

# HOUSE BILL REPORT

## HB 2932

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### As Reported by House Committee On: Appropriations

**Title:** An act relating to receiving a catastrophic disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2.

**Brief Description:** Establishing a catastrophic disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2.

**Sponsors:** Representatives Darneille, Curtis, Simpson, Conway, Hinkle, Williams, Ericks, Sells, Rodne, McDonald, Kilmer and Green; by request of LEOFF Plan 2 Retirement Board.

#### **Brief History:**

##### **Committee Activity:**

Appropriations: 1/25/06, 1/26/06 [DP].

#### **Brief Summary of Bill**

- Members of the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) totally disabled in the line of duty are entitled to a disability allowance equal to 70 percent of final average salary.
- Reduces the total disability benefit to the extent that in combination with Workers' Compensation payments and Social Security disability benefits, the disabled member would receive more than 100 percent of final average salary.
- Reduces Department of Fish and Wildlife (DFW) Enforcement Officers' compensation insurance benefits for any disability benefits received from LEOFF 2.
- Defines totally disabled as members unable to perform any substantial gainful activity due to a physical or mental condition that is expected to result in death or last at least 12 months.

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#### **HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** Do pass. Signed by 29 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Bailey, Buri, Chandler, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler,

Linville, McDermott, McIntire, Miloscia, Pearson, Priest, Schual-Berke, P. Sullivan, Talcott and Walsh.

**Staff:** David Pringle (786-7310).

**Background:**

Members of the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) are eligible for a retirement allowance of 2 percent of average final salary for each year of service credit earned at age 53. Members of LEOFF 2 may apply for early retirement beginning at age 50; however, the member's benefit is reduced by 3 percent per year below age 53 if the member has 20 or more years of service, and fully actuarially reduced if the member has less than 20 years of service.

If a member becomes disabled for a non-duty related reason, a member may receive a retirement allowance based on the 2 percent of average final salary formula that is actuarially reduced from age 53 to the age at disability. A member of LEOFF 2 who leaves service as a result of a line of duty disability or after earning 10 or more years of service may also request a refund of 150 percent of the member's accumulated contributions. A member with fewer than 10 years of service may request 100 percent of the member's contributions. In either case, a member who requests a refund of contributions is ineligible for a disability or service retirement allowance.

The 2004 Legislature enacted House Bill 2418, which increased disability benefits for LEOFF 2 members disabled in the line of duty beyond those provided for non-duty disabilities. As a result of HB 2418, a member of LEOFF 2 who leaves service as a result of a line of duty disability is eligible to receive a disability retirement allowance of at least 10 percent of final average salary, plus 2 percent per year for each year of service beyond five. The 2005 Legislature enacted Substitute Senate Bill 5615, which removed the actuarial reduction for the difference between age 53 and age at disability that previously applied to the part of a member's line-duty disability benefit in excess of the base 10 percent of final average salary.

In addition to disability benefits from the retirement system, members of LEOFF 2 (unlike members of LEOFF 1) are eligible for job-related disability, medical, and death benefits from the Workers' Compensation System administered by the Department of Labor and Industries. Some members of LEOFF 2 are also covered by Federal Social Security Administration benefits, and disabled members may be eligible to receive benefits from that system.

Disabled LEOFF 2 members may also be eligible for a lump-sum disability payment from the Federal Public Safety Officers' Disability Benefit program that currently provides a lump-sum benefit of \$283,385, offset by Worker' Compensation lump-sum payments. LEOFF 2 members serving as Department of Fish and Wildlife (DFW) Enforcement Officers may also be eligible upon disability for a special disability benefit of 50 percent of salary, paid by DFW.

**Summary of Bill:**

A member of the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) who is totally disabled in the line of duty is entitled to a disability allowance equal to 70 percent of final average salary. The total disability benefit is reduced to the extent that in combination with Workers' Compensation payments and Social Security disability benefits, the disabled member would receive more than 100 percent of final average salary.

Department of Fish and Wildlife (DFW) Enforcement Officers' compensation insurance benefits are also reduced for any disability benefits received from LEOFF 2.

Total disability is defined as a member's inability to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or for at least 12 months. Substantial gainful activity is defined as average earnings of more than \$860 per month, adjusted annually based on Federal Social Security standards.

The Department of Retirement Systems may require a person to submit to periodic medical examinations and disclose financial records as a condition of continued eligibility. In the event that a totally disabled member's earnings exceed the substantial gainful activity threshold, a member's benefit will be converted to a line-of-duty disability retirement allowance.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** The disability standard in this bill is a mirror of the Social Security standard. It provides a 12-month period for the disability to last as a measure, and it could be determined that the disability was not as serious, and the benefit would revert to a lower level. The bill also amends the Fish and Wildlife benefit to work with this new LEOFF 2 benefit. We like the standardized administrative process as well. The bill was re-worked to reduce the possibility of really big benefits, and to reduce the costs as well. People always assume that law enforcement officers and fire fighters totally disabled in the line of duty get full benefits - but they don't, and that is what this bill changes.

**Testimony Against:** None.

**Persons Testifying:** Steve Nelsen, LEOFF Plan 2 Retirement Board; Bruce Bjork, Washington Department of Fish and Wildlife; Bill Hanson, Washington Council of Police and Sheriffs; and Kelly Fox, Washington State Council of Fire Fighters.

**Persons Signed In To Testify But Not Testifying:** None.