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HOUSE BILL 3119

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State of Washington

55th Legislature

1998 Regular Session

By Representatives Wolfe, Conway, Romero, Ogden, Tokuda, Linville, D. Sommers, Voloria, Cole, Gombosky, Mason, Cooper, Costa, Chopp, Quall, Doumit, Cody, Kenney, Keiser, Sterk, Radcliff, Delvin, Smith and Gardner; by request of Washington Uniform Legislation Commission

Read first time 02/06/98. Referred to Committee on Appropriations.

1 AN ACT Relating to the uniform management of public employee  
2 retirement systems; adding a new chapter to Title 41 RCW; and providing  
3 an effective date.

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

5 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be cited as  
6 the uniform management of public employee retirement systems act.

7 NEW SECTION. **Sec. 2.** INTENT. It is the intent of the legislature  
8 to modernize and clarify the laws governing the management of public  
9 retirement systems and to bring these laws into uniformity with those  
10 in other states. It is the further intent of the legislature to ensure  
11 that management of retirement funds keeps pace with modern investment  
12 practices. In this chapter, the legislature intends to articulate the  
13 fiduciary responsibilities of the trustees and others who oversee the  
14 public retirement systems, and the legislature also intends to promote  
15 effective monitoring of public retirement systems by requiring regular  
16 and significant disclosure of the financial and actuarial status of the  
17 systems, both to participants and beneficiaries and to the public.

1        NEW SECTION.    **Sec. 3.**    DEFINITIONS.    The definitions in this  
2 section apply throughout this chapter unless the context clearly  
3 requires otherwise.

4        (1) "Administrator" means a person primarily responsible for the  
5 management of a retirement system or, if no person is clearly  
6 designated, the trustee of the system who has the ultimate authority to  
7 manage the system.

8        (2) "Agent group of programs" means a group of retirement programs  
9 which shares administrative and investment functions but maintains a  
10 separate account for each retirement program so that assets accumulated  
11 for a particular program may be used to pay benefits only for that  
12 program's participants and beneficiaries.

13        (3) "Appropriate grouping of programs" means:

14        (a) For defined benefit plans, a cost-sharing program or an agent  
15 group of programs; and

16        (b) For defined contribution plans, a group of retirement programs  
17 which shares administrative and investment functions.

18        (4) "Beneficiary" means a person, other than the participant, who  
19 is designated by a participant or by a retirement program to receive a  
20 benefit under the program.

21        (5) "Code" means the federal internal revenue code of 1986, as  
22 amended.

23        (6) "Cost-sharing program" means a retirement program for the  
24 employees of more than one public employer in which all assets  
25 accumulated for the payment of benefits may be used to pay benefits to  
26 any participants or beneficiaries of the program.

27        (7) "Defined benefit plan" means a retirement program other than a  
28 defined contribution plan.

29        (8) "Defined contribution plan" means a retirement program that  
30 provides for an individual account for each participant and for  
31 benefits based solely upon the amount contributed to the participant's  
32 account; any income, expenses, gains, and losses credited or charged to  
33 the account; and any forfeitures of accounts of other participants that  
34 may be allocated to the participant's account.

35        (9) "Employee" includes an officer of a public employer.

36        (10) "Fair value" means the amount that a willing buyer would pay  
37 a willing seller for an asset in a current sale, as determined in good  
38 faith by a fiduciary.

39        (11) "Fiduciary" means a person who:

1 (a) Exercises any discretionary authority to manage a retirement  
2 system;

3 (b) Exercises any authority to invest or manage assets of a system;

4 (c) Provides investment advice for a fee or other direct or  
5 indirect compensation with respect to assets of a system or has any  
6 authority or responsibility to do so; or

7 (d) Is a trustee or a member of a board of trustees.

8 (12) "Furnish" means:

9 (a) To deliver personally, to mail to the last known place of  
10 employment or home address of the intended recipient, or, if reasonable  
11 grounds exist to believe that the intended recipient would receive it  
12 in ordinary course, to transmit by any other usual means of  
13 communication; or

14 (b) To provide to the intended recipient's public employer if  
15 reasonable grounds exist to believe that the employer will make a good  
16 faith effort to deliver personally, by mail, or by other usual means of  
17 communication.

18 (13) "Governing law" means state and local laws establishing or  
19 authorizing the creation of a retirement program or system and the  
20 principal state and local laws and regulations governing the management  
21 of a retirement program or system or assets of either.

22 (14) "Guaranteed benefit policy" means an insurance policy or  
23 contract to the extent the policy or contract provides for benefits in  
24 a guaranteed amount. The term includes any surplus in a separate  
25 account, but excludes any other portion of a separate account.

26 (15) "Insurer" means a company, service, or organization qualified  
27 to engage in the business of insurance in this state.

28 (16) "Nonforfeitable benefit" means an immediate or deferred  
29 benefit that arises from a participant's service, is unconditional, and  
30 is enforceable against the retirement system.

31 (17) "Participant" means an individual who is or has been an  
32 employee enrolled in a retirement program and who is or may become  
33 eligible to receive, or is currently receiving, a benefit under the  
34 program, or whose beneficiaries are or may become eligible to receive  
35 a benefit. The term does not include an individual who is no longer an  
36 employee of a public employer and has not accrued any nonforfeitable  
37 benefits under the program.

38 (18) "Public employer" means this state or any political  
39 subdivision, or any agency or instrumentality of this state or any

1 political subdivision, whose employees are participants in a retirement  
2 program.

3 (19) "Retirement program" means a program of rights and obligations  
4 which a public employer establishes or maintains and which, by its  
5 express terms or as a result of surrounding circumstances:

6 (a) Provides retirement income to employees; or

7 (b) Results in a deferral of income by employees for periods  
8 extending to the termination of covered employment or beyond.

9 (20) "Retirement system" means an entity established or maintained  
10 by a public employer to manage one or more retirement programs, or to  
11 invest or manage the assets of one or more retirement programs.

12 (21) "State" means a state of the United States, the District of  
13 Columbia, Puerto Rico, the United States Virgin Islands, or any  
14 territory or insular possession subject to the jurisdiction of the  
15 United States.

16 (22) "Trustee" means a person who has ultimate authority to manage  
17 a retirement system or to invest or manage its assets.

18 NEW SECTION. **Sec. 4.** SCOPE. This chapter applies to all  
19 retirement programs and retirement systems, except:

20 (1) A retirement program that is unfunded and is maintained by a  
21 public employer solely for the purpose of providing deferred  
22 compensation for a select group of management employees or employees  
23 who rank in the top five percent of employees of that employer based on  
24 compensation;

25 (2) A severance-pay arrangement under which:

26 (a) Payments are made solely on account of the termination of an  
27 employee's service and are not contingent upon the employee's retiring;

28 (b) The total amount of the payments does not exceed the equivalent  
29 of twice the employee's total earnings from the public employer during  
30 the year immediately preceding the termination of service; and

31 (c) All payments are completed within twenty-four months after the  
32 termination of service;

33 (3) An arrangement or payment made on behalf of an employee because  
34 the employee is covered by Title II of the social security act, as  
35 amended;

36 (4) A qualified governmental excess benefit arrangement within the  
37 meaning of section 415(m) of the code;

1 (5) An individual retirement account or individual retirement  
2 annuity within the meaning of section 408 of the code;

3 (6) A retirement program consisting solely of annuity contracts or  
4 custodial accounts satisfying the requirements of section 403(b) of the  
5 code; or

6 (7) A program maintained solely for the purpose of complying with  
7 workers' compensation laws or disability insurance laws.

8 NEW SECTION. **Sec. 5.** ESTABLISHMENT OF TRUST. (1) Except as  
9 otherwise provided in subsection (2) of this section, all assets of a  
10 retirement system are held in trust. The trustee has the exclusive  
11 authority, subject to this chapter, to invest and manage those assets.

12 (2) Assets of a retirement system which consist of insurance  
13 contracts or policies issued by an insurer, assets of an insurer, and  
14 assets of the system held by an insurer need not be held in trust.

15 (3) If an insurer issues a guaranteed benefit policy to a  
16 retirement system, assets of the system include the policy but not  
17 assets of the insurer.

18 (4) If a retirement system invests in a security issued by an  
19 investment company registered under the investment company act of 1940,  
20 the assets of the system include the security but not assets of the  
21 investment company.

22 NEW SECTION. **Sec. 6.** POWERS OF TRUSTEE. (1) In addition to other  
23 powers conferred by the governing law, a trustee has exclusive  
24 authority, consistent with the trustee's duties under this chapter, to:

25 (a) Establish an administrative budget sufficient to perform the  
26 trustee's duties and, as appropriate and reasonable, draw upon assets  
27 of the retirement system to fund the budget;

28 (b) Obtain by employment or contract the services necessary to  
29 exercise the trustee's powers and perform the trustee's duties,  
30 including actuarial, auditing, custodial, investment, and legal  
31 services; and

32 (c) Procure and dispose of goods and property necessary to exercise  
33 the trustee's powers and perform the trustee's duties.

34 (2) In exercising its authority under this section, a trustee is  
35 subject to the fiduciary duties of this chapter, but not to civil  
36 service, personnel, procurement, or similar general laws relating to  
37 the subjects of subsection (1) of this section.

1        NEW SECTION.    **Sec. 7.**    DELEGATION OF FUNCTIONS.    (1) A trustee or  
2 administrator may delegate functions that a prudent trustee or  
3 administrator acting in a like capacity and familiar with those matters  
4 could properly delegate under the circumstances.

5        (2) The trustee or administrator shall exercise reasonable care,  
6 skill, and caution in:

7            (a) Selecting an agent;

8            (b) Establishing the scope and terms of the delegation, consistent  
9 with the purposes and terms of the retirement program; and

10          (c) Periodically reviewing the agent's performance and compliance  
11 with the terms of the delegation.

12        (3) In performing a delegated function, an agent owes a duty to the  
13 retirement system and to its participants and beneficiaries to comply  
14 with the terms of the delegation and, if a fiduciary, to comply with  
15 the duties imposed by section 8 of this act.

16        (4) A trustee or administrator who complies with subsections (1)  
17 and (2) of this section is not liable to the retirement system or to  
18 its participants or beneficiaries for the decisions or actions of the  
19 agent to whom the function was delegated.

20        (5) By accepting the delegation of a function from the trustee or  
21 administrator, an agent submits to the jurisdiction of the courts of  
22 this state.

23        (6) A trustee may limit the authority of an administrator to  
24 delegate functions under this section.

25        NEW SECTION.    **Sec. 8.**    GENERAL FIDUCIARY DUTIES.    A trustee or  
26 other fiduciary shall discharge duties with respect to a retirement  
27 system:

28            (1) Solely in the interest of the participants and beneficiaries;

29            (2) For the exclusive purpose of providing benefits to participants  
30 and beneficiaries and paying reasonable expenses of administering the  
31 system;

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

36            (4) Impartially, taking into account any differing interests of  
37 participants and beneficiaries;

38            (5) Incurring only costs that are appropriate and reasonable; and

1 (6) In accordance with a good faith interpretation of the law  
2 governing the retirement program and system.

3 NEW SECTION. **Sec. 9.** DUTIES OF TRUSTEE IN INVESTING AND MANAGING  
4 ASSETS OF RETIREMENT SYSTEM. (1) In investing and managing assets of  
5 a retirement system pursuant to section 8 of this act, a trustee with  
6 authority to invest and manage assets:

7 (a) Shall consider among other circumstances:

8 (i) General economic conditions;

9 (ii) The possible effect of inflation or deflation;

10 (iii) The role that each investment or course of action plays  
11 within the overall portfolio of the retirement program or appropriate  
12 grouping of programs;

13 (iv) The expected total return from income and the appreciation of  
14 capital;

15 (v) Needs for liquidity, regularity of income, and preservation or  
16 appreciation of capital; and

17 (vi) For defined benefit plans, the adequacy of funding for the  
18 plan based on reasonable actuarial factors;

19 (b) Shall diversify the investments of each retirement program or  
20 appropriate grouping of programs unless the trustee reasonably  
21 determines that, because of special circumstances, it is clearly  
22 prudent not to do so;

23 (c) Shall make a reasonable effort to verify facts relevant to the  
24 investment and management of assets of a retirement system;

25 (d) May invest in any kind of property or type of investment  
26 consistent with this chapter; and

27 (e) May consider benefits created by an investment in addition to  
28 investment return only if the trustee determines that the investment  
29 providing these collateral benefits would be prudent even without the  
30 collateral benefits.

31 (2) A trustee with authority to invest and manage assets of a  
32 retirement system shall adopt a statement of investment objectives and  
33 policies for each retirement program or appropriate grouping of  
34 programs. The statement must include the desired rate of return on  
35 assets overall, the desired rates of return and acceptable levels of  
36 risk for each asset class, asset-allocation goals, guidelines for the  
37 delegation of authority, and information on the types of reports to be

1 used to evaluate investment performance. At least annually, the  
2 trustee shall review the statement and change or reaffirm it.

3 NEW SECTION. **Sec. 10.** SPECIAL APPLICATION OF DUTIES. (1) A  
4 trustee may return a contribution with interest, to a public employer  
5 or employee, or make alternative arrangements for reimbursement, if the  
6 trustee determines the contribution was made because of a mistake of  
7 fact or law.

8 (2) Upon termination of a retirement program, a trustee may return  
9 to a public employer any assets of the program remaining after all  
10 liabilities of the program to participants and beneficiaries have been  
11 satisfied.

12 (3) If a retirement program provides for individual accounts and  
13 permits a participant or beneficiary to exercise control over the  
14 assets in such an account and a participant or beneficiary exercises  
15 control over those assets:

16 (a) The participant or beneficiary is not a fiduciary by reason of  
17 the exercise of control; and

18 (b) A person who is otherwise a fiduciary is not liable for any  
19 loss, or by reason of any breach of fiduciary duty, resulting from the  
20 participant's or beneficiary's exercise of control.

21 (4) If an insurer issues to a retirement system a contract or  
22 policy that is supported by the insurer's general account but is not a  
23 guaranteed benefit policy, the insurer complies with section 8 of this  
24 act if it manages the assets of the general account with the care,  
25 skill, and caution under the circumstances then prevailing which a  
26 prudent person acting in a like capacity and familiar with those  
27 matters would use in the conduct of an activity of like character and  
28 purpose, taking into account all obligations supported by the general  
29 account.

30 NEW SECTION. **Sec. 11.** REVIEWING COMPLIANCE. In evaluating  
31 performance of a trustee or other fiduciary:

32 (1) Compliance by the trustee or other fiduciary with sections 7  
33 through 9 of this act must be determined in light of the facts and  
34 circumstances existing at the time of the trustee's or fiduciary's  
35 decision or action and not by hindsight.

36 (2) The trustee's investment and management decisions must be  
37 evaluated not in isolation but in the context of the trust portfolio as



1 a whole and as a part of an overall investment strategy having risk and  
2 return objectives reasonably suited to the program or appropriate  
3 grouping of programs.

4 NEW SECTION. **Sec. 12.** FIDUCIARY LIABILITY. (1) A trustee or  
5 other fiduciary who breaches a duty imposed by this chapter is  
6 personally liable to a retirement system for any losses resulting from  
7 the breach and any profits made by the trustee or other fiduciary  
8 through use of assets of the system by the trustee or other fiduciary.  
9 The trustee or other fiduciary is subject to other equitable remedies  
10 as the court considers appropriate, including removal.

11 (2) An agreement that purports to limit the liability of a trustee  
12 or other fiduciary for a breach of duty under this chapter is void.

13 (3) A retirement system may insure itself against liability or  
14 losses occurring because of a breach of duty under this chapter by a  
15 trustee or other fiduciary.

16 (4) A trustee or other fiduciary may insure against liability or  
17 losses occurring because of a breach of duty under this chapter if the  
18 insurance is purchased or provided either by the trustee or fiduciary  
19 personally or, on the trustee or fiduciary's behalf, by this state, the  
20 retirement system, a public employer whose employees participate in a  
21 retirement program served by the trustee or fiduciary, an employee  
22 representative whose members participate in a retirement program served  
23 by the trustee or fiduciary, or the trustee's or fiduciary's employer.

24 NEW SECTION. **Sec. 13.** OPEN OR PUBLIC MEETINGS AND RECORDS. (1)  
25 A multimember body having authority to invest or manage assets of a  
26 retirement system may deliberate about, or make tentative or final  
27 decisions on, investments or other financial matters in executive  
28 session if disclosure of the deliberations or decisions jeopardizes the  
29 ability to implement a decision or to achieve investment objectives.

30 (2) A record of a retirement system that discloses deliberations  
31 about, or a tentative or final decision on, investments or other  
32 financial matters is not an open or public record under chapter 42.17  
33 RCW to the extent and so long as its disclosure jeopardizes the ability  
34 to implement an investment decision or program or to achieve investment  
35 objectives.

1        NEW SECTION.    **Sec. 14.**    DISCLOSURE TO PUBLIC.    (1) An administrator  
2 shall prepare and disseminate:

3        (a) A summary plan description of each retirement program;

4        (b) A summary description of any material modification in the terms  
5 of the program and any material change in the information required to  
6 be contained in the summary plan description, to the extent the  
7 modification or change has not been integrated into an updated summary  
8 plan description;

9        (c) An annual disclosure of financial and actuarial status; and

10       (d) An annual report.

11       (2) An administrator shall make available for public examination in  
12 the principal office of the administrator and in other places if  
13 necessary to make the information reasonably available to participants:

14       (a) The governing law of the retirement program and system;

15       (b) The most recent summary plan description;

16       (c) Summary descriptions of modifications or changes described in  
17 subsection (1)(b) of this section that have been provided to  
18 participants and beneficiaries but have not yet been integrated into  
19 the summary plan description;

20       (d) The most recent annual disclosure of financial and actuarial  
21 status; and

22       (e) The most recent annual report.

23       (3) Upon written request by a participant, beneficiary, or member  
24 of the public, an administrator shall provide a copy of any publication  
25 described in subsection (2) of this section.    Except as otherwise  
26 provided in section 15(1) of this act, the administrator may charge a  
27 reasonable fee to cover the cost of providing copies.    The  
28 administrator shall provide the copies within thirty days after the  
29 request or, if a fee is charged, within thirty days after receiving  
30 payment.

31       NEW SECTION.        **Sec. 15.**        DISCLOSURE TO PARTICIPANTS AND  
32 BENEFCIARIES.    (1) An administrator shall furnish to each participant  
33 and to each beneficiary who is receiving benefits under a retirement  
34 program:

35       (a) A copy of the most recent summary plan description, along with  
36 any summary descriptions of modifications or changes described in  
37 section 14(1)(b) of this act, within three months after a person  
38 becomes a participant or, in the case of a beneficiary, within three

1 months after a person first receives benefits, or, if later, within  
2 four months after the retirement program becomes subject to this  
3 chapter;

4 (b) The summary description of any modifications or changes  
5 described in section 14(1)(b) of this act, within seven months after  
6 the end of the fiscal year in which a modification or change has been  
7 made;

8 (c) A copy of an updated summary plan description that integrates  
9 all modifications and changes at intervals not exceeding five years;  
10 and

11 (d) The annual report within seven months after the end of each  
12 fiscal year.

13 (2) An administrator shall provide to a participant or beneficiary  
14 a statement containing information that would permit the participant or  
15 beneficiary to estimate projected benefits reasonably, to the extent  
16 the information is regularly maintained by the retirement system. The  
17 information must be provided with the annual report or upon written  
18 request of the participant or beneficiary. The information need not be  
19 provided to a participant or beneficiary who is currently receiving  
20 benefits.

21 (3) A participant who is not currently receiving benefits is  
22 entitled without charge to one statement under subsection (2) of this  
23 section during any fiscal year. An administrator may charge a  
24 reasonable fee to cover the cost of providing other statements. The  
25 administrator shall provide the statements within thirty days after the  
26 participant or beneficiary's request or, if a fee is charged, within  
27 thirty days after receiving payment.

28 NEW SECTION. **Sec. 16.** REPORTS TO AGENCY. An administrator shall  
29 file with the agency a copy of:

30 (1) The governing law of the retirement program and system within  
31 four months after the system becomes subject to this chapter and an  
32 updated copy at least once every year thereafter;

33 (2) The summary plan description within four months after the  
34 system becomes subject to this chapter and of updated summary plan  
35 descriptions at the same time they are first furnished to any  
36 participant or beneficiary under section 15(1)(c) of this act;

1 (3) Any summary description of modifications or changes within  
2 seven months after the end of the fiscal year in which a modification  
3 or change has been made; and

4 (4) The annual disclosure of financial and actuarial status and  
5 annual report within seven months after the end of each fiscal year.

6 NEW SECTION. **Sec. 17.** SUMMARY PLAN DESCRIPTION. (1) A summary  
7 plan description and a summary description of modifications or changes  
8 under section 14(1)(b) of this act must be written in a manner  
9 calculated to be understood by the average participant and be accurate  
10 and sufficiently comprehensive reasonably to inform the participants  
11 and beneficiaries of their rights and obligations under the retirement  
12 program.

13 (2) A summary plan description must contain:

14 (a) The name of the retirement program and system and type of  
15 administration;

16 (b) The name and business address of the administrator;

17 (c) The name and business address of each agent for service of  
18 process;

19 (d) Citations to the governing law of the retirement program and  
20 system;

21 (e) A description of the program's requirements respecting  
22 eligibility for participation and benefits;

23 (f) A description of the program's provisions providing for  
24 nonforfeitable benefits;

25 (g) A description of circumstances that may result in  
26 disqualification, ineligibility, denial, or loss of benefits;

27 (h) A description of the benefits provided by the program,  
28 including the manner of calculating benefits and any benefits provided  
29 for spouses and survivors;

30 (i) The source of financing of the program;

31 (j) The identity of any organization through which benefits are  
32 provided;

33 (k) The date the fiscal year ends;

34 (l) The procedures to claim benefits under the program and the  
35 administrative procedures available under the program for the redress  
36 of claims that are denied in whole or in part; and

37 (m) Notice of the availability of additional information pursuant  
38 to sections 14 (2) and (3), 15 (2) and (3), and 16 of this act.

1        NEW SECTION.        **Sec. 18.**        ANNUAL DISCLOSURE OF FINANCIAL AND  
2 ACTUARIAL STATUS.        (1) As used in this section, "qualified public  
3 accountant" means:

4        (a) An auditing agency of this state, or a political subdivision of  
5 this state, which has no direct relationship with the functions or  
6 activities of a retirement system or its fiduciaries other than:

7            (i) Functions relating to this chapter; or

8            (ii) A relationship between the system and the agency's employees  
9 as participants or beneficiaries on the same basis as other  
10 participants and beneficiaries; or

11        (b) A person who is an independent public accountant, certified or  
12 licensed by a regulatory authority of a state.

13        (2) As used in this section, "related person" of an individual  
14 means:

15            (a) The individual's spouse or a parent or sibling of the spouse;

16            (b) The individual's descendant, sibling, or parent, or the spouse  
17 of the individual's descendant, sibling, or parent;

18            (c) Another individual residing in the same household as the  
19 individual;

20            (d) A trust or estate in which an individual described in (a), (b),  
21 or (c) of this subsection has a substantial interest;

22            (e) A trust or estate for which the individual has fiduciary  
23 responsibilities; or

24            (f) An incompetent, ward, or minor for whom the individual has  
25 fiduciary responsibilities.

26        (3) An annual disclosure of financial and actuarial status must  
27 contain:

28            (a) The name of the retirement system and identification of each  
29 retirement program and, if programs are in an appropriate grouping of  
30 programs, of each appropriate grouping of programs;

31            (b) The name and business address of the administrator;

32            (c) The name and business address of each trustee and each member  
33 of a board of trustees and a brief description of how the trustee or  
34 member was selected;

35            (d) The name and business address of each agent for service of  
36 process;

37            (e) The number of employees covered by each retirement program not  
38 in an appropriate grouping of programs, or by each appropriate grouping  
39 of programs, or both;

- 1 (f) The name and business address of each fiduciary;
- 2 (g) The current statement of investment objectives and policies  
3 required by section 9(2) of this act;
- 4 (h) Financial statements and notes to the financial statements in  
5 conformity with generally accepted accounting principles;
- 6 (i) An opinion on the financial statements by a qualified public  
7 accountant in conformity with generally accepted auditing standards;
- 8 (j) In the case of a defined benefit plan, actuarial schedules and  
9 notes to the actuarial schedules in conformity with generally accepted  
10 actuarial principles and practices for measuring pension obligations;
- 11 (k) In the case of a defined benefit plan, an opinion by a  
12 qualified actuary that the actuarial schedules are complete and  
13 accurate to the best of the actuary's knowledge, that each assumption  
14 and method used in preparing the schedules is reasonable, that the  
15 assumptions and methods in the aggregate are reasonable, and that the  
16 assumptions and methods in combination offer the actuary's best  
17 estimate of anticipated experience;
- 18 (l) A description of any material interest, other than the interest  
19 in the retirement program itself, held by any public employer  
20 participating in the system or any employee organization representing  
21 employees covered by the system in any material transaction with the  
22 system within the last three years or proposed to be effected;
- 23 (m) A description of any material interest held by any trustee,  
24 administrator, or employee who is a fiduciary with respect to the  
25 investment and management of assets of the system, and, if the  
26 fiduciary is an individual, by a related person of the beneficiary, in  
27 any material transaction with the system within the last three years or  
28 proposed to be effected;
- 29 (n) A schedule of the rates of return, net of total investment  
30 expense, on assets of the system overall and on assets aggregated by  
31 category over the most recent one-year, three-year, five-year, and  
32 ten-year periods, to the extent available, and the rates of return on  
33 appropriate benchmarks for assets of the system overall and for each  
34 category over each period;
- 35 (o) A schedule of the sum of total investment expense and total  
36 general administrative expense for the fiscal year expressed as a  
37 percentage of the fair value of assets of the system on the last day of  
38 the fiscal year, and an equivalent percentage for the preceding five  
39 fiscal years; and

1 (p) A schedule of all assets held for investment purposes on the  
2 last day of the fiscal year aggregated and identified by issuer,  
3 borrower, lessor, or similar party to the transaction stating, if  
4 relevant, the asset's maturity date, rate of interest, par or maturity  
5 value, number of shares, cost, and fair value and identifying any asset  
6 that is in default or classified as uncollectible.

7 NEW SECTION. **Sec. 19.** ANNUAL REPORT. An annual report must  
8 contain:

9 (1) The name and business address of each trustee and each member  
10 of a board of trustees;

11 (2) The financial statements, but not the notes, required by  
12 section 18(3)(h) of this act;

13 (3) For defined benefit plans, the actuarial schedules, but not the  
14 notes, required by section 18(3)(j) of this act;

15 (4) The schedules described in section 18(3) (h) and (o) of this  
16 act;

17 (5) A brief description of and information about how to interpret  
18 the statements and schedules;

19 (6) Other material necessary to summarize fairly and accurately the  
20 annual disclosure of financial and actuarial status; and

21 (7) Notice of the availability of additional information pursuant  
22 to sections 14 (2) and (3), 15 (2) and (3), and 16 of this act.

23 NEW SECTION. **Sec. 20.** ENFORCEMENT. (1) A public employer,  
24 participant, beneficiary, or fiduciary may maintain an action:

25 (a) To enjoin an act, practice, or omission that violates this  
26 chapter;

27 (b) For appropriate equitable relief for breach of trust under  
28 section 12 of this act; or

29 (c) For other appropriate equitable relief to redress the violation  
30 of or to enforce this chapter.

31 (2) The agency may maintain an action to enjoin a violation of  
32 section 16 of this act.

33 (3) In an action under this section by a participant, beneficiary,  
34 or fiduciary, the court may award reasonable attorneys' fees and costs  
35 to either party.

1        NEW SECTION.    **Sec. 21.**    STATUTE OF LIMITATIONS.    An action under  
2 section 20 of this act must be commenced within the period of  
3 limitations in this state, if any, for actions for breach of trust or,  
4 if none, within three years.

5        NEW SECTION.    **Sec. 22.**    ALIENATION OF BENEFITS.    Benefits of a  
6 retirement program may not be assigned or alienated and are exempt from  
7 claims of creditors, except to the extent expressly permitted by other  
8 law of this state.

9        NEW SECTION.    **Sec. 23.**    UNIFORMITY OF APPLICATION AND CONSTRUCTION.  
10 In applying and construing this chapter, consideration must be given to  
11 the need to promote uniformity of the law with respect to its subject  
12 among states that enact it.

13        NEW SECTION.    **Sec. 24.**    CAPTIONS.    Captions used in this chapter  
14 are not any part of the law.

15        NEW SECTION.    **Sec. 25.**    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. 26.**    This act takes effect July 1, 1999.

20        NEW SECTION.    **Sec. 27.**    Sections 1 through 26 of this act  
21 constitute a new chapter in Title 41 RCW.

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