

HOUSE BILL REPORT

HB 2479

As Passed House:
February 18, 2014

Title: An act relating to retired law enforcement officers and firefighters employed in certain public positions.

Brief Description: Placing restrictions on retired law enforcement officers and firefighters employed in certain public positions.

Sponsors: Representatives Green, Holy, Stonier, Hayes, Freeman and Morrell; by request of LEOFF Plan 2 Retirement Board.

Brief History:

Committee Activity:

Appropriations: 1/27/14, 2/4/14 [DP].

Floor Activity:

Passed House: 2/18/14, 97-0.

Brief Summary of Bill

- Removes the ability for a retiree of the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) to return to work and receive a LEOFF 2 retirement allowance in a position that would normally be qualified for LEOFF 2 except for specified reasons.
- Suspends a LEOFF 2 retiree's pension, even if the position they are working in is not qualified for LEOFF 2 for additional reasons, including: (1) if a position is less than full-time, (2) if a position is less than fully compensated, (3) if a position is not fully commissioned, (4) if a position includes additional non-LEOFF duties, or (5) if a retiree is designated as an independent contractor.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 29 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Christian, Cody, Dahlquist, Dunshee, Fagan, Green, Haigh, Hudgins, G. Hunt, S. Hunt, Jinkins, Kagi, Lytton, Morrell, Parker, Pettigrew, Schmick, Seaquist, Springer, Sullivan, Taylor and Tharinger.

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.

Staff: David Pringle (786-7310).

Background:

The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) provides retirement benefits to full-time general authority law enforcement officers and firefighters throughout Washington. To be eligible for the LEOFF as a law enforcement officer, an employee must be employed on a full-time, fully compensated basis by a governmental entity that meets the definition of a general authority law enforcement agency, be a general authority law enforcement officer and meet the training or other requirements of his or her job. To be eligible for the LEOFF as a Fire Fighter, an employee must be serving on a full-time, fully compensated basis as a member of a fire department as a qualified fire fighter, emergency medical technician, or as fire fighter supervisory personnel.

Typically, regular employees of LEOFF employers whose positions do not meet the criteria for LEOFF membership are included in the Public Employees' Retirement System (PERS) or the First Class Cities' Retirement Systems (FCCRS).

In most systems and plans of the Washington State Retirement Systems aside from the LEOFF 2, such as the PERS or the Teachers' Retirement System (TRS), post-retirement employment provisions allow retirees to work 867 hours per year while collecting their full pension. When a retiree in these systems exceeds 867 hours, retirement benefits are suspended for the remainder of the year. This allows part-time work or periods of full-time work in retirement benefits-eligible positions. These post-retirement employment provisions do not apply to the LEOFF 2, however. Instead, members of the LEOFF 2 that retire and are employed in positions covered by plans such as the PERS or the TRS have the option of either continuing to receive their LEOFF 2 retirement benefits while working full-time and not earn service in the retirement plan that applies to the position, or suspending LEOFF 2 retirement benefits and joining the new retirement plan, potentially earning an additional retirement benefit upon future re-retirement.

Because LEOFF positions must meet stringent criteria for inclusion, jobs that normally would be covered by the LEOFF 2 could be made ineligible, or arguably ineligible, by slightly altering employment terms. These alterations could include employment on a slightly less than full-time basis, providing slightly less compensation than is typical for the LEOFF position by the employer, limiting the authority of arrest associated with the position, or including non-LEOFF duties with the position. Also, classification of a position as an independent contractor, rather than as an employee, would permit the employer and the contractor/employee to assert that collection of the LEOFF retirement benefits should be unaffected by the compensation arrangement.

Summary of Bill:

Retirement benefits for retired members of the LEOFF 2 are suspended if a member who returns to work in a position that is not covered by the LEOFF 2, but would be qualified for LEOFF 2 except that: (1) the position is less than full time; (2) the position is less than fully compensated; (3) the position is not fully commissioned; (4) the position includes additional non-LEOFF duties; or (5) the retiree is designated as an independent contractor.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Some employers have found "loopholes" in the career change rules created by the Legislature for the LEOFF 2. Those loopholes are closed by this bill. This bill only affects the LEOFF 2 members; however, it does not apply to the Washington State Patrol Retirement System, nor the LEOFF 1. Retirees from those plans would continue to be able to collect their pensions and work in the LEOFF positions.

(Neutral) As the temporary part-time Chief of the Milton Police Department, this bill raises concerns. After taking early retirement, the City of Milton contacted me about serving as Chief on a temporary basis. Small cities cannot hire someone who comes from a larger department, they cannot pay comparable salaries. The salary that Milton pays, plus my pension, are about the same as what I earned with the City of Tacoma. This bill risks eliminating many qualified in-state candidates from helping Washington communities. There is a strong public perception that the system is being gamed. A Washington retiree can't get their pension and take these jobs under this bill, but Oregon retirees can.

(Opposed) The opportunity to work in Eatonville arose after I planned my retirement. Eatonville can't afford an experienced officer from the urban districts. I make less with my pension and Eatonville salary as Chief than I did as a battalion Chief in Pierce County. This bill needs further work.

Persons Testifying: (In support) Representative Green, prime sponsor; Steve Nelson, Law Enforcement Officers' and Fire Fighters' Plan 2; and Renee Maher, Council of Metropolitan Police and Sheriffs.

(Neutral) Mark Langford, Milton Police Department; and Candace Bock, Association of Washington Cities.

(Opposed) Robert Hudspeth.

Persons Signed In To Testify But Not Testifying: None.