



Retired Seattle Police Officers' Association

2517 Eastlake Avenue East, Suite 101, Seattle, WA 98102-3277

January 31, 2012

The Honorable Lisa Brown, Senator
307 Legislative Building
PO Box 40403
Olympia, WA 98504-0403

Dear Senator Brown:

I just became aware that SB6563 was introduced yesterday and you are one of the sponsors. I am a retired Seattle Police Officer and the president of the Seattle Police Retired Officers' Association.

We opposed this legislation last year when it was introduced as HB2097 and are opposing it again this session. It is now known as HB2350 and SB6563. The bill does a number of things that are of concern.

This bill has several significant flaws.

First

The bill removes all legislative oversight from the LEOFF governance system. Under this bill changes to contribution rates and assumptions would be the sole purview of the LEOFF 2 Board. The legislature would no longer have the power to override or change the LEOFF 2 board. What small oversight that remains is vested in a determination by the State Actuary that the board actions are "reasonable". Thus the board could take actions that would have a direct impact on the State budget without legislative review.

Given that the LEOFF board is unelected and the fact that six of the eleven members are LEOFF Plan 2 members with a direct financial interest in rates and assumptions it seems to be a very bad public policy to entrust this unelected board with such authority and no legislative oversight.

What little nod the bill does make toward oversight is simply to require a declaration of "reasonableness" from another unelected state employee.

We strongly believe that the budgetary decisions should be in the hands of elected representatives. That is the only device the citizens have to insure government accountability.

Second

There is no legislative necessity for this bill. Even Matt Smith, the State Actuary, was unable to articulate such a need in his November 15, 2011 testimony before the Select Committee on Pension Policy. It leaves the bill with a sense of being simply a power grab for the LEOFF 2 Board sponsored by the two major police and fire union lobbying organizations, WSCFF and WACOPS.

Third

The bill would effectively deny LEOFF Plan 1 members of any representation in the governance of their pension system. Of the seven LEOFF 2 members currently on the Board, six are appointed by the Governor based on nominations from the Washington Council of Fire Fighters and WACOPS. Both of these organizations are union lobbying organizations and the unions they represent have an overwhelming percentage of LEOFF 2 membership.

Even though the bill writer, Steve Nelsen, the Executive Director of the LEOFF 2 Board, is very familiar with the leadership of LEOFF 1 organizations throughout the state and particularly the Retired Seattle Police Retired Officers, the Retired Fire Fighters of Washington and the Washington Retired Officers Association no contact was made with any LEOFF 1 group during the construction of either of these bills or the companion SB 6563. In fact, all were done in secret.

LEOFF 1 members across the state find the proposed governance in the merger to be unacceptable. Again, this fact combined with the lack of legislative oversight makes the system is extremely risky to all parties.

Fourth

There is a significant chance of litigation arising from this bill. LEOFF 1 organizations have had the proposals analyzed by two Washington attorneys. Joe Fischnaller, who is considered the premier attorney in the state for LEOFF issues with over 2000 cases and no losses has found many areas of significant concern from the standpoint of established case law, the constitution and federal statutes. In like manner, Phil Talmadge, a former Senator, former Chief Justice of the State Supreme Court and one of the writers of the original LEOFF 1 law, finds similar concerns. We would be happy to provide you with the opinions of both of these attorneys.

We recognize that the LEOFF 2 Board claims to have a legal opinion from a Florida lawyer that says the bill is legal. Unfortunately they refuse to share that opinion claiming attorney-client privilege. Hence we have not only different interpretations but an unwillingness to cooperate to arrive at some common understanding of the legal issues. That does not bode well for preventing litigation.

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I believe that I can speak for all LEOFF 1 organizations when I say that we do not want litigation and that we stand willing are ready to work directly with the supporters of this bill to determine if there is truly a need for such a change and, if so, develop a bill that will produce that change with fairness and acceptability to all parties.

Obviously there are many other specifics that we can address that further demonstrate that these bills would be bad legislation and should not be passed. We would like the opportunity to meet directly with you and discuss this matter further.

Respectfully yours,

Gerald E. Taylor, President
Retired Seattle Police Officers' Association