

**INITIATIVE 790**

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 790 to the People is a true and correct copy as it was received by this office.

1       AN ACT Relating to the law enforcement officers' and fire fighters'  
2 retirement system, plan 2; adding new sections to chapter 41.26 RCW;  
3 creating new sections; and providing an effective date.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

5       NEW SECTION. **Sec. 1.** OVERVIEW. The law enforcement officers' and  
6 fire fighters' retirement system plan 2 is currently subject to  
7 policymaking by the legislature's joint committee on pension policy  
8 with ratification by the members of the legislature and is administered  
9 by the department of retirement systems.

10       Members of the plan have no direct input into the management of  
11 their retirement program. Forty-six other states currently have member  
12 representation in their pension management. This act is intended to  
13 give management of the retirement program to the people whose lives are  
14 directly affected by it and who provide loyal and valiant service to  
15 ensure the health, safety, and welfare of the citizens of the state of  
16 Washington.

17       NEW SECTION. **Sec. 2.** INTENT. It is the intent of this act to:

- 1 (1) Establish a board of trustees responsible for the adoption of  
2 actuarial standards to be applied to the plan;
- 3 (2) Provide for additional benefits for fire fighters and law  
4 enforcement officers subject to the cost limitations provided for in  
5 this act;
- 6 (3) Exercise fiduciary responsibility in the oversight of those  
7 pension management functions assigned to the board;
- 8 (4) Provide effective monitoring of the plan by providing an annual  
9 report to the legislature, to the members and beneficiaries of the  
10 plan, and to the public;
- 11 (5) Establish contribution rates for employees, employers, and the  
12 state of Washington that will guaranty viability of the plan, subject  
13 to the limitations provided for in this act;
- 14 (6) Provide for an annual budget and to pay costs from the trust,  
15 as part of the normal cost of the plan; and
- 16 (7) Enable the board of trustees to retain professional and  
17 technical advisors as necessary for the fulfillment of their statutory  
18 responsibilities.

19 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this  
20 section apply throughout this act unless the context clearly requires  
21 otherwise.

- 22 (1) "Member" or "beneficiary" means:
- 23 (a) Current and future law enforcement officers and fire fighters  
24 who are contributing to the plan;
- 25 (b) Retired employees or their named beneficiaries who receive  
26 benefits from the plan; and
- 27 (c) Separated vested members of the plan who are not currently  
28 receiving benefits.
- 29 (2) "Plan" means the law enforcement officers' and fire fighters'  
30 retirement system plan 2.
- 31 (3) "Actuary" means the actuary employed by the board of trustees.
- 32 (4) "State actuary" means the actuary employed by the department.
- 33 (5) "Board" means the board of trustees.
- 34 (6) "Board member" means a member of the board of trustees.
- 35 (7) "Department" means the department of retirement systems.
- 36 (8) "Minimum benefits" means those benefits provided for in chapter  
37 41.26 RCW as of July 1, 2003.
- 38 (9) "Employer" means the same as under RCW 41.26.030(2)(b).

1 (10) "Enrolled actuary" means an actuary who is enrolled under the  
2 employee retirement income security act of 1974 (Subtitle C of Title  
3 III) and who is a member of the society of actuaries or the American  
4 academy of actuaries.

5 (11) "Increased benefit" means a benefit in addition to the minimum  
6 benefits.

7 (12) "Trust" means the assets of the plan.

8 (13) "Benefits" means the age or service or combination thereof  
9 required for retirement, the level of service and disability retirement  
10 benefits, survivorship benefits, payment options including a deferred  
11 retirement option plan, average final compensation, postretirement cost  
12 of living adjustments, including health care and the elements of  
13 compensation. Benefits shall not include the classifications of  
14 employment eligible to participate in the plan.

15 (14) "Actuarially sound" means the plan is sufficiently funded to  
16 meet its projected liabilities and to defray the reasonable expenses of  
17 its operation based upon commonly accepted, sound actuarial principles.

18 NEW SECTION. **Sec. 4.** BOARD OF TRUSTEES CREATED--SELECTION OF  
19 TRUSTEES--TERMS OF OFFICE--VACANCIES. (1) An eleven member board of  
20 trustees is hereby created.

21 (a) Three of the board members shall be active law enforcement  
22 officers who are participants in the plan. Beginning with the first  
23 vacancy on or after January 1, 2007, one board member shall be a  
24 retired law enforcement officer who is a member of the plan. The law  
25 enforcement officer board members shall be appointed by the governor  
26 from a list provided by a recognized statewide council whose membership  
27 consists exclusively of guilds, associations, and unions representing  
28 state and local government police officers, deputies, and sheriffs and  
29 excludes federal law enforcement officers.

30 (b) Three of the board members shall be active fire fighters who  
31 are participants in the plan. Beginning with the first vacancy on or  
32 after January 1, 2007, one board member shall be a retired fire fighter  
33 who is a member of the plan. The fire fighter board member shall be  
34 appointed by the governor from a list provided by a recognized  
35 statewide council, affiliated with an international association  
36 representing the interests of fire fighters.

37 (c) Three of the board members shall be representatives of  
38 employers and shall be appointed by the governor.

1 (d) One board member shall be a member of the house of  
2 representatives who is appointed by the governor based on the  
3 recommendation of the speaker of the house of representatives.

4 (e) One board member shall be a member of the senate who is  
5 appointed by the governor based on the recommendation of the majority  
6 leader of the senate.

7 (2) The initial law enforcement officer and fire fighter board  
8 members shall serve terms of six, four, and two years, respectively.  
9 Thereafter, law enforcement officer and fire fighter board members  
10 serve terms of six years. The remaining board members serve terms of  
11 four years. Board members may be reappointed to succeeding terms  
12 without limitation. Board members shall serve until their successors  
13 are appointed and seated.

14 (3) In the event of a vacancy on the board, the vacancy shall be  
15 filled in the same manner as prescribed for an initial appointment.

16 NEW SECTION. **Sec. 5.** POWERS OF THE BOARD OF TRUSTEES--MEETING  
17 PROCEDURES--QUORUM--JUDICIAL REVIEW--BUDGET OF THE BOARD OF TRUSTEES.

18 (1) The board of trustees have the following powers and duties and  
19 shall:

20 (a) Adopt actuarial tables, assumptions, and cost methodologies in  
21 consultation with an enrolled actuary retained by the board. The state  
22 actuary shall provide assistance when the board requests. The actuary  
23 retained by the board shall utilize the aggregate actuarial cost  
24 method, or other recognized actuarial cost method based on a level  
25 percentage of payroll, as that term is employed by the American academy  
26 of actuaries. In determining the reasonableness of actuarial  
27 valuations, assumptions, and cost methodologies, the actuary retained  
28 by the board shall provide a copy of all such calculations to the state  
29 actuary. If the two actuaries concur on the calculations,  
30 contributions shall be made as set forth in the report of the board's  
31 actuary. If the two actuaries cannot agree, they shall appoint a  
32 third, independent, enrolled actuary who shall review the calculations  
33 of the actuary retained by the board and the state actuary.  
34 Thereafter, contributions shall be based on the methodology most  
35 closely following that of the third actuary;

36 (b)(i) Provide for the design and implementation of increased  
37 benefits for members and beneficiaries of the plan, subject to the  
38 contribution limitations under section 6 of this act. An increased

1 benefit may not be approved by the board until an actuarial cost of the  
2 benefit has been determined by the actuary and contribution rates  
3 adjusted as may be required to maintain the plan on a sound actuarial  
4 basis. Increased benefits as approved by the board shall be presented  
5 to the legislature on January 1st of each year. The increased benefits  
6 as approved by the board shall become effective within ninety days  
7 unless a bill is enacted in the next ensuing session of the  
8 legislature, by majority vote of each house of the legislature,  
9 repealing the action of the board;

10 (ii) As an alternative to the procedure in (b)(i) of this  
11 subsection, recommend to the legislature changes in the benefits for  
12 members and beneficiaries, without regard to the cost limitations in  
13 section 6(3) of this act. Benefits adopted in this manner shall have  
14 the same contractual protections as the minimum benefits in the plan.  
15 The recommendations of the board shall be presented to the legislature  
16 on January 1st of each year. These measures shall take precedence over  
17 all other measures in the legislature, except appropriations bills, and  
18 shall be either enacted or rejected without change or amendment by the  
19 legislature before the end of such regular session;

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

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

25 (e) Provide an annual report to the governor and the legislature  
26 setting forth the actuarial funding status of the plan and making  
27 recommendations for improvements in those aspects of retirement  
28 administration directed by the legislature or administered by the  
29 department;

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

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

35 (h) The board shall publish on an annual basis a schedule of  
36 increased benefits together with a summary of the minimum benefits as  
37 established by the legislature which shall constitute the official plan  
38 document; and

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

3 (2) Meetings of the board of trustees shall be conducted as  
4 follows:

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

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

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

13 (d) The board may establish, with the assistance of the appropriate  
14 office of state government, an internet web site providing for  
15 interactive communication with state government, members and  
16 beneficiaries of the plan, and the public.

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

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

22 (5) A law enforcement officers' and fire fighters' retirement  
23 system plan 2 expense fund is established for the purpose of defraying  
24 the expenses of the board. The board shall cause an annual budget to  
25 be prepared consistent with the requirements of chapter 43.88 RCW and  
26 shall draw the funding for the budget from the investment income of the  
27 trust. Board members shall be reimbursed for travel and education  
28 expenses as provided in RCW 43.03.050 and 43.03.060. The board shall  
29 make an annual report to the governor, legislature, and state auditor  
30 setting forth a summary of the costs and expenditures of the plan for  
31 the preceding year. The board shall also retain the services of an  
32 independent, certified public accountant who shall annually audit the  
33 expenses of the fund and whose report shall be included in the board's  
34 annual report.

35 NEW SECTION. **Sec. 6.** CONTRIBUTIONS. (1) The board of trustees  
36 shall establish contributions as set forth in this section. The cost  
37 of the minimum benefits as defined in this plan shall be funded on the  
38 following ratio:

1 Employee contributions 50%  
2 Employer contributions 30%  
3 State contributions 20%

4 (2) The minimum benefits shall constitute a contractual obligation  
5 of the state and the contributing employers and may not be reduced  
6 below the levels in effect on July 1, 2003. The state and the  
7 contributing employers shall maintain the minimum benefits on a sound  
8 actuarial basis in accordance with the actuarial standards adopted by  
9 the board.

10 (3) Increased benefits created as provided for in section 5 of this  
11 act are granted on a basis not to exceed the contributions provided for  
12 in this section. In addition to the contributions necessary to  
13 maintain the minimum benefits, for any increased benefits provided for  
14 by the board, the employee contribution shall not exceed fifty percent  
15 of the actuarial cost of the benefit. In no instance shall the  
16 employee cost exceed ten percent of covered payroll without the consent  
17 of a majority of the affected employees. Employer contributions shall  
18 not exceed thirty percent of the cost, but in no instance shall the  
19 employer contribution exceed six percent of covered payroll. State  
20 contributions shall not exceed twenty percent of the cost, but in no  
21 instance shall the state contribution exceed four percent of covered  
22 payroll. Employer contributions may not be increased above the maximum  
23 under this section without the consent of the governing body of the  
24 employer. State contributions may not be increased above the maximum  
25 provided for in this section without the consent of the legislature.  
26 In the event that the cost of maintaining the increased benefits on a  
27 sound actuarial basis exceeds the aggregate contributions provided for  
28 in this section, the board shall submit to the affected members of the  
29 plan the option of paying the increased costs or of having the  
30 increased benefits reduced to a level sufficient to be maintained by  
31 the aggregate contributions. The reduction of benefits in accordance  
32 with this section shall not be deemed a violation of the contractual  
33 rights of the members, provided that no reduction may result in  
34 benefits being lower than the level of the minimum benefits.

35 (4) The board shall manage the trust in a manner that maintains  
36 reasonable contributions and administrative costs. Providing  
37 additional benefits to members and beneficiaries is the board's  
38 priority.

1 (5) All earnings of the trust in excess of the actuarially assumed  
2 rate of investment return shall be used exclusively for additional  
3 benefits for members and beneficiaries.

4 NEW SECTION. **Sec. 7.** NONAPPLICABILITY OF JOINT COMMITTEE ON  
5 PENSION POLICY AND PENSION FUNDING COUNCIL. The joint committee on  
6 pension policy established in RCW 44.44.050, and the pension funding  
7 council created in RCW 41.45.100, shall have no applicability or  
8 authority over matters relating to this plan.

9 NEW SECTION. **Sec. 8.** ASSET MANAGEMENT. Assets of the plan shall  
10 be managed by the state investment board as provided by law.

11 NEW SECTION. **Sec. 9.** SEVERABILITY. If any provision of this act  
12 or its application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 10.** CAPTIONS NOT LAW. Captions used in this  
16 act are not any part of the law.

17 NEW SECTION. **Sec. 11.** IMPLEMENTING LEGISLATION. The department  
18 of retirement systems and the office of the state actuary shall prepare  
19 and submit to the fiscal committees of the legislature by January 15,  
20 2003, proposed legislation for implementing this act.

21 NEW SECTION. **Sec. 12.** CODIFICATION. Sections 1 through 9 of this  
22 act are each added to chapter 41.26 RCW.

23 NEW SECTION. **Sec. 13.** EFFECTIVE DATE. Except for section 11 of  
24 this act, the remainder of this act takes effect July 1, 2003.

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