



# Supreme Court Decision Update: WEA v. DRS

Educational Briefing

# Overview

**The Supreme Court issued two rulings in July upholding Legislature's right to reserve the right to modify or repeal pension improvements.**

**This presentation examines implications for LEOFF Plan 2.**

# Enactment of Uniform COLA and Gain-sharing

- **1995: Uniform COLA replaced pre-existing COLAs in PERS 1 and TRS 1**
- **1998: Gain-sharing enacted to distribute extraordinary investment gains in PERS 1 & 3 and TRS 1 & 3**
- **Each included a reservation clause:  
“The Legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time.”**

# Legislative Repeal

- **Uniform COLA and Gainsharing would require significant employer contribution increase:**
  - \$1.3 Billion in State & local funds for 2015-2017
  - Similar amounts required in subsequent biennia
- **Legislature repealed both acts:**
  - Gainsharing repealed in 2007
  - Uniform COLA repealed in 2011

# Superior Court Decision

- **Lawsuits by Washington Education Association (WEA) with co-plaintiffs**
  - “...parties are in fact arguing over the enforceability of the reservation clause”
  - King County Superior Court invalidated the repeal as an unconstitutional impairment of contract
  - It was then appealed to the State Supreme Court

# Supreme Court's Decision

- **Supreme Court August 14 opinions held:**
  - Reservation clause enforceable
  - Reservation clause was part of the contract
  - Therefore, no impairment of contract

**“The Legislature is allowed to condition its grant of pension enhancements using express language in the statutory provision that creates the right”**

- **Repeal of Gainsharing and Uniform COLA upheld**

# LEOFF Plan 2 Implications

**The following LEOFF 2 enactments include a reservation of right to repeal or amend:**

- **Health insurance premium reimbursement for catastrophically disabled members - RCW 41.26.470(10)(a)**
- **6 month temporary duty disability service credit - RCW 41.26.470(3)(h)**
- **24 month temporary duty disability service credit - RCW 41.26.473(9)**

# Questions?

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