

The Washington fire commissioners association, as soon as practicable, ~~((and with the assistance of the appropriate association of county prosecutors,))~~ shall draft a model resolution ~~((for the imposition of))~~ to impose the fire protection district service charge authorized by this chapter and may provide assistance to fire protection districts in the establishment of a program to develop service charges.

NEW SECTION. Sec. 9. A new section is added to chapter 52.18 RCW to read as follows:

A fire protection district that imposes a service charge under this chapter shall not impose all or part of the property tax authorized under RCW 52.16.160.

Passed the House April 21, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

CHAPTER 326

[Substitute Senate Bill No. 5511]

RETIREMENT BENEFITS—MANDATORY ASSIGNMENT OF DIVIDED BENEFITS

AN ACT Relating to the divided payment of public retirement benefits; amending RCW 2.10.180, 2.12.090, 41.26.180, 41.32.590, 41.40.380, and 43.43.310; adding new sections to chapter 41.50 RCW; adding a new section to chapter 26.09 RCW; adding a new section to chapter 41.24 RCW; adding a new section to chapter 41.28 RCW; creating a new section; repealing RCW 41.04.310, 41.04.320, and 41.04.330; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 1 through 16 and 26 of this act.

(1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.

(2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld.

(3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.

(4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to section 8 of this act to

withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW.

(5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.

(6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.

(7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.

(8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.

(9) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's accumulated contributions, including accrued interest, at the request of the member. The term does not include any lump sum amount paid upon the death of the member.

NEW SECTION. Sec. 2. (1) The remedies provided in sections 4 through 16 and 26 of this act are in addition to, and not in substitution for, any other remedies provided by law to enforce a dissolution order against an obligor.

(2) Except for the remedies provided in chapters 26.18 and 74.20A RCW, the remedies provided in sections 4 through 14 of this act shall be the exclusive remedies enforceable against the department of retirement systems or the retirement systems listed in RCW 41.50.030 in connection with any action or as a result of a judgment, decree, or order of dissolution, divorce, or legal separation.

(3) Sections 1 through 16 and 26 of this act apply to all dissolution orders incident to a decree of divorce, dissolution, or legal separation whether entered before or after the effective date of this act.

NEW SECTION. Sec. 3. Nothing in sections 1 through 16 of this act limits the use of any and all civil and criminal remedies against an obligor to enforce the obligations of a dissolution order.

NEW SECTION. Sec. 4. (1) A proceeding to enforce a duty of spousal maintenance or a property division obligation by means of a mandatory benefits assignment order may be commenced by an obligee:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county of the state of Washington where the obligee resides or is present, where the obligor resides, or where the prior dissolution order was entered.

(3) The court retains continuing jurisdiction under sections 1 through 16 and 26 of this act until all duties of spousal maintenance and all property settlement obligations of the obligor, including arrearages, with respect to the obligee have been satisfied.

NEW SECTION. Sec. 5. (1) Every court order or decree establishing a spousal maintenance obligation or property division obligation may state that if any such payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without prior notice to the obligor. Failure to include this provision does not affect the validity of the dissolution order.

(2) If the dissolution order under which the obligor owes the duty of spousal maintenance or a property division obligation is not in compliance with subsection (1) of this section or if the obligee cannot show that the obligor has approved or received a copy of the court order or decree that complies with subsection (1) of this section, then notice shall be provided to the obligor at least fifteen days before the obligee seeks a mandatory benefits assignment order. The notice shall state that, if a spousal maintenance or property division payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without further notice to the obligor. Service of the notice shall be by personal service, or by any form of mail requiring a return receipt. The notice requirement under this subsection is not jurisdictional.

NEW SECTION. Sec. 6. (1) An obligee who wishes to be notified by the department of retirement systems if the obligor seeks a withdrawal of accumulated contributions shall submit such a request to the department in writing on a form supplied by the department. The request shall be filed by certified or registered mail and shall include the obligee's address and a copy of the dissolution order requiring the spousal maintenance or property division obligation owed.

(2) The department shall thereafter promptly send notice to the obligee at the address provided in subsection (1) of this section when the obligor applies for a withdrawal of accumulated contributions. The department shall not process the obligor's request for a withdrawal of accumulated contributions sooner than seventy-five days after sending the notice to the obligee.

(3) The department may pay directly to an obligee who has not obtained a mandatory benefits assignment order all or part of the accumulated contributions withdrawn by an obligor if, and only if the dissolution order

filed with the department pursuant to subsection (1) of this section includes a provision that states in substantially the following form:

"At such time as (the obligor) requests a withdrawal of accumulated contributions as defined in section 1 of this act, the department of retirement systems shall pay to (the obligee) dollars from such accumulated contributions or percentage of such accumulated contributions (whichever is provided by the court)."

NEW SECTION. Sec. 7. (1) A petition or motion seeking a mandatory benefits assignment order in an action under section 4 of this act may be filed by an obligee if the obligor is more than fifteen days past due in spousal maintenance or property division obligation payments and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems. The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the mandatory benefits assignment order, including:

(a) That the obligor, stating his or her name, residence, and social security number, (i) is more than fifteen days past due in spousal maintenance payments or property division obligation payments and that the total of such past due payments is equal to or greater than one hundred dollars, or (ii) has requested a withdrawal of accumulated contributions from the department of retirement systems;

(b) A description of the terms of the dissolution order requiring payment of spousal maintenance or a property division obligation and the amount, if any, past due;

(c) The name of the public retirement system or systems from which the obligor is currently receiving periodic retirement benefits or from which the obligor has requested a withdrawal of accumulated contributions; and

(d) That notice has been provided to the obligor as required by section 5 of this act.

(2) If the court in which a mandatory benefits assignment order is sought does not already have a copy of the dissolution order in the court file, then the obligee shall attach a copy of the dissolution order to the petition or motion seeking the mandatory benefits assignment order.

NEW SECTION. Sec. 8. Upon receipt of a petition or motion seeking a mandatory benefits assignment order that complies with section 7 of this act, the court shall issue a mandatory benefits assignment order in as provided in section 10 of this act, including the information required in section 9 (1)(a) or (2)(a) of this act, directed to the department of retirement systems, and commanding the department to answer the order on the forms served with the order that comply with section 12 of this act within twenty days after service of the order upon the department.

NEW SECTION. Sec. 9. (1) (a) The mandatory benefits assignment order in section 8 of this act directed at periodic retirement benefits shall include:

(i) The maximum amount of current spousal maintenance or property division obligation, if any, to be withheld from the obligor's periodic retirement benefits each month;

(ii) The total amount of the arrearage judgments previously entered by the court, if any, together with interest, if any; and

(iii) The maximum amount to be withheld from the obligor's periodic retirement payments each month to satisfy the arrearage judgments specified in (a)(ii) of this subsection.

(b) With respect to such a mandatory benefits assignment order, the total amount to be withheld from the obligor's periodic retirement payments each month shall not exceed fifty percent of the disposable benefits of the obligor or the maximum amount allowed by 15 U.S.C. Sec. 1673, whichever is less.

(c) Except as otherwise required by federal law, fifty percent of the disposable benefits of the obligor are exempt, and may be disbursed by the department to the obligor.

(2)(a) A mandatory benefits assignment order in section 8 of this act directed at a withdrawal of accumulated contributions shall include:

(i) The property division interest, if any, of the obligee in the obligor's accumulated contributions, established by the dissolution order, which interest shall be stated as either a dollar amount or a percentage amount in the mandatory benefits assignment order;

(ii) The total amount of the arrearage judgments for spousal maintenance payments or property division payments entered by the court, if any, together with interest, if any; and

(iii) The amount to be withheld from the obligor's withdrawal of accumulated contributions to satisfy the property division interest and the arrearage judgments specified in (a) (i) and (ii) of this subsection;

(b) With respect to such a mandatory benefits assignment order, the total amount to be withheld from the obligor's withdrawal of accumulated contributions may be up to one hundred percent of the disposable benefits of the obligor.

(3) If an obligor is subject to two or more mandatory benefits assignment orders on account of different obligees and if the nonexempt portion of the obligor's benefits is not sufficient to respond fully to all the mandatory benefits assignment orders, the department shall apportion the obligor's nonexempt disposable benefits among the various obligees in equal shares to the extent permitted by federal law.

NEW SECTION. Sec. 10. The mandatory benefits assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

.....

.....,

Obligee

No.

vs.

.....,

Obligor

MANDATORY BENEFITS ASSIGNMENT ORDER

.....,

The Department of Retirement Systems of the State of Washington

THE STATE OF WASHINGTON TO: The Department of Retirement Systems

AND TO: Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in spousal maintenance or property division obligation payments and that the total amount of such past due payments is equal to or greater than one hundred dollars or that the obligor has requested a withdrawal of accumulated contributions from the department of retirement systems. The amount of the accrued past due spousal maintenance or property division obligation debt as of this date is dollars. If the obligor is receiving periodic retirement payments from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance or property division obligation is dollars per month and the amount to be withheld from the obligor's benefits to satisfy current and continuing spousal maintenance or property division obligation is per month. If the obligor has requested a withdrawal of accumulated contributions from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance or property division obligation is dollars and the amount to be withheld from the obligor's benefits to satisfy the obligee's property division interest in the obligor's accumulated contributions is ... percent of the disposable benefits or is dollars.

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this benefits assignment order upon you.

(1) If you are currently paying periodic retirement payments to the obligor, then you shall do as follows:

(a) Withhold from the obligor's retirement payments each month the lesser of:

(i) The sum of the specified arrearage payment amount plus the specified current spousal maintenance or property division obligation amount; or

(ii) Fifty percent of the disposable benefits of the obligor or the maximum amount allowed by federal law, whichever is less.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt benefits of the obligor until notified by a court order that the mandatory benefits assignment order has been modified or terminated. You shall promptly notify the court if and when the obligor is no longer receiving periodic retirement payments from the department of retirement systems.

You shall deliver the withheld benefits to the clerk of the court that issued this mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after your receipt of this mandatory benefits assignment order.

(2) If you are not currently paying periodic retirement payments to the obligor but the obligor has requested a withdrawal of accumulated contributions, then you shall do as follows:

(a) Withhold from the obligor's benefits the sum of the specified arrearage payment amount plus the specified property division interest amount, up to one hundred percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall mail a copy of this order and a copy of your answer to the obligor at the mailing address in the department's files as soon as is reasonably possible. This mandatory benefits assignment order has priority over any assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized by Washington law, except for a wage assignment order for child support under chapter 26.18 RCW or order to withhold or deliver under chapter 74.20A RCW.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS MANDATORY BENEFITS ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE MANDATORY BENEFITS ASSIGNMENT ORDER.

DATED THIS ... day of ..., 19

.....
Obligee,
or obligee's attorney

.....
Judge/Court Commissioner

NEW SECTION. Sec. 11. (1) The director or the director's designee shall answer an order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor receives periodic payments from the department of retirement systems, whether the obligor has requested a withdrawal of accumulated contributions from the department, whether the department will honor the mandatory benefits assignment order and if not, the reasons why, and whether there are other current court or administrative orders on file with the department directing the department to withhold all or a portion of the obligor's benefits.

(2) (a) If any periodic retirement payments are currently payable to the obligor, the funds subject to the mandatory benefits assignment order shall be withheld from the next periodic retirement payment due twenty days or more after receipt of the mandatory benefits assignment order. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after receipt of the mandatory benefits assignment order.

(b) The department shall continue to withhold the ordered amount from nonexempt benefits of the obligor until notified by the court that the mandatory benefits assignment order has been modified or terminated. If the department is initially unable to comply, or able to comply only partially, with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible at the earliest possible date. The department shall notify the court of changes in withholding amounts and the reason for the change. When the obligor is no longer eligible to receive funds from one or more public retirement systems the department shall promptly notify the court.

(3)(a) If no periodic retirement payments are currently payable to the obligor but the obligor has requested a withdrawal of accumulated contributions, the funds subject to the mandatory benefits assignment order shall be withheld from the withdrawal payment. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order.

(b) If the department is unable to comply fully with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible.

(4) The department may deduct a processing fee from the remainder of the obligor's funds after withholding under the mandatory benefits assignment order, unless the remainder is exempt under section 9 of this act. The processing fee may not exceed (a) twenty-five dollars for the first disbursement made by the department to the superior court clerk; and (b) six dollars for each subsequent disbursement to the clerk.

(5) A court order for spousal maintenance or a property division obligation governed by sections 1 through 16 or 26 of this act shall have priority over any other assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized under Washington law, except for a mandatory wage assignment for child support under chapter 26.18 RCW, or an order to withhold and deliver under chapter 74.20A RCW.

(6) If the department, without good cause, fails to withhold funds as required by a mandatory benefits assignment order issued under section 8 of this act, the department may be held liable to the obligee for any amounts wrongfully disbursed to the obligor in violation of the mandatory benefits assignment order. However, the department shall under no circumstances be held liable for failing to withhold funds from a withdrawal of accumulated contributions unless the mandatory benefits assignment order was properly served on the department at least thirty days before the department made the withdrawal payment to the obligor. If the department is held liable to an obligee for failing to withhold funds as required by a mandatory benefits assignment order, the department may recover such amounts paid to an obligee by thereafter either withholding such amounts from the available non-exempt benefits of the obligor or filing a legal action against the obligor.

(7) If the department complies with a court order pursuant to sections 1 through 16 of this act, neither the department, its officers, its employees, nor any of the retirement systems listed in RCW 41.50.030 may be liable to the obligor for wrongful withholding.

(8) The department may combine amounts withheld from various obligors into a single payment to the superior court clerk, if the payment includes a listing of the amounts attributable to each obligor and other information as required by the clerk.

(9) The department shall mail to the obligor at the obligor's last known mailing address appearing in the department's files copies of the mandatory benefits assignment order and the department's answer within twenty days after receiving the mandatory benefits assignment order.

NEW SECTION. Sec. 12. The answer of the department shall be made on forms, served on the director with the mandatory benefits assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON IN AND FOR THE COUNTY OF

.....

.....

Obligee

vs.

.....

No.

ANSWER
TO MANDATORY BENEFITS

Obligor

ASSIGNMENT ORDER

.....

Department of Retirement Systems of
the State of Washington

1. At the time of the service of the mandatory benefits assignment order on the department, was the above-named obligor receiving periodic retirement payments from the department of retirement systems?

Yes No (check one).

2. At the time of the service of the mandatory benefits assignment order on the department, had the above-named obligor requested a withdrawal of accumulated contributions from the department?

Yes No (check one).

3. Are there any other court or administrative orders on file with the department currently in effect directing the department to withhold all or a portion of the obligor's benefits?

Yes No (check one).

4. If the answer to question one or two is yes and the department cannot comply fully with the mandatory benefits assignment order, provide an explanation.

I declare under the laws of the state of Washington that the foregoing is true and correct to the best of my knowledge.

.....
Signature of director

.....
Date and place

or

.....

.....
Signature of person
answering for director

.....
Place

.....
Connection with director

NEW SECTION. Sec. 13. (1) Service of the mandatory benefits assignment order on the department is invalid unless it is served with four answer forms in substantial conformance with section 12 of this act, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the obligee's attorney or the obligee, and the obligor at the last mailing address known to the obligee. The obligee shall also include an extra copy of the mandatory benefits assignment order for the department to mail to the obligor. Service on the department shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the mandatory benefits assignment order on the department, the obligee shall mail or cause to be mailed

by certified or registered mail a copy of the mandatory benefits assignment order to the obligor at the obligor's last mailing address known to the obligee; or, in the alternative, a copy of the mandatory benefits assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the department. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection requires, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the mandatory benefits assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has been prejudiced due to the failure to mail or serve the copy.

NEW SECTION. Sec. 14. In a hearing to quash, modify, or terminate the mandatory benefits assignment order, the court may grant relief only upon a showing that the mandatory benefits assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the mandatory benefits assignment order is not grounds to quash, modify, or terminate the mandatory benefits assignment order. If a mandatory benefits assignment order has been in operation for twelve consecutive months and the obligor's spousal maintenance or property division obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the mandatory benefits assignment order should remain in effect.

NEW SECTION. Sec. 15. In any action to enforce a dissolution order by means of a mandatory benefits assignment order pursuant to sections 4 through 14 and 26 of this act, the court may award costs to the prevailing party, including an award for reasonable attorneys' fees consistent with RCW 26.09.140. An obligor shall not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question. This section does not authorize an award of attorneys' fees against the department of retirement systems or any of the retirement systems listed in RCW 41.50.030.

NEW SECTION. Sec. 16. Notwithstanding RCW 2.10.180(1), 2.12.090(1), 41.26.180(1), 41.32.590(1), 41.40.380(1), and 43.43.310(1), the department of retirement systems may make direct payments of benefits to a spouse or ex spouse pursuant to court orders or decrees entered before the effective date of this act that complied with all the requirements in RCW 2.10.180(1), 2.12.090(2), 41.26.180(3), 41.32.590(3), 41.40.380(3), 43.43.310(2), and 41.04.310 through 41.04.330, as such requirements existed before the effective date of this section.

Sec. 17. Section 18, chapter 267, Laws of 1971 ex. sess. as last amended by section 1, chapter 52, Laws of 1982 1st ex. sess. and RCW 2.10.180 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, or any other process of law whatsoever~~((PROVIDED, That benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~.

(2) Subsection (1) of 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.

(3) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

(4) Subsection (1) of this section shall not prohibit the department of retirement systems 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 mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 18. Section 32, chapter 52, Laws of 1982 1st ex. sess. and RCW 2.12.090 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions of this chapter and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~ Subsection (1) of this section shall not prohibit the department of retirement systems 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 mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of 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.

(4) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

NEW SECTION. Sec. 19. A new section is added to chapter 41.24 RCW to read as follows:

(1) If the state board or the secretary makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the state board, the secretary, or the fund for the state board or secretary to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.24.240 shall cease upon the death of such a nonmember spouse or ex spouse. Upon such a death, the state board and the secretary shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.24.240 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their contributions to the fund: **PROVIDED**, That the state board or secretary shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the state board at least thirty days before the withdrawal payment date.

NEW SECTION. Sec. 20. A new section is added to chapter 41.28 RCW to read as follows:

(1) If the board of administration makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the board of administration or the retirement system for the board of administration to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.28.205 shall cease upon the death of such a nonmember spouse

or ex spouse. Upon such a death, the board of administration shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.28.205 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their accumulated contributions: PROVIDED, That the board of administration shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the board at least thirty days before the withdrawal payment date.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 205, Laws of 1979 ex. sess. and RCW 41.04-.310;

(2) Section 11, chapter 205, Laws of 1979 ex. sess. and RCW 41.04-.320; and

(3) Section 12, chapter 205, Laws of 1979 ex. sess., section 10, chapter 317, Laws of 1986 and RCW 41.04.330.

Sec. 22. Section 23, chapter 209, Laws of 1969 ex. sess. as last amended by section 4, chapter 205, Laws of 1979 ex. sess. and RCW 41-.26.180 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are 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 any other process of law whatsoever, and shall be unassignable.

(2) On the written request of any person eligible to receive benefits under this section, the department of retirement systems may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department of retirement systems may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

(3) ~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~ Subsection (1) of this section shall not prohibit the department of retirement systems 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 mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 23. Section 59, chapter 80, Laws of 1947 as last amended by section 1, chapter 135, Laws of 1982 and RCW 41.32.590 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, or disability allowance, to the return of contributions, any optional benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various funds created by this chapter shall be unassignable, and are 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.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance who is eligible:

(a) Under RCW 41.05.080 from authorizing monthly 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;

(b) Under a group health care benefit plan approved pursuant to RCW 28A.58.420 or 41.05.025 from authorizing monthly deductions therefrom, of the amount or amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

(c) Under the Washington state teachers' retirement system from authorizing monthly deductions therefrom for payment of dues and other membership fees to any retirement association composed of retired teachers and/or public employees pursuant to a written agreement between the director and the retirement association.

Deductions under (a) and (b) of this subsection shall be made in accordance with rules and regulations that may be promulgated by the director of retirement systems.

(3) ~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~ Subsection (1) of this section shall not prohibit the department of retirement systems 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 mandatory

benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 24. Section 39, chapter 274, Laws 1947 as last amended by section 2, chapter 135, Laws of 1982 and RCW 41.40.380 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are 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, 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 which has been approved for deduction in accordance with rules and regulations that may be promulgated by the state employees' insurance board and/or the department of retirement systems, and 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) ~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation))~~ Subsection (1) of this section shall not prohibit the department of retirement systems 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 mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 25. Section 43.43.310, chapter 8, Laws of 1965 as last amended by section 31, chapter 52, Laws of 1982 1st ex. sess. and RCW 43.43.310 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local

tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) ~~((Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.))~~ Subsection (1) of this section shall not prohibit the department of retirement systems 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 mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of 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 members of the Washington state patrol or other public employees of the state of Washington.

NEW SECTION. Sec. 26. A new section is added to chapter 26.09 RCW to read as follows:

(1) Any obligee of a court order or decree establishing a spousal maintenance obligation or a property division obligation may seek a mandatory benefits assignment order under chapter 41.50 RCW if any spousal maintenance payment or a property division obligation payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems.

(2) Any court order or decree establishing a spousal maintenance obligation or a property division obligation may state that, if any spousal maintenance payment or property division obligation payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order under chapter 41.50 RCW without prior notice to the obligor. Any such court order or decree may also, or in the alternative, contain a provision that would allow the department to make a direct payment of all or part of a withdrawal of accumulated contributions pursuant to section 6(3) of this act. Failure to include this provision does not affect the validity of the court order or decree establishing the spousal maintenance or property division obligations, nor does such failure affect the general applicability of sections 1 through 16 of this act to such obligations.

(3) The remedies in sections 4 through 14 of this act are the exclusive provisions of law enforceable against the department of retirement systems in connection with any action for divorce, dissolution, or legal separation, and no other remedy ordered by a court under this chapter shall be enforceable against the department of retirement systems.

NEW SECTION. Sec. 27. The director shall adopt such rules under RCW 41.50.050 as the director may find necessary to carry out the purposes of sections 1 through 16 of this act and to avoid conflicts with any applicable federal or state laws.

NEW SECTION. Sec. 28. Sections 1 through 16 and 27 of this act are each added to chapter 41.50 RCW.

NEW SECTION. Sec. 29. This 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 July 1, 1987.

Passed the Senate April 21, 1987.

Passed the House April 17, 1987.

Approved by the Governor May 12, 1987.

Filed in Office of Secretary of State May 12, 1987.

CHAPTER 327

[Engrossed House Bill No. 396]

TRANSPORTATION BENEFIT DISTRICTS

AN ACT Relating to transportation benefit districts; amending RCW 82.02.020; adding a new section to chapter 35.21 RCW; and creating a new chapter in Title 36 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that the citizens of the state can benefit by cooperation of the public and private sectors in addressing transportation needs. This cooperation can be fostered through enhanced capability for cities, towns, and counties to make and fund transportation improvements necessitated by economic development.

It is the intent of the legislature to encourage joint efforts by the state, local governments, and the private sector to respond to the need for those transportation improvements on state highways, county roads, and city streets. This goal can be better achieved by allowing cities, towns, and counties to establish transportation benefit districts in order to respond to the special transportation needs and economic opportunities resulting from private sector development for the public good. The legislature also seeks to facilitate the equitable participation of private developers whose developments may generate the need for those improvements in the improvement costs.