

SENATE BILL REPORT

SB 6635

As of February 8, 2008

Title: An act relating to employer contributions to an account formed under section 457 of the United States internal revenue code for the benefit of members of the law enforcement officers' and firefighters' retirement system plan 2.

Brief Description: Defining basic salary for the purpose of employer contributions to an account formed under section 457 of the United States internal revenue code for the benefit of members of the law enforcement officers' and firefighters' retirement system plan 2.

Sponsors: Senators Hobbs, Roach, Keiser, Benton, McAuliffe and Shin; by request of LEOFF Plan 2 Retirement Board.

Brief History:

Committee Activity: Ways & Means: 2/05/08.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Erik Sund (786-7454)

Background: The Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) provides retirement benefits to full-time, fully-compensated law enforcement officers and fire fighters employed by the state, cities, counties, and special districts and who were first employed by the in an eligible position on or after October 1, 1977.

A vested member LEOFF 2 may retire with an unreduced benefit at age 53. At retirement in LEOFF 2 a member receives 2 percent of the member's final average salary for each year of credited service. Beginning at age 50, a member of LEOFF 2 may apply for early retirement after 20 years of service. A member who applies for early retirement has his or her benefit reduced by 3 percent per year for each year that the member is retiring prior to age 53.

Members of LEOFF 2 generally have the opportunity to participate in deferred compensation plans. These plans permit an individual to place a portion of salary into a special account prior to being subject to payroll tax reductions. The Department of Retirement Systems (DRS) operates a deferred compensation program consistent with the federal tax requirements of 26 United States Code section 457, commonly called a "457 plan", in which employees of the state, counties, municipalities and other political subdivisions may participate.

The definition of salary in LEOFF 2 includes employer contributions to a 457 plan on behalf of a member only if the employer makes the payments as a condition of the member's employment, and does not base those contributions upon the member performing some action

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besides rendering service. When an employer offers to match 457 plan contributions made by an employee, the matching contributions cannot be treated as salary for the purposes of LEOFF 2 because the employer contributions are contingent upon the member's decision to contribute. If the employer's matching 457 contributions were included in definition of salary for LEOFF 2, the member might receive a larger retirement allowance.

Summary of Bill: The definition of salary in LEOFF 2 is expanded to include all employer payments to an IRS-designated "457" deferred compensation plan.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2012.

Staff Summary of Public Testimony: PRO: Current law treats some employer contributions to 457 plans as salary for members in some cases, but not in others, leading to inconsistencies between jurisdictions and a complicated environment for collective bargaining. This bill would clarify that situation.

CON: The increased contributions required in LEOFF 2 under this bill would impose a serious burden on local governments finances.

Persons Testifying: PRO: Steve Nelsen, LEOFF Plan 2 Retirement Board.

CON: Jim Justin, Association of Washington Cities.