

# HOUSE BILL REPORT

## HB 1082

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### As Reported By House Committee On:

Appropriations

**Title:** An act relating to the calculation of excess compensation for retirement purposes.

**Brief Description:** Calculating excess compensation for retirement purposes.

**Sponsors:** Representatives Cooke, Sommers, Carlson, Dellwo, Sehlin, Kessler, Valle, Romero, Cody and Basich.

### Brief History:

#### Committee Activity:

Appropriations: 1/25/95, 2/23/95 [DPS].

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 28 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Beeksma; Brumsickle; Carlson; Chappell; Cooke; Crouse; Dellwo; Foreman; Hargrove; Hickel; Jacobsen; Lambert; Lisk; McMorris; Poulsen; Reams; Rust; Sehlin; Sheahan; Talcott; Thibaudeau and Wolfe.

**Staff:** Dan Chang (786-7191).

**Background:** Plan I retirees of the Public Employees' and Teachers' Retirement Systems (PERS and TRS) receive a service retirement allowance equal to a percentage of their average final compensation for each year of earned service credit.

In recent years, it has been found that some employers engage in a practice termed "pension ballooning" whereby employers increase certain employees' pension benefits by inflating average final compensation during the last two years of service. In an effort to control pension ballooning, yet allow employers the freedom to engage in personnel policies as they see fit, two categories of compensation, "earnable compensation" and "excess compensation" have been created.

"Earnable compensation" is included in the retirement benefit calculation and includes salaries or wages, overtime, some supplemental contracts, and for Plan I members only, lump sums for accrued leave ("cashouts").

"Excess compensation" is also included in the retirement benefit calculation but the cost of increased benefits is charged to the employer rather than to the retirement system. Excess compensation currently includes any payment that was used in the calculation of the employee's retirement allowance, except regular salary and overtime, including any cash out of unused annual leave in excess of 240 hours of such leave.

**Summary of Substitute Bill:** This bill expands the definition of "excess compensation" to include: 1) payments for, or in lieu of transportation allowances; 2) any payment in lieu of an accrual of annual leave or any payment added to regular salary concurrent with a reduction of annual leave, even if called an "overtime payment"; and 3) the portion of any payment that exceeds twice the employee's regular rate of pay. Employers whose employees' retirement benefits are based on any of the above will be liable for paying the total estimated cost to the retirement fund of all present and future benefits from the portion attributable to the excess compensation.

"Standby pay," where an employee must remain available for work on an on-call basis, is defined as regular salary and is not excess compensation.

The definition of "cashout" added by this bill clarifies original intent of the Legislature and is therefore retroactive.

**Substitute Bill Compared to Original Bill:** The substitute bill clarifies that "standby pay" is not excess compensation and that the definition of "cashout" added by the bill was the original intent of the Legislature and is retroactive.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Defining excess compensation would help to clarify an on-going issue.

**Testimony Against:** None.

**Testified:** J. Pat Thompson, Washington State Council of City Employees; and Devone Smith, Washington Federation of State Employees.