

HOUSE BILL REPORT

HB 1744

As Reported By House Committee On:
Appropriations

Title: An act relating to the law enforcement officers' and fire fighters' retirement system.

Brief Description: Changing provisions relating to the LEOFF system.

Sponsors: Representatives Heavey, G. Cole, Brough and Orr.

Brief History:

Reported by House Committee on:
Appropriations, March 6, 1993, DPS.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Locke, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Jacobsen; Lemmon; Leonard; Linville; Peery; Rust; Sehlin; Sheahan; Sommers; Talcott; Wang; Wineberry; and Wolfe.

Minority Report: Do not pass. Signed by 1 member: Representative Stevens.

Staff: Barbara McLain (786-7153).

Background:

Law Enforcement Officers

The Washington Mutual Aid Peace Officer Powers Act of 1985 divides law enforcement officers into two general categories. "General authority peace officers" are those with power to enforce any general criminal law of the state of Washington. General authority officers include county and city police, but also police employed by the state's universities and some port districts. These officers are distinguished from "limited authority peace officers" with powers to enforce only the laws over which their employing agency has jurisdiction, such as gambling, liquor control, wildlife, or fisheries enforcement officers.

The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) defines an eligible law enforcement officer for purposes of retirement credit as a full-time, fully compensated county sheriff, deputy sheriff, city police officer, or town marshal. Peace officers employed by universities and port districts are outside this LEOFF definition, and therefore are members of the Public Employees' Retirement System (PERS).

Eligibility for full retirement benefits under PERS Plan II comes at age 65. Under LEOFF II, eligibility for full benefits is age 58.

Portability/Dual Membership

If an employee leaves employment in one retirement system, and moves to another, service credit is split between the two systems. Unless there is a policy of portability, the employee ends up with a lower retirement benefit than if he or she had remained in one system for an entire career. This is because the benefit in the first retirement system will be calculated using the outdated, and probably lower, average final compensation earned by the employee when he or she left the first system.

Portability, or "dual membership," is allowed between most of the state's retirement systems. However, it does not extend to LEOFF.

LEOFF retirement contributions are paid by the employee, the employer, and the state. The employee rate is always equal to the employer and state rates combined, so that the employee shares in the cost of retirement benefits.

Summary of Substitute Bill:

Membership Eligibility

Beginning July 1, 1993, the definition of "employer" under Plan II of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF II) includes any general authority law enforcement agency having as its primary function the detection and apprehension of persons violating the traffic or criminal laws in general. Such an agency is distinguished from a limited authority law enforcement agency having as only one of its functions the detection and apprehension of persons violating laws relating to limited subject areas, including the state departments of Fisheries, Wildlife, and Corrections.

Also effective July 1, 1993, the definition of "law enforcement officer" under LEOFF means any person

commissioned and employed by an employer to enforce the general criminal laws of the state.

Membership Transfer

An employee who, as of July 1, 1993, meets the new definition of law enforcement officer, but was previously a member of the Public Employees' Retirement System (PERS), can address future retirement service credit in two ways, by making an irrevocable choice in writing before July 1, 1994:

- (1) The employee can remain a member of PERS; or
- (2) The employee can transfer to LEOFF II and have dual membership with PERS under portability.

If the Department of Retirement Systems determines that transfers of service credit and accumulated contributions between retirement systems are permitted by federal law without causing adverse income tax liability for an employee or the pension funds, then an employee who transferred future credit to LEOFF II can also transfer service credit as a law enforcement officer previously earned in PERS. The employee must make an irrevocable choice in writing within one year of the department's announcement of the ability to make such a transfer.

Any applicable service credit as a law enforcement officer, plus the accumulated employee and employer retirement contributions for the credit, will be transferred from PERS to LEOFF II for an employee who chooses such a transfer.

In addition, the employee must pay the difference between the employee contribution rate in PERS and the contribution rate in LEOFF, plus interest for the transferred credit. The employer must pay the difference in the employer contribution rate in PERS and the rate in LEOFF, plus sufficient interest to ensure that the contribution rate for other LEOFF members does not increase as a result of the transfer.

Portability/Other

Portability is created between LEOFF II and the other state retirement systems, but only for the employees affected by this bill who choose to transfer to LEOFF.

Port districts and institutions of higher education must pay both the employer and the state retirement contribution rate in LEOFF for any employees who are law enforcement officers.

The list of issues for consideration by an interest arbitration panel is not to be construed by the panel to require port districts to pay the increased employee contributions toward retirement that result from this bill, for any of their employees who are law enforcement officers.

Substitute Bill Compared to Original Bill: The inclusion of a general authority law enforcement agency as a LEOFF II employer, and the new definition of law enforcement officer, are rewritten and clarified. The original bill expanded LEOFF II membership to port district personnel certified in crash rescue, and to emergency medical technicians and paramedics, but the substitute does not. Language describing the transfer of past and future service credit and contributions is rewritten and clarified. The option of transferring prior PERS credit and contributions is made contingent on the Department of Retirement Systems announcing that such a transfer is permitted under federal law without adverse income tax liability. Employees affected by the bill may take full advantage of portability between LEOFF and other state retirement systems. Port districts and institutions of higher education must pay the combined employer and state contribution rate for law enforcement officers. The list of issues for consideration by an interest arbitration panel is not to be construed to require a port district to pay the increased employee contributions that result from the bill.

Fiscal Note: Available (original bill).

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: These employees are police officers and it is only equitable for them to be included in the police retirement system. This has been a long-standing concern on the part of both employers and employees. Recruitment and retention of trained officers is difficult and expensive when the retirement age in PERS is 65 and the age in LEOFF is 58.

Testimony Against: None.

Witnesses: Representative Mike Heavey; John Petit, University of Washington; Mike Shanahan, University of Washington Police; Ed Ingraham, Port of Seattle; and Tony Anderson, Port of Seattle Police Department.