

CERTIFICATION OF ENROLLMENT

SENATE BILL 5360

Chapter 313, Laws of 2019

(partial veto)

66th Legislature
2019 Regular Session

DEFAULT RETIREMENT PLAN--PERS, TRS, AND SERS

EFFECTIVE DATE: July 28, 2019

Passed by the Senate April 26, 2019
Yeas 36 Nays 13

CYRUS HABIB

President of the Senate

Passed by the House April 16, 2019
Yeas 73 Nays 22

FRANK CHOPP

Speaker of the House of Representatives

Approved May 8, 2019 4:12 PM with the
exception of section 5, which is
vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SENATE BILL 5360** as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 13, 2019

**Secretary of State
State of Washington**

SENATE BILL 5360

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senators Conway, Hobbs, Saldaña, Dhingra, Keiser, Pedersen, and Hunt; by request of Select Committee on Pension Policy

Read first time 01/18/19. Referred to Committee on Ways & Means.

1 AN ACT Relating to plan membership default provisions in the
2 public employees' retirement system, the teachers' retirement system,
3 and the school employees' retirement system; amending RCW 41.32.835,
4 41.35.610, and 41.40.785; and declaring an emergency.

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

6 **Sec. 1.** RCW 41.32.835 and 2007 c 491 s 3 are each amended to
7 read as follows:

8 (1) All teachers who first become employed by an employer in an
9 eligible position on or after July 1, 2007, shall have a period of
10 ninety days to make an irrevocable choice to become a member of plan
11 2 or plan 3. At the end of ninety days, if the member has not made a
12 choice to become a member of plan 2, he or she becomes a member of
13 plan 3 or plan 2 as follows:

14 (a) Becomes a member of plan 3 if first employed by an employer
15 in an eligible position on or after July 1, 2007, but prior to July
16 1, 2020;

17 (b) Becomes a member of plan 2 if first employed by an employer
18 in an eligible position on or after July 1, 2020.

19 (2) For administrative efficiency, until a member elects to
20 become a member of plan 3, or becomes a member of plan 3 by default
21 under subsection (1) of this section, the member shall be reported to

1 the department in plan 2, with member and employer contributions.
2 Upon becoming a member of plan 3 by election or by default, all
3 service credit shall be transferred to the member's plan 3 defined
4 benefit, and all employee accumulated contributions shall be
5 transferred to the member's plan 3 defined contribution account.

6 ~~((3) The plan choice provision as set forth in section 3,~~
7 ~~chapter 491, Laws of 2007 was intended by the legislature as a~~
8 ~~replacement benefit for gain-sharing. Until there is legal certainty~~
9 ~~with respect to the repeal of chapter 41.31A RCW, the right to plan~~
10 ~~choice under this section is noncontractual, and the legislature~~
11 ~~reserves the right to amend or repeal this section. Legal certainty~~
12 ~~includes, but is not limited to, the expiration of any: Applicable~~
13 ~~limitations on actions; and periods of time for seeking appellate~~
14 ~~review, up to and including reconsideration by the Washington supreme~~
15 ~~court and the supreme court of the United States. Until that time,~~
16 ~~all teachers who first become employed by an employer in an eligible~~
17 ~~position on or after July 1, 2007, may choose either plan 2 or plan 3~~
18 ~~under this section. If the repeal of chapter 41.31A RCW is held to be~~
19 ~~invalid in a final determination of a court of law, and the court~~
20 ~~orders reinstatement of gain-sharing or other alternate benefits as a~~
21 ~~remedy, then all teachers who first become employed by an employer in~~
22 ~~an eligible position on or after the date of such reinstatement shall~~
23 ~~be members of plan 3.))~~

24 **Sec. 2.** RCW 41.35.610 and 2007 c 491 s 7 are each amended to
25 read as follows:

26 (1) All classified employees who first become employed by an
27 employer in an eligible position on or after July 1, 2007, shall have
28 a period of ninety days to make an irrevocable choice to become a
29 member of plan 2 or plan 3. At the end of ninety days, if the member
30 has not made a choice to become a member of plan 2, he or she becomes
31 a member of plan 3 or plan 2 as follows:

32 (a) Becomes a member of plan 3 if first employed by an employer
33 in an eligible position on or after July 1, 2007, but prior to July
34 1, 2020;

35 (b) Becomes a member of plan 2 if first employed by an employer
36 in an eligible position on or after July 1, 2020.

37 (2) For administrative efficiency, until a member elects to
38 become a member of plan 3, or becomes a member of plan 3 by default
39 under subsection (1) of this section, the member shall be reported to

1 the department in plan 2, with member and employer contributions.
2 Upon becoming a member of plan 3 by election or by default, all
3 service credit shall be transferred to the member's plan 3 defined
4 benefit, and all employee accumulated contributions shall be
5 transferred to the member's plan 3 defined contribution account.

6 ~~((3) The plan choice provision as set forth in section 7,~~
7 ~~chapter 491, Laws of 2007 was intended by the legislature as a~~
8 ~~replacement benefit for gain-sharing. Until there is legal certainty~~
9 ~~with respect to the repeal of chapter 41.31A RCW, the right to plan~~
10 ~~choice under this section is noncontractual, and the legislature~~
11 ~~reserves the right to amend or repeal this section. Legal certainty~~
12 ~~includes, but is not limited to, the expiration of any: Applicable~~
13 ~~limitations on actions; and periods of time for seeking appellate~~
14 ~~review, up to and including reconsideration by the Washington supreme~~
15 ~~court and the supreme court of the United States. Until that time,~~
16 ~~all classified employees who first become employed by an employer in~~
17 ~~an eligible position on or after July 1, 2007, may choose either plan~~
18 ~~2 or plan 3 under this section. If the repeal of chapter 41.31A RCW~~
19 ~~is held to be invalid in a final determination of a court of law, and~~
20 ~~the court orders reinstatement of gain-sharing or other alternate~~
21 ~~benefits as a remedy, then all classified employees who first become~~
22 ~~employed by an employer in an eligible position on or after the date~~
23 ~~of such reinstatement shall be members of plan 3.))~~

24 **Sec. 3.** RCW 41.40.785 and 2000 c 247 s 302 are each amended to
25 read as follows:

26 (1) All employees who first become employed by an employer in an
27 eligible position on or after March 1, 2002, for state agencies or
28 institutes of higher education, or September 1, 2002, for other
29 employers, shall have a period of ninety days to make an irrevocable
30 choice to become a member of plan 2 or plan 3. At the end of ninety
31 days, if the member has not made a choice to become a member of plan
32 2, he or she becomes a member of plan 3 or plan 2 as follows:

33 (a) Becomes a member of plan 3 if first employed by an employer
34 in an eligible position on or after March 1, 2002, but prior to July
35 1, 2020, for state agencies or institutions of higher education, or
36 on or after September 1, 2002, but prior to July 1, 2020, for other
37 employers;

38 (b) Becomes a member of plan 2 if first employed by an employer
39 in an eligible position on or after July 1, 2020.

1 (2) For administrative efficiency, until a member elects to
2 become a member of plan 3, or becomes a member of plan 3 by default
3 pursuant to subsection (1) of this section, the member shall be
4 reported to the department in plan 2, with member and employer
5 contributions. Upon becoming a member of plan 3 by election or by
6 default, all service credit shall be transferred to the member's plan
7 3 defined benefit, and all employee accumulated contributions shall
8 be transferred to the member's plan 3 defined contribution account.

9 NEW SECTION. **Sec. 4.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 *NEW SECTION. **Sec. 5.** *This act is necessary for the immediate*
14 *preservation of the public peace, health, or safety, or support of*
15 *the state government and its existing public institutions, and takes*
16 *effect immediately.*

**Sec. 5 was vetoed. See message at end of chapter.*

Passed by the Senate April 26, 2019.

Passed by the House April 16, 2019.

Approved by the Governor May 8, 2019, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 5, Senate
Bill No. 5360 entitled:

"AN ACT Relating to plan membership default provisions in the
public employees' retirement system, the teachers' retirement system,
and the school employees' retirement system."

Section 5 of this bill declares an emergency and makes the bill
effective immediately. However, the bill as it passed the legislature
makes the provisions of the bill effective a year later than the date
in the original bill. This change means that the emergency clause is
no longer needed.

For these reasons I have vetoed Section 5 of Senate Bill No. 5360.

With the exception of Section 5, Senate Bill No. 5360 is approved."

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