

SENATE BILL REPORT

HB 1295

AS REPORTED BY COMMITTEE ON WAYS & MEANS, FEBRUARY 28, 1994

Brief Description: Recodifying RCW 41.26.281.

SPONSORS: Representatives Orr, Mielke, Heavey, Scott, Quall, Chappell, R. Meyers, R. Fisher, Zellinsky, Ludwig, R. Johnson, Wood, Grant, Riley, Mastin, Johanson, Franklin, Locke, Flemming, Jacobsen, H. Myers, Romero, King, Morris, Forner, Leonard, Brown, Wang, Finkbeiner, Holm, Eide, Karahalios, G. Cole, Ogden, Jones, Sheldon, Bray, G. Fisher, Long, Dellwo, Roland, Tate, Springer, Thibaudeau, Cothorn, L. Johnson, J. Kohl, Veloria, Dunshee, Basich, Campbell, Kessler, Vance, Brough, Schmidt, Cooke and Brumsickle

HOUSE COMMITTEE ON COMMERCE & LABOR

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That it be referred to Committee on Ways & Means without recommendation.

Signed by Senators Moore, Chairman; Prentice, Fraser, McAuliffe, Sellar, Sutherland and Vognild.

Staff: David Cheal (786-7576)

Hearing Dates: March 18, 1993; March 26, 1993; February 1, 1994

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rinehart, Chairman; Quigley, Vice Chairman; Anderson, Bauer, Bluechel, Gaspard, Hargrove, Hochstatter, Moyer, Niemi, Owen, Pelz, Snyder, Spanel, Sutherland, Talmadge, Williams and Wojahn.

Staff: Denise Graham (786-7715)

Hearing Dates: February 24, 1994; February 28, 1994

BACKGROUND:

Law enforcement officers and fire fighters currently have two different benefit plans under the LEOFF retirement system. Personnel hired prior to October 1, 1977 are members of LEOFF I plan and those hired after October 1, 1977 are members of LEOFF II. The chapter of the code which covers both systems is divided into three sections: provisions which apply to both plans, provisions applicable to plan I, and provisions applicable only to plan II.

Currently RCW 41.26.281 is contained in that portion of Chapter 41.26 that applies only to plan I. That section gives

injured law enforcement officers and fire fighters, or their survivors, the right to benefits under the pension law and the right to sue their employer for negligently or intentionally caused injury on the job. Recovery is limited to the excess of damages over the amount due under the pension law.

From the time of enactment of the LEOFF II plan to the present, various recodifications of this chapter have made this section both applicable and not applicable to LEOFF II personnel. The change in 1991 expressly gave LEOFF II employees the right to sue. The change in 1992 expressly took it away. Both bills accomplished this by simply moving the "right to sue" section from one part of the chapter to another.

LEOFF II personnel are entitled to workers' compensation benefits for on the job injuries or occupational disease. Duty related injury or disease benefits for LEOFF I personnel are provided for in the pension law, which provides a different benefit package, including the right to sue.

SUMMARY:

The section of the pension law which gives law enforcement officers and fire fighters the right to sue their employers for negligence or for intentionally caused harm on the job, as well as benefits due under the pension act, is recodified to that portion of the chapter that applies to both plan I and plan II members. Recovery is limited to the excess of damages over the benefits due under the pension law.

The act is declared remedial and procedural and retroactive in effect to June 11, 1992.

SUMMARY OF PROPOSED WAYS & MEANS STRIKING AMENDMENT:

House and Senate committee staff will develop information to be used by the Legislature in evaluating proposals to modify the work-related death and disability benefits available to LEOFF members. The study will cover such things as the disability benefits available under LEOFF Plans I and II and under state industrial insurance provisions, remedies available under the civil tort system, and a comparison of industrial insurance and/or civil tort remedies available in other jurisdictions.

All provisions of the original bill are deleted.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

LEOFF II members have always had the right to sue their employers until 1992 when a technical recodification bill eliminated that right by moving a section of the law into a different part of the chapter. LEOFF members should have the right to sue for negligence because of the extreme danger they face and as a way of keeping their employers highly safety conscious.

TESTIMONY AGAINST:

The right to sue one's employer is contrary to the basic principles of workers' compensation protection which LEOFF II members have. A large number of lawsuits can be expected because LEOFF II members can sue their fellow officer for negligence, but recover from the city or county. Many other public employees face very dangerous working conditions which makes this exception unfair. Local governments can't afford this bill.

TESTIFIED (Labor & Commerce): PRO: Dennis Martin; Ken Snider; Mike Patrick; CON: Richard Kirky; Peggy Lesser; Kathleen Collins; John Hansley; Ron Zirkle; Bill Vogler; Mike Par

TESTIFIED (Ways & Means): PRO: Representative George Orr, prime sponsor; John Gillis, Seattle Fire Department; Pat McGillcutt, Tacoma Fire Department; Mike Patrick, Washington State Council of Police Officers; Dave Fray, Spokane County; CON: Bill Vogler, Washington State Association of Counties; Jon Taylor, Cowlitz County; Jim Scharf, Snohomish County; Kathleen Collins, Association of Washington Cities; John Vanak, Association of Washington Cities; Peggy Lesser, City of Bremerton