

# FINAL BILL REPORT

## SSB 5118

---

C 244 L 95

Synopsis as Enacted

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

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

**Senate Committee on Ways & Means**

**House Committee on Appropriations**

**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 that allowed the inclusion of stand-by 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:** The definition of excess compensation is expanded to include any cash out of annual leave in excess of 240 hours of such leave, including 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.

The definition of "cash out" added by this act is a clarification of the Legislature's original intent regarding the meaning of this term and applies retroactively to payments made before the effective date of this act.

**Votes on Final Passage:**

Senate	48	0	
House	92	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 23, 1995