
HOUSE BILL 2127

State of Washington

66th Legislature

2019 Regular Session

By Representatives Stokesbary and Ormsby

1 AN ACT Relating to additional contribution rates for
2 contributions made after the date the service is rendered for
3 individual employers of Washington state retirement systems; amending
4 RCW 41.45.010, 41.45.050, 41.45.060, 41.45.067, 41.50.125, 41.50.112,
5 and 41.40.798; creating a new section; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature affirms the findings
8 of chapter 177, Laws of 1994, that whenever employer or member
9 contributions are not made at the time service is rendered, the state
10 retirement system trust funds lose investment income which is a major
11 source of pension funding. In that act, the legislature granted broad
12 authority to the department of retirement systems to charge employers
13 interest to compensate for the losses such events cause to the trust
14 funds.

15 (2) The legislature intends to insulate existing plan members and
16 employers from these costs by requiring that any resulting unfunded
17 liability that is expected to either exceed one hundred thousand
18 dollars or to increase to employer or employee contribution rates be
19 paid solely by the individual employer that employs the retroactively
20 added employees, or is otherwise responsible for the late payments.

1 (3) The legislature intends the grant of authority under RCW
2 41.45.060(2)(d) as an additional means to ensure that the
3 contributions collected from employers are sufficient to support the
4 benefits credited to their employees, and not as a substitute for the
5 duty of the director to collect contributions due from employers,
6 such as that provided in RCW 41.50.125.

7 **Sec. 2.** RCW 41.45.010 and 2009 c 561 s 1 are each amended to
8 read as follows:

9 It is the intent of the legislature to provide a dependable and
10 systematic process for funding the benefits provided to members and
11 retirees of the public employees' retirement system, chapter 41.40
12 RCW; the teachers' retirement system, chapter 41.32 RCW; the law
13 enforcement officers' and firefighters' retirement systems, chapter
14 41.26 RCW; the school employees' retirement system, chapter 41.35
15 RCW; the public safety employees' retirement system, chapter 41.37
16 RCW; and the Washington state patrol retirement system, chapter 43.43
17 RCW.

18 The funding process established by this chapter is intended to
19 achieve the following goals:

20 (1) To fully fund the public employees' retirement system plans 2
21 and 3, the teachers' retirement system plans 2 and 3, the school
22 employees' retirement system plans 2 and 3, the public safety
23 employees' retirement system plan 2, and the law enforcement
24 officers' and firefighters' retirement system plan 2 as provided by
25 law;

26 (2) To fully amortize the total costs of the law enforcement
27 officers' and firefighters' retirement system plan 1, not later than
28 June 30, 2024;

29 (3) To fully amortize the unfunded actuarial accrued liability in
30 the public employees' retirement system plan 1 and the teachers'
31 retirement system plan 1 within a rolling ten-year period, using
32 methods and assumptions that balance needs for increased benefit
33 security, decreased contribution rate volatility, and affordability
34 of pension contribution rates;

35 (4) To establish long-term employer contribution rates which will
36 remain a relatively predictable proportion of the future state
37 budgets; ((and))

38 (5) To fund, to the extent feasible, all benefits for plan 2 and
39 3 members over the working lives of those members so that the cost of

1 those benefits are paid by the taxpayers who receive the benefit of
2 those members' service; and

3 (6) To require, consistent with section 1, chapter 177, Laws of
4 1994, individual employers to pay contributions that reflect the
5 unfunded liability generated from lost investment returns and
6 interest when contributions are made after the date for which service
7 is rendered, rather than allowing the cost of lost investment returns
8 to be passed on to other retirement system employers and employees.

9 **Sec. 3.** RCW 41.45.050 and 2004 c 242 s 38 are each amended to
10 read as follows:

11 (1) Employers of members of the public employees' retirement
12 system, the teachers' retirement system, the school employees'
13 retirement system, the public safety employees' retirement system,
14 and the Washington state patrol retirement system shall make
15 contributions to those systems based on the rates established in RCW
16 41.45.060 and 41.45.070.

17 (2) The state shall make contributions to the law enforcement
18 officers' and firefighters' retirement system plan 2 based on the
19 rates established in RCW 41.45.060 and 41.45.070. The state treasurer
20 shall transfer the required contributions each month on the basis of
21 salary data provided by the department.

22 (3) The department shall bill employers, and the state shall make
23 contributions to the law enforcement officers' and firefighters'
24 retirement system plan 2, using the combined rates established in RCW
25 41.45.060 and 41.45.070 regardless of the level of appropriation
26 provided in the biennial budget. Any member of an affected retirement
27 system may, by mandamus or other appropriate proceeding, require the
28 transfer and payment of funds as directed in this section.

29 (4) The contributions received for the public employees'
30 retirement system shall be allocated between the public employees'
31 retirement system plan 1 fund and the public employees' retirement
32 system combined plan 2 and plan 3 fund as follows: The contributions
33 necessary to fully fund the public employees' retirement system
34 combined plan 2 and plan 3 employer contribution shall first be
35 deposited in the public employees' retirement system combined plan 2
36 and plan 3 fund. All remaining public employees' retirement system
37 employer contributions shall be deposited in the public employees'
38 retirement system plan 1 fund.

1 (5) The contributions received for the teachers' retirement
2 system shall be allocated between the plan 1 fund and the combined
3 plan 2 and plan 3 fund as follows: The contributions necessary to
4 fully fund the combined plan 2 and plan 3 employer contribution shall
5 first be deposited in the combined plan 2 and plan 3 fund. All
6 remaining teachers' retirement system employer contributions shall be
7 deposited in the plan 1 fund.

8 (6) The contributions received for the school employees'
9 retirement system shall be allocated between the public employees'
10 retirement system plan 1 fund and the school employees' retirement
11 system combined plan 2 and plan 3 fund as follows: The contributions
12 necessary to fully fund the combined plan 2 and plan 3 employer
13 contribution shall first be deposited in the combined plan 2 and plan
14 3 fund. All remaining school employees' retirement system employer
15 contributions shall be deposited in the public employees' retirement
16 system plan 1 fund.

17 (7) The contributions received for the law enforcement officers'
18 and firefighters' retirement system plan 2 shall be deposited in the
19 law enforcement officers' and firefighters' retirement system plan 2
20 fund.

21 (8) The contributions received for the public safety employees'
22 retirement system shall be allocated between the public employees'
23 retirement system plan 1 fund and the public safety employees'
24 retirement system plan 2 fund as follows: The contributions necessary
25 to fully fund the plan 2 employer contribution shall first be
26 deposited in the plan 2 fund. All remaining public safety employees'
27 retirement system employer contributions shall be deposited in the
28 public employees' retirement system plan 1 fund.

29 (9) The contributions received from an individual employer for a
30 contribution rate adopted under RCW 41.45.060(2)(d) must be deposited
31 in the retirement system plan fund for which the rate was adopted,
32 and must be credited towards the employer in that retirement system
33 or plan for contributions, interest, and lost investment returns.

34 **Sec. 4.** RCW 41.45.060 and 2009 c 561 s 3 are each amended to
35 read as follows:

36 (1) The state actuary shall provide preliminary actuarial
37 valuation results based on the economic assumptions and asset value
38 smoothing technique included in RCW 41.45.035 or adopted under RCW
39 41.45.030 or 41.45.035.

1 (2) Not later than July 31, 2008, and every two years thereafter,
2 consistent with the economic assumptions and asset value smoothing
3 technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or
4 41.45.035, the council shall adopt and may make changes to:

5 (a) A basic state contribution rate for the law enforcement
6 officers' and firefighters' retirement system plan 1;

7 (b) Basic employer contribution rates for the public employees'
8 retirement system, the teachers' retirement system, and the
9 Washington state patrol retirement system; ~~((and))~~

10 (c) Basic employer contribution rates for the school employees'
11 retirement system and the public safety employees' retirement system
12 for funding both those systems and the public employees' retirement
13 system plan 1; and

14 (d) If the council determines it to be an appropriate substitute
15 for a charge of contributions and interest under RCW 41.50.125,
16 additional individual employer contribution rates to compensate for
17 the unfunded liability, based on current assumptions and actuarial
18 methods, created when member or employer contributions are paid other
19 than immediately after service is rendered, or when the amounts
20 contributed are so insufficient as to otherwise increase contribution
21 rates for other employers or employees within a retirement system or
22 plan. The additional individual employer contribution rates must be
23 sufficient to ensure that the cost of the late contributions, lost
24 investment returns, or interest are not borne by other employers or
25 employees through increases to the basic contribution rates adopted
26 for each system or plan. When the council adopts an individual
27 employer rate, it must direct the state actuary on the frequency of
28 actuarial review necessary for the individual rate during the period
29 that the rate is assessed.

30 The council may adopt annual rate changes for any plan for any
31 rate-setting period. The contribution rates adopted by the council
32 shall be subject to revision by the legislature.

33 (3) The employer and state contribution rates adopted by the
34 council shall be the level percentages of pay that are needed:

35 (a) To fully amortize the total costs of the law enforcement
36 officers' and firefighters' retirement system plan 1 not later than
37 June 30, 2024;

38 (b) To fully fund the public employees' retirement system plans 2
39 and 3, the teachers' retirement system plans 2 and 3, the public
40 safety employees' retirement system plan 2, and the school employees'

1 retirement system plans 2 and 3 in accordance with RCW 41.45.061,
2 41.45.067, and this section; and

3 (c) To fully fund the public employees' retirement system plan 1
4 and the teachers' retirement system plan 1 in accordance with RCW
5 41.45.070, 41.45.150, and this section.

6 (4) The aggregate actuarial cost method shall be used to
7 calculate a combined plan 2 and 3 normal cost, a Washington state
8 patrol retirement system normal cost, and a public safety employees'
9 retirement system normal cost.

10 (5) A modified entry age normal cost method, as set forth in this
11 chapter, shall be used to calculate employer contributions to the
12 public employees' retirement system plan 1 and the teachers'
13 retirement system plan 1.

14 (6) The employer contribution rate for the public employees'
15 retirement system and the school employees' retirement system shall
16 equal the sum of:

17 (a) The amount required to pay the combined plan 2 and plan 3
18 normal cost for the system, subject to any minimum rates applied
19 pursuant to RCW 41.45.155; plus

20 (b) The amount required to amortize the unfunded actuarial
21 accrued liability in plan 1 of the public employees' retirement
22 system over a rolling ten-year period using projected future salary
23 growth and growth in system membership, and subject to any minimum or
24 maximum rates applied pursuant to RCW 41.45.150; plus

25 (c) The amounts required to amortize the costs of any benefit
26 improvements in plan 1 of the public employees' retirement system
27 that become effective after June 30, 2009. The cost of each benefit
28 improvement shall be amortized over a fixed ten-year period using
29 projected future salary growth and growth in system membership. The
30 amounts required under this subsection are not subject to, and are
31 collected in addition to, any minimum or maximum rates applied
32 pursuant to RCW 41.45.150.

33 (7) The employer contribution rate for the public safety
34 employees' retirement system shall equal the sum of:

35 (a) The amount required to pay the normal cost for the system,
36 subject to any minimum rates applied pursuant to RCW 41.45.155; plus

37 (b) The amount required to amortize the unfunded actuarial
38 accrued liability in plan 1 of the public employees' retirement
39 system over a rolling ten-year period using projected future salary

1 growth and growth in system membership, and subject to any minimum or
2 maximum rates applied pursuant to RCW 41.45.150; plus

3 (c) The amounts required to amortize the costs of any benefit
4 improvements in plan 1 of the public employees' retirement system
5 that become effective after June 30, 2009. The cost of each benefit
6 improvement shall be amortized over a fixed ten-year period using
7 projected future salary growth and growth in system membership. The
8 amounts required under this subsection are not subject to, and are
9 collected in addition to, any minimum or maximum rates applied
10 pursuant to RCW 41.45.150.

11 (8) The employer contribution rate for the teachers' retirement
12 system shall equal the sum of:

13 (a) The amount required to pay the combined plan 2 and plan 3
14 normal cost for the system, subject to any minimum rates applied
15 pursuant to RCW 41.45.155; plus

16 (b) The amount required to amortize the unfunded actuarial
17 accrued liability in plan 1 of the teachers' retirement system over a
18 rolling ten-year period using projected future salary growth and
19 growth in system membership, and subject to any minimum or maximum
20 rates applied pursuant to RCW 41.45.150; plus

21 (c) The amounts required to amortize the costs of any benefit
22 improvements in plan 1 of the teachers' retirement system that become
23 effective after June 30, 2009. The cost of each benefit improvement
24 shall be amortized over a fixed ten-year period using projected
25 future salary growth and growth in system membership. The amounts
26 required under this subsection are not subject to, and are collected
27 in addition to, any minimum or maximum rates applied pursuant to RCW
28 41.45.150.

29 (9) The council shall immediately notify the directors of the
30 office of financial management and department of retirement systems
31 of the state and employer contribution rates adopted. The rates shall
32 be effective for the ensuing biennial period, subject to any
33 legislative modifications.

34 (10) The director shall collect those rates adopted by the
35 council. The rates established in RCW 41.45.062, or by the council,
36 shall be subject to revision by the legislature.

37 (11) The state actuary shall prepare final actuarial valuation
38 results based on the economic assumptions, asset value smoothing
39 technique, and contribution rates included in or adopted under RCW
40 41.45.030, 41.45.035, and this section.

1 (12) Whenever costs arise as identified in this section, and an
2 individual contribution rate is adopted, the council shall adopt
3 rates under this section that ensure those costs are exclusively paid
4 by the individual employer that created the cost, and not the other
5 employers or plan 2 members of the system.

6 **Sec. 5.** RCW 41.45.067 and 2001 2nd sp.s. c 11 s 14 are each
7 amended to read as follows:

8 (1) Any increase in the contribution rate required as the result
9 of a failure of the state or of an employer to make any contribution
10 required by this section, or as the result of any unfunded liability
11 created pursuant to this act, shall be borne in full by the state or
12 by that employer not making the contribution or creating the unfunded
13 liability.

14 (2) The director shall notify all employers of any pending
15 adjustment in the required contribution rate and such pending
16 adjustment in the required contribution rate and any increase shall
17 be announced at least thirty days prior to the effective date of the
18 change.

19 (3) Members' contributions required by RCW 41.45.060 and
20 41.45.061 shall be deducted from the members' compensation each
21 payroll period. The members' contribution and the employers'
22 contribution shall be remitted directly to the department within
23 fifteen days following the end of the calendar month during which the
24 payroll period ends.

25 (4) The state's contribution required for the law enforcement
26 officers' and firefighters' retirement system plan 2 shall be
27 transferred to the appropriate fund from the total contributions
28 transferred by the state treasurer under RCW 41.45.050.

29 **Sec. 6.** RCW 41.50.125 and 1994 c 177 s 2 are each amended to
30 read as follows:

31 The department (~~may~~) must charge interest, as determined by the
32 director, on member or employer contributions owing to any of the
33 retirement systems listed in RCW 41.50.030 when the amount of
34 contributions and interest owing to any of the retirement systems
35 exceeds one hundred thousand dollars. When the amount owing is less
36 than one hundred thousand dollars, the department may charge
37 interest, as determined by the director. The department's
38 (~~authority~~) duty to charge interest shall extend to all optional

1 and mandatory billings for contributions where member or employer
2 contributions are paid other than immediately after service is
3 rendered. Except as explicitly limited by statute, the director may
4 delay the imposition of interest charges on late contributions under
5 this section if the delay is necessary to implement required changes
6 in the department's accounting and information systems. The
7 department may adjust the charging of contributions and interest owed
8 following the imposition of an individual employer contribution rate
9 adopted under RCW 41.45.060.

10 **Sec. 7.** RCW 41.50.112 and 2000 c 247 s 1107 are each amended to
11 read as follows:

12 (1) Employers, as defined in RCW 41.26.030, 41.32.010, 41.34.020,
13 41.35.010, and 41.40.010, must report all member data to the
14 department in a format designed and communicated by the department.

15 (2) Employers that report employees to the department must report
16 the date that the employee was first employed by the employer,
17 including employment by legal entities controlled by the employer. In
18 the event that an employer does not provide the date of first
19 employment, and report all member data subsequent to that date to the
20 department, the department must, directly or through a contract,
21 conduct an audit of any affected employees of the employer to
22 determine member eligibility. The employer must reimburse the
23 department for all costs associated with the conduct of the audit.

24 (3) If the department estimates that any retroactive reporting or
25 late payment of contributions could raise the contribution rates of
26 any retirement plan named in RCW 41.50.030 by one rounded basis point
27 (defined as 0.005 percent) or more, then the department must request
28 a calculation of the resulting unfunded liability from the state
29 actuary. The state actuary must calculate the resulting unfunded
30 liability using assumptions and methods determined by the state
31 actuary at the time of measurement and consistent with current law
32 where applicable. The state actuary must report the results to the
33 department, employer, and the pension funding council.

34 (4) Employers must provide the department with all member data
35 requested for these service credit determinations or liability
36 calculations. The data requested by the department are records of the
37 retirement systems, and a failure to knowingly submit complete
38 records is a violation of RCW 41.26.062, 41.32.055, 41.35.120,

1 41.37.120, or 41.40.055, as applicable to the retirement system for
2 which the records are requested.

3 (5) Employers failing to comply with this reporting requirement
4 shall be assessed an additional fee as defined under RCW
5 41.50.110(5).

6 **Sec. 8.** RCW 41.40.798 and 2011 1st sp.s. c 47 s 18 are each
7 amended to read as follows:

8 (1) All employees who are not qualified under RCW 41.32.836 and
9 who are first employed by an institution of higher education in a
10 position eligible for participation in old age annuities or
11 retirement income plans under RCW 28B.10.400 on or after July 1,
12 2011, have a period of thirty days to make an irrevocable choice to:

13 (a) Become a member of the public employees' retirement system
14 plan 3 under this chapter; or

15 (b) Participate in the annuities or retirement income plan
16 provided by the institution.

17 (2) At the end of thirty days, if the member has not made a
18 choice to become a member of the public employees' retirement system,
19 he or she becomes a participant in the institution's plan under RCW
20 28B.10.400, but does not become eligible for any supplemental benefit
21 under RCW 28B.10.400(1)(c).

22 (3) If the member chooses to participate in the annuities or
23 retirement income plan provided by the institution, the institution
24 of higher education must report that choice to the department,
25 including the date of first employment consistent with RCW 41.50.112.

26 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of
28 the state government and its existing public institutions, and takes
29 effect immediately.

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