

# HOUSE BILL REPORT

## SSB 5174

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**As Reported by House Committee On:**  
Appropriations

**Title:** An act relating to corrections in the public retirement systems.

**Brief Description:** Making corrections in the public retirement systems.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Pridemore and Schoesler; by request of Select Committee on Pension Policy).

**Brief History:**

**Committee Activity:**

Appropriations: 3/15/07, 3/28/07 [DP].

**Brief Summary of Substitute Bill**

- Makes corrections to the state retirement systems laws, including adding omissions and references related to the creation of the Public Safety Employees' Retirement System (PSERS); adding references to the PSERS and the School Employees' Retirement System relating to the tax status of member contributions to the retirement plans and health benefits contribution plans; updating the vesting requirements of the Plan 3 gain-sharing chapter consistent with the 2006 Plan 3 vesting changes; decreasing the Teachers' Retirement System Plan 1 contribution rates for justices and judges; and affirming the 2000 legislative act that suspended employer and member contributions of Plan 1 of the Law Enforcement Officers' and Fire Fighters' (LEOFF) retirement system.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 31 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; 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).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Cross-References to the Public Safety Employees' Retirement System

Pension benefits received by Washington citizens from private trusts, annuities, and pension plans are grouped in state law under the name "employee benefit plans" and are generally exempt from execution, garnishment, or seizure unless federal law provides a mechanism for doing so. The plans of the Washington retirement systems, with the exception of the Public Safety Employees' Retirement System (PSERS), are similarly exempt from legal process but through state-specific laws, rather than the general provisions of the private plans.

Sections of state law relating to consolidation of local government entities that may have Public Employees' Retirement System (PERS) members and PSERS members permit PERS members to either join PERS or elect to remain in the First Class Cities retirement system.

Several laws providing preferential federal income tax treatment of employee contributions, also known as "pick-up" provisions, to members of the Washington retirement systems were not amended to include PSERS.

Unlike Teachers Retirement System (TRS), PERS, and School Employees Retirement System (SERS) members, a member of PSERS with prior service in Law Enforcement Officers' and Fire Fighters Retirement System Plan 1 (LEOFF 1) is not permitted to irrevocably transfer LEOFF 1 service into PSERS.

A cross reference to the line of duty disability section in the PSERS definitions is incorrect.

When the 2006 Legislature changed the PSERS positional eligibility provisions from a specific job-class eligibility-based design to a criteria-based design, the definition of "eligible position" in the PSERS definition section was not amended to remove "fully-compensated," leaving it inconsistent with the new definition of "member."

### Cross-References to PSERS and SERS

References to PSERS and SERS were not added to the list of eligible retirement systems whose members may participate in a benefits contribution plan operated by the Health Care Authority, such as a medical flexible spending account or a cafeteria plan.

The PSERS and SERS were not added to the list of retirement systems for which service is excluded from consideration under the reserve officer provisions of the Volunteer Firefighters and Reserve Officers' Relief and Pensions System.

### Plan 3 Separated Vesting Requirements

The 2006 Legislature reduced the age-based vesting requirements for the defined benefit portions of PERS, TRS, and SERS Plan 3 with five years of service from age 55 to age 44. The similar Plan 3 vesting provisions in the gain-sharing chapter were not reduced from age 55.

### Required Contribution Rate for TRS Plan 1 Judges

The 2006 Legislature permitted members of TRS Plan 1 who are Justices of the Washington Supreme Court, Courts of Appeals Judges, and Superior Court Judges to elect to increase the

rate of contributions that they make into TRS Plan 1 by 6.26 percent of pay and increase their rate of benefit accrual to 3.5 percent per year of service.

#### 2000 Suspension of Employee and Employer Contributions to LEOFF 1

The 2000 Legislature suspended the requirement for employers and employees to make contributions into the LEOFF 1 retirement fund unless the most recent actuarial valuation indicates the plan has unfunded liabilities. The most recent actuarial valuation indicates that on an actuarial basis LEOFF 1 is about 114 percent funded, with about \$577 million more in assets than liabilities.

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### **Summary of Bill:**

#### Cross-References to PSERS

The PSERS is added to the list of Washington retirement systems that are exempted from the general "employee benefit plan" rules on exemption from legal process.

The PSERS is treated identically to PERS in cases of local government consolidation with a First Class Cities Retirement System employer.

The PSERS is added to the pick-up and other federal tax-related provisions to permit preferential tax treatment of employee contributions.

The PSERS is added to the systems into which LEOFF 1 service may be irrevocably transferred.

A cross reference to the line of duty disability section in the PSERS definitions is corrected.

"Fully compensated" is removed from the PSERS definition of "eligible position."

#### Cross-References to PSERS and SERS

The PSERS and SERS members may participate in benefits contribution plans, and service in both plans is excluded from the definition of service in the Volunteer Firefighters and Reserve Officers' Relief and Pensions System.

#### Plan 3 Separated Vesting Requirements

The vesting requirements for the gain-sharing portions of PERS, TRS, and SERS Plan 3 are reduced from age 55 with five years of service to age 44 with five years of service. If Plan 3 gain-sharing is repealed during 2007, this section is null and void.

#### Required Contribution Rate for TRS Plan 1 Judges

The required additional TRS Plan 1 contribution rate for Justices and Judges to receive the 3.5 percent per year benefit accrual rate is reduced to 3.76 percent of pay.

#### Affirmation of the 2000 Suspension of LEOFF 1 Employee and Employer Contributions

The Legislature clarifies and affirms the 2000 suspension of the requirement that employees or employers make contributions to LEOFF 1 if the plan remains fully funded. The affirmation is curative, remedial, and retrospectively effective to June 30, 2000.

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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. However, section 10 is null and void if legislation is enacted during 2007 repealing Plan 3 gain-sharing.

**Staff Summary of Public Testimony:**

(In support) None.

(Opposed) A dirty deed was done. Seven years since contributions were suspended, I have filed a lawsuit to protect my fellow LEOFF 1 members. I protected the lives and property of the citizens of the state, and I expect the same protection from legislators. We are opposed to the contribution rate holiday, and have been so all along. This policy was put in place in 2000 and we have tried on many occasions to correct this, including before this committee last year. Substitute Senate Bill 5174 started as a technical corrections bill and we are not sure that this was put out for proper notice, and may have as part of its intent circumvention of a lawsuit that is currently before the court. This is probably a longshot effort in any case. You can't reach back in time, and the Fray case was a similar effort that failed. We think that this title is also inadequate to put the public on notice, and legislators should not be involved in this.

**Persons Testifying:** James A. Fossos; and Dick Warbrouck, Retired Fire Fighters of Washington.

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