
Appropriations Committee

SSB 6197

Brief Description: Concerning the law enforcement officers' and firefighters' retirement system plan 2.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Holy, Conway, Van De Wege, Fortunato, Hasegawa, Kuderer, Mullet, Nobles and Valdez; by request of LEOFF Plan 2 Retirement Board).

Brief Summary of Substitute Bill

- Eliminates the statute of limitations for Law Enforcement Officers' and Firefighters' Retirement System Plan 2 (LEOFF 2) special death benefit claims.
- Expands the definition of firefighter for LEOFF 2 to include personnel serving in positions that necessitate experience as a firefighter to perform the essential functions of those positions.
- Assigns liability for pension overpayments in LEOFF 2 to employers if due to an employer error.
- Permits disabled LEOFF 2 members to reapply for a line-of-duty disability retirement benefit for posttraumatic stress disorder that did not qualify as an occupational disease when they became disabled.

Hearing Date: 2/15/24

Staff: David Pringle (786-7310).

Background:

The Law Enforcement Officer and Firefighter Retirement System Plan 2 (LEOFF 2) provides

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retirement benefits to full-time, fully-compensated law enforcement officers and firefighters employed by the state, cities, counties, and special districts, who were first employed in an eligible position on or after October 1, 1977.

Occupational Disease.

An occupational disease is a disease that occurred as a natural consequence of distinctive working conditions and where there were no other intervening causes for the disease. Occupational diseases vary by occupation. Examples of disease that could qualify as an occupational disease for law enforcement officers or firefighters include heart problems, certain cancers, and posttraumatic stress disorder (PTSD). A physician must present an opinion that work conditions, on a more-probable-than-not basis—a greater than 50 percent chance—are a cause of the disease or have aggravated a preexisting condition.

LEOFF Membership for Supervisory Firefighters.

To be included within the LEOFF 2 system as a firefighter, an employee must serve on a full-time, fully-compensated basis as a member of a fire department of an employer participating in the LEOFF system, or be a supervisory firefighter. Supervisory firefighters are in positions within a firefighting organization whose primary or sole purpose is fire protection activities and direct fire protection activities. This includes first line supervisors of firefighters, who typically direct from the scene of a fire, up to and including positions that are administrative in nature when the primary duty is to provide executive leadership for fire protection activities, such as setting strategic priorities for the organization.

Duty and Nonduty Disability.

If a member of LEOFF 2 becomes disabled as a result of an occupational disease or injury, the member is eligible for a duty disability benefit of either a one-time payment equal to 150 percent of the member's eligible retirement contributions or the minimum monthly benefit of at least 10 percent of the member's final average salary. If the disability is catastrophic or so severe it prevents the member from performing gainful activity or employment in any capacity in the future the benefit can be up to 100 percent of the member's final average salary plus health care premiums. If the member's disability is not considered the result of an occupational disease or injury, the benefit payment will be calculated based on 2 percent per service credit year multiplied by the member's final average salary, reduced by a minimum of 3 percent per year until the member reaches age 53. Generally, duty disability benefits from LEOFF 2 are not subject to federal income tax, while nonduty disability benefits are taxable.

Special Death Benefit.

When a member of LEOFF 2 dies as a result of injuries in the course of employment or as a result of an occupational disease or infection, the member's beneficiaries receive a special death benefit. The amount of the special death benefit is updated annually based on the Seattle area Consumer Price Index and is currently set at \$279,398.54 as of June 30, 2022. Eligibility for the special death benefit is consistent with Industrial Insurance, which is administered by the Department of Labor and Industries (L&I). The statute of limitations for special death benefits is generally one year in the case of an on-the-job injury or two years in the case of an occupational

disease.

Pension Overpayments.

The Department of Retirement Systems is authorized to correct errors in pension payments at any time. Generally, in the event of an overpayment that is not the result of the employer erroneously reporting that an employee separated from service, the retiree must either repay the overpayment in a lump sum within 90 days of notification or, if he or she is entitled to a continuing benefit, elect to have that benefit actuarially reduced by an amount equal to the overpayment.

Summary of Bill:

The statute of limitation is eliminated for LEOFF 2 special death benefit claims. L&I must determine eligibility for benefits previously denied for failing to meet the statute of limitations.

The definition of firefighter is expanded to include personnel serving on a full-time, fully-compensated basis as an employee of a fire department in positions that necessitate experience as a firefighter to perform the essential functions of those positions.

In the event that an overpayment to a member of LEOFF 2 was due to an employer error that was not the result of the member's nondisclosure, fraud, misrepresentation, or other fault, the employer is liable for the resulting overpayment.

A member receiving a nonduty disability benefit for PTSD that did not qualify as an occupational disease by L&I at the time the member retired, but is now considered an occupational disease, may reapply for a line-of-duty disability retirement benefit. If approved, the member must be paid retroactive benefit to the date that the disabling condition was made eligible as an occupational disease.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 12, 2024.

Effective Date: The bill contains multiple effective dates. Please see the bill.