December 16, 2015

Retiree Return to Work

FINAL PROPOSAL

By Paul Neal
Senior Research & Policy Manager
360-586-2327
paul.neal@leoff.wa.gov

ISSUE STATEMENT

The LEOFF Plan 2 Board's (Board) 2014 proposal to tighten the career change law revealed tension between the policies of: 1) Maintaining public confidence that LEOFF Plan 2 is well designed and professionally managed; and 2) Facilitating smaller jurisdictions' access to highly trained and experienced LEOFF Plan 2 retirees.

PROPOSAL SUMMARY

Reintroduce 2014 Legislation (HB 2479) preventing LEOFF 2 retirees from drawing their pension while working in positions historically included in LEOFF such as police or fire chief even if those positions:

- are not full time;
- are not fully compensated;
- are not fully commissioned;
- include PERS duties; or
- purportedly filled by an independent contractor

OVERVIEW

During the 2013 interim the Board learned some LEOFF Plan 2 retirees were using the 2005 career change law to work as law enforcement officers or fire fighters while drawing their pensions. Some employers facilitated this expansion of the law's original intent by redefining historically LEOFF positions to avoid LEOFF eligibility. Some felt this was inappropriate.

The Board proposed curtailing the ability of a LEOFF Plan 2 retiree to draw a pension and work in a historically LEOFF position. The Board's proposal was introduced in 2014 as HB 2479. The Legislative debate revealed tension between the Board's original policy goal and the goal of allowing smaller jurisdictions to compete for law enforcement officers and fire fighters they would not otherwise be able to afford.

The Board revisited this issue during 2014 but voted to table it until the 2015 interim. At the November meeting, the Board directed staff to prepare and present a final proposal.

MEMBERS IMPACTED

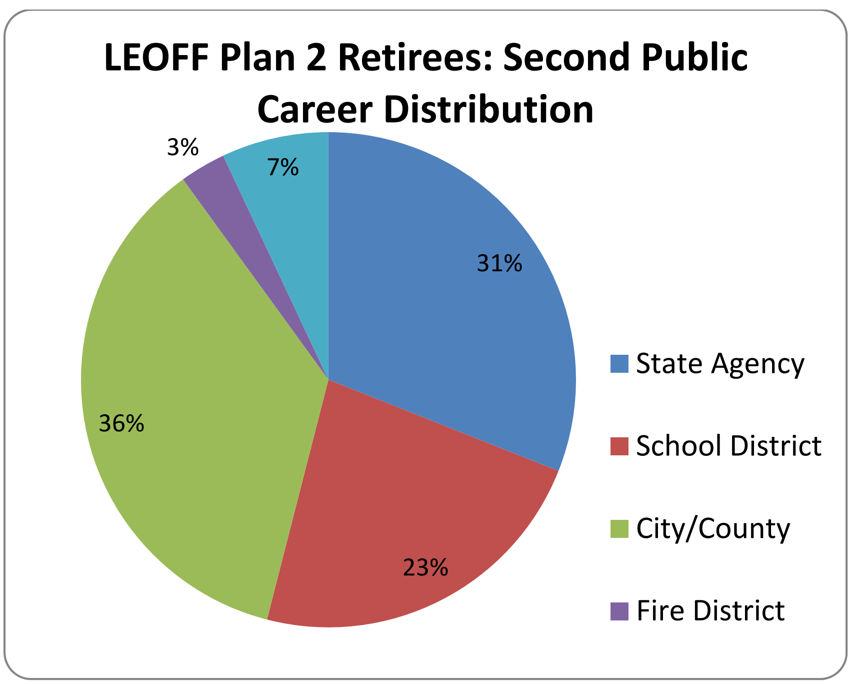
Two hundred sixty-five LEOFF Plan 2 retirees have utilized the provisions of the career change law since its inception in 2005[1]. A similar number of members would be impacted by any changes to the law if those utilization numbers remain constant. Additionally, there are public trust issues addressed by the original bill that impact all LEOFF Plan 2 members.

BACKGROUND & POLICY ISSUES

Before 2005 a LEOFF Plan 2 retiree's pension stopped if they worked in a job covered by any state-wide public retirement system. The Board recognized member's may no longer be able to fulfill the physical demands of law enforcement or firefighting before they were ready, or could afford to stop working. The Legislature passed the Board's proposed Career Change legislation in 2005 enabling retired LEOFF Plan 2 retirees to start a second career in non-LEOFF public employment. A retiree accepting such a job can either establish membership in another public system, thus suspending their LEOFF Plan 2 pension, or waive membership in the new system and continue receiving their pension.

The Board intended to facilitate transition from a physically demanding profession to a second less strenuous career. The Board did not contemplate enabling retirees to continue working as a law enforcement officer or fire fighter while receiving their pension.

The vast majority of participating retirees use Career Change as intended: to facilitate public employment as something other than a law enforcement officer or fire fighter. Recent DRS data shows 265 LEOFF Plan 2 retirees working in public employment with an average annual salary of $28,268. Sixty-one percent work for non-LEOFF employers. Most of those retirees working for LEOFF employers do not work in historically LEOFF positions:



[1] Data from November 2013 on career change usage report produced by the Department of Retirement Systems (DRS).

As discussed during the 2013 Career Change briefings, some employers seeking the benefit of the years of training and experience possessed by LEOFF Plan 2 retirees have redefined LEOFF positions as PERS positions. For instance, some employers have redefined full-time police chief and fire chief positions as "part-time." This allows LEOFF Plan 2 retirees to hold those positions without losing receipt of their pensions.

An example of this appeared in 2015 involving the Tenino Chief of Police. He retired under LEOFF Plan 2 and subsequently went to work as the Tenino Police Chief. His contract required him to work 159 hours per month, one hour below the threshold of 160 hours which would have made him full-time, requiring reentry into LEOFF Plan 2 and suspension of his pension. DRS found that the chief was working additional hours such that he qualified as a full time employee. It stopped his pension and billed the City for $82,462 in pension overpayments.

Proposal to Curtail Abuse

The Board proposed curtailing the ability of a LEOFF Plan 2 retiree to draw a pension and work in a historically LEOFF position. The proposal was introduced in 2014 as HB 2479. After passing the House, the bill failed to pass the Senate, in part because of concerns raised by stakeholder groups about the desirability of providing smaller jurisdictions access to highly trained and experienced fire chiefs and police chiefs they could not otherwise afford.

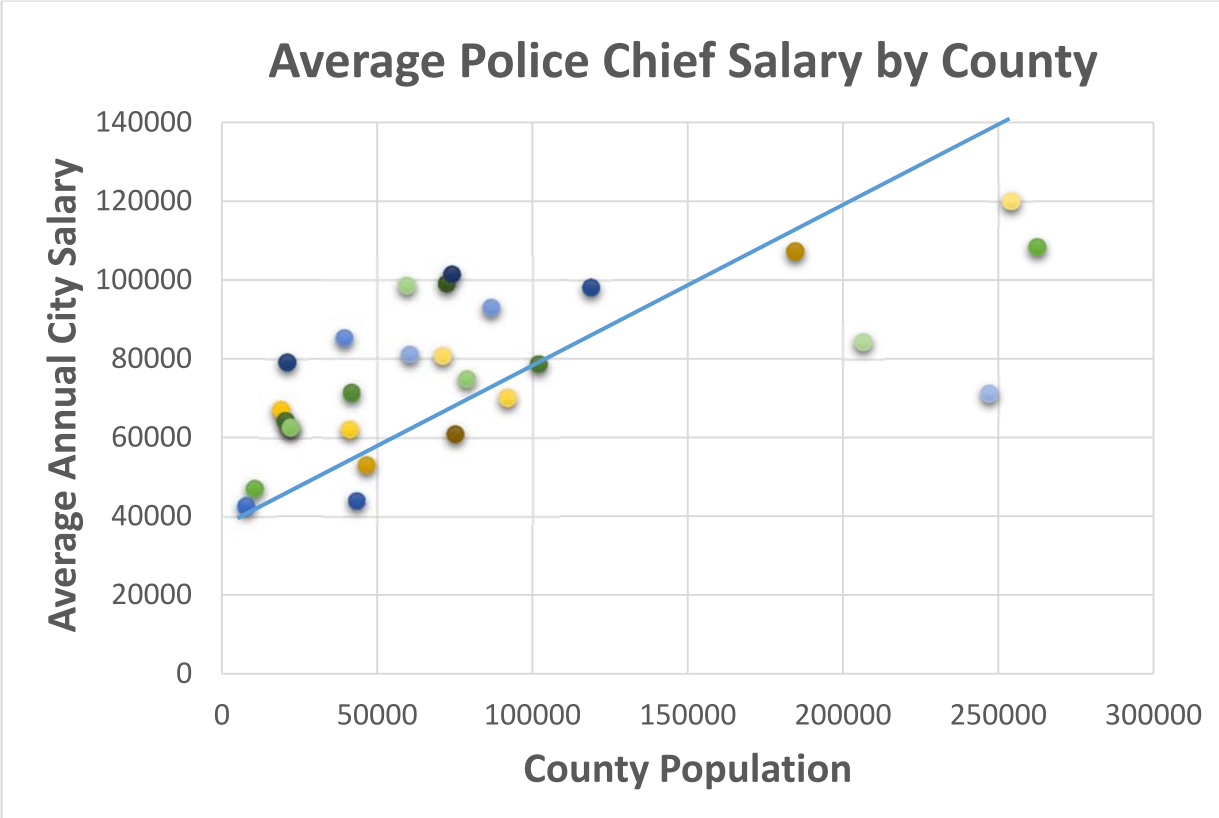
THE VALUE OF EXPERIENCE

Perhaps more than other public professions, law enforcement and firefighting require continuous, specific training. Over the course of a 25 year career a fire fighter's employer spends approximately $142,500 on training[2]. Law enforcement employers also incur significant training costs. In addition to specific training, the years of field experience possessed by LEOFF Plan 2 retirees has great potential value to employers.

LEOFF employers are, by definition, mostly political subdivisions. Local government budgets, and hence public safety salaries, vary widely across Washington depending in large part on the tax base. The 2014 career change analysis looked at chief salaries by employer population. While salary ranged significantly between many small jurisdictions and large jurisdictions, a better predictor of salary range was a city's location, i.e. urban vs. rural.

In an effort to examine the urban vs rural distinction, the data is sorted below by population of the county the city is in, rather than the city itself.

[2] The South King County Fire Training Coalition, which provides training to fire fighters from 8 different jurisdictions, charges employers $5700 per year per fire fighter. $5700 x 25 years = $142,500.



While there is not a one-to-one correlation, the overall trend is that cities in counties with higher populations tend to pay higher salaries. This lends some support to the idea that allowing LEOFF Plan 2 retirees some ability to work while receiving their pensions could help lower paying jurisdictions compete for highly trained and experienced law enforcement officers and fire fighters.

IMPORTANCE OF A WELL DESIGNED AND PROFESSIONALLY MANAGED PLAN

Public perception of pension abuse can be exacerbated when benefits appear to flow disproportionately to highly placed employees. Public displeasure over perceived abuses undermines public confidence in the retirement system as a whole.

Uninterrupted Employment

If an employee appears to retire, then comes back to work in the same or similar position with their former employer, it raises questions whether the person ever actually retired. Both state retirement law and the Internal Revenue Code require a full separation from service before qualifying for a retirement allowance. These requirements exist to guard against pseudo-retirements, where a person goes through the process of retiring in order to qualify for their pension, but has only briefly, or in some cases never, left their employer.

Public Pension + Public Salary

Receiving both a public pension and a public salary at the same time is a common hot-button with the general public.

Newspaper articles have featured the total compensation received by LEOFF Plan 2 retirees who return to law enforcement officer or fire fighter employment. A recent Seattle Times report on LEOFF Plan 2 retirees working as police chiefs and fire chiefs described a LEOFF Plan 2 retiree working a fire chief collecting a $100,000 a year pension and a $90,000 a year salary. See Appendix A.

One could argue adding together pensions for previous service and the salaries earned for current service is mixing apples and oranges. LEOFF Plan 2 pensions, unlike salaries for current service, are not paid out of current revenues. Those pensions are fully funded at retirement by employer and employee contributions paid over the course of the employee's career, plus earnings on those contributions[3].

When a public employee retires and goes to work in the private sector or for a public entity in another state, no objections are heard. Some question why the result is different if that same public retiree goes to work in the public sector. Judging from the comments posted in response to recent newspaper articles, many members of the public do not find this analysis persuasive.

Perceived Favoritism

Some of the public anger over allegations of abuse flow from a perceived misuse of authority. Articles often feature persons working in upper management negotiating with the mayor and/or city council to create a position description allowing them to earn a salary as a law enforcement officer or fire fighter while drawing a LEOFF pension.

The vast majority of LEOFF Plan 2 retirees utilizing the career change law do not work as law enforcement officers or fire fighters and make less than in their first careers. For example, a retired police officer providing part-time security at a middle school. These are not the cases reported in the paper.

BALANCING OPTIONS

During Board discussions in 2014, many Board members saw the value of allowing LEOFF Plan 2 retirees to share the value of their experience with smaller employers, but were uncomfortable with the current situation where position descriptions for LEOFF positions were modified to facilitate employment of LEOFF retirees.

The Board directed staff to develop options which maintain LEOFF Plan 2 as a well-designed and professionally managed plan while providing a "bright line" defining when a LEOFF Plan 2 retiree could work in a historically LEOFF position without suspension of their entire pension.

Make Benefit Generally Available

An issue with the current situation is the appearance of a "work around" where an employer takes specific action to accommodate a specific employee. This perceived dynamic appears where the employee continues with the same employer. It also appears when the benefit appears limited to persons with a motivated prospective employer.

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[3] According to the Washington State Investment Board, 86% of every dollar paid out in LEOFF Plan 2 pension benefits comes from investment earnings.

These issues could be addressed by:

- Requiring the LEOFF Plan 2 retiree work for a different employer than they retired from;
- Openly provide the benefit so specific employer action would no longer be required. This could be done by:
    - making the benefit available to a specific class of employees (i.e. chiefs); or
    - making the benefit generally available to all LEOFF Plan 2 retirees

Not Encouraging Earlier Retirement

Making the benefit generally available could incentivize employees to retire earlier to utilize the new standard. This could negatively impact the original employer and create an actuarial cost. The Actuary bases future costs in part by projecting when people will retire, i.e. how long they will draw a benefit. If the new standard creates enough incentive to retire earlier, this could create an actuarial cost.

A minimum service credit requirement, possibly 20 or 25 years, could help address this issue and ensure that persons eligible for LEOFF reemployment were highly experienced employees.

Limiting Total of Pension plus Salary

The public shows concern when a retiree’s total income, pension plus salary, appears excessive. Concern is especially likely if the combination doubles or nearly doubles the person’s compensation. While the objection is debatable, it is clearly an area of public concern.

This issue could be addressed by limiting the combined amount of a LEOFF Plan 2 retiree’s salary and pension. Possible alternatives include:

- <u>Limiting total compensation to a percentage of Final Average Salary</u>: Limiting total pension and salary to a set percentage of Final Average Salary (FAS) would ensure that the retiree’s total compensation would be similar to what he or she earned prior to retirement. This could address perceptions of abuse. On the other hand, requiring DRS to develop and track a new, LEOFF Plan 2 specific, post-retirement employment standard could generate an administrative cost.

- <u>Limit the Timeframe for Collecting Both Pension and Salary:</u> The State’s other Plan 2 systems allow retirees to work in a system-covered position for up to 867 hours per year (approximately 5 months). Once a retiree reaches that point, their pension stops for the remainder of the calendar year. It restarts at the beginning of the next year, stopping again if the retiree works another 867 hours. DRS has systems and reporting requirements in place to track the 867 hour rule for the State’s other Plan 2 systems.

  Adopting this same standard for LEOFF Plan 2 retirees working in historically LEOFF positions would effectively limit the combined salary and pension, thus mitigating the “double-dipping” issue. It would be consistent with current policy in the State’s other plan 2 systems. Finally, it would be easier for DRS than administering a new standard.

NEXT STEPS – OPTIONS

Pursuant to the Board's direction, a draft bill updating HB 2479 for introduction in 2016 is attached as Appendix B. The fiscal note for HB 2479 prepared by the State Actuary is attached as Appendix C. Because the current bill is identical to HB 2479, the prior fiscal note is still valid.

Option 1: Vote to submit bill draft to Legislature for passage

Option 2: Take no further action

SUPPORTING INFORMATION

Appendix A: *Fire, police officials get retire-rehire deals,* Seattle Times, November 21, 2013.

Appendix B: Updated Code Reviser Draft with same language as HB 2479 updated for introduction in 2016 Legislative session.

Appendix C: Fiscal note for HB 2479.

APPENDIX A

Seattle Times Article: *Fire, police officials get retire-rehire deals*

Published in Seattle Times:
Updated: 8:25 a.m. Thursday, Nov. 21, 2013 | Posted: 8:25 a.m. Thursday, Nov. 21, 2013

Fire, police officials get retire-rehire deals

By MIKE BAKER
The Associated Press
SEATTLE —

A couple years after retiring as Lakewood fire chief at age 58, Paul Webb returned to the profession and his former job title — this time at Orting Valley Fire and Rescue.

Hired under a contract without some of the typical employee benefits, Webb's arrangement at the end of 2009 allowed him to draw more than $100,000 in annual pension payments while also earning up to $90,000 in yearly pay. It was an interim position, according to his contracts. He stayed in the job for three years.

It wasn't long before six of Webb's past colleagues followed similar paths, retiring and taking jobs in various contract positions, according to records.

In recent years, Washington lawmakers changed laws to crack down on retire-rehire arrangements, seeking to prevent pensioners from double-dipping when they return to similar government jobs.

But The Associated Press found that gaps in the special rules created for law enforcement officers and firefighters have allowed them to draw salaries alongside their pension. And those retirees generally retire much younger and with much larger retirement plans than teachers or other government workers.

According to local and state records obtained by AP under public records law, dozens of public safety retirees around the state became contractors. Some took part-time jobs such as polygraph consultants or pilots or instructors, while others returned to prominent managerial positions.

Other retirees in those two retirement systems reserved for law enforcement officers and firefighters — called LEOFF-1 and LEOFF-2 — took jobs that had them work slightly less than full time or with slightly less benefits, also allowing them to bypass rules that would have halted pension payments.

Local governments gain from the arrangements because officials can hire someone with experience at either a discounted pay rate or without having to cover some typical benefits.

DuPont Mayor Michael Grayum recently worked closely with the Department of Retirement Systems to ensure the city was following the rules in the hiring a of a police chief who had retired from a different department. The city didn't seek out pensioners, but three of the top candidates for the job were retirees.

"We were able to hire more experienced leadership for a lower cost than we have historically," he said. The new chief is able to keep his pension because his job is only 35 hours a week instead of 40.

The Legislature established retire-rehire rules for many government workers in 2003 due to concerns about the frequency and cost of those arrangements. In 2011, lawmakers placed even tighter controls on those deals, closing what some political leaders derided as "loopholes."

Rules for members of the newer LEOFF system were established in 2005 with the intent of preventing retire-rehire arrangements in similar jobs but designed to allow transition to less-demanding occupations in government.

Steve Nelsen, executive director of the LEOFF-2 Retirement Board, said the rules weren't meant to allow retirees to return to work in similar LEOFF jobs. "This was not the intent of the bill," Nelsen said. He said several Board members have expressed concern about the DuPont case that surfaced in the wake of a previous AP story and that the Board is now exploring the issue.

LEOFF rehire rules revolve around the issue of eligibility. Workers are eligible for the LEOFF system if they are fully compensated in full-time positions as a law enforcement officer, firefighter or supervisor. A retiree who gets rehired into a similar LEOFF-eligible position would have their pensions benefits halted.

But if a LEOFF retiree returns to a position that's less than full-time or not fully compensated, they technically would not qualify for the system and can avoid disruption of their benefits, according to the state.

Some have seized on that potential.

— In Maple Valley, in King County, Larry Rude was hired in 2007 to a contract position as assistant fire chief. He started in the new position the same day he retired from the state system, according to records.

For three years, Rude earned more than $100,000 a year in salary — plus other benefits — along with a similar amount in retirement payments. Rude said he was allowed to draw pension and salary because he was only working in a part-time position, saying it "wasn't very many" hours a week.

Rude said he didn't have a specific number of hours that he typically worked, although the final contract he signed said Rude could work up to 159 hours a month — an average of about 37 hours a week.

— In Soap Lake, in central Washington, officials chose Glenn Quantz as an interim police chief last year, bringing him on as a contractor. Quantz had retired in 2009 at age 53 from the Thurston County Sheriff's Office.

Mayor Raymond Gravelle told state officials in a letter obtained by AP that Quantz was working 32 hours a week — making it a part-time job that wouldn't disrupt his benefits. However, Quantz is earning the full salary of the police chief and the same amount as the previous chief, according to records provided by the city's finance director.

Quantz declined to comment about his situation. Gravelle said the city is small enough that Quantz doesn't need to work full-time, but he said officials will be going back to review records to ensure they are compliant.

— In the Orting Valley case, documents show Webb consulted with the state about his rehire transition because he didn't want it to disrupt his retirement benefits. While Webb was working in a full-time post, a state official told him that there would be no impact because he didn't qualify for sick leave cash-outs and some other benefits.

"It was definitely full-time, but it wasn't fully compensated," Webb said in an interview.

Dave Nelsen, the legal and legislative services manager at the Department of Retirement Systems, said it's not clear what the review entailed at the time but said the issue of what qualifies as "fully compensated" is subjective and could be interpreted differently by other officials.

— At North Highline Fire District in the Seattle area, Steve Marstrom was hired to a contract as the administrative chief. Marstrom had retired from the Lakewood Fire District more than a decade before at age 50.

Marstrom's contract said he did not have set hours but would be paid $8,000 a month. He could also get $1,500 a month for housing. Marstrom said his role at North Highline was strictly an administrative one, since he was supervising personnel and not participating in any firefighting activities.

Because he wasn't personally involved in firefighting, Marstrom said the role didn't qualify for the LEOFF system so it wouldn't disrupt is LEOFF benefits.

Other LEOFF retirees in the system managed to get hired in similar roles that are technically in other pension systems. Some fire officials transitioned to become fire inspector or deputy fire marshal. Police officials transitioned to work as a "violence prevention" leader or agency security manager.

Depending on the circumstances, state officials could decide that workers hired as contractors should have been reported to the state as actual employees, potentially leading to a halting of pension payments. By hiring as contractors, however, the employees are more difficult for state pension managers to track.

One worker in the larger group of Lakewood retirees who became contractors had a part-time salary of $90 per hour, while another was hired back as the department's full-time "emergency preparedness coordinator." Nelsen, the retirement system manager, said the agency was further examining the cases of Rude, Marstrom and Webb.

Earlier this year, after an AP report that described the case of former Lakewood official Greg Hull as part of a larger story about how some workers boosted their pensions with pre-retirement raises, the state audited files related to Hull and determined that he had been improperly classified as a contractor in his newer job at DuPont.

Retirement system managers are now seeking to recover more than $550,000 in excess pension payments from that city.

Retirees in the two systems dedicated for law enforcement officers and firefighters have different rules than most other retirees. Many retired teachers, for example, would be unable to work more than 867 hours a year in a government job without having their benefits disrupted, but law enforcement and firefighter retirees could conceivably work more than 1,800 hours a year.

Law enforcement and firefighters also get more leeway even though their pay and benefits are typically much greater than other government workers. The median worker who retired over the last 10 years into a LEOFF system currently gets about $45,000 per year in pension payments. By comparison, the median retiree into the teacher pension systems has a benefit about half that size — $24,000.

Despite the much larger pension values, the median LEOFF retiree departed the job at age 56 while the median teacher retiree worked until age 61.

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AP Writer Mike Baker can be reached on Facebook: http://on.fb.me/HiPpEV

APPENDIX B

Updated Retiree Return to Work Bill – Code Reviser Draft

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0646.1/15

AN ACT Relating to retired law enforcement officers and firefighters employed in certain public positions; amending RCW 41.26.500; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature has recognized the physical demands of law enforcement officer and firefighter duties by providing for earlier retirement from the law enforcement officers' and firefighters' retirement system than from other state retirement systems. Chapter 372, Laws of 2005 facilitates transition of firefighters and law enforcement officers to other careers, recognizing those career professionals could still provide valuable public service in positions other than law enforcement and firefighting.

It is not the intent, nor is it a reasonable expectation of members, that chapter 372, Laws of 2005 allow plan 2 retirees of the law enforcement officers' and firefighters' retirement system to continue in a law enforcement officer or firefighter career and still collect their retirement allowance.

Sec. 2. RCW 41.26.500 and 2005 c 372 s 2 are each amended to read as follows:

(1) Except under subsection (3) of this section, a retiree under the provisions of plan 2 shall not be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.37.010, or 41.35.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

(3) A member or retiree who becomes employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.35.010, or 41.37.010 shall have the option to enter into membership in the corresponding retirement system for that position notwithstanding any provision of RCW 41.04.270.

(a) A retiree who elects to enter into plan membership shall have his or her benefits suspended as provided in subsection (1) of this section.

(b) A member or retiree who does not elect to enter into plan membership shall be eligible to initiate or continue to receive his or her benefits without interruption except as provided in (c) of this subsection.

(c) This subsection (3) does not apply to retirees or members in positions that would otherwise be eligible for the law enforcement officers' and firefighters' retirement system except that:

(i) The position is less than full-time;

(ii) The position is less than fully compensated;

(iii) The position is not fully commissioned;

(iv) The position includes additional duties that would make the position ineligible for the law enforcement officers' and firefighters' retirement system; or

(v) The retiree or member is designated as an independent contractor.

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APPENDIX C

Original Fiscal Note for HB 2479

Multiple Agency Fiscal Note Summary

Bill Number: 2479 HB	Title: LEOFF restrictions

Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2013-15			2015-17			2017-19		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Retirement Systems	.0	0	0	.0	0	0	.0	0	0
Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board	.0	0	0	.0	0	0	.0	0	0
Actuarial Fiscal Note - State Actuary	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total	0.0	$0	$0	0.0	$0	$0	0.0	$0	$0

Estimated Capital Budget Impact

NONE

Prepared by: Jane Sakson, OFM	Phone: 360-902-0549	Date Published: Final 1/24/2014

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 36389

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 2479 HB	Title: LEOFF restrictions	Agency: 124-Department of Retirement Systems

Part I: Estimates

☒ **No Fiscal Impact**

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☐ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:		Phone:	Date: 01/20/2014
Agency Preparation:	Mike Ricchio	Phone: 360-664-7227	Date: 01/24/2014
Agency Approval:	Marcie Frost	Phone: 360-664-7224	Date: 01/24/2014
OFM Review:	Jane Sakson	Phone: 360-902-0549	Date: 01/24/2014

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill would restrict the ability of a retiree from Plan 2 of the Law Enforcement Officers' and Fire Fighters' (LEOFF) Retirement System from continuing to receive their pension while employed in a position that performs primarily LEOFF duties but is not LEOFF eligible. An example of this type of position would be a less than full-time police officer or fire fighter.

This bill will not have a fiscal impact on the Department of Retirement Systems (DRS).

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Administrative Assumptions

- This bill will affect current employees, but all pension suspensions will be prospective. There will be no pension suspensions for time worked prior to the effective date of this bill.
- DRS will use existing processes to communicate the change to employers and to make appropriate pension adjustments within the agency's automated systems.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 2479 HB	Title: LEOFF restrictions	Agency: 341-LEOFF 2 Retirement Board

Part I: Estimates

[X] **No Fiscal Impact**

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

[ ] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

[ ] If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

[ ] Capital budget impact, complete Part IV.

[ ] Requires new rule making, complete Part V.

Legislative Contact:		Phone:	Date: 01/20/2014
Agency Preparation:	Cornelia Kirkpatrick	Phone: (360) 407-8131	Date: 01/22/2014
Agency Approval:	Steve Nelsen	Phone: 360-586-2323	Date: 01/22/2014
OFM Review:	Jane Sakson	Phone: 360-902-0549	Date: 01/22/2014

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill amends RCW 41.26.500 - Suspension of Retirement Allowance upon Reemployment.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 2479 HB	Title: LEOFF restrictions	Agency: AFN-Actuarial Fiscal Note - State A

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:		Phone:	Date: 01/20/2014
Agency Preparation:	Aaron Gutierrez	Phone: 360-786-6152	Date: 01/24/2014
Agency Approval:	Lisa Won	Phone: 360-786-6150	Date: 01/24/2014
OFM Review:	Jane Sakson	Phone: 360-902-0549	Date: 01/24/2014

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

SUMMARY OF RESULTS

BRIEF SUMMARY OF BILL: This bill removes the ability for a LEOFF 2 retiree to receive benefits if the retiree returns to work and is employed in a position that would normally have qualified for LEOFF 2 were it not for certain circumstances.

COST SUMMARY

The limitations on benefits that result from this bill could lead to LEOFF 2 members retiring later than they would under current law. When people retire later than previously expected, it generally leads to a savings to the plan. Due to a lack of data, however, that savings is indeterminate.

See the remainder of this fiscal note for additional details on the summary and highlights presented here.

Summary Of Change

This bill impacts the following system and plan:

- Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2).

This bill removes the "opt in/opt out" provision (detailed in the next section) in certain circumstances. As a result, LEOFF 2 retirees who return to work in certain positions will have their retirement benefits suspended so long as they continue to work in those positions.

Under the bill, the "opt in/opt out" provision will not be available when the retiree is working in a position that would normally qualify for membership in LEOFF except for one or more of the following circumstances:

- The position is less than full-time.
- The position is less than fully compensated.
- The position is not fully commissioned.
- The position includes additional duties that would exempt the position from LEOFF 2.
- The retiree is deemed an independent contractor.

Effective Date: 90 days after session.

What Is The Current Situation?

Under the estoppel statute (RCW 41.04.270) anyone who is a member of, or receiving benefits from a state retirement system, is prohibited from becoming a member or earning benefits in another retirement system.

Each retirement system also has its own rules regarding when a retiree may return to work and continue receiving benefits at the same time. Typically, retirees in the various systems can receive benefits and work:

- Limited hours (up to 867 per year), if the position would otherwise be eligible for retirement system membership.
- Unlimited hours, if the position is in the private sector, or otherwise ineligible for retirement system membership.

LEOFF 2 statutes prohibit members from receiving LEOFF benefits and working in a law enforcement capacity at the same time. However, the statutes do allow members to retire, begin receiving benefits, and return to work in a non-law enforcement position without a restriction on hours.

Specifically, LEOFF 2 statutes contain both a general rule, and an exception to that rule.

The general rule (RCW 41.26.500(1)) states that LEOFF 2 retirees cannot receive LEOFF pension benefits while employed in an eligible position in PERS, TRS, SERS, PSERS, or LEOFF.

However, the exception (RCW 41.26.500(3)) allows LEOFF 2 retirees hired into eligible positions in PERS, TRS, SERS, or PSERS (not LEOFF) to choose between either of the following:

- Opting in to the non-LEOFF retirement system, earning future service as a dual member, and having their LEOFF 2 benefits temporarily suspended; or
- Opting out of the non-LEOFF system and continuing to receive LEOFF 2 retirement benefits.

Who Is Impacted And How?

We estimate this bill could affect any current or future retirees in LEOFF 2. The table below shows counts of active, terminated and vested, and service-retired LEOFF 2 members at June 30, 2012.

Members Impacted			
System/Plan	Actives	Terminated Vested	Service Retirees
LEOFF 2	16,720	689	1,956

We estimate this bill will cause certain members' retirement benefits to be suspended under certain circumstances, where they might not be suspended under current law.

This bill could impact all 16,720 active LEOFF 2 members through decreased contribution rates.

WHY THIS BILL HAS AN INDETERMINATE SAVINGS AND WHO PAYS FOR IT

Why This Bill Has A Savings

This bill has a savings because placing restrictions on who can receive retirement benefits can encourage members to retire later than they otherwise would have. If a member begins collecting benefits later (and thus for a shorter time overall), it represents a savings to the plan relative to current law.

Who Will Receive These Savings?

The savings from this proposal would be divided between members, local employers, and the state according to the standard LEOFF 2 funding method.

- 50 percent member.
- 30 percent local employer.

- 20 percent state.

The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.

As with the costs developed in the actuarial valuation, the emerging costs of the system will vary from those presented in the *June 30, 2012, Actuarial Valuation Report* or this fiscal note to the extent that actual experience differs from the actuarial assumptions.

WHAT THE READER SHOULD KNOW

The Office of the State Actuary ("we") prepared this fiscal note based on our understanding of the bill as of the date shown in the footer. We intend this fiscal note to be used by the Legislature during the 2014 Legislative Session only.

We advise readers of this fiscal note to seek professional guidance as to its content and interpretation, and not to rely upon this communication without such guidance. Please read the analysis shown in this fiscal note as a whole. Distribution of, or reliance on, only parts of this fiscal note could result in its misuse, and may mislead others.

ACTUARY'S CERTIFICATION

The undersigned hereby certifies that:

1. We prepared this fiscal note for the Legislature during the 2014 Legislative Session.
2. We prepared this fiscal note and provided opinions in accordance with Washington State law and accepted actuarial standards of practice as of the date shown in the footer of this fiscal note.

The undersigned, with actuarial credentials, meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

While this fiscal note is meant to be complete, the undersigned is available to provide extra advice and explanations as needed.

Lisa A. Won, ASA, FCA, MAAA
Senior Actuary

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GLOSSARY OF ACTUARIAL TERMS

Actuarial Accrued Liability: Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of actuarial assumptions (i.e. interest rate, rate of salary increases, mortality, etc.).

Aggregate Funding Method: The Aggregate Funding Method is a standard actuarial funding method. The annual cost of benefits under the Aggregate Method is equal to the normal cost. Under this method, all plan costs (for past and future service credit) are included under the normal cost. Therefore, the method does not produce an unfunded actuarial accrued liability outside the normal cost. It's most common for the normal cost to be determined for the entire group rather than on an individual basis for this method.

Entry Age Normal Cost Method (EANC): The EANC method is a standard actuarial funding method. The annual cost of benefits under EANC is comprised of two components:

- Normal cost.
- Amortization of the unfunded actuarial accrued liability.

The normal cost is most commonly determined on an individual basis, from a member's age at plan entry, and is designed to be a level percentage of pay throughout a member's career.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Projected Unit Credit (PUC) Liability: The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service) based on the PUC method.

Projected Benefits: Pension benefit amounts that are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Unfunded PUC Liability: The excess, if any, of the Present Value of Benefits calculated under the PUC cost method over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

LEOFF
Plan 2 Retirement Board

Retiree Return to Work

Final Proposal
December 16, 2015

Issue

Career Change legislation is sometimes used inappropriately

Board proposal to remedy revealed tension

- Public confidence in well designed and professionally managed public pension plan
- Access to highly trained and experienced LEOFF Plan 2 retirees for small jurisdictions

Proposal Summary

- **Resubmit HB 2479 prohibiting LEOFF Plan 2 retirees from receiving pension if working in a position eligible for LEOFF except for the fact that it is:**
  - Less than full time
  - Less than fully compensated
  - Not fully commissioned
  - Includes additional non-LEOFF duties
  - Worker is an independent contractor
- **Fiscal Note**

LEOFF Plan 2 Retirement Board

Next Steps - Options

1. **Vote to submit bill draft to Legislature for passage**

2. **Take no further action**

Questions?

Contact:

Paul Neal

Senior Research and Policy Manager

(360) 586-2327

paul.neal@leoff.wa.gov