

SENATE BILL REPORT

SSB 5118

As Passed Senate, March 7, 1995

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

Brief Description: Calculating excess compensation for retirement purposes.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Winsley, Long, Bauer, Loveland and Fraser).

Brief History:

Committee Activity: Ways & Means: 2/2/95, 2/14/95 [DPS].
Passed Senate, 3/7/95, 48-0.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5118 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Fraser, Gaspard, Hargrove, Hochstatter, Johnson, Long, Moyer, Pelz, Roach, Sheldon, Snyder, Spanel and Winsley.

Staff: Denise Graham (786-7715)

Background: "Earnable compensation" for purposes of determining a state retirement system member's pension is generally defined as salaries and wages payable for services rendered to the employer. Certain leave cash outs can be included in the earnable compensation of members of the Public Employees' Retirement System (PERS) Plan I and the Teachers' Retirement System (TRS) Plan I. Members of PERS Plan II, TRS Plan II and both of the Law Enforcement Officers' and Fire Fighters' Retirement System plans may not include cash outs in their earnable compensation.

"Excess compensation" is earnable compensation used in the calculation of the retirement benefit except regular salary, overtime and annual leave cash outs under 240 hours. Excess compensation includes cash outs of annual leave in excess of 240 hours, sick leave cash outs, payments for or in lieu of personal expenses and termination or severance payments.

Employers are responsible for paying the increased pension costs that arise from including excess compensation in earnable compensation. At the time of an employee's retirement, an employer must pay into the appropriate retirement system the present value of the total estimated cost of all present and future retirement benefits attributable to the excess compensation.

The Joint Committee on Pension Policy has found that certain employers avoid excess compensation charges by disguising certain types of payments as regular salary or overtime pay.

In 1993, legislation was enacted which allowed the inclusion of standby pay in earnable compensation when: (1) the member is required to be present at, or in the immediate vicinity of, a specified location; and (2) the employer requires the member to be prepared to report immediately for work if the need arises.

Summary of Bill: The definition of excess compensation is expanded to include any payment in lieu of an accrual of annual leave or any payment added to regular wages and salary concurrent with a reduction of annual leave; a payment for or in lieu of a transportation allowance; and the portion of any payment that exceeds twice the employee's regular rate of pay.

Compensation received for being in stand-by status is earnable compensation and is not excess compensation. A member is in stand-by status when the employer requires the member to be prepared to report to work immediately if the need arises. The requirement that the member must be present at or in the immediate vicinity of a specified location is dropped.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: We support this bill with an amendment to address the problem of stand-by pay as it was passed by the Legislature last year.

Testimony Against: None.

Testified: J. Pat Thompson, Council of County and City Employees (pro); David Westberg, Stationary Engineers (pro).

House Amendment(s): The House amendment clarifies that: (1) overtime pay is not excess compensation if it is paid at a rate up to twice the regular rate of pay; and (2) the portion of an overtime payment that exceeds twice the regular rate of pay is excess compensation.

The definition of "cash out" added by this amendment is a clarification of the Legislature's original intent and is retroactive. If litigation arises out of cash outs made prior to this act's effective date, the court will treat this bill as a clarification rather than an amendment. This language was included in SHB 1082, the House version of this bill.