 election.

17 (k) In the event a pension pool fails to fill their allotted board
18 seats, or should the member be incapacitated, then the governor shall
19 appoint a replacement to that position from the appropriate pool.
20 Should an appointed member resign or be incapacitated, the governor
21 shall appoint a replacement to that position.

22 NEW SECTION. **Sec. 11.** A new section is added to chapter 44.44 RCW
23 to read as follows:

24 The office of the state actuary and the joint committee on pension
25 policy have no authority over matters under chapter 41.-- RCW (sections
26 1 through 7, 9, and 10 of this act).

27 NEW SECTION. **Sec. 12.** A new section is added to chapter 41.45 RCW
28 to read as follows:

29 The pension funding council has no authority over matters under
30 chapter 41.-- RCW (sections 1 through 7, 9, and 10 of this act).

31 NEW SECTION. **Sec. 13.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 14.** CAPTIONS. Captions used in this act are
2 not any part of the law.

3 NEW SECTION. **Sec. 15.** LEGISLATIVE DIRECTIVE. Sections 1 through
4 7, 9, and 10 of this act constitute a new chapter in Title 41 RCW.

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