

# HOUSE BILL REPORT

## SHB 1264

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**As Passed House:**  
February 23, 2007

**Title:** An act relating to the portability of public retirement benefits.

**Brief Description:** Addressing the portability of public retirement benefits.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Conway, B. Sullivan, Kenney, Ericks, Haigh, Ormsby, Simpson and Moeller; by request of Select Committee on Pension Policy and LEOFF Plan 2 Retirement Board).

**Brief History:**

**Committee Activity:**

Appropriations: 1/23/07, 1/29/07 [DPS].

**Floor Activity:**

Passed House: 2/23/07, 94-0.

### Brief Summary of Substitute Bill

- Expands the definition of base salary for members covered by the portability rules of Washington retirement system plans to include elements of compensation included in all of a member's state retirement plans.
- Lifts the cap on the maximum benefit receivable by a member covered by the portability provisions when a member has fewer than 15 years in a capped retirement plan such as the Public Employees' Retirement System Plan 1.
- Adds the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 to the list of plans whose members can combine service under portability for the indexed 20-years of service term vested benefit.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant

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Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist and Walsh.

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

**Background:**

The Washington retirement system includes rules providing "portability" of a member's benefits between many of the retirement plans, allowing an individual who earns service in two or more plans or systems, such as the Teachers' Retirement System Plan 3 (TRS 3) or the Public Employees' Retirement System Plan 2 (PERS 2) to combine the service credit in various ways for calculating their benefits at retirement. The portability rules are not provided to members as contractual benefit rights.

The benefits of portability include the ability to restore withdrawn service credit from another portability covered plan upon reemployment in a covered plan, to combine service credit earned in all portability covered systems to become eligible for benefits, and to use the member's highest base salary to calculate the benefits from all the portability plans.

Plans covered by aspects of the portability provisions include PERS, TRS, the School Employees' Retirement System (SERS), the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2), the Washington State Patrol Retirement System (WSPRS), the Public Safety Employees' Retirement System, and the city retirement systems for Seattle, Tacoma, and Spokane. State retirement plans excluded from the portability provisions include the LEOFF 1 and the Judges' and Judicial Retirement Systems.

Base salary under the portability provisions is defined to exclude many items of compensation that are included within the definition of salary for calculation of benefits in many portability covered plans. Some of these items of compensation excluded from base salary are overtime, lump-sum payments for deferred annual or sick leave, severance pay, and many other lump-sum payments. In general, fewer of the lump-sum payments such as leave cash-outs at retirement are included in the Plans 2 and 3 of the various retirement systems than in the Plans 1. A common item of compensation that is included in individual plans, but excluded by the base salary definition of portability, is overtime.

Benefits calculated using the portability rules are also impacted by a limitation on benefits if one of the plans that the member has earned service in have a benefit "cap" or limitation on the total percentage of final earnings that may be used to calculate benefits. For example, PERS 1 and TRS 1 have a cap of 60 percent, and the WSPRS has a cap of 75 percent. The total benefits from the combined systems cannot exceed the amount that the member would have received had the service all been rendered in one of the plans – and in the case that some of the service is in a capped plan, the cap can limit the portability benefit as well.

The Plans 3 of PERS, TRS, and SERS include a "20-year indexed benefit." This plan feature permits a member with 20 or more years of service to leave covered employment, not

immediately collect a monthly defined benefit, and have the member's average final compensation increased by 3 percent per year from the time of separation until the time that benefits are commenced. Members of each of the Plans 3 may combine service for purposes of meeting the 20-year requirement of the indexed benefit. Since 1993 LEOFF 2 has also provided a 3 percent increase for members that similarly leave after 20 years of service – a provision that predates the Plans 3 by at least five years. However, LEOFF 2 service may not be combined with Plan 3 service to qualify for the 3 percent indexed benefit.

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**Summary of Substitute Bill:**

If an item of compensation is included in all of a member's retirement plans covered by the portability rules, then it may be included in the base salary for calculating benefits under the portability provisions.

Members with fewer than 15 years of service in a plan with a percentage of pay cap that is covered by the portability provisions is not subject to the maximum benefit cap when calculating total benefits under the portability rules.

A member may combine service earned in LEOFF 2 with service earned in PERS, TRS, or SERS Plan 3 to qualify for the 20-year indexed benefit available in each of these four plans.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) The overtime provision of this bill is particularly important, as its exclusion is hard on hourly employees. The overtime exclusion under current law doesn't really hurt salaried employees as much if they are dual members. Employers and employees have already made contributions to the retirement system on the overtime that their employees have worked, but portability then reduces the benefits that the members can get later by excluding this portion of their salary in calculating benefits.

(Opposed) None.

**Persons Testifying:** Pat Thompson, Washington State Council of County and City Employees; and Steve Nelson, Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board.

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