HOUSE BILL REPORT
SHB 2688

As Passed House:
February 11, 2006

Title: An act relating to the law enforcement officers' and fire fighters' retirement system plan 1.

Brief Description: Addressing the law enforcement officers' and fire fighters' retirement system plan 1.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Conway, Lovick, Kenney, Quall, Simpson, Ormsby, Moeller and Ericks; by request of Select Committee on Pension Policy).

Brief History:
Committee Activity:
Appropriations: 1/25/06, 1/26/06 [DPS].
Floor Activity:
Passed House: 2/11/06, 78-19.

Brief Summary of Substitute Bill

- Removes the 60 percent of final average salary cap on retirement allowances paid by the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 1 (LEOFF 1).
- Resumes employer and employee 6 percent of pay contributions to the LEOFF 1.
- Establishes a joint executive task force on funding postretirement medical benefits for members of LEOFF 1.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 21 members: Representatives Sommers, Chair; Fromhold, Vice Chair; McDonald, Assistant Ranking Minority Member; Cody, Conway, Darneille, Dunshee, Grant, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Priest, Schual-Berke, P. Sullivan and Walsh.

Minority Report: Do not pass. Signed by 9 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Bailey, Buri, Chandler, Clements, Haigh, Pearson and Talcott.

Staff: David Pringle (786-7310).

Background:

The Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 1 (LEOFF 1) provides retirement and disability benefits to law enforcement officers and fire fighters who entered eligible employment between 1969 and 1977. Since 1977, eligible law enforcement officers and fire fighters have entered LEOFF 2.

In 1974, the Legislature capped retirement allowances of new members of LEOFF 1 at 60 percent of final average salary, except as retirement allowances might increase after retirement by the annual Consumer Price Index cost of living adjustment. The result was that for the members who joined LEOFF 1 between the institute of the cap on February 19, 1974 and the closing of the plan in 1977, a LEOFF 1 member's retirement allowance would initially be based on no more than 30 years of service credit.

Prior to 1974, 30 years of service caps were placed in the Public Employees' Retirement System, Plan 1, and the Teachers' Retirement System, Plan 1. Final average salary is defined in LEOFF 1 as (1) the basic salary earned by a member attached to the same position for 12 months before retirement, or (2) the highest consecutive 24-months of basic salary for a member not in the same position for 12 months prior to retirement.

To date, members of LEOFF 1 have not been affected by the 60 percent cap. The cap was put in place during 1974 for members newly entering LEOFF 1, and about 32 years have elapsed since. Also, relatively few members of LEOFF 1 have retired at the older ages typically associated with members who have more than 30 years of service. For example, between 1995 and 2000, the period of the last Actuarial Experience Study, only 211 members retired from LEOFF 1 after age 55 and only 41 retired after age 60.

Rather than retirement, most LEOFF 1 members have left active service with a disability allowance equal to 50 percent of pay, not subject to federal income tax. During the 1995-2000 period, 984 members began disability allowances close to 82 percent of all the members beginning either a disability or retirement allowance. As LEOFF 1 was closed to new members in 1977, the number of active plan participants has gradually declined. In the Washington State Actuarial Valuation Report 2002, the Office of the State Actuary reported 1,147 LEOFF 1 active and 7,987 retired members at the end of 2002. About 568 of these active members were first hired after the 60 percent cap came into effect.

Member and local government employer contribution rates to LEOFF 1 were set at 6 percent of pay in 1970. The state made no contributions to LEOFF from 1970 to 1975, but between 1975 and 1999 the state contributed an average of 40.4 percent of pay. The state ceased making contributions to LEOFF 1 in 2000, when the plan reached a funding ratio of 136 percent of being fully funded, and the requirement for members and employers to contribute 6 percent of pay was suspended in 2001. The most recent Actuarial Valuation indicates that LEOFF 1 is now 109 percent of being fully funded.

The LEOFF statutes also provide that LEOFF Plan 1 employers must pay for medical services incurred by retired members. The statute which creates the LEOFF Plan 1 fund states that the fund "shall consist of all moneys paid to finance the benefits provided to members of LEOFF Plan 1." Even though the medical coverage is a benefit created by the LEOFF statutes, it is paid directly by employers, and not from the LEOFF Plan 1 fund. The minimum medical services provided by statute include confinement in a nursing home or hospital extended care facility. In 2001, the State Actuary completed a statutorily-mandated study of LEOFF 1 medical benefits, and found that present value of local government liability for LEOFF 1 medical benefits was between $700 and $800 million.

Summary of Substitute Bill:

The 60 percent of final average salary cap on retirement allowances is removed. The condition that the employer and employee 6 percent of pay contributions to LEOFF 1 are suspended while LEOFF 1 is fully funded is removed so that contributions resume July 1, 2007.

The Governor must establish a seven member joint executive task force to study funding postretirement medical benefits for LEOFF 1. The membership consists of: the Director of the Department of Retirement Systems; the Administrator of the Health Care Authority; the State Actuary; one representative of Washington cities and one representative of Washington counties, one active and one retired member of LEOFF 1, each appointed by the Governor. The intent of the task force is to create a funding mechanism to assist employers in providing postretirement medical benefits to LEOFF 1 members. The task force must make recommendations for proposed legislation to the appropriate committees of the Legislature by September 1, 2006, and submit a final report no later than December 1, 2006. The task force expires December 1, 2006.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Section 1 of this act, relating to the removal of the 60 percent cap takes effect July 1, 2006. Section 2 of this act, relating to resumption of employer and employee contribution rates, take effect July 1, 2007. Section 3 of this act relating to the creation of the task force, takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: We support raising the cap. The task force is also critical, because we need to examine the long-term liabilities, but a fire commissioner representative should be added to the task force. We should not resume the contributions by members and employers until the strategy to deal with medical liabilities is developed. The cap elimination is not a problem, as sufficient funds are available within the plan to cover the cost. There is at least $1 billion of medical liability to LEOFF 1 that local governments are responsible for today. The Select

Committee on Pension Policy's work on this bill is appreciated. Cities and counties have genuine issues with medial costs, but getting money out of the retirement fund is a bit questionable legally. Some of these ideas were discussed several years ago. The bill is a good idea, but more LEOFF 1 members should be on the task force. When LEOFF 1 was set up, there was no notion of how expensive the medical benefits would become.

Testimony Against: Members have made no contributions to this plan for five years, and raising the cap is both unnecessary and not in the best interest of fire fighters or the general public. Those working on the front lines cannot work past 30 years, only those working in headquarters will benefit from this bill. Only remove the cap if all past years of contributions are paid in. Why wait until 2007 to resume contributing to the plan? The task force will not implement anything until at least 2008, and the contribution base will be even smaller by then. In 2000, we were advised that the IRS would examine any transfers from the fund with skepticism, and all the employee groups would oppose such a plan.

Persons Testifying: (In support) Kelly Fox, Washington State Council of Fire Fighters; Bill Hanson, Washington State Council of Police and Sheriffs; Lynda Ring-Erickson, Mason County Commissioner; Jim Justin, Association of Washington Cities; Ryan Spiller, Washington Fire Commissioner Association; and Mike Whelan, Grays Harbor Sheriff.

(Opposed) Dick Warbrouck, Retired Fire Fighters of Washington.

Persons Signed In To Testify But Not Testifying: None.