

HOUSE BILL REPORT

HB 1481

As Passed House:

February 13, 2023

Title: An act relating to permitting general authority peace officers certificated by the criminal justice training commission and employed on a full-time basis by the government of a federally recognized tribe to participate in the law enforcement officers' and firefighters' retirement system plan 2.

Brief Description: Permitting general authority peace officers certificated by the criminal justice training commission and employed on a full-time basis by the government of a federally recognized tribe to participate in the law enforcement officers' and firefighters' retirement system plan 2.

Sponsors: Representatives Cortes, Stearns, Chopp, Chapman, Peterson, Jacobsen, Ramel, Orwall, Ormsby, Reeves, Senn, Leavitt, Ortiz-Self, Taylor, Bergquist and Pollet.

Brief History:

Committee Activity:

Appropriations: 1/30/23, 2/2/23 [DP].

Floor Activity:

Passed House: 2/13/23, 96-0.

Brief Summary of Bill

- Permits federally recognized tribes in Washington to opt in to the Law Enforcement Officers' and Firefighters' Retirement System Plan 2 (LEOFF 2).
- Requires a tribe opting to participate to enter a state-tribal compact containing provisions related to: reporting records and allowing audits, waiving sovereign immunity for enforcing LEOFF 2 rules, and dissolution procedures for tribes ceasing participation in LEOFF 2, including withdrawal liability.
- Limits participation in LEOFF 2 to full-time General Authority Peace

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

Officers currently certified by the Criminal Justice Training Commission and employed in the police department of a participating tribe.

- Provides tribal law enforcement officers participating in LEOFF 2 the chance to purchase specified periods of past service at full cost.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: David Pringle (786-7310).

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 firefighters employed by the state, cities, counties, and special districts, who were first employed in an eligible position on or after October 1, 1977.

The basic retirement allowance for LEOFF 2 retirees is equal to 2 percent of the member's average final compensation, calculated on the member's highest consecutive five years of compensation, multiplied by the member's years of service. Retirement benefits are available to members at a normal retirement age of 53. Members with at least 20 years of service may take a reduced early retirement benefit beginning at age 50. Early retirement benefits are reduced by up to 3 percent per year before the retiree reaches age 53.

The LEOFF 2 benefits are funded by contributions from members, employers, and the state, as well as by investment earnings. Contribution rates are set biennially by the LEOFF 2 Board and are allocated as follows: 50 percent is paid by members, 30 percent is paid by employers, and the remaining 20 percent is paid by the state. Contribution rates established by the LEOFF 2 Board are subject to revision by the Legislature. In addition to setting contribution rates, the LEOFF 2 Board also studies issues related to plan funding and benefits and makes recommendations to the Legislature.

There are 29 federally recognized tribes in Washington, each of which are considered sovereign nations and have immunity from suit in state or federal court. In Washington, tribes have signed limited waivers of sovereign immunity, typically in the form of state-tribal compacts, subjecting themselves to the laws of the state of Washington and to suit in

state court. Some of these compacts include state-tribal gaming compacts under the federal Indian Gaming Regulatory Act and for the operation of tribal compact schools under state law. In 2018 the Legislature authorized a state-tribal compact to permit the participation of tribal-compact school employees in the Teachers' Retirement System (TRS) and the School Employees' Retirement System (SERS). Participation by tribal-compact school employees in TRS and SERS required tribes opting to participate to meet conditions specified in the bill, including a limited waiver of sovereign immunity.

Summary of Bill:

Federally recognized tribes in Washington that operate police departments are permitted to opt in to the Law Enforcement Officers' and Firefighters' Retirement System Plan 2 (LEOFF 2).

A tribe opting to participate in the LEOFF 2 must enter a state-tribal compact negotiated between the Governor and the governing body of the tribe. The compact must include provisions related to reporting records and allowing audits, waiving sovereign immunity for enforcing LEOFF 2 rules, and dissolution procedures for tribes ceasing participation in the LEOFF 2. These dissolution procedures specifically include withdrawal liability that could be assessed to the tribe and include examples of the scale of withdrawal liability.

Participation in the LEOFF 2 is limited on an employee basis to full-time General Authority Peace Officers currently certified by the Criminal Justice Training Commission and employed in the police department of a participating tribe.

Tribal law enforcement officers participating in the LEOFF 2 are provided the option to purchase specified periods of past service by paying the actuarial value of the resulting increase in their retirement benefit. Payment must be completed within five years and prior to retirement. This option must be exercised by members between July 1, 2025, and June 30, 2026.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect on July 1, 2025.

Staff Summary of Public Testimony:

(In support) This bill provides an option for tribal police departments to join the Law Enforcement Officers' and Firefighters' Retirement System Plan 2 (LEOFF 2). Some local tribes have stated that they are continuing to lose experienced police officers to surrounding jurisdictions in part because of the lack of retirement benefits that are comparable to the LEOFF 2. The LEOFF 2 Board studied this issue extensively in 2019. Retaining

experienced law enforcement officers is key to the safety of tribal communities. The best law enforcement officers are ones that have experience working in the communities. This bill is consistent with the broad policy goal of many tribes of having a similar relationship with the state as the state has with local governments. As the Chief of Police for the Tulalip Tribes, it is a challenge to recruit officers who are certified by the Criminal Justice Training Commission and retention is even harder.

(Opposed) None.

Persons Testifying: Representative Julio Cortes, prime sponsor; and Misty Napeahi and Chris Sutter, Tulalip Tribes of Washington.

Persons Signed In To Testify But Not Testifying: None.