

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6573

60th Legislature
2008 Regular Session

Passed by the Senate March 11, 2008
YEAS 45 NAYS 2

President of the Senate

Passed by the House March 7, 2008
YEAS 82 NAYS 12

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6573** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6573

AS AMENDED BY THE HOUSE

Passed Legislature - 2008 Regular Session

State of Washington

60th Legislature

2008 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kilmer, Brandland, Kauffman, Delvin, Benton, Roach, McAuliffe, and Rasmussen; by request of LEOFF Plan 2 Retirement Board)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to providing additional revenues for public safety,
2 including law enforcement officers and firefighters plan 2 pension plan
3 benefits; amending RCW 41.26.720; adding new sections to chapter 41.26
4 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that local governments
7 need additional revenues to provide public safety resources in order to
8 protect the citizens of Washington from fire and crime. The
9 legislature finds that the current benefit formula and contributions
10 for the law enforcement officers' and firefighters' plan 2 are
11 inadequate to modify that formula in recognition of the shorter working
12 careers for firefighters and police officers. The legislature
13 recognizes that although some officers and firefighters are able to
14 work comfortably beyond twenty-five years, the combat nature of fire
15 suppression and law enforcement generally require earlier retirement
16 ages. In recognition of the physical demands of the professions and
17 the inherent risks faced by law enforcement officers and firefighters,
18 eligibility for retirement in the law enforcement officers' and
19 firefighters' plan 2 system has been set at age fifty-three. However,

1 the benefit formula is designed for careers of thirty-five to forty
2 years, making retirement at age fifty-three an unrealistic option for
3 many.

4 Therefore, the legislature declares that it is the purpose of this
5 act to provide local government public safety employers and the law
6 enforcement officers' and firefighters' plan 2 pension plan with
7 additional shared revenues when general state revenues exceed by more
8 than five percent the previous fiscal biennium's revenue.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.26 RCW
10 to read as follows:

11 The local public safety enhancement account is created in the state
12 treasury. Moneys in the account may be spent only after appropriation.
13 All receipts from section 4 of this act must be deposited into the
14 account. Expenditures from the account may be used as follows:

15 (1) Following appropriation, fifty percent of the money in the
16 account shall be transferred to the law enforcement officers' and
17 firefighters' retirement system benefits improvement account
18 established in section 3 of this act.

19 (2) Following appropriation, the balance shall be distributed by
20 the state treasurer to all jurisdictions with law enforcement officers'
21 and firefighters' plan 2 members. Each year, the department of
22 retirement systems will determine each jurisdictions' proportionate
23 share of funds based on the number of plan 2 members each jurisdiction
24 has on June 1st of the prior year divided by the total number of plan
25 2 members in the system. The department of retirement systems shall
26 provide the distribution allocation to the state treasurer.
27 Distributions by the state treasurer shall be made annually each
28 January 1st with one-half of the appropriation being distributed in the
29 first year of the appropriation and any remainder the following year.
30 If an appropriation is made for a single fiscal year, the entire
31 appropriation shall be distributed the following January 1st.
32 Jurisdictions that contract with other eligible jurisdictions for law
33 enforcement services or fire protection services must agree on the
34 distribution of funds between the contracting parties and must inform
35 the department of retirement systems as to how the distribution is to
36 be made. Distributions will continue to be made under the terms of the
37 agreement until the department of retirement systems is notified by the

1 eligible jurisdiction of any agreement revisions. If there is no
2 agreement within six months of the distribution date, the moneys lapse
3 to the state treasury. Moneys distributed from the balance of the
4 public safety enhancement account may be used for the following
5 purposes: (a) Criminal justice, including those where an ancillary
6 benefit to the civil justice occurs, and includes domestic violence
7 programs; (b) information and assistance to parents and families
8 dealing with at-risk or runaway youth; or (c) public safety. Money
9 distributed from the account shall not supplant existing funds used for
10 these purposes. For purposes of this subsection, "existing funds"
11 means the actual operating expenditures for the calendar year prior to
12 the first distribution from the account. Actual operating expenditures
13 excludes lost federal funds, lost or expired state grants or loans,
14 extraordinary events not likely to reoccur, change in contract
15 provisions beyond the control of the jurisdiction receiving the
16 services, and major capital expenditures.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.26 RCW
18 to read as follows:

19 (1) The local law enforcement officers' and firefighters'
20 retirement system benefits improvement account (benefits account) is
21 created within the law enforcement officers' and firefighters'
22 retirement system plan 2 fund. All receipts from section 2(1) of this
23 act must be deposited into the account.

24 (2) The funds in the benefits account shall not be included by the
25 actuary retained by the board in the calculation of the market value of
26 assets of the law enforcement officers' and firefighters' retirement
27 system plan 2 fund until the board directs the actuary retained by the
28 board in writing to do so for purposes of financing benefits enacted by
29 the legislature. The board shall, in consultation with the state
30 investment board and within ninety days of the transfer of funds into
31 the benefits account, provide the actuary retained by the board, in
32 writing, the market value of the amount directed from the benefits
33 account for inclusion in the calculation of the market value of assets
34 of the law enforcement officers' and firefighters' retirement system
35 plan 2 fund. The market value of the amount directed from the benefits
36 account shall be an amount determined by the state actuary to
37 sufficiently offset the unfunded actuarial accrued liabilities of

1 benefit improvements financed from this account. The market value of
2 the amount directed from the benefits account shall be determined as of
3 the date of the direction from the board to include this amount for
4 purposes of financing benefits enacted by the legislature.

5 (3) The law enforcement officers' and firefighters' plan 2
6 retirement board shall administer the fund in an actuarially sound
7 manner.

8 (4) The state investment board has the full power to invest,
9 reinvest, manage, contract, sell, or exchange investment money in the
10 benefits account. The state investment board is authorized to adopt
11 investment policies for the money in the benefits account. All
12 investment and operating costs associated with the investment of money
13 within the benefits account shall be paid pursuant to RCW 43.33A.160
14 and 43.84.160. With the exception of these expenses, the earnings from
15 the investment of the money shall be retained by the benefits account.

16 (5) All investments made by the state investment board shall be
17 made with the exercise of that degree of judgment and care pursuant to
18 RCW 43.33A.140 and the investment policy established by the state
19 investment board.

20 (6) When appropriate for investment purposes, the state investment
21 board may commingle money in the fund with other funds.

22 (7) The authority to establish all policies relating to the
23 benefits account, other than the investment policies set forth in this
24 section, resides with the law enforcement officers' and firefighters'
25 plan 2 retirement board. Other than investments by and expenses of the
26 state investment board, disbursements from this fund may be made only
27 on the authorization of the law enforcement officers' and firefighters'
28 plan 2 retirement board for purposes of funding the member, employer,
29 and state cost of financing benefits enacted by the legislature.

30 (8) The state investment board shall routinely consult with and
31 communicate with the law enforcement officers' and firefighters' plan
32 2 retirement board on the investment policy, earnings of the trust, and
33 related needs of the benefits account.

34 (9) Funds in the benefits account cannot be used to finance future
35 benefit improvements if the state actuary determines that the actuarial
36 present value of fully projected benefits for current and future
37 members for all benefits being financed from this account exceeds the
38 actuarial present value of the revenue provided under section 4 of this

1 act and the accrued earnings of the benefits account. When making the
2 determination under this subsection, the state actuary shall select
3 assumptions and methods to reduce the risk that the actual revenue
4 received is less than the assumed revenue.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.26 RCW
6 to read as follows:

7 (1) By September 30, 2011, if the prior fiscal biennium's general
8 state revenues exceed the previous fiscal biennium's revenues by more
9 than five percent, subject to appropriation by the legislature, the
10 state treasurer shall transfer five million dollars to the local public
11 safety enhancement account.

12 (2) By September 30, 2013, if the prior fiscal biennium's general
13 state revenues exceed the previous fiscal biennium's revenues by more
14 than five percent, subject to appropriation by the legislature, the
15 state treasurer shall transfer ten million dollars to the local public
16 safety enhancement account.

17 (3) By September 30, 2015, if the prior fiscal biennium's general
18 state revenues exceed the previous fiscal biennium's revenues by more
19 than five percent, subject to appropriation by the legislature, the
20 state treasurer shall transfer twenty million dollars to the local
21 public safety enhancement account.

22 (4) By September 30, 2017, and by September 30 of each odd-numbered
23 year thereafter, if the prior fiscal biennium's general state revenues
24 exceed the previous fiscal biennium's revenues by more than five
25 percent, subject to appropriation by the legislature, the state
26 treasurer shall transfer the lesser of one-third of the increase, or
27 fifty million dollars, to the local public safety enhancement account.

28 **Sec. 5.** RCW 41.26.720 and 2003 c 2 s 5 are each amended to read as
29 follows:

30 (1) The board of trustees have the following powers and duties and
31 shall:

32 (a) Adopt actuarial tables, assumptions, and cost methodologies in
33 consultation with an enrolled actuary retained by the board. The state
34 actuary shall provide assistance when the board requests. The actuary
35 retained by the board shall utilize the aggregate actuarial cost
36 method, or other recognized actuarial cost method based on a level

1 percentage of payroll, as that term is employed by the American academy
2 of actuaries. The actuary retained by the board shall adjust the
3 actuarial cost method to recognize the actuarial present value of
4 future revenue that will be included in the calculation of the market
5 value of assets pursuant to section 3(2) of this act, using the methods
6 and assumptions employed by the state actuary in section 3(9) of this
7 act. In determining the reasonableness of actuarial valuations,
8 assumptions, and cost methodologies, the actuary retained by the board
9 shall provide a copy of all such calculations to the state actuary. If
10 the two actuaries concur on the calculations, contributions shall be
11 made as set forth in the report of the board's actuary. If the two
12 actuaries cannot agree, they shall appoint a third, independent,
13 enrolled actuary who shall review the calculations of the actuary
14 retained by the board and the state actuary. Thereafter, contributions
15 shall be based on the methodology most closely following that of the
16 third actuary;

17 (b)(i) Provide for the design and implementation of increased
18 benefits for members and beneficiaries of the plan, subject to the
19 contribution limitations under RCW 41.26.725. An increased benefit may
20 not be approved by the board until an actuarial cost of the benefit has
21 been determined by the actuary and contribution rates adjusted as may
22 be required to maintain the plan on a sound actuarial basis. Increased
23 benefits as approved by the board shall be presented to the legislature
24 on January 1st of each year. The increased benefits as approved by the
25 board shall become effective within ninety days unless a bill is
26 enacted in the next ensuing session of the legislature, by majority
27 vote of each house of the legislature, repealing the action of the
28 board;

29 (ii) As an alternative to the procedure in (b)(i) of this
30 subsection, recommend to the legislature changes in the benefits for
31 members and beneficiaries, without regard to the cost limitations in
32 RCW 41.26.725(3). Benefits adopted in this manner shall have the same
33 contractual protections as the minimum benefits in the plan. The
34 recommendations of the board shall be presented to the legislature on
35 January 1st of each year. These measures shall take precedence over
36 all other measures in the legislature, except appropriations bills, and
37 shall be either enacted or rejected without change or amendment by the
38 legislature before the end of such regular session;

1 (c) Retain professional and technical advisors necessary for the
2 accomplishment of its duties. The cost of these services may be
3 withdrawn from the trust;

4 (d) Consult with the department for the purpose of improving
5 benefit administration and member services;

6 (e) Provide an annual report to the governor and the legislature
7 setting forth the actuarial funding status of the plan and making
8 recommendations for improvements in those aspects of retirement
9 administration directed by the legislature or administered by the
10 department;

11 (f) Establish uniform administrative rules and operating policies
12 in the manner prescribed by law;

13 (g) Engage administrative staff and acquire office space
14 independent of, or in conjunction with, the department. The department
15 shall provide funding from its budget for these purposes;

16 (h) (~~The board shall publish~~ ~~{Publish}~~) Publish on an annual
17 basis a schedule of increased benefits together with a summary of the
18 minimum benefits as established by the legislature which shall
19 constitute the official plan document; and

20 (i) Be the fiduciary of the plan and discharge the board's duties
21 solely in the interest of the members and beneficiaries of the plan.

22 (2) Meetings of the board of trustees shall be conducted as
23 follows:

24 (a) All board meetings are open to the public, preceded by timely
25 public notice;

26 (b) All actions of the board shall be taken in open public session,
27 except for those matters which may be considered in executive session
28 as provided by law;

29 (c) The board shall retain minutes of each meeting setting forth
30 the names of those board members present and absent, and their voting
31 record on any voted issue; and

32 (d) The board may establish, with the assistance of the appropriate
33 office of state government, an internet web site providing for
34 interactive communication with state government, members and
35 beneficiaries of the plan, and the public.

36 (3) A quorum of the board is six board members. All board actions
37 require six concurring votes.

1 (4) The decisions of the board shall be made in good faith and are
2 final, binding, and conclusive on all parties. The decisions of the
3 board shall be subject to judicial review as provided by law.

4 (5) A law enforcement officers' and firefighters' retirement system
5 plan 2 expense fund is established for the purpose of defraying the
6 expenses of the board. The board shall cause an annual budget to be
7 prepared consistent with the requirements of chapter 43.88 RCW and
8 shall draw the funding for the budget from the investment income of the
9 trust. Board members shall be reimbursed for travel and education
10 expenses as provided in RCW 43.03.050 and 43.03.060. The board shall
11 make an annual report to the governor, legislature, and state auditor
12 setting forth a summary of the costs and expenditures of the plan for
13 the preceding year. The board shall also retain the services of an
14 independent, certified public accountant who shall annually audit the
15 expenses of the fund and whose report shall be included in the board's
16 annual report.

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