

# SENATE BILL REPORT

## SB 5355

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As Reported by Senate Committee On:  
Ways & Means, February 6, 2019

**Title:** An act relating to recovering service credit withdrawn from the public employees' retirement system for certain law enforcement officers and firefighters.

**Brief Description:** Recovering service credit withdrawn from the public employees' retirement system for certain law enforcement officers and firefighters.

**Sponsors:** Senators Holy and Van De Wege; by request of LEOFF Plan 2 Retirement Board.

**Brief History:**

**Committee Activity:** Ways & Means: 1/30/19, 2/06/19 [DPS].

**Brief Summary of First Substitute Bill**

- Allows a law enforcement officer or firefighter to transfer service credits earned in a different retirement system into the Law Enforcement Officer and Fire Fighter Retirement System plan 2, under specific circumstances.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5355 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Billig, Carlyle, Conway, Hasegawa, Hunt, Keiser, Lias, Palumbo, Pedersen, Schoesler, Wagoner, Warnick and Wilson, L..

**Staff:** Amanda Cecil (786-7460)

**Background:** Law Enforcement Officer and Firefighter Retirement System (LEOFF) plan 1 required law enforcement officers and firefighters to meet minimum medical requirements to be eligible for membership in the plan. The standards were adopted by the Department of Retirement Systems (DRS) and included requirements for, but not limited to, weight, height, hearing, and vision. Failing to meet the minimum medical requirements did not prevent

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*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.*

someone from being hired but did prevent them from being a member of the LEOFF plan 1 retirement.

If a law enforcement officer or firefighter was not eligible for LEOFF plan 1 because of failing to meet the minimum medical and health standards, they were typically enrolled in the Public Employees' Retirement System (PERS). However, prior to 1994, those employees working for cities or towns having more than two law enforcement officers or firefighters were not eligible for membership in any pension system the city had available for its employees, which included PERS. This exception created a class of law enforcement officers and firefighters who were not in a pension system.

Law enforcement officers and firefighters who began service on or after October 1, 1977, were enrolled in LEOFF plan 2. LEOFF plan 2 does not impose any minimum medical and health standards. Instead, employers had their own minimum medical and health standards. In 1981, law enforcement officers and firefighters who were not eligible for LEOFF plan 1 due to failing to meet the minimum medical and health standards were provided with an opportunity to opt-in to LEOFF plan 2.

In 1994, the Legislature passed ESHB 2643 which stated the exclusion of members who failed to meet the minimum medical and health standards from PERS was not what the Legislature intended. This bill was retroactive, making those law enforcement officers and firefighters who were not eligible for LEOFF plan 1 and who had not opted into LEOFF 2 during the 1981 window, eligible for membership in PERS back to the date they entered an eligible position. If a law enforcement officer or firefighter qualified for PERS membership under this bill, their membership was mandatory. Employers were required to pay employer contributions for past and current service credit. Members were required to pay past and current member contributions, and were given payment plan options. If a vested member separated from service before paying their past contributions, the member was given two benefit options: withdraw contributions foregoing a pension, or receive a reduced pension benefit once the member is eligible to retire.

The LEOFF plan 2 Board considered this policy during the 2018 interim.

**Summary of Bill (First Substitute):** A past or current law enforcement officer or firefighter may transfer service credit earned in PERS as a law enforcement officer or firefighter to LEOFF plan 2, if they:

- were excluded from membership in LEOFF plan 1 and PERS due to a failure to meet minimum medical and health standards;
- were enrolled into PERS after the enactment of ESHB 2643;
- separated from service prior to paying back contribution;
- withdrew their contributions; and
- were not informed of the option to take an actuarially reduced pension.

The option to transfer service credit is irrevocable and must be made by July 1, 2020. Benefits are prospective and begin in the month the application is received by DRS. The member must pay all the member contributions owed, without interest, by taking an actuarial reduction to their benefit or by making a lump sum payment. Any employer contributions

made to PERS for this employee must be transferred to LEOFF plan 2. Neither the employer or the members is required to pay the difference between the PERS and LEOFF plan 2 rate.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute):** Clarifies that the benefit that a current or former employee receives after opting in to LEOFF 2 under this bill is prospective from the month the application is received.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill creates a very narrow carve out to fix an issue that resulted in one person slipping through the cracks and not getting a pension after 20 years of service.

**Persons Testifying:** PRO: Senator Jeff Holy, Prime Sponsor; Jeff DeVere, Washington Council of Police and Sheriffs; Steve Nelsen, Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board.

**Persons Signed In To Testify But Not Testifying:** No one.