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Interruptive Military Service Credit

INITIAL CONSIDERATION

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ISSUE STATEMENT

Veterans who served during a designated conflict period but did not earn a campaign badge or medal must pay member contributions to receive LEOFF¹ Plan 2 credit for periods of interruptive military service credit.

OVERVIEW

LEOFF Plan 2 members may establish up to 5 years² of service credit for military service interrupting their LEOFF service. To establish service credit, many LEOFF Plan 2 members must submit the member contributions that would have been paid during that period. However, member contributions are waived for LEOFF 2 members who served in the military: 1) during wartime; or 2) during a specified conflict for which they earned a campaign badge or medal.

The Legislature directed the LEOFF Plan 2 Retirement Board (SB 5661, ch. 188, Laws of 2017) to study the current law requiring members who left employment to serve in the military during a specified conflict, but did not earn a campaign badge or medal, to pay member contributions for interruptive military service credit.

BACKGROUND

Service credit is one of the factors used in computing your retirement benefit, so increasing your service credit would increase your future monthly benefit.

A member can purchase interruptive military service credit if:

- The member leaves LEOFF Plan 2 covered employment to render military service in one of the armed or uniformed services of the United States;

¹ Law enforcement and firefighters' retirement system, chapter 41.26 RCW.

² Exceptions to the 5 year limit are listed in Appendix A under the subheading "maximum service credit".

- Upon termination of military service, the member initiates LEOFF Plan 2 covered reemployment within defined time limits, usually 90 days; and
- The member pays the required member contributions within the required timeframe.

The qualified military service credit and initiation of reemployment requirements are discussed in Appendix A. The contribution requirement is discussed in further detail below.

Required Contributions

The member and employer contributions that would have been paid had the member not gone on military leave must be paid to establish service credit for the period of leave. Contributions are based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to the military leave. See RCW 41.26.520(7)(c).

The member must make the required payment within five years of resuming employment or prior to retirement, whichever comes first. Once the member pays their member contribution, the employer and the state are billed for their share of the total required contribution. Members who miss the deadline can purchase service credit prior to retirement by paying the full actuarial value of the additional benefit. This is significantly more expensive.

Responsibility for payment varies by the dates of service. If the military service was completed:

- Between October 1, 1977, and March 31, 1992, the member pays both the employer and member contributions plus interest;
- After March 31, 1992, and before October 6, 1994, the member pays the member contributions plus interest and the employer and state pay their contributions plus interest;
- After October 6, 1994, a member pays the member contributions (no interest) and the employer and state pays their contribution plus interest.

Waiver of Member Contributions

Member contributions are waived if the member is a “veteran” under RCW 41.04.005. The statute limits veterans to persons serving during a “period of war” defined as:

- World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and any future period of war declared by Congress, See RCW 41.04.005. Any service during one of these conflicts specified above qualifies one as a veteran.
- Specified military operations where the member earned a campaign badge or medal³. The department of defense awards a campaign badge or medal to service members who:
 - Served during a specified conflict⁴ ; and
 - Were stationed in a designated war zone.

Members who served during a specified operation but were not stationed in a war zone did not earn a campaign badge or medal. Because they do not meet the definition of “veteran” those members must pay member contributions for LEOFF Plan 2 interruptive military service credit.

POLICY ISSUES

SB 5661 directs the Board to study extending the waiver of member contributions to LEOFF plan 2 members whose interruptive military service occurred during a specified military operation but who did not earn a campaign badge or medal.

- Should member contributions for interruptive military service be waived those members?
- If the waiver of member contributions were expanded:
 - How many additional members would become eligible for the waiver?
 - How many members who already paid contributions for these periods would be eligible for a refund?
 - What will be the cost to LEOFF Plan 2?

³ Approved campaign badges or medals include: the Afghanistan Campaign Medal, Southwest Asia Service Medal, Armed Forces Expeditionary Medal, Iraq Campaign Medal, Vietnam Service Medal and Kosovo Campaign Medal.

⁴ Defined conflicts include: the crisis in Lebanon, the invasion of Grenada, Operation Just Cause in Panama, Operation Restore Hope in Somalia, Operation Uphold Democracy in Haiti, Operation Joint Endeavor in Bosnia, Operation Noble Eagle, Operation Enduring Freedom in Southern or Central Asia, Operation Iraqi Freedom.

APPENDIX A

Additional Background Information on Interruptive Military Service Credit

The federal Uniform Services Employment and Re-employment Rights Act (USERRA) requires State retirement systems to allow members to establish service credit for interruptive military service. USERRA sets baseline requirements, some of which Washington State law exceeds. The state law requires the Department of Retirement Systems to administer the state interruptive military service credit law consistent with USERRA.

1. Qualifying for Interruptive Military Service Credit

In order to earn LEOFF Plan 2 credit for periods of interruptive military service credit, the member must perform qualifying military service, reenter public employment within a specified time following military discharge, and make required member contributions. The contribution requirement is discussed in the body of the report. The two remaining requirements are discussed below:

a. Qualified Military Service

Nearly all types of military service qualify as service in either an armed force or in a uniformed service for the purposes of interruptive military service credit. The following types of military service qualify:

- Service in the army, navy, air force, marine corps, or their reserve units (including two-week annual training for reservists);
- Full-time service in the United States Coast Guard;
- Service in the Public Health Service; and
- Service in the Army or Air National Guard provided to the federal government, but not including service provided to a state.

b. Initiation of Reemployment

Upon termination of military service, a member must initiate reemployment within certain defined time limits. The member must also be reemployed in a position covered by the retirement system the member was participating in at the time of interruption.

USERRA provides varying reemployment timeframes which are determined by the duration or type of military service that the person was engaged in. However, the state law generally is

longer than the provisions in USERRA. State law provides that a member must initiate reemployment within ninety days to qualify for interruptive military service credit.

There are two notable exceptions to the ninety day reemployment requirement that would allow a member to still purchase service credit. The state law provides that if a person fails to initiate reemployment within the required timeframe, that person can still purchase the service credit by paying the full actuarial value of the increase to their benefit from the additional service credit.

USERRA provides that the timeframe for initiation of reemployment can be extended for up to two years for a person who is hospitalized or convalescing because of a disability incurred or aggravated during the period of military service. The two year period can be further extended by the minimum time required to accommodate a circumstance beyond an individual's control that would make reporting within the two-year period impossible or unreasonable. Employers are required under USERRA to make reasonable efforts to accommodate reemployment of a person with a disability incurred or aggravated while in Military Service. However, employers are exempt from such efforts if such accommodation would be of such difficulty or expenses as to cause "undue hardship".

2. Maximum Service Credit

USERRA provides for a maximum of five years of interruptive military service credit. The state law matches this maximum. There are some exceptions to the five-year maximum that are provided by USERRA as describe in 38 USC, 4312. These exceptions include:

- Obligated services incurred beyond five years, usually by individuals with special skills, (such as an electronics expert)
- Inability to obtain release (needs to be documented on a case by case basis)
- Training requirements
- Specific active duty provisions
- War or a declared national emergency
- Certain operational missions
- Critical missions or requirements (such as Grenada or Panama in the 1980's, when provisions for involuntary activation of Reserves were not exercised)
- Specific National Guard provisions

If a member has over five years of interruptive military service and the excess falls into one of these exceptions then the member may be entitled to additional military service credit.

3. Comparison to Other Washington State Systems

The following plans allow members to purchase retirement service credit for interruptive military service in the same manner as allowed for LEOFF Plan 2:

- Washington State Patrol Retirement System (WSPRS) Plan 2,
- Public Employees' Retirement System (PERS) Plan 2,
- School Employees' Retirement System (SERS) Plan 2, and
- Teachers' Retirement System (TRS) Plan 2.

While the **Plan 1** systems allow interruptive military service credit, the members in PERS Plan 1, LEOFF Plan 1, and WSPRS Plan 1 are not required to pay any cost for the service credit. A TRS Plan 1 member is required to pay the contributions that would have been paid had the member not gone on a military leave of absence.



Interruptive Military Service Credit

Initial Consideration – July 26, 2017

Issue

- Veterans who served during a designated conflict period but did not earn a campaign badge or medal must pay member contributions to receive LEOFF Plan 2 credit for periods of interruptive military service credit.

Overview

- LEOFF Plan 2 members may establish up to 5 years of service credit for military service interrupting their LEOFF service.
- Member contributions are waived for LEOFF 2 members who served in the military:
 - 1) during wartime; or
 - 2) during a specified conflict for which they earned a campaign badge or medal.
- **SB 5661**
 - Should members of LEOFF 2 who are veterans of specified conflicts not during a period of war, and where they were not awarded a campaign badge or medal, also receive up to 5 years of free service credit?

Background

- **Eligibility Requirements for Purchasing Military Service Credit**
 - **Qualified Military Service**
 - **Initiation of Reemployment**
 - **Required Contributions**

Background

Waiver of Employee Contributions for Purchasing Military Service Credit

- **Period of War**
- **Specified Military Operations**

Policy Issues

SB 5661 directs the Board to study the following questions:

- Should member contributions for interruptive military service be waived for members who served during a specified conflict but did not earn a campaign badge or medal?
- If the waiver of member contributions were expanded:
 - How many additional members would become eligible for the waiver?
 - How many members who already paid contributions for these periods would be eligible for a refund?
 - What will be the cost to LEOFF Plan 2?

Questions?

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