

TWENTY SEVENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, April 7, 2012

The Senate was called to order at 10:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Hewitt, Morton and Tom.

The Sergeant at Arms Color Guard consisting of Senate Security Staff Paul Henden and Daniel Clark, presented the Colors. Senator Regala offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 6, 2012

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 2590.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2012

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL NO. 2821.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2012

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 2491,
HOUSE BILL NO. 2824,
HOUSE BILL NO. 2830.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6638

by Senators Kilmer and Pridemore

AN ACT Relating to the taxing authority of public facilities districts; and amending RCW 82.14.390.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 2491

by House Committee on Labor & Workforce Development (originally sponsored by Representatives Upthegrove and Orwall)

AN ACT Relating to specifying when predecessor-successor relationships do not exist for purposes of unemployment experience rating; amending RCW 50.29.062; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2590

by House Committee on Business & Financial Services (originally sponsored by Representatives Bailey and Buys)

AN ACT Relating to extending the expiration of the pollution liability insurance agency's authority and its funding source; amending RCW 70.148.020, 70.148.900, 70.149.900, 82.23A.010, 82.23A.020, and 82.23A.902; and providing expiration dates.

Referred to Committee on Ways & Means.

HB 2824

by Representatives Eddy and Hunter

AN ACT Relating to addressing comprehensive funding for education by developing a plan for full funding and by freeing certain existing revenues for support of the basic education program; amending RCW 28A.600.405, 43.135.045, 67.70.340, and 83.100.230; reenacting and amending RCW 28A.150.380 and 84.52.0531; repealing RCW 28A.505.210 and 28A.505.220; creating new sections; and providing an expiration date.

Referred to Committee on Ways & Means.

HB 2830

by Representative Hunter

AN ACT Relating to language access providers; amending RCW 41.56.030, 41.56.510, and 74.04.025; creating new sections; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Substitute House Bill No. 2491 and Substitute House Bill No. 2590 which were placed on the second reading calendar under suspension of the rules.

SUPPLEMENTAL INTRODUCTION AND FIRST READING
OF HOUSE BILLS

EHB 2821 by Representatives Dickerson, Hudgins, Upthegrove, Maxwell, Kagi, Dunshee, Fitzgibbon, Jinkins, Hunter, Liias, Appleton, Tharinger, Pedersen and Hansen

AN ACT Relating to children's safe products; amending RCW 70.240.010; and adding a new section to chapter 70.240 RCW.

Referred to Committee on Environment.

MOTION

On motion of Senator Eide, the measure listed on the Supplemental Introduction and First Reading report was referred to the committee as designated.

MOTION

At 10:41 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:45 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

PERSONAL PRIVILEGE

Senator Keiser: "Thank you Mr. President. I'd like all members, the public and the staff to know that on Monday there will be a clinic for whooping cough inoculation for adults here in the Legislative Building in the Columbia Room from 10:00 to 2:00 provided by Group Health. The reason this is important is we are now experiencing essentially an epidemic of Whooping Cough and adults who haven't had a booster shot anytime recently tend to be carriers and you know how politicians like to pick up babies and we could be passing on whooping cough to young people and infants who are not immunized and we have a low level of immunizations in our state. We have an epidemic and children die from whooping cough. If we can get our inoculation level up and our boosters up I think we can beat this epidemic. I urge you to get this. Check with your provider and get down to the Columbia Room if you need a booster on Monday. This is a free clinic and I urge you to participate."

SECOND READING

SENATE BILL NO. 5940, by Senators Hobbs, Ericksen, Keiser, Tom, Kastama and Zarelli

Regarding reforms to school employee benefits purchasing. Revised for 1st Substitute: Concerning public school employees' insurance benefits.

MOTION

On motion of Senator Hobbs, Substitute Senate Bill No. 5940 was substituted for Senate Bill No. 5940 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Conway moved that the following striking amendment by Senator Conway and others be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Each year, nearly one billion dollars in public funds are spent on the purchase of employee insurance benefits for more than two hundred thousand public school employees and their dependents; and

(b) The legislature needs better information regarding school employee benefits to effectively oversee the use of state funds for employee benefits.

(2) Therefore, the legislature intends to:

(a) Improve the transparency of health benefit plan claims and financial data to assure prudent and efficient use of taxpayers' funds, and to support equity in access to health benefits for all eligible school district employees and their eligible dependents;

(b) Make school district employee premiums more responsive to the need for greater affordability for full family coverage, with a goal of reducing the disparity in employee premiums for family coverage to no more than three times the cost of employee only coverage; and

(c) Retain current collective bargaining for benefits, and retain state, school district, and employee contributions to benefits.

Sec. 2. RCW 28A.400.280 and 2011 c 269 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, school districts may provide employer fringe benefit contributions after October 1, 1990, only for basic benefits. However, school districts may continue payments under contracts with employees or benefit providers in effect on April 13, 1990, until the contract expires.

(2) School districts may provide employer contributions after October 1, 1990, for optional benefit plans, in addition to basic benefits, only for employees included in pooling arrangements under this subsection. Optional benefits may include direct agreements as defined in chapter 48.150 RCW, but may not include employee beneficiary accounts that can be liquidated by the employee on termination of employment. Optional benefit plans may be offered only if:

(a) The school district pools benefit allocations among employees using a financial pooling arrangement that includes no more than two pools that combine at least one employee bargaining unit ((and/or)) with all nonbargaining group employees and combines all other employees in another pool if a separate pool is chosen;

(b) Each full-time employee included in the pooling arrangement is offered basic benefits, including coverage for dependents (-without a payroll deduction for premium charges);

(c) Each employee included in the pooling arrangement who elects medical benefit coverage pays a minimum premium charge subject to collective bargaining under chapter 41.59 or 41.56 RCW;

(d) The employee premiums are structured to ensure employees selecting richer benefit plans pay the higher premium;

(e) Each full-time employee included in the pooling arrangement, regardless of the number of dependents receiving basic coverage, receives the same additional employer contribution for other coverage or optional benefits; and

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~~((4))~~ (f) For part-time employees included in the pooling arrangement, participation in optional benefit plans shall be governed by the same eligibility criteria and/or proration of employer contributions used for allocations for basic benefits.

(3) Savings accruing to school districts due to limitations on benefit options under this section shall be pooled and made available by the districts to reduce out-of-pocket premium expenses for employees needing basic coverage for dependents. School districts are not intended to divert state benefit allocations for other purposes.

Sec. 3. RCW 28A.400.350 and 2011 c 269 s 2 are each amended to read as follows:

(1) The board of directors of any of the state's school districts or educational service districts may make available liability, life, health, health care, accident, disability, and salary protection or insurance, direct agreements as defined in chapter 48.150 RCW, or any one of, or a combination of the types of employee benefits enumerated in this subsection, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district or educational service district, and their dependents. Such coverage may be provided by contracts or agreements with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law. Any direct agreement must comply with RCW 48.150.050.

(2) Whenever funds are available for these purposes the board of directors of the school district or educational service district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts or educational service districts and their dependents. The premiums on such liability insurance shall be borne by the school district or educational service district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members, educational service district board members, and students, the premiums due on such protection or insurance shall be borne by the assenting school board member, educational service district board member, or student. The school district or educational service district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school, school district, or educational service district. The school district board of directors and the educational service district board may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors or the educational service district board, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district or educational service district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts or agreements for insurance or protection written to take advantage of the provisions of this section shall

provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW.

(5) Any school district and their benefit provider offering a benefit plan by contract or agreement must demonstrate a commitment to:

(a) Significantly reduce administrative costs for school districts;

(b) Improve customer service;

(c) Reduce differential plan premium rates between employee only and family health benefit premiums, with a goal of reducing the family premiums to no more than three times the employee only premiums;

(d) Protect access to coverage for part-time K-12 employees; and

(e) Use innovative health plan features designed to reduce utilization of unnecessary health services and offer evidence-based health care services, which may include, but is not limited to, adoption of state health technology assessment program decisions under chapter 70.14 RCW and participation in efforts such as the Bree collaborative under chapter 70.250 RCW.

(6) All contracts or agreements for insurance or protection shall be in compliance with this act.

Sec. 4. RCW 28A.400.275 and 1990 1st ex.s. c 11 s 5 are each amended to read as follows:

(1) Any contract or agreement for employee benefits executed after April 13, 1990, between a school district and a benefit provider or employee bargaining unit is null and void unless it contains an agreement to abide by state laws relating to school district employee benefits. The term of the contract or agreement may not exceed one year.

(2) School districts and their benefit providers shall annually submit the following information and data for the prior calendar year to the ~~((Washington state health care authority))~~ office of the insurance commissioner:

~~(a) A summary ((descriptions of all benefits offered under the district's employee benefit plan. The districts shall also submit data to the health care authority specifying)) of each health benefit plan offered to each group of school employees under the districts employee benefit plans. The summary must include the following:~~

(i) The financial plan structure and overall performance of each health plan including:

(A) Total premium expenses;

(B) Total claims expenses;

(C) Claim reserves; and

(D) Plan administration expenses, including compensation paid to brokers;

(b) The total number of employees and, for each employee, types of coverage or benefits received including the number((s)) of covered dependents, the number of eligible dependents, the amount of the district's contribution to premium, additional premium costs paid by the employee through payroll deductions, and the age and sex of ((the)) each employee and each dependent.

~~(3) The ((plan descriptions and the)) information and data shall be submitted in a format and according to a schedule established by the ((health care authority)) office of the insurance commissioner under section 5 of this act to enable the commissioner to meet his or her reporting obligations under that section.~~

~~((3))~~ (4) Any benefit provider offering a benefit plan by contract or agreement with a school district under subsection (1) of this section shall ~~((agree to))~~ make available to the school district the benefit plan descriptions and ~~((, where available, the demographic information on plan subscribers))~~ data and information that the district ~~((is))~~ and benefit provider are required to report to the ~~((Washington state health care authority))~~ office of the insurance commissioner under this section.

((4)) (5) This section shall not apply to benefit plans offered in the 1989-90 school year.

NEW SECTION. Sec. 5. A new section is added to chapter 48.02 RCW to read as follows:

(1) For purposes of this section, "benefit provider" has the same meaning as provided in RCW 28A.400.270.

(2)(a) Beginning in 2013, the commissioner shall annually submit a report to the legislature on school district health insurance benefits. The report shall include each school district's health insurance benefits' aggregated data. The report shall be available on the commissioner's web site. The confidentiality of personally identifiable data shall be safeguarded consistent with the provisions of RCW 42.56.400(17).

(b) The report shall include information furnished by school districts and their benefit providers to demonstrate progress to:

- (i) Significantly reduce administrative costs for school districts;
- (ii) Improve customer service;
- (iii) Reduce differential plan premium rates between employee only and family health benefit premiums, and progress towards the goal of reducing the family premiums to no more than three times the cost of employee only premiums;
- (iv) Protect access to coverage for part-time K-12 employees; and

(v) Use innovative health plan features designed to reduce utilization of unnecessary health services and offer evidence-based health care services, which may include, but is not limited to, adoption of state health technology assessment program decisions under chapter 70.14 RCW, and participation in efforts such as the Bree collaborative under chapter 70.250 RCW.

(c) The report shall include a summary of each health benefit plan offered to school employees by benefit providers. The summary must include the following:

(i) The financial plan structure and overall performance of each plan including:

- (A) Total premium expenses;
- (B) Total claims expenses;
- (C) Claim reserves; and
- (D) Plan administration expenses, including compensation paid to brokers; and

(ii) The total number of enrollees in each type of coverage, including the number of employees and the number of dependents.

(3) If adequate progress is not being made in the areas of health benefit equity, transparency, and efficiency, the commissioner may submit recommendations to the legislature regarding additional steps that may be taken by school districts or their benefit providers to achieve greater progress.

(4) The commissioner shall collect data from school districts or their benefit providers to fulfill the requirements of this section. The commissioner may adopt rules necessary to implement the data submission requirements under this section and RCW 28A.400.275, including the format, timing of data reporting, data standards, instructions, definitions, and data sources.

(5) Data, information, and documents provided by a school district or an entity providing coverage pursuant to this section are exempt from public inspection and copying under RCW 48.02.120 and chapters 42.17A and 42.56 RCW.

(6) If a school district or benefit provider does not comply with the data reporting requirements of this section or RCW 28A.400.275, and the failure is due to the actions of an entity providing coverage authorized under Title 48 RCW, the commissioner may take enforcement actions under this chapter, and the district or benefit provider is subject to the market oversight authority of the commissioner as set forth in chapter 48.37 RCW.

Sec. 6. RCW 42.56.400 and 2012 c ... (ESHB 2361) s 2 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140(3) and (7)(a)(ii);

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(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010; (~~and~~)

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b); and

(21) Data, information, and documents for reporting to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and section 5 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 48.62 RCW to read as follows:

If an individual or joint local government self-insured health and welfare benefits program formed by a school district or educational service district does not comply with the data reporting requirements of RCW 28A.400.275 and section 5 of this act, the self-insured health and welfare benefits program is no longer authorized to operate in the state. The state risk manager shall notify the state auditor and the attorney general of the violation and the attorney general, on behalf of the state risk manager, must take all necessary action to terminate the operation of the self-insured health and welfare benefits program."

On page 1, line 2 of the title, after "amending", strike everything through "appropriations" on line 4 of the title and insert "RCW 28A.400.280, 28A.400.350, 28A.400.275, and 42.56.400; adding a new section to chapter 48.02 RCW; adding a new section to chapter 48.62 RCW; and creating a new section"

Senator Conway spoke in favor of adoption of the striking amendment.

Senator Hobbs spoke against adoption of the striking amendment.

MOTION

On motion of Senator Harper, Senator Tom was excused.

MOTION

On motion of Senator Ericksen, Senators Hewitt and Morton were excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Conway and others to Substitute Senate Bill No. 5940.

The motion by Senator Conway failed and the striking amendment was not adopted by a rising vote.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 5940 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5940.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5940 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 17; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, King, Kline, Litzow, Padden, Parlette, Pflug, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Frockt, Harper, Kilmer, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala and Rolfes

Excused: Senators Hewitt, Morton and Tom

SUBSTITUTE SENATE BILL NO. 5940, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6636, by Senators Kastama, Zarelli and Tom

Requiring a balanced state budget for the current and ensuing fiscal biennium.

MOTION

On motion of Senator Kastama, Substitute Senate Bill No. 6636 was substituted for Senate Bill No. 6636 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Brown moved that the following striking amendment by Senator Brown be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.88 RCW to read as follows:

(1) Beginning in the 2013-2015 biennium, the legislature shall enact an omnibus operating appropriations bill that leaves, in total, a positive ending fund balance.

(2) Beginning in the 2013-2015 biennium, the projected maintenance level of the omnibus appropriations bill enacted by the legislature shall not exceed by more than five percent the available fiscal resources for the next biennium.

(3) For purposes of this section:

(a) "Available fiscal resources" means any general fund moneys to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution, the beginning general fund and related fund balances, any funds transferred into the general or related funds, and any fiscal resources estimated for the general fund and related funds;

(b) "Projected maintenance level" means costs mandated by state or federal law, but does not include costs associated with court decisions issued during or within ninety days prior to the legislative session, and, in the 2013-2015 and 2015-2017 biennia, it does not include the costs related to the enhanced funding under the new definition of basic education as established in chapter 548, Laws of

2009, and affirmed by the decision in *Mathew McCleary et al., v. The State of Washington*, 173 Wn.2d 477, 269 P.3d 227, (2012);

(c) "Related funds" means the Washington opportunity pathways account, the education legacy trust account, and such other funds and accounts as determined by the legislature.

(4) Subsections (1) and (2) of this section do not apply to an appropriations bill that makes net reductions in general fund and related funds appropriations and is enacted between July 1st and February 15th of any fiscal year.

(5) Subsection (2) of this section does not apply in a fiscal biennium in which money is appropriated from the budget stabilization account.

Sec. 2. RCW 82.33.010 and 1990 c 229 s 1 are each amended to read as follows:

(1) The economic and revenue forecast council is hereby created. The council shall consist of two individuals appointed by the governor, the state treasurer or his or her designee, and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ an economic and revenue forecast supervisor to supervise the preparation of all economic and revenue forecasts and state budget outlooks. As used in this chapter, "supervisor" means the economic and revenue forecast supervisor. Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(3) The economic and revenue forecast council shall oversee the preparation of and approve, by an affirmative vote of at least ~~(four)~~ five members, the official, optimistic, and pessimistic state economic and revenue forecasts prepared under RCW 82.33.020. If the council is unable to approve a forecast before a date required in RCW 82.33.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(4) The state budget outlook work group shall prepare and the council shall approve, by an affirmative vote of at least five members, the state budget outlook prepared under section 4 of this act. If the council is unable to approve a state budget outlook before a date required in section 4 of this act, the supervisor shall submit the outlook without approval and the outlook shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official economic and revenue forecast or the state budget outlook may request, and the supervisor shall provide, an alternative economic and revenue forecast or state budget outlook based on assumptions specified by the member.

~~((5))~~ (6) Members of the economic and revenue forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 3. A new section is added to chapter 82.33 RCW to read as follows:

(1) By December 1, 2012, the state budget outlook work group established in section 5 of this act must develop and report on a

proposed methodology for preparing the operating budget outlook required under section 4 of this act.

(2) The report must include an illustrative application of the proposed methodology to fiscal data and forecasts from fiscal years 2000 through 2011, including analysis of the accuracy of the methodology as applied to projections of revenue, caseloads, and expenditures.

(3) The work group must recommend the implementation of the provisions of section 1 of this act, including how to ensure that the omnibus operating budget is within projected revenues at the time of adoption and how often the outlook must be updated.

(4) The work group must provide the proposed methodology and its report to the office of financial management and the appropriate fiscal committees of the legislature and must make the proposed methodology publicly available on its web site.

NEW SECTION. Sec. 4. A new section is added to chapter 82.33 RCW to read as follows:

(1) To facilitate compliance with, and subject to the terms of, section 1 of this act, the state budget outlook work group shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010, an official state budget outlook for state revenues and expenditures for the general fund and related funds. In odd-numbered years, the period covered by the November state budget outlook shall be the current fiscal biennium and the next ensuing fiscal biennium. In even-numbered years, the period covered by the November budget outlook shall be the next two ensuing fiscal biennia. The revenue and caseload projections used in the outlook must reflect the most recent official forecasts adopted by the economic and revenue forecast council and the caseload forecast council for the years for which those forecasts are available. The outlook shall clearly state the assumptions used in the baseline expenditure estimates and any adjustments made to those estimates. The outlook shall clearly state the assumptions used in the baseline revenue estimates and any adjustments to those estimates. The outlook must include the impact of previously enacted legislation with a future implementation date.

(2) The outlook must:

(a) Estimate revenues to and expenditures from the state general fund and related funds. The estimate of ensuing biennium expenditures must focus on maintenance items including, but not limited to, continuation of current programs, forecasted growth of current entitlement programs, and actions required by law, including legislation with a future implementation date. Estimates of ensuing biennium expenditures must exclude policy items including, but not limited to, legislation not yet enacted by the legislature, court decisions enacted within ninety days of a legislative session, collective bargaining agreements not yet approved by the legislature, and changes to levels of funding for employee salaries and benefits unless those changes are required by statute;

(b) Address major budget and revenue drivers, including trends and variability in these drivers;

(c) Clearly state the assumptions used in the estimates of baseline and projected expenditures and any adjustments made to those estimates;

(d) Clearly state the assumptions used in the baseline revenue estimates and any adjustments to those estimates;

(e) Include the impact of previously enacted legislation with a future implementation date; and

(f) Address other major fiscal factors, such as pension funding status and state general obligation debt.

(3) The outlook must also separately include projections based on the revenues and expenditures proposed in the governor's budget documents submitted to the legislature under RCW 43.88.030.

(4) The economic and revenue forecast council shall submit state budget outlooks prepared under this section to the governor and the members of the committees on ways and means of the

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senate and house of representatives, including one copy to the staff of each of the committees, as required by this section.

the second reading considered the third and the bill was placed on final passage.

(5) Each January, the state budget outlook work group shall also prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the governor's proposed budget document submitted to the legislature under chapter 43.88 RCW. Within thirty days following enactment of an operating budget by the legislature, the work group shall prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the enacted budget.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6636.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6636 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 16; Absent, 0; Excused, 3.

(6) All agencies of state government shall provide to the supervisor immediate access to all information relating to state budget outlooks.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Litzow, McAuliffe, Padden, Parlette, Pflug, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

NEW SECTION. Sec. 5. A new section is added to chapter 82.33 RCW to read as follows:

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Frockt, Harper, Keiser, Kline, Kohl-Welles, Murray, Nelson, Prentice, Pridemore, Ranker and Regala

(1) To promote the free flow of information and to promote legislative input in the preparation of the state budget outlook, immediate access to all information relating to the state budget outlook shall be available to the state budget outlook work group, hereby created. The state budget outlook work group shall consist of staff members selected by the executive head or chairperson of each of the following agencies or committees:

Excused: Senators Hewitt, Morton and Tom

- (a) Office of financial management, two members;
- (b) Legislative evaluation and accountability program committee, one member;
- (c) Office of the state treasurer, one member;
- (d) Office of the state actuary, one member;
- (e) Department of revenue, one member;
- (f) Economic and revenue forecast council, one member;
- (g) Caseload forecast council, one member;
- (h) Ways and means committee of the senate, two members;

SUBSTITUTE SENATE BILL NO. 6636, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 1:25 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

- (i) Ways and means committee of the house of representatives, two members.

The Senate was called to order at 1:37 p.m. by President Owen.

MOTION

(2) For purposes of the state budget outlook, the state budget outlook work group shall provide technical support and staff to the economic and revenue forecast council. Meetings of the state budget outlook work group may be called by any member of the group for the purpose of preparing the state budget outlook, or of assisting the economic and revenue forecast council in reviewing the state budget outlook.

On motion of Senator Eide, the Senate advanced to the seventh order of business.

THIRD READING

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

ENGROSSED SENATE BILL NO. 6378, by Senators Zarelli, Baumgartner, Parlette, Hill and Tom.

Reforming the state retirement plans.

On page 1, line 2 of the title, after "biennium;" strike the remainder of the title and insert "amending RCW 82.33.010; adding a new section to chapter 43.88 RCW; and adding new sections to chapter 82.33 RCW."

The bill was read on Third Reading.

MOTION

Senators Brown and Murray spoke in favor of adoption of the striking amendment.

On motion of Senator Fain, the rules were suspended and Engrossed Senate Bill No. 6378 was returned to second reading for the purpose of amendment.

Senators Kastama, Zarelli and Sheldon spoke against adoption of the striking amendment.

SECOND READING

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Brown to Substitute Senate Bill No. 6636.

ENGROSSED SENATE BILL NO. 6378, by Senators Zarelli, Baumgartner, Parlette, Hill and Tom

Reforming the state retirement plans.

The motion by Senator Brown failed and the striking amendment was not adopted by a rising vote.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute Senate Bill No. 6636 was advanced to third reading,

MOTION

Senator Baumgartner moved that the following striking amendment by Senator Baumgartner be adopted:

Strike everything after the enacting clause and insert the following:

" **Sec. 1.** RCW 41.32.765 and 2007 c 491 s 2 are each amended to read as follows:

(1) **NORMAL RETIREMENT.** Any member with at least five service credit years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) **ALTERNATE EARLY RETIREMENT.**

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

| Retirement Age | Percent Reduction |
|----------------|-------------------|
| 55 | 20% |
| 56 | 17% |
| 57 | 14% |
| 58 | 11% |
| 59 | 8% |
| 60 | 5% |
| 61 | 2% |
| 62 | 0% |
| 63 | 0% |
| 64 | 0% |

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.32.802(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.32.800(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 2, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing.

Until there is legal certainty with respect to the repeal of *chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of *chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after July 1, 2012, are not eligible for the alternate early retirement provisions of this subsection.

Sec. 2. RCW 41.32.875 and 2007 c 491 s 4 are each amended to read as follows:

(1) **NORMAL RETIREMENT.** Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or

(c) Completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(2) **EARLY RETIREMENT.** Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) **ALTERNATE EARLY RETIREMENT.**

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

| Retirement Age | Percent Reduction |
|----------------|-------------------|
| 55 | 20% |
| 56 | 17% |
| 57 | 14% |
| 58 | 11% |

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| 59 | 8% |
| 60 | 5% |
| 61 | 2% |
| 62 | 0% |
| 63 | 0% |
| 64 | 0% |

reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

| Retirement Age | Percent Reduction |
|----------------|-------------------|
| 55 | 20% |
| 56 | 17% |
| 57 | 14% |
| 58 | 11% |
| 59 | 8% |
| 60 | 5% |
| 61 | 2% |
| 62 | 0% |
| 63 | 0% |
| 64 | 0% |

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.32.862(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.32.860(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 4, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of *chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of *chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.35.060(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.35.230(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 6, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of *chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of *chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after July 1, 2012, are not eligible for the alternate early retirement provisions of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after July 1, 2012, are not eligible for the alternate early retirement provisions of this subsection.

Sec. 3. RCW 41.35.420 and 2007 c 491 s 6 are each amended to read as follows:

(1) **NORMAL RETIREMENT.** Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) **ALTERNATE EARLY RETIREMENT.**

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance

Sec. 4. RCW 41.35.680 and 2007 c 491 s 8 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

- (a) Completed ten service credit years; or
- (b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or
- (c) Completed five service credit years by September 1, 2000, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.35.510;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after September 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

| Retirement Age | Percent Reduction |
|----------------|-------------------|
| 55 | 20% |
| 56 | 17% |
| 57 | 14% |
| 58 | 11% |
| 59 | 8% |
| 60 | 5% |
| 61 | 2% |
| 62 | 0% |
| 63 | 0% |
| 64 | 0% |

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of RCW 41.35.060(2) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.35.230(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 8, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing.

Until there is legal certainty with respect to the repeal of *chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of *chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after July 1, 2012, are not eligible for the alternate early retirement provisions of this subsection.

Sec. 5. RCW 41.40.630 and 2007 c 491 s 9 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after July 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

| Retirement Age | Percent Reduction |
|----------------|-------------------|
| 55 | 20% |
| 56 | 17% |
| 57 | 14% |
| 58 | 11% |
| 59 | 8% |
| 60 | 5% |

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| 61 | 2% |
| 62 | 0% |
| 63 | 0% |
| 64 | 0% |

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of *RCW 41.40.037(2)(d) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.40.690(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 9, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of **chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of **chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after July 1, 2012, are not eligible for the alternate early retirement provisions of this subsection.

Sec. 6. RCW 41.40.820 and 2007 c 491 s 10 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

- (a) Completed ten service credit years; or
- (b) Completed five service credit years, including twelve service credit months after attaining age forty-four; or
- (c) Completed five service credit years by the transfer payment date specified in RCW 41.40.795, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.40.795;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT.

(a) Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to

receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(b) On or after July 1, 2008, any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced as follows:

| Retirement Age | Percent Reduction |
|-------------------|----------------------|
| 55 | 20% |
| 56 | 17% |
| 57 | 14% |
| 58 | 11% |
| 59 | 8% |
| 60 | 5% |
| 61 | 2% |
| 62 | 0% |
| 63 | 0% |
| 64 | 0% |

Any member who retires under the provisions of this subsection is ineligible for the postretirement employment provisions of *RCW 41.40.037(2)(d) until the retired member has reached sixty-five years of age. For purposes of this subsection, employment with an employer also includes any personal service contract, service by an employer as a temporary or project employee, or any other similar compensated relationship with any employer included under the provisions of RCW 41.40.850(1).

The subsidized reductions for alternate early retirement in this subsection as set forth in section 10, chapter 491, Laws of 2007 were intended by the legislature as replacement benefits for gain-sharing. Until there is legal certainty with respect to the repeal of **chapter 41.31A RCW, the right to retire under this subsection is noncontractual, and the legislature reserves the right to amend or repeal this subsection. Legal certainty includes, but is not limited to, the expiration of any: Applicable limitations on actions; and periods of time for seeking appellate review, up to and including reconsideration by the Washington supreme court and the supreme court of the United States. Until that time, eligible members may still retire under this subsection, and upon receipt of the first installment of a retirement allowance computed under this subsection, the resulting benefit becomes contractual for the recipient. If the repeal of **chapter 41.31A RCW is held to be invalid in a final determination of a court of law, and the court orders reinstatement of gain-sharing or other alternate benefits as a remedy, then retirement benefits for any member who has completed at least thirty service credit years and has attained age fifty-five but has not yet received the first installment of a retirement allowance under this subsection shall be computed using the reductions in (a) of this subsection.

(c) Members who first become employed by an employer in an eligible position on or after July 1, 2012, are not eligible for the alternate early retirement provisions of this subsection.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2012." On page 1, after line 1 of the title, strike everything through "41.45.150" on page 1, line 2 of the title and insert "41.32.765, 41.32.875, 41.35.420, 41.35.680, 41.40.630, and 41.40.820; creating a new section; providing an effective date; and declaring an emergency"

Senators Baumgartner, Zarelli, Schoesler and Parlette spoke in favor of adoption of the striking amendment.

Senators Fraser, Murray and Conway spoke against adoption of the striking amendment.

PARLIAMENTARY INQUIRY

Senator Parlette: "Thank you Mr. President, first of all for the listeners who may be paying attention today the day before Easter our Minority Leader was not in the state hospital. He was in another hospital just having surgery so I just wanted to clarify that."

MOTION

Senator Zarelli moved that further consideration of Engrossed Senate Bill No. 6378 be deferred until Monday April 9, 2012 and the bill hold its place on the second reading calendar.

Senator Eide demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senator Brown spoke against the motion.

Senator Zarelli spoke in favor of the motion.

PARLIAMENTARY INQUIRY

Senator Fain: "Engrossed Senate Bill No. 6378 is, this a motion to defer consideration and have it be retained on the second reading calendar until Monday, April 9?"

REPLY BY THE PRESIDENT

President Owen: "That is correct."

The President declared the question before the Senate to be the motion by Senator Zarelli that the Senate defer further consideration of Engrossed Senate Bill No. 6378.

ROLL CALL

The Secretary called the roll on the motion by Senator Zarelli that the Senate defer further consideration of Engrossed Senate Bill No. 6387 and the motion carried by the following vote: Yeas, 24; Nays, 22; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hatfield, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Padden, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Frockt, Hargrove, Harper, Haugen, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rolfes and Shin

Excused: Senators Hewitt, Morton and Tom

MOTION

At 2:10 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Monday, April 9, 2012.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

| | | | |
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