

INITIATIVE 797

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. 797 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to establishing a pension management board for
2 Washington state retirement system employees; adding a new chapter to
3 Title 41 RCW; and repealing RCW 44.44.010, 44.44.015, 44.44.030,
4 44.44.040, 44.44.050, 44.44.060, 41.45.100, 41.45.110, and 41.45.120.

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

6 NEW SECTION. **Sec. 1.** OVERVIEW. The Washington state retirement
7 systems are currently managed by the state legislature's joint
8 committee on pension policy with ratification by the state legislature.

9 Members of Washington state retirement systems have no direct input
10 in the management of their retirement programs. Forty-six other states
11 currently have member representation in their pension management.

12 Since the advent of the joint committee on pension policy,
13 political concerns have taken precedence over trustee-guided management
14 of retirement programs. The legislature has systematically underfunded
15 many state retirement systems by allowing the employers' contribution
16 rates to differ from employee contribution rates, a practice contrary
17 to the founding stipulations of equal contribution rates.

18 Since 1976 the legislature has continually moved more aggressively
19 toward manipulation of pension trust funds to the advantage of the

1 state general fund. This practice injures public employees' fiscal
2 welfare.

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

4 (1) Modernize the management of the Washington state retirement
5 systems;

6 (2) Establish a new board, the pension management board,
7 responsible for the management of all current and future Washington
8 state retirement systems and plans including plans 1, 2, and 3;

9 (3) Mandate that pension trust funds and earnings from those funds
10 are the property of members of the pension systems and plans;

11 (4) Define the fiduciary responsibilities of the board members and
12 others that oversee the Washington state retirement systems and plans;

13 (5) Effectively monitor Washington state's retirement systems by
14 requiring timely, regular, and full disclosure of the financial and
15 actuarial status of the systems/plans to members and their
16 beneficiaries and to the public;

17 (6) Create a pension management board responsible for establishing
18 contribution rates for employees and employers that will guarantee
19 viability of the trust funds and insure retirees buying power
20 consistent with national and/or local consumer price indices as
21 recommended by the state actuary for pensions;

22 (7) Address the 1995 legislation known as the uniform plan 1 cost-
23 of-living adjustment (COLA) and structure adjustments so that benefits
24 are tied to the consumer price index chosen in subsection (6) of this
25 section and provide disbursal of benefits accordingly;

26 (8) Direct the department of retirement systems to establish an
27 initial budget for the pension management board and to pay these costs
28 from available funds;

29 (9) Direct the department of retirement systems to supervise all
30 activities required relative to the initial election of members of the
31 pension management board and subsequent actions required to retain full
32 membership on the board;

33 (10) Supersede all conflicting and contradictory legislation; and

34 (11) Repeal legislation that established the joint committee on
35 pension policy and the pension funding council.

1 NEW SECTION. **Sec. 3.** DEFINITIONS. As used in this act, the
2 following terms have the meanings indicated unless the context clearly
3 requires otherwise.

4 (1) "Members" or "beneficiaries" means:

5 (a) Current employees who are contributing to a state retirement
6 system;

7 (b) Retired employees or their named beneficiaries who receive
8 benefits from a state retirement system; and

9 (c) Prior employees who are vested in a state retirement system but
10 are not currently receiving benefits.

11 (2) "Pension trust funds" or "pension funds" or "funds" means those
12 moneys attributed to each pension system and plan by way of member
13 contributions, state or employer matching contributions, and all income
14 earned from such moneys. The total accumulation of such moneys shall
15 be held in trust for the exclusive benefit of the members of the
16 various pension systems and plans.

17 (3) "Pension management board" or "board" or "PMB" means the
18 fifteen members of the pension management board who are the trustees of
19 the pension trust funds.

20 (4) "Department" means the department of retirement systems.

21 (5) "Law enforcement officers' and fire fighters' retirement system
22 plan 1," and "LEOFF 1," means the benefits and funding provisions under
23 chapter 41.26 RCW.

24 (6) "Public employees' retirement system plan 1," "public
25 employees' retirement system plan 2," "public employees' retirement
26 system plan 3," and "PERS" means the benefits and funding provisions
27 under chapter 41.40 RCW.

28 (7) "Teachers' retirement system plan 1," "teachers' retirement
29 system plan 2," "teachers' retirement system plan 3," and "TRS" means
30 the benefits and funding provisions under chapter 41.32 RCW.

31 (8) "School employees' retirement system plan 2," "school
32 employees' retirement system plan 3," and "SERS" means the benefits and
33 funding provisions under chapter 41.35 RCW.

34 (9) "Washington state patrol retirement system" and "WSPRS" means
35 the benefits and funding provisions under chapter 43.43 RCW.

36 (10) "Judicial retirement system" and "JRS" means the benefits and
37 funding provisions under chapter 2.10 RCW.

38 (11) "Judges' retirement fund" and "JRF" means the benefits and
39 funding provisions under chapter 2.12 RCW.

1 (12) "Management pool TRS/SERS" means that pool of persons, either
2 employed or retired, who are normally identified as members of TRS or
3 SERS.

4 (13) "Management pool PERS" means that pool of persons, either
5 employed or retired, who are normally identified as members of PERS.

6 (14) "Management pool legal" means that pool of persons, either
7 employed or retired, who are normally identified as members of the law
8 enforcement officers' and fire fighters' retirement system plan 1,
9 Washington state patrol retirement system, judicial retirement system,
10 or judicial retirement fund, and members of any other system not
11 defined in this section.

12 (15) "State actuary for pensions" or "pension actuary" means the
13 actuary employed by the pension management board. The actuary must be
14 the holder of an advanced degree in actuarial science and certified by
15 the American academy of actuaries or the international actuarial
16 association.

17 (16) "Unfunded liability" means the actuarially determined
18 liability of the state of Washington to its retirement systems or
19 plans.

20 NEW SECTION. **Sec. 4.** STATE INVESTMENT BOARD. (1) The state
21 investment board shall hold the state retirement trust funds and the
22 state deferred compensation accounts and incomes from investment of
23 those moneys in trust for members of the state retirement systems.

24 (2) The state investment board shall discharge duties with respect
25 to all retirement trust funds as follows:

26 (a) Solely in the interest of the members and beneficiaries for the
27 exclusive purpose of providing the best possible benefits;

28 (b) Paying appropriate and necessary expenses of administering the
29 system;

30 (c) With the care, skill, and caution under the circumstances then
31 prevailing which a prudent person acting in a like capacity and
32 familiar with those matters would use in the conduct of an activity of
33 like character and purpose;

34 (d) Impartially protecting the interests of members and
35 beneficiaries; and

36 (e) In accordance with a good faith interpretation of this act and
37 the laws governing all retirement systems and plans.

1 NEW SECTION. **Sec. 5.** PENSION MANAGEMENT BOARD. (1) The pension
2 management board, created in subsection (3) of this section, is a
3 management structure for the current and future retirement programs of
4 the state of Washington.

5 (2) For purposes of identification of members, there shall be three
6 management pools called PERS, TRS/SERS, and LEGAL. Membership within
7 PERS and TRS/SERS shall be those persons, either employed or retired,
8 who are normally identified as members of those pension programs.
9 Membership within LEGAL shall consist of those persons, either employed
10 or retired, that are normally identified as members of the systems
11 known as LEOFF 1, WSPRS, JRS, JRF, and members of any other system not
12 defined in section 3 of this act.

13 (3) The pension management board is created and consists of the
14 following fifteen members:

15 (a) Six currently employed management pool members nominated and
16 elected in section (11) of this act. Terms of office shall be
17 staggered, four-year terms with initial members assigned to two or
18 four-year terms equally divided between active and retired pools;

19 (b) Six retired members of management pools elected in section (11)
20 of this act. Terms of office shall be staggered, four-year terms with
21 initial members assigned to two or four-year terms equally divided
22 between active and retired pools; and

23 (c) Three advisory members shall be the director of the department
24 of retirement systems, the director of financial management, and the
25 executive director of the state investment board, or their designees.

26 (4) Composition of the elected members of the board shall ensure
27 that each member shall be represented by at least one board member.

28 (5) The creation of the pension management board effectively
29 dissolves the joint committee on pension policy and the pension funding
30 council. Similarly, other governmentally appointed groups whose
31 responsibilities and duties would tend to parallel the functions of the
32 pension management board shall relinquish all functions dealing with
33 the management of pension programs.

34 (6) Per diem compensation for members of the pension management
35 board shall be equivalent to the per diem provided senior senators.

36 NEW SECTION. **Sec. 6.** PENSION MANAGEMENT BOARD PROCEDURES. (1)
37 All board meetings shall be open to the public preceded by timely
38 public announcements.

1 (2) No board actions may be voted without consideration in a prior
2 scheduled meeting and notification of impacted members.

3 (3) Authority of board members to vote is restricted to elected
4 board members. Statutory members are advisory and their attendance at
5 meetings is considered a function of their state employment.

6 (4) Board actions shall require a quorum of not less than nine
7 voting members.

8 (5) Board actions shall require eight affirmative votes.

9 (6) The minutes of each board meeting shall record board members
10 present and absent, and their voting record upon each voted issue.
11 These minutes shall be open to the public upon request.

12 (7) Minutes of board meetings shall be promptly posted on an
13 internet web site established and maintained under the direction of the
14 board.

15 NEW SECTION. **Sec. 7.** DUTIES OF THE PENSION MANAGEMENT BOARD. (1)
16 The board shall establish policies and procedures for its internal
17 management.

18 (a) These policies and procedures may include hiring of
19 professional, legal, and support staffs needed for the recording of
20 minutes and other office functions.

21 (b) It shall be acceptable for board members to exchange data via
22 electronic communication provided a staff person holds copies of those
23 communications and that they be made accessible to the public upon
24 request.

25 (2) The board shall appoint or remove the state actuary for
26 pensions.

27 (3) The board shall provide open and fair review of state pension
28 policy issues, establish state retirement system contribution rates and
29 the long-term assumptions used in developing those rates, provide
30 oversight and set priorities for the office of the state actuary for
31 pensions, and establish rules for determining benefit calculations.

32 (4) The board shall set pension contribution rates being guided by
33 the history of this function and law and regulations in effect July 1st
34 of the year prior to the implementation of this act.

35 (5) The board shall hold in high priority the task of addressing
36 the matter of adjusting language of the 1995 uniform plan one COLA to
37 replace the existing algorithm for calculating benefits with language
38 that ties benefits to a legitimate consumer price index, and similarly

1 study all plans to determine common language that will function fairly
2 for all with respect to this issue. Results of these studies shall
3 form the basis for legislation to be submitted.

4 (6) The board shall advise the legislature and recommend proposed
5 changes in pension policy legislation to the legislature.

6 (7) The board shall advise the department of retirement systems on
7 the preparation of the summary level and consolidated annual financial
8 report.

9 (8) The board shall from time to time make written recommendations
10 to the legislature concerning deficiencies, conflicts, or obsolete
11 provisions that need revision. The board shall prepare legislation for
12 submission to the legislature for the correction or removal of those
13 deficiencies, conflicts, or obsolete provisions.

14 (9) Actions approved by the board relative to subsection (8) of
15 this section shall become effective July 1st following board action
16 unless opposed by two-thirds of the members of each house of the
17 legislature.

18 (10) Beginning in 2004, and every four years thereafter, the
19 pension management board shall convene a task force comprised of
20 representatives of the department of retirement systems, the office of
21 the state actuary for pensions, the state investment board, the office
22 of financial management, and the office of the state auditor. This
23 task force shall review all the major reports prepared by state
24 agencies concerning the state retirement systems and examine the best
25 practices from other states.

26 (a) The goals of the task force are to determine what information
27 needs to be reported and to seek ways to: Promote more effective
28 monitoring of the public retirement systems, streamline reporting,
29 become more efficient in the production and distribution of the
30 information, minimize redundancies and confusion, and maximize the
31 public's investment in these reports.

32 (b) The task force shall convene by the end of October in each
33 year. When the task force is convened, it shall report to the pension
34 management board with recommendations for changing and consolidating
35 these reports. Any changes in current state law that may be required
36 to accomplish these recommendations shall be noted.

37 (11) The board shall discharge its duties:

38 (a) Solely in the interest of the members and beneficiaries;

1 (b) Impartially protecting the interests of members and
2 beneficiaries; and

3 (c) In accordance with a good faith interpretation of the law
4 governing the retirement systems.

5 NEW SECTION. **Sec. 8.** OFFICE OF THE STATE ACTUARY FOR PENSIONS.

6 (1) There is hereby created an office within the executive branch to be
7 known as the office of the state actuary for pensions.

8 (2) The executive head of the office of the state actuary for
9 pensions shall hold the title of "state actuary for pensions" as
10 defined in section 3 of this act.

11 (3) The state actuary for pensions shall sign all actuarial
12 valuations, legislative fiscal notes, and experience studies performed
13 by the office of the state actuary for pensions.

14 (4) The state actuary for pensions shall provide, upon request by
15 any citizen, all data and assumptions used in making projections and
16 conclusions.

17 (5) The department of retirement systems, the state investment
18 board, and the office of financial management, through private contract
19 or departmental/office employment, may retain actuarial services
20 (independent of the state actuary for pensions) to support the
21 administration of the state retirement systems and deferred
22 compensation plans. Budgets for such actuarial services that impact
23 pension trust funds shall be regulated by the pension management board.

24 (6) The state auditor shall conduct actuarial audits of valuations
25 used to administer the state's pension systems every two years
26 beginning one year after the implementation of this act.

27 NEW SECTION. **Sec. 9.** DEPARTMENT OF RETIREMENT SYSTEMS. (1) The

28 department of retirement systems has the responsibility to communicate
29 clearly to its members and beneficiaries and to ensure that their
30 interests are being properly protected.

31 (2) Subject to (a) and (b) of this subsection, an annual
32 consolidated report on the public employees' retirement systems shall
33 be issued by July 15th of each year, for the fiscal year just
34 concluded.

35 (a) The time requirement may be satisfied via posting of the report
36 upon the internet web site required under section 6(7) of this act.

37 (b) The printed report shall be available by August 1st.

1 (3) The department, under the guidance of the board, is to assume
2 responsibilities for all retirement programs in which employees and the
3 state are affiliated.

4 (4) The department is to produce a summary level and consolidated
5 annual financial report with the focus of presenting information about
6 the status of the various retirement plans to members, policymakers,
7 and other interested parties.

8 (a) Information included in the report is to be provided by the
9 office of the state actuary for pensions, the state investment board,
10 and the department.

11 (b) The department shall consult with the state investment board
12 and the office of the state actuary for pensions during the preparation
13 of this report.

14 (c) The report shall be concise and understandable as determined by
15 the users of this information.

16 (d) The department shall meet with the pension management board in
17 order to ensure the usability of the report.

18 (e) In addition, the department shall give annual notice of report
19 review and then accept and consider input on the style and substance of
20 the report from interested parties.

21 NEW SECTION. **Sec. 10.** FUNDING THE PENSION MANAGEMENT BOARD. (1)
22 All funding for the pension management board shall be derived from the
23 department of retirement systems.

24 (2) The department shall prepare an initial budget for the board in
25 preparation for the first year of operation. This budget is temporary
26 pending the formation of the board.

27 (3) Subsequent annual budgets are the responsibility of the board.

28 (4) Appointed board members shall receive per diem compensation
29 plus expenses comparable to that of a senior senator under RCW
30 43.03.050 and 43.03.060.

31 (5) The board shall establish and manage its budget regarding
32 office space and equipment, actuarial services, legal services, and
33 clerical needs.

34 NEW SECTION. **Sec. 11.** NOMINATION AND ELECTION OF MEMBERS FOR THE
35 PENSION MANAGEMENT BOARD. (1) There shall exist six management pools
36 of members and beneficiaries: PERS active; PERS retired; TRS/SERS

1 active; TRS/SERS retired; LEGAL active; and LEGAL retired, as per
2 section 3 of this act.

3 (2) The department shall advertise each forthcoming election making
4 a good faith effort to ensure that all affected persons are contacted.

5 (a) The department shall set and distribute rules, including dates
6 for the collection of nominees from each management pool and subsequent
7 election.

8 (b) Dates must be selected so that the process of election shall be
9 completed to allow seating of members to the pension management board
10 by July 1, 2003, and July 1st of subsequent years.

11 (c) Each member or beneficiary is eligible to declare candidacy for
12 a seat on the board representing the management pool to which he or she
13 belongs, providing he or she provides, with the declaration form, a
14 petition of support containing signatures of two hundred supporting
15 members of his or her management pool. The department shall ensure
16 that no individual signs more than one petition.

17 (d) Each management pool shall be entitled to elect two candidates.

18 (e) Potential candidates, in declaring their candidacy, shall
19 comply with rules established by the department.

20 (f) Write-in candidates are not permitted.

21 (g) The department shall publish candidate briefs to be distributed
22 with ballots and instructions for voting and returning completed
23 ballots.

24 (h) Members shall vote only on candidates from their own pool.

25 (i) The department shall immediately notify all candidates and the
26 governor of the election results. This notification shall be made at
27 the earliest possible time following the election.

28 (j) The department shall publicly announce the names of the elected
29 members of the pension management board not later than June 16th.

30 (k) In the event a management pool fails to fill their allotted
31 board seats, or should an elected person be incapacitated, then the
32 governor shall appoint a person from the affected management pool to
33 fill that position.

34 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
35 each repealed:

36 (1) RCW 44.44.010 (Office of state actuary--Created--
37 Qualifications) and 1987 c 25 s 1 & 1975-'76 2nd ex.s. c 105 s 19;

38 (2) RCW 44.44.015 (Administration) and 2001 c 259 s 10;

1 (3) RCW 44.44.030 (Personnel--Participation of American academy of
2 actuaries) and 2001 c 259 s 11, 1987 c 25 s 2, & 1975-'76 2nd ex.s. c
3 105 s 21;

4 (4) RCW 44.44.040 (Powers and duties--Actuarial fiscal notes) and
5 1987 c 25 s 3, 1986 c 317 s 6, & 1975-'76 2nd ex.s. c 105 s 22;

6 (5) RCW 44.44.050 (Joint committee on pension policy--Membership,
7 terms, leadership) and 1987 c 25 s 4;

8 (6) RCW 44.44.060 (Joint committee on pension policy--Powers and
9 duties) and 1987 c 25 s 5;

10 (7) RCW 41.45.100 (Pension funding council--Created) and 1998 c 283
11 s 2;

12 (8) RCW 41.45.110 (Pension funding council--Audits required) and
13 1998 c 283 s 3; and

14 (9) RCW 41.45.120 (Pension funding work group) and 1998 c 283 s 4.

15 NEW SECTION. **Sec. 13.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 14.** CAPTIONS. Captions used in this act are
20 not any part of the law.

21 NEW SECTION. **Sec. 15.** LEGISLATIVE DIRECTIVE. Sections 1 through
22 11, 13, and 14 of this act constitute a new chapter in Title 41 RCW.

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