

# HOUSE BILL REPORT

## HB 1208

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As Reported By House Committee On:  
Appropriations

**Title:** An act relating to the effect of payments based on retirement agreements on calculation of pension benefits.

**Brief Description:** Specifying how payments based on retirement agreements shall affect calculation of pension benefits.

**Sponsors:** Representatives Sommers, Silver and Wood; by request of Joint Committee on Pension Policy.

**Brief History:**

Reported by House Committee on:  
Appropriations, February 24, 1993, DP.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 25 members: Representatives Locke, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Jacobsen; Lemmon; Leonard; Linville; Morton; Rust; Sehlin; Sheahan; Sommers; Stevens; Talcott; Wang; and Wolfe.

**Staff:** Barbara McLain (786-7153).

**Background:**

Earnable Compensation

"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.

During ongoing field audits in 1992, the Department of Retirement Systems (DRS) discovered that certain employers were providing financial incentives to employees who agreed to retire within a specified time period. Current DRS rule does not allow such incentives to be included in the definition of earnable compensation because the incentives are not considered payment for services rendered. The financial incentives cause a recipient employee's average

final compensation to increase, thereby increasing the employee's pension.

Excess Compensation

Plan II of the retirement systems specifically excludes items such as cashed out sick leave or vacation leave from the definition of earnable compensation. Plan I allows some of these other items to be included in earnable compensation, increasing an employee's pension.

In 1984, the Legislature determined that items such as leave cash outs or severance pay would be considered "excess compensation" if they are included in a recipient employee's average final compensation for determining pension benefits. Employers are obligated to pay for the increased cost to the pension system caused by any excess compensation they allow.

**Summary of Bill:** Any payments made to an employee covered by one of the state's retirement systems that are based either on an agreement on the part of the member to retire, or on notification to the employer of intent to retire, will be treated in one of three ways with respect to their effect on retirement benefits:

- (1) If the retirement agreement does not require additional service on the part of the employee, the payments can not be used to calculate the employee's pension benefit. This follows the interpretation of current law by the Department of Retirement Systems.
- (2) If the agreement requires additional service paid at an equal or lower rate than would be paid to other employees, the payments can be included in the calculation of the employee's pension benefit, but are considered "excess compensation." The employer will be billed as provided in current law for the additional cost to the pension system caused by the excess compensation.
- (3) If the agreement requires additional service paid at a higher rate than would be paid to other employees, the part of the payment that equals the rate paid to other employees is includable in a pension benefit calculation, but billable to the employer as excess compensation. The part of the payment that is above the rate paid to other employees can not be included in a pension benefit calculation.

**Fiscal Note:** Available.

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

**Testimony For:** None.

**Testimony Against:** The bill unfairly discriminates against senior TRS employees who compete for key positions against employees who are members of the TIAA-CREF retirement system. TIAA-CREF allows retirement incentives, but for TRS, the incentives would be billed to the employer as excess compensation.

**Witnesses:** (Opposed): Kay Gribble, Washington Education Association.