

SENATE BILL REPORT

SSB 6197

As Amended by House, March 1, 2024

Title: An act relating to the law enforcement officers' and firefighters' retirement system plan 2.

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 History:

Committee Activity: Ways & Means: 1/23/24, 2/02/24 [DPS].

Floor Activity: Passed Senate: 2/8/24, 48-0.

Passed House: 3/1/24, 96-0.

Brief Summary of First Substitute Bill

- Modifies various provisions related to the Law Enforcement Officer and Firefighter Retirement System Plan 2.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6197 be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Pedersen, Randall, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Amanda Cecil (786-7460)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: The Law Enforcement Officer and Firefighter Retirement System Plan 2. Law Enforcement Officer and Firefighter Retirement System Plan 2 (LEOFF 2) provides 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 cause 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.

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.

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 on the job 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 First Substitute 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.

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 of 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 a 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 an in the 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.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: These four elements were researched and approved by the Board and for legislative expediency the decision was made to put these in to one bill. The provisions of the bill do not impact a lot of people but the changes are meaningful to the individuals impacted retirees. Including PTSD as an occupational disease is an important step in caring for public safety professionals.

Persons Testifying: PRO: Michael Duchemin, Retired Firefighters of Washington; Jacob White, LEOFF 2 Board.

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

EFFECT OF HOUSE AMENDMENT(S):

- Exempts the deputy director and research and policy analysts employed by the Law Enforcement Officers' and Firefighters' Retirement Board from civil service, and provides the Board with the authority to establish salaries for these positions in consultation with the Office of Financial Management. The Board must consider comparable public sector positions, and provide notice of changes in compensation to the chairs of the fiscal

committees of the House of Representatives and the Senate.