Chapter 41.34 RCW
PLAN 3 RETIREMENT SYSTEM CONTRIBUTIONS

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RCW 41.34.010 Purpose. The purpose of chapter 239, Laws of 1995 is to:

(1) Provide a fair and reasonable value from the retirement system for those who leave public employment before retirement;

(2) Increase flexibility for such employees to make transitions into other public or private sector employment;

(3) Increase employee options for addressing retirement needs, personal financial planning, and career transitions; and

(4) Continue the legislature's established policy of having employees contribute toward their retirement benefits. [1995 c 239 s 201.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.020 Definitions. As used in this chapter, the following terms have the meanings indicated:

(1) "Actuary" means the state actuary or the office of the state actuary.

(2) "Department" means the department of retirement systems.

(3)(a) "Compensation" for teachers for purposes of this chapter is the same as "earnable compensation" for plan 3 in chapter 41.32 RCW except that the compensation may be reported when paid, rather than when earned.

(b) "Compensation" for classified employees for purposes of this chapter is the same as "compensation earnable" for plan 3 in RCW

41.35.010, except that the compensation may be reported when paid, rather than when earned.

(c) "Compensation" for public employees for purposes of this chapter is the same as "compensation earnable" for plan 3 in RCW 41.40.010, except that the compensation may be reported when paid, rather than when earned.

(4)(a) "Employer" for teachers for purposes of this chapter means the same as "employer" for plan 3 in chapter 41.32 RCW.

(b) "Employer" for classified employees for purposes of this chapter means the same as "employer" for plan 3 in RCW 41.35.010.

(c) "Employer" for public employees for purposes of this chapter means the same as "employer" for plan 3 in RCW 41.40.010.

(5) "Member" means any employee included in the membership of a retirement system as provided for in chapter 41.32 RCW of plan 3, chapter 41.35 RCW of plan 3, or chapter 41.40 RCW of plan 3.

(6) "Member account" or "member's account" means the sum of the contributions and earnings on behalf of the member.

(7) "Retiree" means any member in receipt of an allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(8) "Teacher" means a member of the teachers' retirement system plan 3 as defined in *RCW 41.32.010(29).

(9) "Classified employee" means a member of the school employees' retirement system plan 3 as defined in RCW 41.35.010.

(10) "Public employee" means a member of the public employees' retirement system plan 3 as defined in RCW 41.40.010. [2010 1st sp.s. c 7 s 31; 2000 c 247 s 401; 1998 c 341 s 301; 1996 c 39 s 13; 1995 c 239 s 202.]

***Reviser's note:** RCW 41.32.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (29) to subsection (49).

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date—1998 c 341: See RCW 41.35.901.

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.030 Application of chapter—Plan 3 elements. (1) This chapter applies only to members of plan 3 retirement systems created under chapters 41.32, 41.35, and 41.40 RCW.

(2) Plan 3 consists of two separate elements:

(a) A defined benefit portion covered under:

(i) Sections 101 through 117, chapter 239, Laws of 1995; or

(ii) Sections 1 through 25 and 201 through 213, chapter 341, Laws of 1998; or

(iii) Sections 101 through 316, chapter 247, Laws of 2000; and

(b) A defined contribution portion covered under this chapter. Unless specified otherwise, all references to "plan 3" in this chapter refer to the defined contribution portion of plan 3. [2000 c 247 s 402; 1998 c 341 s 302; 1995 c 239 s 203.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date—1998 c 341: See RCW 41.35.901.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.040 Contributions—Rate structures—Annual option. (1) A member shall contribute from the member's compensation according to one of the following rate structures in addition to the mandatory minimum five percent:

Option A	Contribution Rate
All Ages	0.0% fixed
Option B	
Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
Option C	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
Option D	
All Ages	2.0%
Option E	
All Ages	5.0%
Option F	
All Ages	10.0%

(2) The department shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the department shall conform to the requirements stated in subsections (3) and (5) of this section.

(3)(a) For members of the teachers' retirement system entering plan 3 under RCW 41.32.835 or members of the school employees' retirement system entering plan 3 under RCW 41.35.610, within ninety days of becoming a member the member has an option to choose one of the above contribution rate structures. If the member does not select an option within the ninety-day period, the member shall be assigned option A.

(b) For members of the public employees' retirement system entering plan 3 under RCW 41.40.785, within the ninety days described in RCW 41.40.785 an employee who irrevocably chooses plan 3 shall

select one of the above contribution rate structures. If the member does not select an option within the ninety-day period, the member shall be assigned option A.

(c) For members of the teachers' retirement system transferring to plan 3 under RCW 41.32.817, members of the school employees' retirement system transferring to plan 3 under RCW 41.35.510, or members of the public employees' retirement system transferring to plan 3 under RCW 41.40.795, upon election to plan 3 the member must choose one of the above contribution rate structures.

(d) Within ninety days of the date that an employee changes employers, the member has an option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, the member shall be assigned option A.

(4) Each year, through January of 2015, members of plan 3 of the teachers' retirement system may change their contribution rate option by notifying their employer in writing during the month of January. After January of 2015, a member of plan 3 of the teachers' retirement system may only change their contribution rate option under subsection (3)(d) of this section. The termination of this annual contribution rate change option in January 2015 is required to meet the plan qualification requirements in section 401(a) of the internal revenue code. Consistent with plan qualification requirements in the internal revenue code, this annual contribution rate change has never been available to plan 3 members of the public employees' retirement system and the school employees' retirement system.

(5) Contributions shall begin the first day of the pay cycle in which the rate option is made, or the first day of the pay cycle in which the end of the ninety-day period occurs.

(6) The contribution of plan 3 members is not affected by any reduction in hours worked because of participation of their employer in a shared work program under chapter 50.60 RCW. Plan 3 members shall continue to make contributions as if the member did not incur a reduction in hours through participating in an approved shared work compensation plan under chapter 50.60 RCW. [2021 c 12 s 4; 2014 c 95 s 1; 2010 1st sp.s. c 7 s 32; 2003 c 156 s 1; 2000 c 247 s 403; 1996 c 39 s 14; 1995 c 239 s 204.]

Retroactive application—2021 c 12: See note following RCW 41.26.030.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.050 Legislature may contribute to members' accounts. The legislature may authorize contributions to the members' accounts for a biennium through budget appropriation. [1995 c 239 s 205.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.060 Members' accounts—Investment—Election. (1) Members may select investments as provided in subsections (2) and (4) of this section. If a member of the public employees' retirement system entering plan 3 under RCW 41.40.785, a member of the teachers' retirement system entering plan 3 under RCW 41.32.835, or a member of the school employees' retirement system entering plan 3 under RCW 41.35.610 does not select investments, the member's account shall be invested in the default investment option of the retirement strategy fund that is closest to the retirement target date of the member. Retirement strategy fund means one of several diversified asset allocation portfolios managed by investment advisors under contract to the state investment board. The asset mix of the portfolios adjusts over time depending on a target retirement date. The retirement strategy fund asset mix may include investment in state investment board commingled funds as authorized in RCW 43.33A.170.

(2) Members may elect to have their account invested by the state investment board. In order to reduce transaction costs and address liquidity issues, based upon recommendations of the state investment board, the department may require members to provide up to ninety days' notice prior to moving funds from the state investment board portfolio to self-directed investment options provided under subsection (4) of this section.

(a) For members of the retirement system as provided for in chapter 41.32 RCW of plan 3, investment shall be in the same portfolio as that of the teachers' retirement system combined plan 2 and 3 fund under RCW 41.50.075(2).

(b) For members of the retirement system as provided for in chapter 41.35 RCW of plan 3, investment shall be in the same portfolio as that of the school employees' retirement system combined plan 2 and 3 fund under RCW 41.50.075(4).

(c) For members of the retirement system as provided for in chapter 41.40 RCW of plan 3, investment shall be in the same portfolio as that of the public employees' retirement system combined plan 2 and 3 fund under RCW 41.50.075(3).

(3) The state investment board shall declare unit values no less than monthly for the portfolios or funds, or portions thereof, utilized under subsection (2)(a), (b), and (c) of this section. The declared values shall be an approximation of portfolio or fund values, based on internal procedures of the state investment board. Such declared unit values and internal procedures shall be in the sole discretion of the state investment board. The state investment board may delegate any of the powers and duties under this subsection, including discretion, pursuant to RCW 43.33A.030. Member accounts shall be credited by the department with a rate of return based on changes to such unit values.

(4) Members may elect to self-direct their investments as set forth in RCW 41.34.130 and 43.33A.190. [2020 c 160 s 2; 2011 c 80 s 2; 2001 c 180 s 2; 2000 c 247 s 404; 1999 c 265 s 1; 1998 c 341 s 303; 1996 c 39 s 15; 1995 c 239 s 206.]

Finding—Intent—2020 c 160: "The legislature finds that participants in the retirement strategy funds of the deferred compensation and plan 3 defined contribution plans would gain broader investment exposure to a diversified asset mix by including the state investment board's commingled pension fund in the asset mix. It is the intent of the legislature to confirm participant access to a broader scope of assets." [2020 c 160 s 1.]

Effective date—2001 c 180 ss 1 and 2: See note following RCW 41.45.061.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date—1998 c 341: "Sections 303, 306 through 309, 404, 505, 507, 515, 701, 707, and 710 through 713 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [April 3, 1998]." [1998 c 341 s 716.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.070 Distribution options. (1) If the member retires, becomes disabled, or otherwise terminates employment, the balance in the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the department.

(2) If the member dies while in service, the balance of the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the department. The distribution is as follows:

(a) The distribution shall be made to such person or persons as the member shall have nominated by written designation duly executed and filed with the department;

(b) If there be no such designated person or persons still living at the time of the member's death, the balance of the member's account in the retirement system, less any amount identified as owing to an obligee upon withdrawal of such account balance pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation;

(c) If there is no surviving spouse, then to such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(d) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(3) If a member has a terminal illness and terminates from employment, the member may choose to have the balance in the member's account distributed as a lump sum payment based on the most recent valuation in order to expedite the distribution. The department shall make this payment within ten working days after receipt of notice of termination of employment, documentation verifying the terminal illness, and an application for payment.

(4) The distribution under subsections (1), (2), or (3) of this section shall be less any amount identified as owing to an obligee upon withdrawal pursuant to a court order filed under RCW 41.50.670. [2010 1st sp.s. c 7 s 33; 2005 c 327 s 3; 1998 c 117 s 1; 1995 c 239 s 207.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—1998 c 117: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 23, 1998]." [1998 c 117 s 2.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.080 Benefits exempt from taxation, garnishment, other processes of law—Exceptions. (1) Subject to subsections (2), (3), and (4) of this section, the right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the various funds created by chapter 239, Laws of 1995; chapter 341, Laws of 1998; and chapter 247, Laws of 2000 and all moneys and investments and income thereof, is hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, whether the same be in actual possession of the person or be deposited or loaned and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and that has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have

authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a income withholding order issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

(4) Subsection (1) of this section does not exempt any pension or other benefit received under this chapter from tax under Title 82A RCW. [2026 c 238 s 807; 2012 c 159 s 23; 2000 c 247 s 405; 1998 c 341 s 304; 1995 c 239 s 208.]

Findings—Intent—Effect of invalidation of 2026 c 238 s 201—Automatic expiration date and tax preference performance statement exemption—Necessity of act—Intent—Implementation by department of revenue—2026 c 238: See notes following RCW 82A.04.030.

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date—1998 c 341: See RCW 41.35.901.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.090 Administration of chapter—Construction—Severability. (1) The retirement plan created by this chapter shall be administered so as to comply with the federal Internal Revenue Code, Title 26 U.S.C., and specifically with plan qualification requirements imposed on governmental plans by section 401(a) of the Internal Revenue Code.

(2) Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy requirements imposed by section 401(a) of the Internal Revenue Code.

(3) If any section or provision of this chapter is found to be in conflict with the plan qualification requirements for governmental plans in section 401(a) of the Internal Revenue Code, the conflicting part of this chapter is hereby inoperative solely to the extent of the conflict, and such finding shall not affect the operation of the remainder of this chapter. [1995 c 239 s 209.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.100 Benefits not contractual right until date specified. (1) The benefits provided pursuant to chapter 239, Laws of 1995 are not provided to employees as a matter of contractual right prior to July 1, 1996. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 1996.

(2) The benefits provided pursuant to chapter 341, Laws of 1998 are not provided to employees as a matter of contractual right prior to September 1, 2000. The legislature retains the right to alter or abolish these benefits at any time prior to September 1, 2000.

(3) The benefits provided pursuant to chapter 247, Laws of 2000 are not provided to employees as a matter of contractual right prior to March 1, 2002. The legislature retains the right to alter or abolish these benefits at any time prior to March 1, 2002. [2000 c 247 s 406; 1998 c 341 s 305; 1995 c 239 s 325.]

Effective dates—Subchapter headings not law—2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date—1998 c 341: See RCW 41.35.901.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.110 Reentry. A member who separates from service and then reestablishes membership may restore contributions to the member account. [1996 c 39 s 12.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

RCW 41.34.120 Money, property, income held in trust. All moneys in members' accounts, all property and rights purchased therewith, and all income attributable thereto, shall be held in trust by the state investment board, as set forth under RCW 43.33A.030, for the exclusive benefit of the members and their beneficiaries. [1998 c 341 s 306.]

Effective date—1998 c 341: See note following RCW 41.34.060.

RCW 41.34.130 Self-directed investment—Default investment options—Duties of state investment board and department—Expenses—Recordkeeping. (1) The state investment board has the full authority to invest all self-directed investment moneys in accordance with RCW 43.84.150 and 43.33A.140, the default investment options set forth in RCW 41.34.060(1), and cumulative investment directions received pursuant to RCW 41.34.060 and this section. In carrying out this authority the state investment board, after consultation with the department regarding any recommendations made pursuant to RCW 41.50.088(1)(b), shall provide a set of options for members to choose from for self-directed investment.

(2) All investment and operating costs of the state investment board associated with making self-directed investments or the default investment options set forth in RCW 41.34.060(1) shall be paid by

members and recovered under procedures agreed to by the department and the state investment board pursuant to the principles set forth in RCW 43.33A.160 and 43.84.160. All other expenses caused by self-directed investment shall be paid by the member in accordance with rules established by the department under RCW 41.50.088. With the exception of these expenses, all earnings from self-directed investments shall accrue to the member's account.

(3)(a)(i) The department shall keep or cause to be kept full and adequate accounts and records of each individual member's account. The department shall account for and report on the investment of defined contribution assets or may enter into an agreement with the state investment board for such accounting and reporting under this chapter.

(ii) The department's duties related to individual participant accounts include conducting the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iii) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.

(b)(i) The department's duties under (a)(ii) of this subsection do not limit the authority of the state investment board to conduct its responsibilities for asset management and balancing of the deferred compensation funds.

(ii) The state investment board has sole responsibility for contracting with outside investment firms to provide investment management for the deferred compensation funds and shall manage the performance of investment managers under those contracts.

(c) The state treasurer shall designate and define the terms of engagement for the custodial banks. [2011 c 80 s 1; 2010 1st sp.s. c 7 s 34; 2001 c 181 s 3; 1998 c 341 s 307.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—1998 c 341: See note following RCW 41.34.060.

RCW 41.34.140 Liability for loss or deficiencies—Limitations. (1) A state board or commission, agency, or any officer, employee, or member thereof is not liable for any loss or deficiency resulting from member defined contribution investments selected, made, or required pursuant to RCW 41.34.060 (1), (2), or (4).

(2) Neither the department, nor director or any employee, nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from a member investment in the default option pursuant to RCW 41.34.060(1) or reasonable efforts to implement investment directions pursuant to RCW 41.34.060 (1), (2), or (4).

(3) The state investment board, or any officer, employee, or member thereof is not liable with respect to any declared monthly unit valuations or crediting of rates of return, or any other exercise of powers or duties, including discretion, under RCW 41.34.060(3).

(4) The department, or any officer or employee thereof, is not liable for crediting rates of return which are consistent with the state investment board's declaration of unit valuations pursuant to

RCW 41.34.060(3). [2020 c 160 s 3; 2011 c 80 s 3; 2010 1st sp.s. c 7 s 35; 1999 c 265 s 2; 1998 c 341 s 308.]

Finding—Intent—2020 c 160: See note following RCW 41.34.060.

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—1998 c 341: See note following RCW 41.34.060.

RCW 41.34.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 s 96.]

Effective dates—2009 c 521 ss 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: See note following RCW 2.10.900.