

# HOUSE BILL REPORT

## HB 2134

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**As Reported by House Committee On:**  
Appropriations

**Title:** An act relating to port district fire fighter membership in the law enforcement officers' and fire fighters' retirement system plan 2.

**Brief Description:** Authorizing port district fire fighter membership in the law enforcement officers' and fire fighters' retirement system plan 2.

**Sponsors:** Representatives VanDeWege, Linville, Grant, Walsh, Kenney, Curtis, Moeller, Conway, Fromhold, Seaquist, P. Sullivan, Hinkle, Ericks, Upthegrove, Schual-Berke, Hurst, Sells, Lovick, Williams, Campbell, Chase, Quall, Simpson, Hasegawa, Santos, Goodman, Haler, Ormsby and Kelley.

**Brief History:**

**Committee Activity:**

Appropriations: 3/1/07, 3/3/07 [DP].

**Brief Summary of Bill**

- Adds full-time employees of port districts whose duties include the suppression of fires, and who are trained in firefighting skills, to the fire fighter membership definition of the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2).
- Adds similar supervisory port district firefighting personnel to the fire fighter membership definition of the LEOFF 2.

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**HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** Do pass. Signed by 27 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Haler, Assistant Ranking Minority Member; Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

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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.*

**Minority Report:** Do not pass. Signed by 7 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Hinkle and Kretz.

**Staff:** David Pringle (786-7310).

**Background:**

The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF 2) provides retirement benefits to full-time general authority law enforcement officers and firefighters throughout Washington. To be eligible for LEOFF 2 as a fire fighter, employees must be full-time, fully-compensated fire fighters employed by fire departments or emergency medical technicians employed by fire departments or other divisions of local government.

An employee who has firefighting as one of their duties, but primarily does other activities such as general maintenance and operations, is not eligible for membership in LEOFF 2 as a fire fighter. For example, an employee of a port district whose job consisted of 40 percent fire suppression activities and 60 percent general port operations activities would probably not be eligible for membership in LEOFF 2.

The LEOFF 2 offers significantly lower retirement ages than the Public Employees' Retirement System Plans 2 or 3 (PERS 2/3), which cover most general employees of state and local governments, as well as a number of other additional benefits in comparison to PERS 2/3. Members of LEOFF 2 are eligible for a retirement allowance of 2 percent of average final salary for each year of service credit earned at age 53. Members of LEOFF 2 may apply for early retirement beginning at age 50; however, the member's benefit is reduced by 3 percent per year below age 53 if the member has 20 or more years of service, and fully actuarially reduced if the member has less than 20 years of service. Members of PERS 2/3 are eligible for an unreduced retirement allowance at age 65, and early retirement benefits beginning at age 55. Members of PERS 2/3 retiring before age 65 must earn 30 years of service before being eligible for a 3 percent per year reduction in benefits; with fewer than 30 years of service, a retiring member's benefit is actuarially reduced.

Under state collective bargaining law, employees who fall within the definition of "uniformed personnel," including firefighters as defined in LEOFF 2, are entitled to arbitration if a collective bargaining agreement has not been reached following a reasonable period of negotiations and mediation. The determination of an arbitration panel in a uniformed personnel contract dispute is final and binding, subject to review by the superior court solely upon the question of whether the decision of the panel was arbitrary or capricious.

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**Summary of Bill:**

Full-time employees of port districts whose duties include the suppression of fires, and who are trained in rescue and firefighting skills both prior to assuming fire suppression duties and annually thereafter, are added to the fire fighter membership definition of the Law

Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2). The annual training must include live fire drills.

Supervisory port district firefighting personnel who are trained in rescue and firefighting duties are also added to the fire fighter membership definition of the LEOFF 2.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed, except section 2, which, because of prior double amendments, takes effect July 1, 2013.

**Staff Summary of Public Testimony:**

(In support) The definition of firefighter that is provided in this bill is much simpler than the current definition for the Department of Retirement Systems (DRS) to administer, particularly for mixed-duty employees. The eligibility is still limited to full-time employees, and they must have annual fire-fighting training. At Walla Walla the employees that are at issue here have been included in the LEOFF system for about 50 years. Their membership was called into question after an application to the Public Employment Relations Commission for arbitration in a labor impasse. The training requirement language is a mirror of the FAA requirements. These employees protect the public in a critical firefighting and rescue role.

(Opposed) We don't question the bravery and importance of these employees, But this bill is outside of current practice. There is currently a DRS administrative law proceeding that is almost complete that states that these employees are not eligible for LEOFF 2. The proceeding is set for appellate hearings in April, and this bill would have the Legislature step into a court proceeding. Why port districts and not other public employers? There are many employees across the state with very similar duties that may use this bill to argue that they should also be added to LEOFF 2 membership. Why not include these employees in the Public Safety Employees' Retirement System instead? This is a significant change in pension policy, and it is being done to cover two employees at the Walla Walla airport, and perhaps 20 employees in other ports. These employees are security and maintenance personnel, so there is a legitimate question about the most appropriate system for these employees. The question before the court is whether these are full-time fire fighters or not. If they are not, then they should not be in LEOFF 2. Since 1970 there has been a requirement that LEOFF members be full-time fire fighters. The issue of binding arbitration that LEOFF members are entitled to is also an important part of the case. Please send this issue for study by the LEOFF 2 Board or the Select Committee on Pension Policy before acting.

**Persons Testifying:** (In support) Dave Nelson, Department of Retirement Systems; and Kelly Fox, Washington State Council of Fire Fighters.

(Opposed) Pat Jones, Washington Public Ports Association; Jim Hedrick, Port of Walla Walla; and Paul Neal, Washington Public Ports and the Port of Walla Walla.

**Persons Signed In To Testify But Not Testifying:** None.