
HOUSE BILL 1899

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2013 Regular Session

By Representatives Carlyle, Hunter, Ormsby, Pedersen, Kagi, Tarleton, Sawyer, Jinkins, Ryu, and Pollet

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

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

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

15 (2) In order to reduce the cost of the first class cities'
16 retirement plans over time, the legislature intends to authorize the
17 board to enter into agreements with the first class cities to manage
18 the investment of the assets of the first class cities' retirement

1 systems along with the assets of the state-administered retirement
2 plans in the commingled trust fund.

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

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

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

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

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

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

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

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

3 (1) One member who is an active member of the public employees'
4 retirement system and has been an active member for at least five
5 years. This member shall be appointed by the governor, subject to
6 confirmation by the senate, from a list of nominations submitted by
7 organizations representing active members of the system. The initial
8 term of appointment shall be one year.

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

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

20 (4) The state treasurer or the assistant state treasurer if
21 designated by the state treasurer.

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

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

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

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

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

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

36 (11) Five nonvoting members appointed by the state investment board
37 who are considered experienced and qualified in the field of
38 investments.

1 (12) Upon reaching agreement with three first class cities for the
2 management of the assets of pension funds, an additional nonvoting
3 member who is a member of a first class cities' retirement system with
4 assets managed by the board shall be appointed by the governor.

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

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

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

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

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

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

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

4 (4) At least annually, the board shall report to the first class
5 cities' legislative authorities and retirement boards on the board's
6 investment activities for the first class cities' retirement funds
7 managed under an agreement reached under section 2 of this act.

8 **Sec. 5.** RCW 35.39.060 and 2009 c 549 s 2076 are each amended to
9 read as follows:

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

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

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

34 Until such time that the city council or city commission enters an
35 agreement with the Washington state investment board to manage the
36 retirement fund of that city, the city treasurer may cause any

1 securities in which the city retirement system deals to be registered
2 in the name of a nominee without mention of any fiduciary relationship,
3 except that adequate records shall be maintained to identify the actual
4 owner of the security so registered. The securities so registered
5 shall be held in the physical custody of the city treasurer, the
6 federal reserve system, the designee of the city treasurer, or at the
7 election of the designee and upon approval of the city treasurer, the
8 Pacific Securities Depository Trust Company Inc. or the Depository
9 Trust Company of New York City or its designees.

10 With respect to the securities, the nominee shall act only on the
11 direction of the retirement board. All rights to the dividends,
12 interest, and sale proceeds from the securities and all voting rights
13 of the securities shall be vested in the actual owners of the
14 securities, and not in the nominee.

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

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

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

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

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

34 ~~((2))~~ (b) Review the investment transactions of the retirement
35 board annually;

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

5 (2) Upon a city council or city commission's decision to enter an
6 agreement with the Washington state investment board to manage the
7 retirement fund of that city under section 2 of this act, and the
8 commencement of the investment duties by the state investment board,
9 the investment advisory committee shall no longer perform the duties
10 under subsection (1) of this section.

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

13 (1) There is hereby created and established a board of
14 administration in each city coming under this chapter, which shall,
15 under the provisions of this chapter and the direction of the city
16 council or city commission, administer the retirement system and the
17 retirement fund created by this chapter. Under and pursuant to the
18 direction of the city council or city commission, the board shall
19 provide for the proper investment of the moneys in the ~~((said))~~
20 retirement fund until such time that the city council or city
21 commission enters an agreement with the Washington state investment
22 board under section 2 of this act to manage the retirement fund of that
23 city.

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

29 (3) Until such time that the city council or city commission enters
30 an agreement with the Washington state investment board under section
31 2 of this act to manage the retirement fund of that city:

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

34 ~~((4))~~ (b) Subject to such provisions as may be prescribed by law
35 for the deposit of municipal funds in banks, cash belonging to the
36 retirement fund may be deposited in any licensed national bank or in

1 any bank, banks or corporations authorized or licensed to do a banking
2 business and organized under the laws of the state of Washington.

3 ~~((+5))~~ (4) The city treasurer shall be the custodian of the
4 retirement fund. All payments from said fund shall be made by the city
5 treasurer but only upon warrant duly executed by the city comptroller.

6 ~~((+6))~~ (5) Except as herein provided, no member and no employee of
7 the board of administration shall have any interest, direct or
8 indirect, in the making of any investments from the retirement fund, or
9 in the gains or profits accruing therefrom. And no member or employee
10 of said board, directly or indirectly, for himself or herself or as an
11 agent or partner of others, shall borrow any of its funds or deposits
12 or in any manner use the same except to make such current and necessary
13 payments as are authorized by said board; nor shall any member or
14 employee of said board become an endorser or surety or become in any
15 manner an obligor for moneys invested by the board.

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

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

33 (2) Upon a city council or city commission's decision to enter an
34 agreement with the Washington state investment board under section 2 of
35 this act to manage the retirement fund of that city, the state

1 investment board shall invest those funds entrusted to it consistent
2 with the policies and standards provided in chapter 43.33A RCW.

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