

# HOUSE BILL REPORT

## EHB 2643

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As Passed House  
February 9, 1994

**Title:** An act relating to cross-referencing pension statutes.

**Brief Description:** Cross-referencing pension statutes.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Sommers and Silver; by request of Department of Retirement Systems).

**Brief History:**

Reported by House Committee on:  
Appropriations, February 1, 1994, DPA.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended. Signed by 25 members: Representatives Sommers, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dunshee; G. Fisher; Foreman; Jacobsen; Lemmon; Leonard; Linville; H. Myers; Peery; Rust; Sehlin; Sheahan; Stevens; Talcott; Wang and Wolfe.

**Staff:** Jennifer Priddy (786-7118).

**Background:** Many statutes relating to compensation and benefits for teachers, law enforcement officers/fire fighters, public employees, and judges are not cross-referenced to the statutes governing the retirement systems of these employees. While legislative intent regarding compensation is clear, the lack of clear cross-references raises the possibility of error.

Assault pay, temporary duty disability, and leave-sharing pay are not payments for "personal services" as defined in retirement system statutes. Currently these payments are included in a member's calculated earnable compensation. Statutes authorizing sick leave cash-outs for state and school district employees and certain vacation leave cash-outs for state employees in excess of 30 days are specifically excluded from the retirement benefit calculation. These definitions and exclusions are not currently cross-referenced to the retirement system statutes.

School district employees may count up to 45 days of sick leave as service solely for the purpose of qualifying for retirement. Teachers' Retirement System (TRS) members may use out-of-state teaching service in calculating eligibility to retire.

Current law (RCW 41.32.470) states that a TRS Plan I member must have at least five years of public school service to receive a TRS retirement allowance. This conflicts with the portability law enacted in 1987 which allows employees to vest in a system with five years of combined service between all the systems included in the portability statutes.

The Attorney General has ruled that an RCW denying enrollment of a law officer or fire fighter in the Law Enforcement Officers' and Fire Fighters' (LEOFF) retirement plan for health reasons also prohibits enrollment in the Public Employees Retirement System (PERS).

RCW 41.26.180 protects LEOFF retirement benefits from assignment or garnishment. Prior to 1990, the provision clearly applied to both LEOFF Plans I and II. In a 1990 re-codification, the anti-assignment sub-chapter was placed in the sub-chapter governing only Plan I.

Currently, PERS and TRS statutes define a retiree as an individual "in receipt" of a benefit check.

**Summary of Bill:** This bill cross-references certain compensation and benefit statutes to relevant retirement system statutes. All but one of the provisions of the bill are technical in nature and clarify how various types of compensation are treated in the retirement system. The bill: 1) cross-references statutes governing assault pay, temporary duty disability, leave sharing, sick leave and vacation leave cash-outs, and the 45-day service rule to the Public Employees' Retirement System (PERS) and TRS; 2) exempts members who have dual retirement system membership from the statute requiring a TRS member to have five service credit years before he or she may receive a retirement allowance; 3) changes the PERS membership definition such that the LEOFF statute denying LEOFF membership for health reasons will not disqualify a law enforcement officer or fire fighter from membership in PERS; 4) recodifies the LEOFF I anti-assignability section to the LEOFF subchapter governing both Plan I and II; and 5) defines a retiree to be an individual who has been mailed a benefit check by the department.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Statute changes are not substantive. The bill does not reduce any member's or retiree's benefit.

**Testimony Against:** Bill as written (before amendment) does not clearly state legislative intent to make only minor changes.

**Witnesses:** Sheryl Wilson (in favor); and, Sam Kinville (in favor as amended).