

February 1, 2012

To: Members of the House Ways & Means Committee
Members of the Senate Ways & Means Committee
Will be sent to other key legislators

RE: **Vote "No"** on HB2350, the Merger of LEOFF I and LEOFF II
Vote "No" on SB6563, the Merger of LEOFF I and LEOFF II

Dear Members of the House Ways & Means Committee:
(Will also send a letter to the Senate Ways & Means Committee for SB6563)

I am a retired LEOFF I member with 38 years of law enforcement service. Over the past years, I have seen the legislature and the Governor attempt to balance the budget with the funds from our LEOFF I system. In 2001 the State, through legislation, attempted to terminate the LEOFF I Retirement system, restart it, and take the surplus \$200 million dollars to balance the budget. We fought the legislature to keep them from raiding our system, and won. Never in my wildest imagination did I ever think that I, as well as my fellow LEOFF I members and retirees, would be spending our retirement years fighting every year to keep our retirement benefits intact. Retirement is supposed to be the time in life when you sit back, enjoy your grandkids and not worry about whether your retirement benefits will be cut by some board that took over your system in a hostile takeover.

Now, we have a new pack of wolves knocking at our door, WACOPS, the Council of Firefighters, COMPAS and the LEOFF II Retirement Board. These greedy members want to raid our system, as they said for the **"good of the order"** or should I say **"for the good of a few"**, who are driving this proposed merger of the two retirement systems for their own agenda and benefit.

The LEOFF I members fought successfully in the last legislative session to stop this merger under HB 2097, which was authored by Rep. Pat Sullivan, who incidentally is from my district. What really irritates me about this is that he did not have the common decency to contact any one from LEOFF I or associated organizations to determine whether his bill had any merit whatsoever. Instead, he listened to only one side, those members of LEOFF II. I also feel that the State Actuary was asked to conduct a study on the merger so Rep. Sullivan could save face on a bill that should have been killed completely. I do not know Rep. Sullivan's reasoning for authoring this piece of flawed legislation, but he might find some solace in some famous old words: "If it isn't broken, then don't fix it." By authoring and sponsoring this bill, Rep. Sullivan has further driven a huge wedge between our two systems, and has taken away precious time and energy from the legislature by having to deal with a **bill that is flawed, for a problem that is non-existent.**

Don't let these people (WACOPS, Council of Firefighters, COMPAS and the LEOFF II Board) fool you, because they are wolves dressed in sheep's clothing, and their goal is to rob the LEOFF I system of our assets, even though they claim it is for the good of the order, whatever that

means. The State Actuary confirms that both systems are solvent and fully funded for decades to come. I believe the actual number noted by the State Actuary is that **LEOFF II is 125% fully funded**. This is nothing more than a money grab, not necessarily by the rank and file of LEOFF II members, because I don't think most LEOFF II members are aware of what is going on right this moment, but by a very few who have their own agenda running WACOPS and the LEOFF II Retirement Board. To further make this point, I attended the Special Session of the LEOFF II Board in Olympia today (1-30-2012 @0900 hours). This special meeting was called late on the night of 1-27-2012, after a vote (5-3) had been taken at a meeting earlier that day, not to support HB2350. This current meeting reversed their vote (6-4), and they based that reversal on some document that the Board would not identify during discussion. After the meeting was over, there were several LEOFF I members standing in the parking lot and were approached by one of the LEOFF II board members, who had just voted to support HB2350 in closed session. One of the LEOFF I retirees in our group asked this board member about our loss of benefits based on the design of the merger. The Board member advised us that **"LEOFF I members would not lose any benefits, and the only thing he and the Board wanted was the LEOFF I money!!** If either of these bills, HB2350 and SB6563, passes, the State, at a time when money is hard to come, will spend millions of dollars in costs associated with litigating this bad legislation.

There was also an issue concerning the Ice Miller Opinion conducted by the LEOFF II Board. LEOFF I organizations have asked for this opinion time and time again, but have never seen a single page, or have been told of its' contents. When I asked one of the Board members for a copy of this opinion after this meeting, I was told that I could not have it, that it is only for the Board's use, i.e. confidential, attorney-client privilege and it was not to be released to the public, or anyone from LEOFF I. I have since found a copy of the Ice Miller report on the State Actuary web site as part of his merger study. At any rate, this opinion does not support this merger. I would recommend you read it for yourself and draw your own conclusion. LEOFF I has had two opinions completed, one by Attorney Joe Fishnaller, and the other by former Supreme Court Judge, Phil Talmadge. Both opinions conclude there is no need for such a merger, further identifying issues of extensive and financial litigation should this bill become law. Both these opinions have been released to the public, and to anyone who wants a copy.

What is incomprehensible to me is that these LEOFF II Board Members are a quasi-governmental entity, especially when appointed by the Governor, and especially when these groups are using tax payer dollars to order and conduct studies which could impact an issue of such great importance as this. Yet, that they use the attorney-client privilege veil to withhold information that should be released under the Freedom of Information Act. Trying to merge two completely different retirement groups when there is **no** such reason to do so is beyond me. I would guess that since they won't release the Ice Miller Opinion that it was unfavorable to them, and they are now shopping for an opinion to match their agenda.

Let's talk for a minute about last year's presentation of HB2097, the merger of LEOFF I and II. Rep. Pat Sullivan who wrote the bill, did not do his homework. He listened only to the LEOFF II members, and did not even think that it might be reasonable on his part to touch bases with

members of LEOFF I and those groups who represent them. Instead, Sullivan presented this bill with the sole purpose of flying it under the radar so we, LEOFF I members, wouldn't know about it, or found out about it too late to do anything about it. Here's the really important message that the legislatures need to know. This bill was never reviewed by all of the WACOPS Board of Directors. There were, I believe only three members of their total Board who knew anything about this bill being sponsored by Sullivan through WACOPS. Ken Crowder, who was a LEOFF I Board member (since resigned) of WACOPS, was **never** told by his LEOFF II counterparts about this bill prior to its presentation to the Legislature. Also to show the continued agenda of a few, none of the members of the LEOFF II Retirement Board, with the exception of Kelly Fox and Jack Simington, knew anything of this bill and therefore did not take a position. Fox and Simington were well aware of the bill's existence, and supported it as such. There again, two members of a particular group, who promoted their own agenda without ever telling the remaining Board members of their intentions.

Not only that, but not one LEOFF I member or organization was ever advised of HB2097 being authored by Rep. Sullivan. It was only when some 60 member firefighters of LEOFF II spread out on the legislative floor of the House last April, that representatives became alarmed of the bill's contents and started calling LEOFF I members and representative organizations to find out what was happening with this one-sided bill being forced through the House. The representatives wanted to know why we, LEOFF I, were not involved or notified of this bill. When some of the representatives asked these LEOFF II members if LEOFF I supported this bill, they were told by these LEOFF II members that LEOFF I members and organizations were well aware of the bill and they (LEOFF II) had LEOFF I's blessing to push this bill through the legislature.

What's the matter with this picture? Does there seem to be a little deceit and dishonesty going on here? Does it appear that certain members of key organizations are acting on their own, without first consulting the members of their respective Board? If this merger proposal were presented to us in an honest and up-front manner, with vital information flowing between LEOFF I and LEOFF II members and organizations, the merger possibility could have been discussed on common and honest ground, rather than that of behind LEOFF I members' backs, with lies and deceit, and the legislature wouldn't be the pawn in the middle of this mess. If this merger is such a great opportunity and benefit to us as LEOFF I members, why did LEOFF II members and representative organizations willfully leave us out of the loop, misrepresent our support to the House of Representatives, and push a bill that according to LEOFF II representatives will save the state millions of dollars in management fees by combining the two systems, when in fact the systems are managed totally differently, and could not be combined. This merger is absolutely absurd, and HB 2350 should die in the Ways & Means Committee, just as HB2097 did back in April 2011.

It would appear that LEOFF II members didn't want to broach this merger subject with LEOFF I members because they knew LEOFF I members would not stand still and let their system be pillaged, especially in the hostile manner they were attempting. Board members from both the LEOFF II Retirement System and WACOPS purposely and deceitfully kept strategic information

from their members in order to facilitate a quick takeover through passage of a flawed house bill. It would appear that there are many others, COMPAS and Council of Firefighters, with adjoining agendas who want to take over the LEOFF I assets for their own use (“for the good of the order”), and of course to hopefully goad the legislature into giving them more benefits based on the LEOFF I money LEOFF II wants to put in their bank account. They, LEOFF II, feel the only means by which they can ask for “increased benefits” is to show they have a certain amount of money their account, thus increasing their “multiplier”. According to LEOFF II members, the only way to accomplish this is to take over the LEOFF I system and take their assets.

In October of 1977, LEOFF II was established, and no new members were allowed to join the LEOFF I retirement system. Most members of the LEOFF II retirement system called their system “Left Out”, and rightfully so, because the legislature offered them little in the way of retirement benefits and on the job injury benefits as compared with those of the LEOFF I members. Since the inception of LEOFF II, the legislature has been very accommodating in offering and enacting, by law, LEOFF II members many benefits that LEOFF I members were never offered in their retirement package. If you talk with a LEOFF II members, he/she will always, and I mean always bring up the fact that a LEOFF I member has medical after retirement. And yes, I agree that medical is a very important issue to us retirees as we get older, but let’s look at what the legislature did to offset this issue for the LEOFF II members.

The legislature allows an officer to average his last five (5) year’s annual salary toward his retirement calculation, to include all overtime, comp time, all incentive pay such as education, motors, swat, gangs, etc. all of which add up and average in many cases \$175,000 to \$200,000 annual average over those last five years. Based on the 2% per year of service, and given an average of 25 years’ service, a LEOFF II member will most likely retire with an annual retirement income of approximately \$87,500 to possibly \$100,000, or even more. Less service time would result in less retirement income. This calculated retirement income is no doubt quite a bit more than their base salary. With this kind of retirement income a LEOFF II retiree is making, he/she can buy a top notch medical plan and still be making 50% more than a LEOFF I member retiree. This pretty much takes this issue off the table.

Now, as a LEOFF I member, retirement is based solely on your base wage at retirement. There is no overtime, comp time or incentives of any kind in our retirement calculation. Most LEOFF I members with 25 years’ service make an annual retirement income of approximately \$40,000 per year. The medical benefit LEOFF I members receive, even if it was equated into dollars, would in no way even come close to the income these LEOFF II members are making upon retirement. Based on this analogy, which was information taken from King 5 News, you tell me that LEOFF II members are being treated unfairly in the income and benefits they are receiving upon retirement. If the legislature has any apprehension about whether the LEOFF II system is solvent, they might want to look into this issue. It appears this may be a reason for the hostile takeover.

Another reason LEOFF II members, WACOPS, and others want to take over the LEOFF I system, is that somewhere along the line, they had an epiphany or were told by someone in Olympia that LEOFF II members could not receive any further benefits under their current system, as the system did not have enough money reserve in their account to back any added benefits, whatever those benefits may be. This was noted in an earlier paragraph. **Therefore, the attempted raid on, and the hostile takeover of our LEOFF I system.** This belief, and I again quote the Board Member in the parking lot after the 1-30-2012 Special Meeting in Olympia, in which he stated, **“your benefits will not change, all we want is your money!”** That pretty much sums up this hostile takeover! They take our money, they dictate what our benefits will be, and they will base that on the design of the legislation and they control all the Disability Boards throughout the state.

In the 2011 session, when HB2097 was presented to the House Ways & Means Committee, it was rejected, but they suggested that the State Actuary conduct a study on the merger of LEOFF I & II. I submit they did this so it wouldn't embarrass the author of this bill. It has always been my understanding that the State Actuary completes a study when there is a “defined problem” or in this case a “defined merger proposal” which there was not. According to the State Actuary **“both”** “systems are solvent and completely funded for many years to come, **125% in the case of LEOFF II.** So, in order for the State Actuary to complete his analysis, he based his opinion on a “Hypothetical Merger Proposal”. When you base your outcome on flawed hypothetical data, your conclusions are going to be less than desirable and incomplete to the point of being undefinable. **So the bottom line is this. The State Actuary was called upon to conduct a study of an undefined problem, when in fact there was no problem to solve in the first place.** Unfortunately, the time, manpower, staffing and budget that went into this useless study is why the State is in the deficit the legislature is trying to patch.

At a time when things are so bad with the State's budget, an economy that is still in the cellar and our legislators are doing everything they can to patch these holes, they need to focus on balancing the budget, not dealing with a group of LEOFF II members who are mad at the system and think they are entitled to something that is not theirs. There are a few LEOFF II leaders, who have their own agendas, and feel that by being deceitful they can, with the help of flawed legislation, take over a system that doesn't need taking over, or being run by them. **Talk about letting the fox in the hen house.** If this bill is passed, it will only further drive the wedge between LEOFF I and LEOFF II members for decades to come, and will cost the individual systems, as well as the State, millions of dollars in legal fees, and for what. Ultimately, the courts will side with the LEOFF I members, as they have in the past, and we will be back to where we are today. We, the members of LEOFF I, will have our system, and LEOFF II will have theirs. What an utter waste of time and money.

Please vote **“NO”** on this bill and don't allow HB2350 out of the House Ways & Means Committee. Kill it now! This is an acutely flawed piece of legislation that has morphed into a monster that will do nothing except empty the bank accounts of both LEOFF systems as well as the State of Washington with the litigation that will last for years to come. If nothing else let both bills die and refer the issue to the interim where all interested parties can sit down and

resolve all the problems with the bills. Maybe at that time a bill that addresses everyone's needs could be put forward in the 2013 session with the blessings of all.

If I can be of further assistance to you, please either contact me by email, foxplus2@comcast.net or by phone, 206-930-4833

Respectfully,
Gary R. Fox
LEOFF I Retiree