July 23, 2025

Career Choice 457 Employer Contributions

INITIAL CONSIDERATION
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ISSUE STATEMENT

When an employer hires a LEOFF 2 retiree into a non-LEOFF position and the retiree does not opt into membership in the position's retirement plan the employer does not pay pension contributions.

OVERVIEW

When LEOFF 2 retirees utilize the LEOFF 2 career choice law to continue to receive their LEOFF 2 pension while also working in a non-LEOFF position covered by one of the other state retirement plans, it creates a situation where the employer saves money by not having to make pension contributions. The policy question that the Board was asked to research is whether the employer should be required to instead make contributions into a 457 plan for the LEOFF 2 retiree.

BACKGROUND AND POLICY ISSUES

Career Choice

Prior to 2005 a LEOFF 2 retiree's pension stopped if they returned to work in a job covered by any state-wide public retirement system. The LEOFF 2 Board recognized members could age out of LEOFF positions before they were ready or could afford to leave the workforce. The Board intended to facilitate members' transition to a less physically demanding profession that would allow LEOFF retirees to utilize their knowledge and skills while continuing to serve the public. The Board endorsed career change legislation in 2005 enabling LEOFF 2 retirees to start a second career in non-LEOFF public employment.

The 2005 career change law allows a LEOFF 2 retiree to return to work in a non-LEOFF position and to choose between two options:

1. receive LEOFF 2 retirement benefits while employed in the non-LEOFF position and be prohibited from entering a new retirement plan; or,
2. enter into the membership in the new position's retirement plan, make contributions and accrue service credit, and have their LEOFF 2 retirement benefit suspended until the employment covered by the other retirement plan ends.[1]

[1] The member receives the suspended pension payments when they separate from their employment.

In 2018, DRS provided data to the LEOFF 2 Board regarding the use of the career change law and LEOFF 2 retirees returning to work. At that time 581 retirees had utilized the provisions of the career change law since 2005. Ten of those retirees opted to enter membership in a new retirement system. Also, 55 LEOFF retirees reentered LEOFF membership by working in a LEOFF eligible position.

When a LEOFF 2 retiree chooses to continue to receive their LEOFF 2 pension and not join their new position's retirement plan both the retiree and their employer do not pay contributions into that pension system. While the employer does end up saving money by hiring a LEOFF 2 retiree who does not join the new pension system, that decision is the member's, so it lowers the risk that employers are intentionally hiring LEOFF 2 retirees to save money on contributions.

Plan Contributions

Contributions to fund LEOFF 2 are split between members, employers and the state: 50% member**,** 30% employer**,** 20% state[2]. The current contribution rate for LEOFF 2 is 8.53% for members, 5.32% for employers and 3.41% for the state. For the other DRS administered state pension plans the contribution rate is split 50% employer, 50% member. The current employer contribution rates, including the DRS administrative fee, for the plans LEOFF 2 retirees would most likely return to work in are:

- PERS 2 – 5.58%
- TRS 2 – 9.86%
- PSERS 2 – 7.11%
- WSPRS 2 – 16.05%

457 Savings Plans

A 457 plan is a retirement savings plan that may be offered by public employers. Like a 401(k) plan in the private sector, a 457 plan allows employees to invest pre-tax (or post-tax with a 457 Roth account) earnings. The state offers a 457 plan, called the Deferred Compensation Program (DCP) which is administered by the Department of Retirement Systems (DRS) and invested through the Washington State Investment Board (WSIB). Not all public employers offer DCP, instead many offer their own 457 plan. Employers are not required to offer a 457 plan. Some employers match a portion of their employee's contributions to their 457 accounts. These matching contributions are typically negotiated through collective bargaining or during the hiring process.

[2] For a small percentage of LEOFF 2 members their employer pays 50% and the State pays 0%.

LEOFF
Plan 2 Retirement Board

Career Choice 457 Employer Contributions

Initial Consideration
July 23, 2025

Issue

- When an employer hires a LEOFF 2 retiree into a non-LEOFF position and the retiree does not opt into membership in the position's retirement plan the employer does not pay pension contributions.
- Rep. Burnett requested that the Board study having employers pay what they would have paid in contributions into a 457 plan for the member.

Career Choice

The 2005 career change law allows a LEOFF 2 retiree to return to work in a non-LEOFF position and to choose between two options:

1. Receive LEOFF 2 retirement benefits while employed in the non-LEOFF position and be prohibited from entering a new retirement plan; or,
2. Enter membership in the new position's retirement plan, make contributions and accrue service credit, and have their LEOFF 2 retirement benefit suspended until the employment covered by the other retirement plan ends.

Career Choice Data from 2018

- 581 retirees utilized the career change law since 2005.
- 571 opted out of membership in new retirement system.
- 10 opted into membership in new retirement system.

457 Plans

- A 457 plan is a retirement savings plan that allows employees to invest pre-tax (or post-tax with a 457 Roth) earnings.
- State offers Deferred Compensation Program (DCP).
- Many employers offer a different 457 plan.
- Employers not required to offer a 457 plan.
- Many employers offer matching contributions into 457 plans.

457 Plan Restrictions

- The IRS currently limits annual employer contributions for a 457 plan to $23,500.
- Any contributions the member makes on their own towards the plan lowers that threshold.
  - If a participant contributes $20,000 a year, the employer would be limited to $3,500.
- If the member's 457 plan is receiving employer contributions the retiree may be restricted from accessing the money in their 457 plan.

Other Possible Policy Concerns

- Current law may create an incentive for employers to hire LEOFF 2 retirees and save money on contributions.
- Risk it mitigated because LEOFF 2 retiree, not the employer, makes the choice to forgo these pension contributions.
- If the Board were to move forward with endorsing a bill, the bill would affect LEOFF 2 retirees but would impact non-LEOFF positions and possibly non-LEOFF employers.

Next Steps

1. No further action.
2. Motion for a Comprehensive Report.

Thank You

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