

**ACTION ITEM #1**  
Amendments to the  
Washington State University Retirement Plan  
(Barry Johnston)

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: Amendments to the Washington State University Retirement Plan

PROPOSED: That the Board of Regents approve and adopt the Washington State University 403(b) Retirement Plan and the Washington State University 401(a) Supplemental Retirement Plan, each as amended and restated effective January 1, 2009 (collectively, the "Plans"), in or substantially in the form presented to this meeting; and

That the Board of Regents delegate to the President or his designee(s) the authority to make such changes in the Plans, not substantially at variance with the documents presented to this meeting, to execute the Plans in the University's name, and to take such other actions as they deem necessary or appropriate to implement the Plans, including, but not limited to, establishment and funding of a trust up to \$1,000 for the 401(a) Supplemental Retirement Plan, and execution of a trust agreement with one or more trustees, and submission of governmental filings, including one or more applications to the Internal Revenue Service for determination letters.

SUBMITTED BY: Greg Royer, Vice President for Business and Finance

SUPPORTING INFORMATION: The Board of Regents has authority pursuant to RCW 28B.10.400, et.seq. to provide retirement and annuity plans to faculty and other eligible employees of the University. Pursuant to this authority, the Board of Regents adopted the Washington State University Retirement Plan Rules and Regulations (WSURP), effective July 1, 1974. Several revisions have been made since that time, the most recent on June 13, 2003.

The WSURP is principally a defined contribution plan that provides annuities and retirement income directly based on employer and employee contributions to the plan and associated investment earnings. The plan is qualified under Section 403(b) of the Internal Revenue Code. The Internal Revenue Code Sections applicable to the WSURP were revised in 2007. These code revisions require that

the plan documents be in compliance with the new provisions and mandatory language no later than January 1, 2009. This will require WSU to divide the current plan into two plans and to make other changes to the existing plan.

In addition to the defined contribution provisions of the WSURP, there is a separate benefit available to qualified employees, known as the supplementation benefit. It provides a minimum retirement benefit to certain qualified employees based on a formula calculated by considering years of service, average final compensation for highest two consecutive years, and the amount the employee is expected to receive under the defined contribution portion of the plan. If the defined contribution benefit is determined to be less than the amount calculated using the defined benefit formula, WSU pays the employee the difference between the two amounts. The IRS considers the supplementation benefit to be a defined benefit that needs to be qualified under Section 401(a) of the IRS Code.

The need to separate the defined contribution and supplementation benefit into two separately qualified plans is common to all Washington public higher education retirement plans currently qualified under Section 403(b). The Attorney General engaged a private law firm on behalf of the higher education institutions, including WSU, to separate and rewrite the retirement plans to comply with state law and the IRS Code requirements. Costs are being shared among the institutions.

Needed amendments are:

- Remove the Supplementation sections from the existing WSURP and create a new plan that will qualify under Section 401(a). This will require the establishment of a trust which must be minimally funded.
- Revise the WSURP to ensure compliance with state law and IRS requirements including:
  - Defining retirement for the WSURP defined contribution plan as age 62 or older.
  - Removing reference to sick leave cash-out from the WSURP plan document since it is not part of the retirement plan.
  - Consistent definitions among the plan documents.

No changes have been made to plan eligibility or participation rules. Minor changes may be necessary to obtain an IRS determination letter on the tax-favored status of this new Supplemental Plan, for which we anticipate filing an application in January.