

# HOUSE BILL REPORT

## HB 2510

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### As Passed Legislature

**Title:** An act relating to allowing medicare only health insurance benefits for certain employees of political subdivisions under a divided referendum process.

**Brief Description:** Allowing medicare only health insurance benefits for certain employees of political subdivisions under a divided referendum process.

**Sponsors:** By Representatives Simpson, O'Brien and Appleton.

**Brief History:**

**Committee Activity:**

Local Government: 1/24/08 [DP].

**Floor Activity:**

Passed House: 2/13/08, 96-0.

Senate Amended.

Passed Senate: 3/6/08, 48-0.

House Concurred.

Passed House: 3/8/08, 93-0.

Passed Legislature.

### Brief Summary of Bill

- Allows law enforcement officers, firefighters, and other public employees participating in a qualified retirement system to obtain Medicare coverage through the "divided referendum" process.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 6 members: Representatives Simpson, Chair; Takko, Vice Chair; Warnick, Ranking Minority Member; Eddy, Nelson and Schmick.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Schindler, Assistant Ranking Minority Member.

**Staff:** Thamas Osborn (786-7129).

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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.*

## **Background:**

### **Federal Law: Federal/State Agreements Regarding Federal Retirement Benefits and State/Local Government Retirement Systems**

The federal Social Security Act (SSA) authorizes the states and the federal government to enter into agreements regarding how federal retirement benefit programs such as Medicare and Social Security will be incorporated into retirement systems implemented by the states for their public employees, both state and local. Pursuant to such agreements, the SSA allows the states considerable flexibility in determining which state/local government retirement systems will participate in the various federal retirement benefit programs. Absent a specific agreement with the federal government, a state or local retirement system will not include federal retirement benefits and the employees without such benefits will not be assessed the pertinent federal payroll taxes.

The provisions of the SSA allow a state to implement a referendum process to determine whether or not a state or local retirement benefits coverage group will participate in federal retirement benefits programs. Under this process, eligible employees must participate in such federal programs in accordance with the state/federal agreement provided the following conditions are met:

- eligible employees participate in a referendum by secret written ballot on the question of whether the positions covered by the retirement system should be included or excluded from participation in the federal programs;
- eligible employees were given an opportunity to vote on the referendum;
- not less than 90 days notice of such referendum was given to all eligible employees;
- the referendum is conducted under the supervision of the Governor or an agency or individual designated by her or him; and
- a majority of the eligible employees vote in favor of participating in the federal retirement programs in accordance with the state/federal agreement.

Federal law also allows the state to utilize an alternative referendum process, sometimes referred to as the "divided referendum" process that, once completed, results in the division of the retirement system into two separate divisions or parts: (1) one division that will participate in the federal retirement programs and is composed of those employees who voted in favor of the referendum; and (2) one division that does not participate in the federal programs and is composed of those employees who voted against the referendum.

### **Washington State Law: Federal Retirement Benefits Programs and State/Local Retirement Systems**

State law pertaining to the regulation of public employee retirement systems codifies and implements most of the basic features of the federal law outlined above. Under state law, and consistent with the SSA, the Governor is authorized to enter into an agreement with the federal government for the purpose of extending the benefits of federal retirement programs to the employees of the state and local governments. Such an agreement may contain a wide range of provisions relating to coverage, benefits, contributions, effective date, modification,

termination of the agreement, and administration. The state regulatory scheme includes the basic referendum process outlined in the SSA allowing simple majority rule, but does not include the "divided referendum" process that results in the division of a single retirement system into two divisions or parts with different coverage provisions.

Under state law, those law enforcement officers and firefighters covered by the Washington Law Enforcement Officers and Firefighters Retirement System Act (Act) are recognized as a separate "coverage group" for the purposes of the federal/state retirement benefits agreement authorized by the SSA. With respect to obtaining the retirement coverage offered under the federal retirement benefits system, those law enforcement officers and firefighters covered by the Act are subject to the basic, "majority rule" referendum procedure outlined under state law and the SSA.

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**Summary of Bill:**

Law enforcement officers, firefighters, and other public employees participating in qualified retirement systems may obtain Medicare coverage through the "divided referendum" process. Following the completion of this process, those members voting in favor of Medicare coverage will constitute a coverage group separate from those members voting against the referendum and, accordingly, the retirement system will be divided into two divisions or parts with alternative coverage provisions.

The implementation of the divided referendum procedure will have no negative impacts on the retirement benefit rights of current or future retirees. The Act simply provides covered retirees with an additional, voluntary benefits option, i.e., Medicare coverage, that applies only to those who expressly request such coverage. The offering of this option does not affect the benefits or rights of current or future retirees who have decided against participation in the Medicare program.

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**Appropriation:** None.

**Fiscal Note:** Requested on 1/23/2008.

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

**Staff Summary of Public Testimony:**

(In support) This is a very good, and necessary, bill that will benefit many current and future retirees participating in the state and local retirement systems. Furthermore, the changes implemented by the bill have no negative impacts whatsoever on members of any of the various public retirement systems. The "divided referendum" process created by the bill makes it possible for each individual member of any public retirement system to decide whether or not he or she wants to participate in the Medicare system upon retirement. In

contrast, the referendum process set forth in current law utilizes a "majority rule" approach which makes it possible for the majority to deprive the minority of the right to obtain Medicare benefits. This has in fact been the result within the Law Enforcement Officers and Firefighters Retirement System (LEOFF). As a result of a referendum that took place in the 1970s, some LEOFF 2 members have been deprived of the ability to obtain Medicare benefits. This bill would remedy the problem by allowing these LEOFF 2 members the option of participating in the Medicare program, but without affecting the retirement benefits of any group who have opted against receiving Medicare benefits. The "majority rule" referendum approach is unfair and should be replaced by the "divided referendum" process.

(Opposed) This bill may have some unforeseen negative impacts because it does not distinguish between LEOFF 1 and LEOFF 2 members. The language of the bill is, therefore, in need of clarification. The bill is not as good and simple as its proponent's claim.

**Persons Testifying:** (In support) Al Church, Washington State Fire Chiefs.

(Opposed) Mark Curtis, LEOFF 1 Coalition.

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