

general election to be held in this state, in accordance with the provisions of section 1, Article II of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof.

Passed the Senate March 14, 1976.

Passed the House March 12, 1976.

Filed in Office of Secretary of State March 19, 1976.

CHAPTER 105

[Engrossed Substitute Senate Bill No. 3246]

DEPARTMENT OF RETIREMENT SYSTEMS—

OFFICE OF THE STATE ACTUARY

AN ACT Relating to the creation of a department of retirement systems, providing for a state actuary, and estopping a member of a retirement system created by the general laws of the state from becoming a member of or accruing any contractual rights in another such retirement system under certain conditions; amending section 1, chapter 11, Laws of 1971 and RCW 43.17.010; amending section 2, chapter 11, Laws of 1971 and RCW 43.17.020; amending section 9, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.33.070; creating a new chapter in Title 41 RCW; creating a new chapter in Title 44 RCW; adding new sections to chapter 41.04 RCW; defining crimes; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. Notwithstanding any other provision of law to the contrary, on and after the effective date of this 1976 amendatory act, any member or former member who

(1) receives a retirement allowance earned by said former member as deferred compensation from any public retirement system authorized by the general laws of this state, or

(2) is eligible to receive a retirement allowance from any public retirement system listed in section 5 of this act, but chooses not to apply, or

(3) is the beneficiary of a disability allowance from any public retirement system listed in section 5 of this act shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in section 5 of this act: PROVIDED, That subsections (1) and (2) of this section shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

NEW SECTION. Sec. 2. No director or board of any public retirement system shall issue any written or printed report to the members of a public retirement system on the assets of the system without also reporting the unfunded liability of such system.

NEW SECTION. Sec. 3. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Department" means the department of retirement systems;

(2) "Director" means the director of the department of retirement systems.

NEW SECTION. Sec. 4. There is created a department of state government to be known as the department of retirement systems. The executive and administrative head of the department shall be the director, who shall be appointed by the governor with the consent of the senate. The director shall serve at the pleasure of

the governor and may be removed upon written notification by the governor to the respective retirement boards.

The director shall have complete charge of and supervisory powers over the department and shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he shall present to that body the name of the person appointed to the position of director.

NEW SECTION. Sec. 5. As soon as possible but not more than one hundred and eighty days after the effective date of this 1976 amendatory act, there is transferred to the department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

(1) The Washington public employees' retirement system and the retirement board thereof;

(2) The Washington state teachers' retirement system and the board of trustees thereof;

(3) The Washington law enforcement officers' and fire fighters' retirement system and the retirement board thereof;

(4) The Washington state patrol retirement system and the retirement board thereof;

(5) The Washington judicial retirement system and the retirement board thereof; and

(6) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

NEW SECTION. Sec. 6. This chapter shall not affect the manner for selecting members of the boards affected by section 5 of this amendatory act, nor shall it affect the terms of any members serving on such boards.

NEW SECTION. Sec. 7. The director shall:

(1) Have the authority to organize the department into not more than two divisions, each headed by an assistant director;

(2) Have free access to all files and records of various funds assigned to the department for investment purposes and inspect and audit the files and records as deemed necessary;

(3) Prepare written reports at least quarterly summarizing the investment and bond management activities of the department, which reports shall be sent to the governor, to ways and means committees of the house and senate, to members of the finance advisory committee, to all agencies having a direct financial interest in the investment of funds or issuance and sale of bonds by the director, and to other persons on request;

(4) Employ personnel to carry out the general administration of the department;

(5) Submit an annual written report of the activities of the department to the governor and the legislature, including recommendations for statutory changes the director believes to be desirable;

(6) Adopt such rules and regulations as are necessary to carry out the powers, duties, and functions of the department pursuant to the provisions of chapter 34-.04 RCW.

NEW SECTION. Sec. 8. The director may delegate the performance of such powers, duties, and functions, other than those relating to rule making, to employees of the department, but the director shall remain and be responsible for the official acts of the employees of the department.

The director shall be responsible for the public employees' retirement system, the teachers' retirement system, the judicial retirement system, the law enforcement officers' and fire fighters' retirement system, and the Washington state patrol retirement system.

NEW SECTION. Sec. 9. In addition to the exemptions set forth in RCW 41-.06.070, the assistant directors, not to exceed two, and an internal auditor shall also be exempt from the application of the state civil service law, chapter 41.06 RCW.

The officers and exempt personnel appointed by the director pursuant to this section shall be paid salaries fixed by the governor in accordance with the procedure established by law for fixing salaries for officers exempt from the operation of the state civil service law.

All employees classified under chapter 41.06 RCW and engaged in duties pertaining to the functions transferred by this chapter shall be assigned to the department to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state merit system.

NEW SECTION. Sec. 10. The director, with the approval of the respective boards, shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, and the judges' retirement fund, pursuant to RCW 43.84.150, and shall authorize the state finance committee to execute all such transactions.

NEW SECTION. Sec. 11. (1) Except as otherwise provided in this section, on the effective date of transfer as provided in section 5 of 1976 amendatory act, the department shall succeed to and is vested with all powers, duties, and functions now or by any concurrent act of this 1976 legislature vested in the individual retirement boards set forth in section 5 of this 1976 amendatory act relating to the administration of their various retirement systems, including but not limited to the power to appoint a staff and define the duties thereof: PROVIDED, That actuarial services required by the department shall be performed by the state actuary as provided in section 22 of this amendatory act.

(2) The department shall keep each retirement board fully informed on the administration of the corresponding retirement system, and shall furnish any information requested by a retirement board.

(3) Rules proposed by the director under RCW 2.10.050, 2.10.070, 41.26.060, 41.32.160, 41.40.020, or 43.43.140 shall be submitted to the appropriate retirement boards for review prior to adoption. After receiving approval of the members of

the appropriate board, such rules shall become effective as provided by the Administrative Procedure Act, chapter 34.04 RCW.

(4) Each retirement board shall continue to perform all functions as are vested in it by law with respect to applications for benefits paid upon either temporary or permanent disability, with such staff assistance from the department as may be required.

NEW SECTION. Sec. 12. All proposed legislation to be submitted by a retirement board as a departmental request shall be first submitted to the director for evaluation. The director shall obtain an initial actuarial estimate of the costs on each system of the changes contained in the proposed legislation as if the legislation were applicable to each system. The results of such estimate shall be then transmitted to the retirement board which has requested the proposed legislation. The board may modify its legislative proposal into final form for introduction as a bill on the basis of the estimate. The final form of the legislative proposal shall be returned to the director who shall obtain a final actuarial estimate of the costs applied in the same manner as the initial estimate. On or before September 1, the director shall transmit the final legislative proposal together with the actuarial estimates to the governor for consideration in his budget requests and to the chairmen of the ways and means committees of the legislature.

NEW SECTION. Sec. 13. If apportionments of budgeted funds are required because of the transfers herein authorized, the director of the office of program planning and fiscal management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustment in funds and appropriation accounts and equipment records in accordance with such certification.

NEW SECTION. Sec. 14. On the effective date of transfer as provided in section 5 of this 1976 amendatory act, all rules and regulations, and all pending business before any of the retirement boards whose powers, duties, and functions are transferred to the department by this chapter shall be continued and acted upon by the department.

All existing contracts and obligations pertaining to the functions herein transferred shall remain in full force and effect, and shall be performed by the department. None of the transfers directed by this chapter shall affect the validity of any act performed by a retirement board or by any official or employee thereof prior to the effective date of transfer as provided in section 5 of this 1976 amendatory act.

None of the transfers involving investment of funds by any of the retirement boards shall affect the validity of any act performed by such boards or by any official or employee thereof prior to the effective date of transfer as provided in section 5 of this 1976 amendatory act.

NEW SECTION. Sec. 15. All reports, documents, surveys, books, records, files, papers, or other writings relating to the administration of the powers, duties, and functions transferred by this chapter shall be made available to the department and to the state actuary.

All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers, duties, and functions transferred by this chapter shall be made available to the department.

All funds, credits, or other assets held in connection with powers, duties, and functions transferred by this chapter shall be assigned to the department.

Any appropriations made to any committee, division, board, or any other state agency for the purpose of carrying out the powers, duties, and functions transferred by this chapter shall, in the manner prescribed by the director of the office of program planning and fiscal management, be transferred and credited to the department for the purpose of carrying out such transferred powers, duties, and functions.

NEW SECTION. Sec. 16. Nothing in this chapter nor in the amendment of RCW 43.17.010, 43.17.020, or 43.33.070 shall be construed to affect any existing rights acquired under RCW 43.17.010, 43.17.020, or 43.33.070 except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities, or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the abolition of any agency or division thereof nor any transfer of powers, duties, and functions as provided in this chapter shall affect the validity of any act performed by such agency or division thereof or any officer thereof prior to the effective date of transfer as provided in section 5 of this 1976 amendatory act.

NEW SECTION. Sec. 17. Nothing contained in this chapter shall be construed to alter any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the personnel board as provided by law.

NEW SECTION. Sec. 18. Sections 4 through 17 of this amendatory act shall constitute a new chapter in Title 41 RCW.

NEW SECTION. Sec. 19. (1) There is hereby created an office within the legislative branch to be known as the office of the state actuary.

(2) The executive head of the office shall be the state actuary who shall be qualified by education and experience in the field of actuarial science and shall be a member of the American Academy of Actuaries. Such person shall be appointed by a special committee of the legislature consisting of: (a) Three members of the senate selected by the president, two of whom shall be members of the majority party and one of whom shall be a member of the minority party; and (b) three members of the house of representatives selected by the speaker, two of whom shall be members of the majority party and one of whom shall be a member of the minority party. The original appointment shall be made not later than ninety days after the effective date of this 1976 amendatory act. A two-thirds vote of the committee shall be required to make the appointment.

(3) If a vacancy occurs in the position of state actuary it shall be filled in the same manner as the original appointment.

NEW SECTION. Sec. 20. The state actuary shall be appointed for a term of seven years and hold office until a successor is appointed and qualified and a

person holding the office of state actuary shall be ineligible for reappointment to such office.

NEW SECTION. Sec. 21. The state actuary shall have the authority to select and employ such research, technical, clerical personnel, and consultants as the actuary deems necessary, whose salaries shall be fixed by the actuary and approved by the committee of legislators referred to in section 19, and who shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

NEW SECTION. Sec. 22. The state actuary shall have the following powers and duties:

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

(2) Advise the legislature and the governor regarding the benefit provisions, funding policies, and investment policies of the department of retirement systems.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report on each pension bill introduced in the legislature which shall briefly explain the financial impact of the bill.

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

NEW SECTION. Sec. 23. Sections 19 through 22 of this amendatory act shall constitute a new chapter in Title 44 RCW.

Sec. 24. Section 1, chapter 11, Laws of 1971 and RCW 43.17.010 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fisheries, (6) the department of game, (7) the department of highways, (8) the department of motor vehicles, (9) the department of general administration, (10) the department of commerce and economic development, ~~((and))~~ (11) the department of revenue, and (12) the department of retirement systems, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Sec. 25. Section 2, chapter 11, Laws of 1971 and RCW 43.17.020 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fisheries, (6) the director of game, (7) the director of highways, (8) the director of motor vehicles, (9) the director of general administration, (10) the director of commerce and economic development, ~~((and))~~ (11) the director of revenue, and (12) the director of retirement systems.

Such officers, except the director of highways and the director of game, shall be appointed by the governor, with the consent of the senate, and hold office at

the pleasure of the governor. If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to that body his nomination for the office. The director of highways shall be appointed by the state highway commission, and the director of game shall be appointed by the game commission.

Sec. 26. Section 9, chapter 103, Laws of 1973 1st ex. sess. and RCW 43.33.070 are each amended to read as follows:

In addition to its other powers and duties as may be prescribed by law, the investment advisory committee shall:

(1) Make recommendations as to general investment policies, practices, and procedures to the ~~((board of the Washington public employees' retirement system as constituted under RCW 41.40.030 and 41.26.050 and to the board of trustees of the Washington state teachers' retirement system,))~~ director of retirement systems regarding those retirement funds for which ~~((they))~~ the various retirement boards are designated trustees~~((:))~~;

(2) Make recommendations as to general investment policies, practices, and procedures regarding all other investment funds to the state finance committee.

~~((Such boards of trustees))~~ The director of retirement systems and the state finance committee shall make the final decision regarding the advice and recommendations submitted by the investment advisory committee.

NEW SECTION. Sec. 27. Sections 1 and 2 of this 1976 amendatory act are added to chapter 41.04 RCW.

NEW SECTION. Sec. 28. If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 29. This 1976 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 12, 1976.

Passed the House March 10, 1976.

Approved by the Governor March 19, 1976.

Filed in Office of Secretary of State March 19, 1976.

CHAPTER 106

[Substitute House Bill No. 779]

PUBLIC EMPLOYEES' INSURANCE PROGRAMS

AN ACT Relating to public employment; amending section 1, chapter 39, Laws of 1970 ex. sess. as amended by section 12, chapter 147, Laws of 1973 1st ex. sess. and RCW 41.05.010; amending section 2, chapter 39, Laws of 1970 ex. sess. as amended by section 1, chapter 147, Laws of 1973 1st ex. sess. and RCW 41.05.020; amending section 5, chapter 39, Laws of 1970 ex. sess. as last amended by section 2, chapter 38, Laws of 1975 1st ex. sess. and RCW 41.05.050; amending section 7, chapter 39, Laws of 1970 ex. sess. and RCW 41.05.070; amending section 8, chapter 39, Laws of 1970 ex. sess. as amended by section 7, chapter 147, Laws of 1973 1st ex. sess. and RCW 41.05.080; amending section 36.32.400, chapter 4, Laws of 1963 and RCW 36.32.400; and adding a new section to chapter 41.04 RCW.