Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

December 13, 2005

11:00 am - 4:30 pm
House Hearing Room A
Olympia

AGENDA

11:00 AM	**(1)**	**Approval of Minutes**
11:05 AM	**(2)**	**2006 Meeting Dates** - Matt Smith, State Actuary
11:15 AM	**(3)**	**USERRA Compliance - DRS Report**
11:30 AM	**(4)**	**PERS 1 Window - Briefing** - Laura Harper, Senior Research Analyst - Legal
NOON	**(5)**	**Bargaining for Supplemental Pensions - DRS Report**
12:30 PM	**(6)**	**LEOFF 1 Benefit Cap - Follow-up Staff Report** - Robert Wm. Baker, Senior Research Analyst
1:00 PM	**LUNCH BREAK**	

PUBLIC HEARING/POSSIBLE EXECUTIVE SESSION

1:30 PM	**(7)**	**LEOFF 1 Benefit Cap** - Bob Baker
1:45 PM	**(8)**	**Judges Benefit Multiplier** - Bob Baker
2:15 PM	**(9)**	**PSERS Eligibility** - Bob Baker
2:45 PM	**(10)**	**WSP Contribution Rates - Subgroup Proposal** - Laura Harper
3:00 PM	**(11)**	**Gain-Sharing Study - Subgroup Proposal** - Bob Baker
3:30 PM	**(12)**	**Plan 1 Unfunded Liability - Subgroup Proposal** - Laura Harper
4:00 PM	**(13)**	**Post-Retirement Employment** - Laura Harper
	(14)	**Public Testimony**
4:30 PM	**(15)**	**Adjourn**

Persons with disabilities needing auxiliary aids or services for purposes of attending or participating in Select Committee on Pension Policy meetings should call (360) 753-9144. TDD 1-800-635-9993.

***Elaine M. Banks**
TRS Retirees

Representative Barbara Bailey

Lois Clement
PERS Retirees

Representative Steve Conway

Representative Larry Crouse

***Senator Karen Fraser**, Vice Chair

***Representative Bill Fromhold**, Chair

***Leland A. Goeke**
TRS and SERS Employers

***Robert Keller**
PERS Actives

***Sandra J. Matheson**, Director
Department of Retirement Systems

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Victor Moore, Director
Office of Financial Management

Senator Joyce Mulliken

Glenn Olson
PERS Employers

Senator Craig Pridemore

Diane Rae
TRS Actives

J. Pat Thompson
PERS Actives

David Westberg
SERS Actives

*** Executive Committee**

(360) 786-6140
Fax: (360) 586-8135
TDD: 1-800-635-9993

Goals for Washington State Public Pensions

Revised and Adopted October 18, 2005

1. Contribution Rate Setting: To establish and maintain adequate, predictable and stable contribution rates, with equal cost-sharing by employers and employees in the Plans 2, so as to assure the long-term financial soundness of the retirement systems.

2. Balanced Long-Term Management: To manage the state retirement systems in such a way as to create stability, competitiveness, and adaptability in Washington's public pension plans, with responsiveness to human resource policies for recruiting and retaining a quality public workforce.

3. Retirement Eligibility: To establish a normal retirement age for members currently in the Plans 2/3 of PERS, SERS, and TRS that balances employer and employee needs, affordability, flexibility, and the value of the retirement benefit over time.

4. Purchasing Power: To restore lost purchasing power and, to the extent feasible, to increase future purchasing power of retiree benefits in the Plans 1 of PERS and TRS while providing long-term benefit security to retirees.

5. Consistency with the Statutory Goals within the Actuarial Funding Chapter: To be consistent with the goals outlined in the RCW 41.45.010:

   a. to provide a dependable and systematic process for funding the benefits to members and retirees of the Washington State Retirement Systems;
   b. to continue to fully fund the retirement system plans 2 and 3, and the Washington State Patrol Retirement System, as provided by law;
   c. to fully amortize the total costs of PERS 1, TRS 1 and LEOFF 1, not later than June 30, 2024;
   d. to establish predictable long-term employer contribution rates which will remain a relatively predictable portion of future state budgets; and
   e. to fund, to the extent feasible, benefit increases over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

Select Committee on Pension Policy

2005 Work Plan

(December 6, 2005)

June 21, 2005
✓Election of officers
✓Rules of procedure
✓2005 meeting dates
✓Session update
✓2005 work plan
✓2005 mandatory studies - background

July 19, 2005
✓LEOFF 1 benefit cap - background/options
✓Postretirement employment - options preview
✓Plan 1 unfunded liability - background/options
✓PSERS eligibility - background

August 23, 2005
✓SCPP goals
✓Gain-sharing subgroup report
✓Plan 1 unfunded liability - options
✓Disability retirement - background
✓TRS out-of-state service credit
✓Age 70 ½ and opt in/opt out
✓Plan 3 vesting

September 27, 2005
✓USERRA compliance update - DRS report
✓Judges benefit multiplier - background/options
✓Service credit purchases - background
✓PSERS eligibility - DRS report
✓LEOFF 1 benefit cap - options

Other Items
✓Reports to legislative fiscal committees - during legislative assembly

Subgroups:
Gain-sharing
Public safety/WSP
Plan 1 unfunded liability

October 18, 2005
✓Revised SCPP goals
✓Plan 1 unfunded liability subgroup report
✓Disability retirement - background
✓Accounting for post-retirement medical benefits
✓Medicare Part D briefing
✓TRS out-of-state service credit
✓Plan 3 vesting

November 15, 2005
✓OSA retire-rehire study - report
✓2004 actuarial valuation report
✓Gain-sharing subgroup report and recommendations
✓Public safety subgroup report and recommendations
✓Plan 1 unfunded liability subgroup report and recommendations
✓Service credit purchase
✓Age 70 1/2 and opt-in/opt-out
✓LEOFF 1 benefit cap

December 13, 2005
2006 meeting dates
USERRA compliance
PERS 1 window
Bargaining for supplemental pensions
LEOFF 1 benefit cap
Judges benefit multiplier
PSERS eligibility
WSP contribution rates - subgroup proposal
Gain-sharing study - subgroup proposal
Plan 1 unfunded liability - subgroup proposal
Post-retirement employment

January 2006
Possible session update (pension bills)

Fiscal Impact Summary
2005 SCPP Proposals

(December 12, 2005)

Total Fiscal Impact of 2005 SCPP Proposals - 2006-07

(Cost in Millions)

	2006-7 GF-S	2006-7 Local	2006-7 Total ER
Plan 3 Vesting			
PERS	$0.2	$0.5	$1.1
TRS	$0.9	$0.5	$1.4
SERS	$0.4	$0.6	$1.0
Total	$1.5	$1.6	$3.5
TRS Out-of-State Service			
TRS	$1.4	$0.8	$2.2
LEOFF 1 Benefit Cap - w/amendment*			
LEOFF 1	$0.0	$1.4	$1.4
** Resumption of 6% member and 6% employer contributions*			
Plan 1 Unfunded Liability			
PERS	$14.0	$33.0	$70.1
TRS	$34.2	$18.8	$53.0
SERS	$4.5	$6.8	$11.3
Total	$52.7	$58.6	$134.4
WSP Contribution Rates			
WSP	$0.0	$0.0	$1.1
PSERS Eligibility - w/amendment*			
PERS	$0.0	$0.0	$0.0
PSERS	$0.5	$0.0	$0.5
Total	$0.5	$0.0	$0.5
** No impact to retirement system; DSHS impact only*			
Age 70 1/2; Opt In/Opt Out			
PERS	$0.3	$0.9	$1.8
TRS	$0.0	$0.0	$0.0
SERS	$0.1	$0.1	$0.2
Total	$0.4	$1.0	$2.0
Age 66 COLA			
PERS	$0.4	$0.9	$2.0
TRS	$1.6	$0.9	$2.5
SERS	$0.2	$0.2	$0.4
Total	$2.2	$2.0	$4.9

Continued

Total Fiscal Impact of 2005 SCPP Proposals - 2006-07

(Cost in Millions)

	2006-7 GF-S	2006-7 Local	2006-7 Total ER
Rule of 90 for Plan 2/3			
PERS	$7.1	$19.2	$40.3
TRS	$24.3	$13.4	$37.7
SERS	$2.6	$3.9	$6.5
Total	$34.0	$36.5	$84.5
$1,000 Minimum			
PERS	$0.1	$0.3	$0.6
TRS	$0.3	$0.1	$0.4
SERS	$0.1	$0.1	$0.2
Total	$0.5	$0.5	$1.2
Omnibus Gain-Sharing (G/S)			
PERS	$0.0	$0.0	$0.0
TRS	$0.0	$0.0	$0.0
SERS	$0.0	$0.0	$0.0
Omnibus Gain-Sharing Sub-Totals			
Gain-Sharing Repeal	$0.0	$0.0	$0.0
Replacement Benefits	$0.0	$0.0	$0.0
Total	$0.0	$0.0	$0.0
Grand Total - All Proposals**			
All Systems	$93.2	$102.4	$235.7
All Systems - w/o G/S Repeal	$93.2	$102.4	$235.7

** *All other proposals have no fiscal impact*

Total Fiscal Impact of 2005 SCPP Proposals - 2007-09

(Cost in Millions)

	2007-9 GF-S	2007-9 Local	2007-9 Total ER
Plan 3 Vesting			
PERS	$0.6	$1.5	$3.2
TRS	$2.1	$1.1	$3.2
SERS	$1.1	$1.7	$2.8
Total	$3.8	$4.3	$9.2
TRS Out-of-State Service			
TRS	$3.3	$1.6	$4.9
LEOFF 1 Benefit Cap - w/amendment*			
LEOFF 1	$0.0	$2.2	$2.2
** Resumption of 6% member and 6% employer contributions*			
Plan 1 Unfunded Liability			
PERS	($15.0)	($35.3)	($75.1)
TRS	($38.4)	($19.2)	($57.6)
SERS	($5.6)	($8.4)	($14.0)
Total	($59.0)	($62.9)	($146.7)
WSP Contribution Rates			
WSP	$0.2	$0.0	$3.7
PSERS Eligibility - w/amendment*			
PERS	$0.0	$0.0	$0.0
PSERS	$0.8	$0.0	$0.8
Total	$0.8	$0.0	$0.8
** No impact to retirement system; DSHS impact only*			
Age 70 1/2; Opt In/Opt Out			
PERS	$0.8	$2.2	$4.6
TRS	$0.0	$0.0	$0.0
SERS	$0.2	$0.4	$0.6
Total	$1.0	$2.6	$5.2
Age 66 COLA			
PERS	$1.0	$2.5	$5.2
TRS	$3.5	$1.8	$5.3
SERS	$0.4	$0.6	$1.0
Total	$4.9	$4.9	$11.5

Continued

Total Fiscal Impact of 2005 SCPP Proposals - 2007-09

(Cost in Millions)

	2007-9 GF-S	2007-9 Local	2007-9 Total ER
Rule of 90 for Plan 2/3			
PERS	$17.3	$46.7	$98.0
TRS	$52.4	$26.2	$78.6
SERS	$6.0	$9.0	$15.0
Total	$75.7	$81.9	$191.6
$1,000 Minimum			
PERS	$0.4	$0.8	$1.8
TRS	$0.6	$0.3	$0.9
SERS	$0.2	$0.2	$0.4
Total	$1.2	$1.3	$3.1
Omnibus Gain-Sharing (G/S)			
PERS	($13.9)	($34.7)	($73.4)
TRS	($64.5)	($32.1)	($96.6)
SERS	($21.9)	($33.1)	($55.0)
Omnibus Gain-Sharing Sub-Totals			
Gain-Sharing Repeal	($185.8)	($174.6)	($403.0)
Replacement Benefits	$85.5	$74.7	$178.0
Total	($100.3)	($99.9)	($225.0)
Grand Total - All Proposals**			
All Systems	($68.4)	($64.0)	($139.5)
All Systems - w/o G/S Repeal	$117.4	$110.6	$263.5

** *All other proposals have no fiscal impact*

Total Fiscal Impact of 2005 SCPP Proposals - 25-Year

(Cost in Millions)

	25 Year GF-S	25 Year Local	25 Year Total ER
Plan 3 Vesting			
PERS	$24.0	$63.8	$134.2
TRS	$70.7	$35.2	$105.9
SERS	$48.9	$73.7	$122.6
Total	$143.6	$172.7	$362.7
TRS Out-of-State Service			
TRS	$88.9	$44.5	$133.4
LEOFF 1 Benefit Cap - w/amendment*			
LEOFF 1	$0.0	$5.6	$5.6
** Resumption of 6% member and 6% employer contributions*			
Plan 1 Unfunded Liability			
PERS	($1.0)	($2.3)	($5.0)
TRS	($4.2)	($0.4)	($4.6)
SERS	($1.1)	($1.6)	($2.7)
Total	($6.3)	($4.3)	($12.3)
WSP Contribution Rates			
WSP	$3.3	$0.0	$114.7
PSERS Eligibility - w/amendment*			
PERS	($2.8)	$0.0	($2.8)
PSERS	$9.9	$0.0	$9.9
Total	$7.1	$0.0	$7.1
** No impact to retirement system; DSHS impact only*			
Age 70 1/2; Opt In/Opt Out			
PERS	$13.9	$35.4	$74.7
TRS	$0.0	$0.0	$0.0
SERS	$2.2	$3.6	$5.8
Total	$16.1	$39.0	$80.5
Age 66 COLA			
PERS	$14.7	$34.2	$73.2
TRS	$48.5	$24.2	$72.7
SERS	$5.5	$8.1	$13.6
Total	$68.7	$66.5	$159.5

Continued

Total Fiscal Impact of 2005 SCPP Proposals - 25-Year

(Cost in Millions)

	25 Year GF-S	25 Year Local	25 Year Total ER
Rule of 90 for Plan 2/3			
PERS	$267.8	$719.7	$1,511.5
TRS	$924.2	$464.1	$1,388.3
SERS	$90.4	$135.7	$226.1
Total	$1,282.4	$1,319.5	$3,125.9
$1,000 Minimum			
PERS	$4.9	$11.3	$24.3
TRS	$8.0	$4.0	$12.0
SERS	$1.9	$2.6	$4.5
Total	$14.8	$17.9	$40.8
Omnibus Gain-Sharing (G/S)			
PERS	($318.5)	($816.9)	($1,722.9)
TRS	($1,458.1)	($728.1)	($2,186.2)
SERS	($702.7)	($1,054.2)	($1,756.9)
Omnibus Gain-Sharing Sub-Totals			
Gain-Sharing Repeal	($3,534.9)	($3,502.7)	($7,839.7)
Replacement Benefits	$1,055.6	$903.5	$2,173.7
Total	($2,479.3)	($2,599.2)	($5,666.0)
Grand Total - All Proposals**			
All Systems	($860.7)	($937.8)	($1,648.1)
All Systems - w/o G/S Repeal	$2,674.2	$2,564.9	$6,191.6

** All other proposals have no fiscal impact

Select Committee on Pension Policy

P.O. Box 40914
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FULL COMMITTEE
DRAFT MINUTES

November 15, 2005

The Select Committee on Pension Policy met in House Hearing Room A, Olympia, Washington on November 15, 2005.

Committee members attending:

Representative Fromhold, Chair	Sandra Matheson
Elaine Banks	Corky Mattingly
Lois Clement	Victor Moore
Representative Conway	Senator Mulliken
Senator Fraser	Glenn Olson
Leland Goeke	Senator Pridemore
Robert Keller	Diane Rae
	David Westberg

Representative Fromhold, Chair, called the meeting to order at 10:05 AM.

(1) Approval of Minutes

It was moved to approve the October 18, 2005 Draft Minutes. Seconded.

MOTION CARRIED

(2) OSA Retire-Rehire Study Draft Report

Laura Harper, Senior Research Analyst - Legal, presented a report on "Post-Retirement Employment Program." Discussion followed. Chair Fromhold recommended this issue be studied further during the 2006 interim.

(3) 2004 Actuarial Valuation Report

Matt Smith, State Actuary, reported on the "2004 Actuarial Valuation Report."

(4) Gain-sharing Subgroup Report and Recommendations

Matt Smith, State Actuary, for Chair Fromhold, reviewed the Attorney General's opinion. Discussion followed.

***Elaine M. Banks**
TRS Retirees

Representative Barbara Bailey

Lois Clement
PERS Retirees

Representative Steve Conway

Representative Larry Crouse

***Senator Karen Fraser,**
Vice Chair

***Representative Bill Fromhold,**
Chair

***Leland A. Goeke**
TRS and SERS Employers

***Robert Keller**
PERS Actives

***Sandra J. Matheson**, Director
Department of Retirement Systems

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Victor Moore, Director
Office of Financial Management

Senator Joyce Mulliken

Glenn Olson
PERS Employers

Senator Craig Pridemore

Diane Rae
TRS Actives

J. Pat Thompson
PERS Actives

David Westberg
SERS Actives

*** Executive Committee**

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Chair Fromhold announced the Gain-sharing Subgroup will meet November 28th and their recommendations will be forthcoming. Discussion followed.

(5) Public Safety Subgroup Report and Recommendations

Laura Harper, Senior Research Analyst - Legal, presented a report on "Bill Summary - Washington State Patrol Funding" and "Contribution Rate Projections." Discussion followed.

(6) Plan 1 Unfunded Liability Subgroup Report and Recommendations

Victor Moore, Subgroup Chair, reviewed the "Bill Summary - Plan 1 Unfunded Liability." Discussion followed.

Public Hearing/Possible Executive Session

(7) Service Credit Purchase

Laura Harper, Senior Research Analyst - Legal, presented a report on"Purchasing Additional Service Credit."

It was moved that "Service Credit Purchase" bill draft Z-0838.1/06 be recommended to the Legislature. Seconded.

MOTION CARRIED

(8) Age 70 ½ and Opt-In/Opt-Out

Bob Baker, Senior Research Analyst, presented a report on "Age 70 ½ and Opt-In/Opt-Out." Discussion followed.

It was moved to reintroduce the 2005 proposal as a new bill with a new title as discussed. Seconded.

MOTION CARRIED

(9) LEOFF 1 Benefit Cap

Bob Baker, Senior Research Analyst, presented a report on "LEOFF 1 Benefit Cap." Discussion followed.

(10) Public Testimony

Dick Warbrouch, Retired Fire Fighters of Washington
Bob Dienes, Renton Fire Fighter
Lee Reaves, Washington Council of Police and Sheriffs
Keven Rojecki, Washington State Council of Fire Fighters
Mike Ryherd, Teamsters
Ken Kanikeberg, Public School Employees of Washington

The meeting adjourned at 1:20 PM.

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2006

January

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February

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March

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Notes

Holidays

Possible **SCPP** – ***third Tuesday*** of each month **8 am -5 pm**
Possible **Subgroup 2** – *third Tuesday* of each month ***before or after*** scheduled mtg
Possible **Subgroup 1** – ***3rd Monday*** of each month **2-4 pm**

January - 1st day of session
March – scheduled last day of session (60 calendar days)

LEOFF 2 Board Mtgs – typical date, tentative only

To be determined:

JLARC – typical date, tentative only

SIB – typical date, tentative only

April

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May

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June

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2006

July

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August

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September

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24	25	26	27	28	29	30

Notes

Holidays	
Possible **SCPP** – ***third Tuesday*** of each month **8 am -5 pm** Possible **Subgroup 2** – *third Tuesday* of each month ***before or after*** scheduled mtg Possible **Subgroup 1** – ***3rd Monday*** of each month **2-4 pm**	**To be determined:** **JLARC –** typical date, tentative only **SIB –** typical date, tentative only
August – NCSL (Nashville)	**General Election**: held on the Tuesday after the first Monday in **November**
LEOFF 2 Board Mtgs – typical date, tentative only	
September – Primary, Committee Days	**December** – Committee Days

October

S	M	T	W	T	F	S
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November

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December

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31						

Select Committee on Pension Policy

PERS 1 Window

(December 6, 2005)

Issue

The issue before the full committee is whether to recommend legislation to open a 90-day window during which certain individuals currently employed by the Public School Employees of Washington (PSE) who were previously members of TRS 1 could become a member of Plan 1 of the Public Employees' Retirement System (PERS 1).

Staff

Laura C. Harper, Senior Research Analyst/Legal
(360) 786-6145

Members Impacted

This issue comes before the full committee as a PSE request, although the parameters of the request have not been fully developed by the proponents. The PSE has identified two (2) of its employees that it believes would qualify to take advantage of a PERS Plan 1 window. Ultimately, the number of members impacted by opening a window would depend on how narrowly or broadly the authorizing legislation is drafted.

Current Situation

Currently a PSE employee who is seeking to join PERS for the first time has no avenue for membership. In PERS 1 there are approximately 111 employees who work for unions and private associations that are advocates for public employees. The PERS 1 definition of "employer" is broad and includes entities such as the PSE. However, PERS 1 is a closed plan, so new employees of the PSE cannot join PERS 1 unless they have prior PERS 1 membership service. Also, they cannot join PERS 2/3 because the

definition of "employer" specifically excludes such groups. Thus, special legislation would be required to allow PSE employees into PERS at this time.

Policy Considerations

IRS Compliance

The IRS contemplates that public employees' retirement systems include only governmental employees in order to maintain their plan status as "qualified" under Internal Revenue Code Section 401(a). This IRS requirement may have been considered when the definition of "employer" was tightened for the Plans 2/3 such that unions and associations are no longer covered. While a *de minimus* number of non-public employees will not ordinarily defeat plan qualification, adding a classification of members that are not governmental employees could be a problem. Ultimately the question would have to be answered by the IRS. An opinion of tax counsel would certainly be useful in determining whether a specific plan amendment would be consistent with IRS requirements.

Estoppel Rule

RCW 41.04.270 prohibits a member or former member with 15 or more years of service from becoming a member or establishing rights in another DRS-administered retirement system if:

- The member is retired or eligible to retire from a public retirement system, or;
- The member receives a disability allowance from a public retirement system.

This rule could come into play for PSE employees seeking PERS membership, depending on their prior work history. At least one employee of the PSE seeking membership in PERS has more than 15 years of service.

Leapfrogging

Another issue raised by the proposal is whether other individuals will seek windows to join closed plans. While legislation responsive to this proposal could be narrowly drafted to limit the number of individuals who might utilize it, this would not prevent others from asking for similar treatment.

Stakeholder Input

The proponent is Ken Kanikeberg on behalf of the PSE. His request was presented as public testimony before the SCPP during the November 15, 2005, meeting.

Next Steps

If the full committee wishes to forward a recommendation on this proposal it could direct staff to work with the proponent to prepare implementing legislation. This approach would depart from the SCPP's normal procedure of receiving a full briefing on an issue, receiving a recommendation from the executive committee, and considering draft legislation at a subsequent public hearing. If staff is directed to draft legislation, it would be helpful to receive guidance on whether any proposed legislation would be tailored to meet the needs of the two individuals at PSE, or whether it would have broader application.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-3323.2/06 2nd draft

ATTY/TYPIST: ML:ads

BRIEF DESCRIPTION: Concerning bargaining for supplemental pension programs under chapter 41.80 RCW.

AN ACT Relating to bargaining for supplemental pension programs under chapter 41.80 RCW; and amending RCW 41.80.020 and 41.80.040.

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

Sec. 1. RCW 41.80.020 and 2002 c 354 s 303 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit <u>administered by the department of retirement systems</u>; or

(c) Rules of the director of personnel or the Washington personnel resources board adopted under section 203, chapter 354, Laws of 2002.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount

expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4).

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

Sec. 2. RCW 41.80.040 and 2002 c 354 s 305 are each amended to read as follows:

The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, shall include but not be limited to the following:

(1) The functions and programs of the employer, the use of technology, and the structure of the organization;

(2) The employer's budget and the size of the agency work force, including determining the financial basis for layoffs;

(3) The right to direct and supervise employees;

(4) The right to take whatever actions are deemed necessary to carry out the mission of the state and its agencies during emergencies; and

(5) Retirement plans and retirement benefits provided by any state retirement plan, but not including supplemental pension programs that are provided other than by the state, and purchased entirely through collectively bargained employee contributions.

--- END ---

Select Committee on Pension Policy

LEOFF 1 Benefit Cap

(December 5, 2005)

Issues

During the SCPP public hearing on removing the Law Enforcement Officers' and Fire Fighters' retirement system plan 1 (LEOFF 1) benefit cap, committee members asked several questions that required additional analysis. These questions were in regards to instituting split contribution rates for different members of the same plan and whether existing service credit purchase (air time) provisions are impeded by benefit caps.

Split Contribution Rates

"Split contribution rates" refers to a situation where some of the remaining active LEOFF 1 members would make contributions while others would not. The issue of split contribution rates arose because about half the remaining active members are eligible for an uncapped benefit and half are eligible for a retirement benefit that is limited to 60 percent of final average salary (FAS). By resuming member and employer contributions for all remaining active LEOFF 1 members, about half the members would be "paying" for a benefit they are currently eligible to receive without making additional contributions. As a result, it has been proposed that only those currently subject to the benefit cap should "pay" for the increased benefit were the cap to be rescinded.

It is not unusual to provide different benefits based on a member's date of hire. The Plan 1 and Plan 2 tiers of the various systems and the existing provisions in LEOFF 1 do just that. Those LEOFF 1 members hired on or after February 19, 1974, may not receive a retirement benefit exceeding 60 percent of their FAS. The retirement benefits of those hired before that date are not subject to a cap. Still, despite the differences in plan provisions based on a member's date of hire, there are no Washington State retirement system plans that require contribution rates from some members of a given plan and not others.

Some have suggested that it would be necessary to create split contribution rates to avoid liability to members whose benefit is not presently capped. Such members may view an increase in contribution rates as unfair; whether they would pursue litigation is unknown. In any event, there is no precedent in

Washington State for any contractual right to a particular funding level, and these potential claims do not prevent the SCPP from pursuing the reinstatement of LEOFF 1 contribution rates without a split. The SCPP may, however, wish to seek legal review through legislative counsel prior to legislative action.

Service Credit Purchase and Benefit Caps in Plans 1

The question of service credit purchases arose because of the statutory limitations on retirement benefits in the Plans 1. Since the inception of the air time proposal, it has been agreed that additional service credit is not membership service (hence it cannot be used for benefit eligibility purposes); rather, the additional service credit is to be used to provide an annuity that enhances the benefit for which the member otherwise would have qualified. This means that the normal retirement allowance is computed the same as it would have been without the additional service credit, as are other benefits, including cost-of-living adjustments, the uniform increase, and gain-sharing.

The annuity associated with air time is in addition to the member's retirement allowance (or can be used to offset reductions for early retirement). The Plan 1 benefit caps play no role in the calculation of the annuity that would be available from purchasing additional service credit; nor does the annuity affect the calculation of other benefits. Additional service credit is used exclusively to provide the member with a monthly annuity that is paid in addition to the member's retirement allowance.

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary.state@leg.wa.gov

December 13, 2005

TO: Members of the Select Committee on Pension Policy

FROM: Representative Bill Fromhold, Chair

RE: LEOFF 1 BENEFIT CAP

As you all know, removing the benefit cap in LEOFF 1 has been controversial. I have been talking with representatives of actives, retirees, and employers to facilitate a "package" of changes that would be a win-win for all concerned. To that end, I am suggesting that the SCPP recommend a bill in the 2006 legislative session that would accomplish the following:

1. Remove the LEOFF 1 benefit cap effective July 1, 2006.

2. Reinstate contribution rates (6 percent member and 6 percent employer) on July 1, 2007, (the beginning of the upcoming biennium, when new rates would be set for all systems).

3. Establish a work group of active members, retirees, employers, legislators, and professionals that would select and implement one or more appropriate funding vehicles for the LEOFF 1 post-retirement medical obligation by July 1, 2007. This work group would be staffed by the Office of the State Actuary with assistance from tax counsel.

If the committee is in agreement, I suggest a motion that would direct staff to prepare legislation incorporating these recommendations. I have spoken with the State Actuary about this proposal. He has indicated that his potential fiscal note for such a bill, if necessary, would indicate the need for some additional dollars to support this effort, particularly in terms of utilizing tax counsel to meet IRS requirements.

Thank you for your consideration.

O:\SCPP\2005\12-13-05 Full\Fromhold-LEOFF_1-Ben-Cap.wpd

***Elaine M. Banks**
TRS Retirees

Representative Barbara Bailey

Lois Clement
PERS Retirees

Representative Steve Conway

Representative Larry Crouse

***Senator Karen Fraser,**
Vice Chair

***Representative Bill Fromhold,**
Chair

***Leland A. Goeke**
TRS and SERS Employers

***Robert Keller**
PERS Actives

***Sandra J. Matheson**, Director
Department of Retirement Systems

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Victor Moore, Director
Office of Financial Management

Senator Joyce Mulliken

Glenn Olson
PERS Employers

Senator Craig Pridemore

Diane Rae
TRS Actives

J. Pat Thompson
PERS Actives

David Westberg
SERS Actives

*** Executive Committee**

(360) 786-6140
Fax: (360) 586-8135
TDD: 1-800-635-9993

Pre-funding Post-Retirement Medical Benefits

An Overview by Laura Harper
Senior Research Analyst
December 13, 2005

Disclaimer

- This summary represents research from internet sources, some of which have not been verified for accuracy. Staff does not purport to be an expert on this topic at this time.

Reasons to Pre-Fund

- GASB 45
- Financial management and budgeting
- Intergenerational equity
- More benefit security
- Additional tax-favored retirement benefits

Ideal Funding Vehicle

- Tax-deductible employer contributions
- Tax-free accumulation of assets
- Full, unencumbered funding

Possible Vehicles

- 401(h) Account
- Health and Welfare Trust Fund Trust
  - 501(c)(9) Trust – VEBA
  - Section 115 Trust

401(h) Account

- Separate account under qualified pension plan
- Numerous requirements relating to funding of pension plan, accounting, and use of assets
- Contributions for medical benefits cannot exceed 25 percent of contributions for all pension benefits

401(h) Plan

- Account is protected as a trust
  - Co-mingled and invested with the retirement plan assets
- Must specify that after all benefit obligations are paid, any excess is returned to employers

Advantages of 401(h) Plan

- Employer contributions are tax-deductible
- Investment earnings are tax-exempt
- No vesting required
- May use excess pension assets

Disadvantages of 401(h) Plan

- Twenty-five percent contribution limit may prevent full funding
- Ability to transfer excess pension assets scheduled to expire 12/31/05
- IRS approval required
- Non-compliance has implications for pension plan

501(c)(9) Trust or VEBA

- VEBA: Voluntary Employees' Beneficiary Association
- IRS rules for funding, accounting, non-discrimination, and use of assets
- Separate and apart from government
- Employees of employers who opt in **must** participate

VEBA

- Legislature may establish policy guidance
- Benefits can be paid as defined benefits or based on individual account balances
- In WA, state agencies (not local employers) are currently authorized to participate in existing school district VEBA

Advantages of VEBA

- Employer contributions are non-taxable
- Investment earnings are tax-exempt
- No vesting required

Disadvantages of VEBA

- Time-consuming to set up
  - Need IRS approval
- Administratively complex
  - Requires control by employee members, independent trustee, or board of trustees
  - Federal law reporting requirements and rules apply

Section 115 Trust

- Section 115 provides tax exemption for income from an essential governmental function
- IRS private letter rulings say contributions to a trust to fund retiree health benefits fit the exemption

Advantages of Section 115 Trust

- Make-up of board of trustees is flexible
- Contribution level is flexible
- Is revocable
- Very few federal restrictions

Disadvantages of Section 115 Trust

- Government's creditors may be able to reach
- Has not been widely used
- Private letter ruling needed for favorable tax treatment

Other vehicles

- Separate account
  - May not be viewed as an offset to liabilities for disclosure purposes
- Insurance policies
  - No particular tax advantage
- Supplemental defined benefit pension
  - Like setting up a pension plan

Other Vehicles (continued)

- Health Savings Account
  - Only applicable to members covered by a high deductible health plans

Next Steps

- Identify stakeholders
- Form work group to determine program goals
- Choose consultant to help with necessary legal and IRS concerns
- Select and implement one or more funding vehicles

Time Frame?

- Minimum of six weeks in private sector, if plan is already IRS-approved
- Public sector takes longer because of need for stakeholder agreement
- IRS approval needed if a new trust or plan is formed

LEOFF 1 Benefit Cap

(December 2, 2005)

Proposal

Representatives of active members of the Law Enforcement Officers' and Fire Fighters' Plan 1 (LEOFF 1) have proposed removing or raising the cap that limits members' maximum retirement benefit to 60 percent of Final Average Salary (FAS).

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 786-6144

Members Impacted

As was reported in the upcoming 2004 valuation, the LEOFF 1 plan had 848 active members and 8,542 annuitants as of September 30, 2004. Of these remaining active members, 454 are subject to the 60 percent benefit cap.

Current Situation

When first founded in 1971, LEOFF 1 had no benefit cap. With the passage of Chapter 120, Laws of 1974, members' benefits were capped at 60 percent of FAS. Those hired into LEOFF 1 positions on or after February 19, 1974, – the effective date of the act – are subject to the 60 percent cap. Those hired prior to that date are not subject to the cap.

Of the 8,542 LEOFF 1 annuitants counted in the 2004 actuarial valuation, 2,345 were service retirees who became members prior to February 19, 1974. Of those, 717 had a benefit that was greater than 60 percent of their FAS.

In addition to LEOFF 1 members hired on or after February 19, 1974, both the Public Employees' Retirement System (PERS) Plan 1 and the Teachers' Retirement System (TRS) Plan 1 have provisions capping retirement benefits at 60 percent of Average Final Compensation (AFC).

Unlike LEOFF 1, the benefit cap in PERS 1 and TRS 1 was part of the original plan design, not added later. The Washington State Patrol Retirement System also has a benefit cap, but at 75 percent of FAS instead of 60 percent.

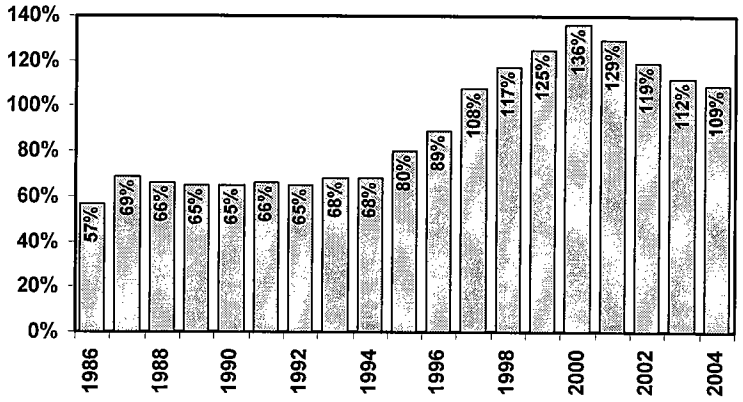
Unlike LEOFF 1, no LEOFF 2 members are subject to a benefit cap. LEOFF 2 uses a 60 month period for determining a member's FAS compared to the two-year average in LEOFF 1; members are also required to be age 53 to receive an unreduced benefit compared to age 50 in LEOFF 1. Despite the differences in the Plan 1 and Plan 2 provisions, both are still age-based plans.

The remaining Plans 2/3 also have no benefit cap and are age-based plans as opposed to the TRS 1 and PERS 1 designs, which are service-based. The School Employees' Retirement System (SERS), PERS, and TRS Plans 2/3 require members to be age 65 in order to receive an unreduced defined benefit.

Surplus Status

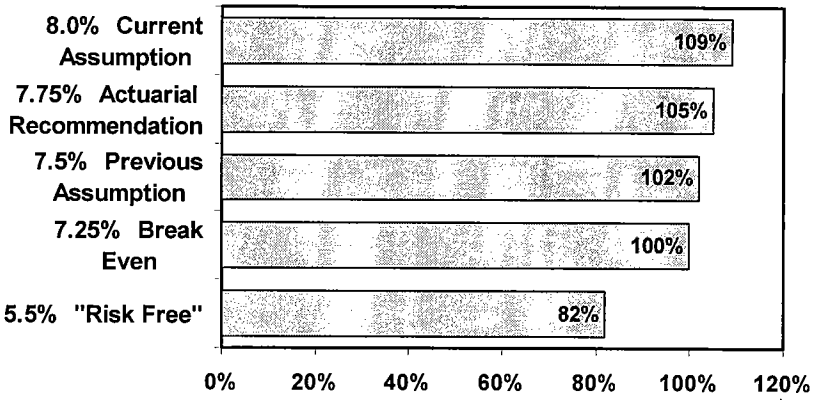
At the height of the previous investment cycle in 2000, the plan had a funded ratio of 136 percent (see Figure 1, below). At that point, the funding section of the chapter LEOFF 1 was amended to include the following provision: "No employer or member contribution is required after June 30, 2000, unless the most recent valuation study for Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 indicates the plan has unfunded liabilities." For the most recent valuation period, the funding ratio was 109 percent.

Figure 1
LEOFF 1 Funded Ratio: 1986 - 2004



As seen in the above illustration, a plan's funding ratio can be volatile. It is subject to not only the vagaries of the investment markets, but also changes in the plan's economic assumptions as well. An example of this is the change in the assumed rate of return on plan assets; in 2000 the assumed rate of return was increased from 7.5 percent to 8.0 percent. By assuming a higher investment return on assets, fewer contributions are needed to cover its liabilities. Similarly, a given dollar amount of assets will represent a greater funding ratio under an 8.0 percent rate of return assumption than under a 7.5 percent rate of return assumption (see Figure 2).

Figure 2
LEOFF 1 Funded Ratio by Select Interest Rates

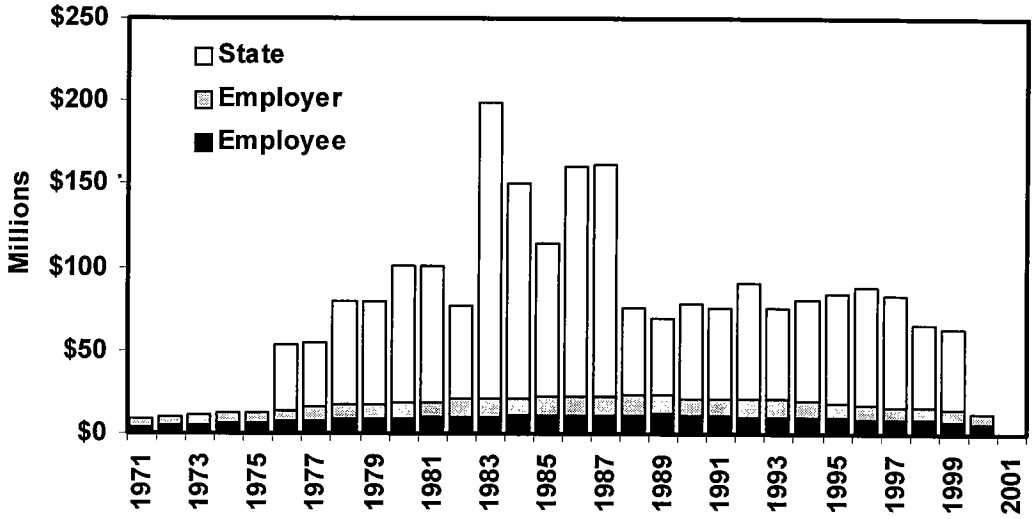


Contributions

When established on March 1, 1970, the LEOFF Plan 1 was to be funded through member, employer, and state contributions. The state's contribution was determined through the plan's first actuarial valuation performed by Milliman & Robertson, Inc. Consulting Actuaries. That valuation was completed on October 9, 1970. The report valued the current service liability of the system at 30.27 percent of salary and the unfunded liability for prior service at 14.89 percent of salary, for a total required contribution of 45.16 percent of salary. As the member and employer contributions were set in statute at 6.0 percent each, the state's contribution obligation in the first biennium was the remaining 33.16 percent of salary.

The state did not make contributions to LEOFF 1 in the first five years of its existence. But in the subsequent years, from 1976 through 1999, the state made the necessary appropriations and contributions (see Figure 3).

Figure 3
LEOFF 1 Member, Employer, and State Contributions



It is likely that the five-year delay in funding by the state resulted in a subsequently higher average contribution rate than the original recommendation. By the end of 2000, the state's contribution rate over the entire funding period averaged 40.4 percent of salary - over three-fourths of all the contributions to LEOFF 1 were state contributions (see Appendix A).

Active Member Profile

As was reported in the 2004 valuation, the average age of the remaining active LEOFF 1 member is 54.8 years and their average member service is 30.2 years. For members to be eligible for retirement in LEOFF 1 they need to be 50 years of age with at least five years of service. As of the 2004 valuation, only 62 members were not retirement eligible, 12 of whom were not vested. The following sections provide some additional detail on active LEOFF 1 members.

Category: The 848 active members are comprised of 408 police officers and 440 fire fighters. The majority of police officer active members are not subject to the benefit cap, while the majority of fire fighter active members are subject to the cap (see Figure 4). Among fire fighters, members from first-class cities represent the majority of active members; this is a departure from the police officer employer distribution and is likely a result of a greater use of volunteer fire fighters in rural areas.

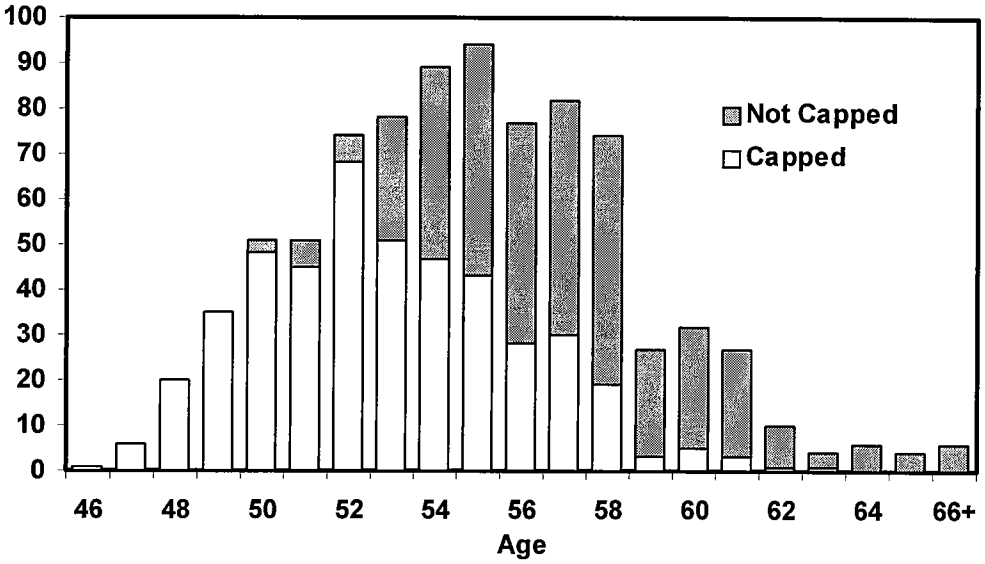
Figure 4

Active LEOFF 1 Members by Category, Employer, and Benefit Cap Status

	Not Capped	Capped	Total
Police Officers	210	198	408
1st Class City	101	75	176
Other City	42	71	113
County	67	52	119
Fire Fighters	184	256	440
1st Class City	114	121	235
Other Agency	66	130	196
Port	4	5	9
TOTAL	394	454	848

Age: Since the benefit cap legislation was prospective from February 19, 1974, it would hold that members subject to the cap would generally be younger than those not subject to the cap. While not all members were hired at the same age, records show that higher percentages of older members are not subject to the benefit cap (see Figure 5).

Figure 5
Active LEOFF 1 Members by Age and Benefit Cap Status



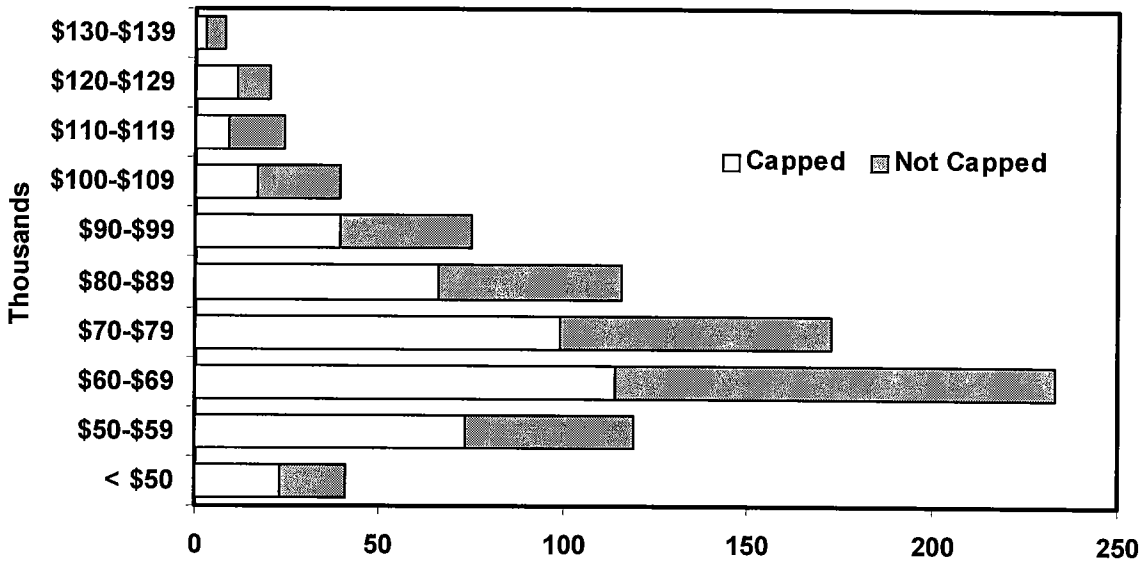
Service: In general, those members with over 30 years of service would not be subject to the benefit cap, while those with less than 30 years of service would. There are instances, however, of those who may have become members prior to February 19, 1974, but have had breaks in service. As a result, there are several members with relatively short periods of service who are not subject to the benefit cap (see Figure 6, next page).

Figure 6
Active LEOFF 1 Members by Service and Benefit Cap Status

Years of Service	Not Capped	Capped	Total
5-9	0	2	2
10-14	1	0	1
15-19	0	4	4
20-24	3	14	17
25-29	41	372	413
30-34	286	62	348
35 and over	63	0	63
Total	394	454	848

Salary: It could easily be assumed that those who are not subject to the benefit cap would have higher salaries than those who are subject to the cap. After all, they typically have longer periods of service that could translate into higher salaries. However, this does not appear to be the case. The salaries of those who are subject to the cap are not appreciably different from those who are not subject to the cap (see Figure 7 next page). For instance, among the 166 members earning $90,000 or more, 87 were not subject to the cap and 79 were. And of the 28 members earning $120,000 or more, 14 were not subject to the cap and 14 were. This is likely due to the steep salary/promotion schedule typical among police and fire organizations.

Figure 7
Active LEOFF 1 Members by Salary and Benefit Cap Status



As these characteristics show, the only significant variable having a bearing on whether a member's benefit is capped or not is their length of service. Those with more than 30 years of service as of 2004 are sure to have a benefit that is not capped. Those with less than 30 years of service are likely to have a benefit that is capped (save for those who gained membership before February 19, 1974, and had a significant break in service).

History

Two bills were introduced during the 2004 legislative session related to the 60 percent cap in LEOFF 1. HB 2416 proposed raising the limit to 70 percent of FAS and HB 2914 proposed eliminating the cap entirely; both bills received a hearing, but neither moved from committee.

Companion bills HB 1873 and SB 5901 were introduced in the 2005 legislative session that proposed rescinding the LEOFF 1 60 percent cap. Neither received a hearing.

Policy Considerations

Among the general policies found in the funding chapter (RCW 41.45) is the following: "Fund, to the extent feasible, benefit increases for all plan members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service." As of the 2004 valuation, the average remaining active member is already retirement eligible. For a plan that isn't fully funded, there would be scant time for members and employers to contribute to a benefit increase. Because LEOFF 1 is in surplus status at this time, any benefit increase would draw on that surplus. The cost of this proposal would increase the likelihood that the plan would come out of full funding in the future. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

Another policy issue to consider is the inconsistent treatment of members within the same plan. While the provisional differences in LEOFF 1 and LEOFF 2 are typical of closed and open plans, it is rare for such differences to be present within the same plan.

A serious policy concern would be leapfrogging. One of the common criticisms of the Plan 1 design is that members' benefits are maximized at 30 years of service (2% × 30 years of service = 60% of AFC). Were the cap to be raised or eliminated in the LEOFF 1 Plan, members of the PERS and TRS Plans 1 may request a similar benefit increase, which would have a much higher cost.

Policy Questions

To help the committee decide whether to move forward with this issue, members may want to deliberate via the following issues:

- Have the original goals and/or incentives changed?
- Is this benefit improvement in keeping with the policies acknowledging the need for earlier retirement among police officers and fire fighters?
- Is there an overarching need to reward or retain long-tenured LEOFF 1 members?
- Could or should this issue be addressed outside of the retirement system?

- Would this benefit be retroactive? Would currently retired members with more than 30 years of service have their benefits adjusted?
- Would this spur retirees to return to active LEOFF membership? There are currently 638 service retirees under the age of 60.

Possible Options

If the committee wants to move forward with this issue, there are a number of approaches it could take. Here is a short list of possible options and the fiscal impact of each:

1. Eliminate the Benefit Cap

This option was originally priced in the fiscal note for HB 2914 from the 2004 legislative session. More recent calculations were done based on the 2004 Actuarial Valuation. Removing the cap would increase liabilities in the plan by $22 million. Because the plan is currently in surplus funded status, this increase in liability would not raise contribution rates.

2. Raise the Benefit Cap to 70 percent

This option was originally priced in the fiscal note for HB 2416 from the 2004 legislative session. More recent calculations were done based on the 2004 Actuarial Valuation. Raising the cap from 60 percent to 70 percent would increase liabilities in the plan by $17 million. Because the plan is currently in surplus funded status, this increase in liability would not raise contribution rates.

3. Raise or Eliminate the Benefit Cap with an Age Qualification

This option would allow members to accrue a benefit greater than 60 percent of their FAS as long as they served until at least 60 years of age. The LEOFF 1 Plan currently allows an unreduced benefit at age 50 with five years of service. Increasing the retirement age to 60 in order to receive an increased benefit should result in a savings component to each of the above proposals.

Eliminating the benefit cap with the age qualifier would increase plan liabilities by $11 million. Raising the cap from 60 percent to 70 percent with the age qualifier would increase plan liabilities by $8.5 million.

While an age qualifier would lower the liabilities related to these benefit proposals, it would probably also result in additional policy considerations. Age standards tend to result in "cliff" benefits – significant differences in benefits with very small differences in ages; a member who was 59 with 36 years of service would be eligible for a lesser benefit than a member who was 60 with 33 years of service. Would such a member be eligible for proportionate benefits?

Note: If the above proposals were to raise the benefit cap, but with an accrual that was less than the current 2 percent per year, the increased liability and contributions would be proportionate to the proposed rate of accrual relative to 2 percent. For instance, an accrual rate of 1 percent per year beyond 30 years of service would result in an increased liability half that of a 2 percent per year accrual.

4. *Retain the Current Benefit Cap*

This option adds no liability to the plan.

Stakeholder Input

Correspondence from:

Frederick W. Corlis, Board Member, Retired Fire Fighters of Washington (see Attachment).

Kelly L. Fox, President, Washington State Council of Fire Fighters (see Attachment).

Philip A Talmadge, Talmadge Law Group PLLC (see Attachment).

Richard Warbrouck, Retired Fire Fighters of Washington (see Attachment).

Committee Actions

In June, the Executive Committee of the SCPP recommended that this issue be heard by the full committee.

The full committee heard the first presentation of this issue at the July hearing. Questions from committee members warranted an additional presentation.

The full committee received an additional presentation at the September meeting.

Executive Committee Recommendation

At the October meeting, the Executive Committee of the SCPP moved to forward an updated bill eliminating the LEOFF 1 benefit cap to the full committee for their consideration.

Committee questions at the November hearing required additional analysis related to split contribution rates and service credit purchases in capped plans that would be made available at the December meeting.

Bill Draft

Attached

Fiscal Note (2006 Draft)

Attached

AN ACT Relating to removing the cap on retirement benefits of members of the law enforcement officers' and fire fighters' retirement system plan 1; and amending RCW 41.26.100.

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

Sec. 1. RCW 41.26.100 and 1991 c 343 s 16 are each amended to read as follows:

A member upon retirement for service shall receive a monthly retirement allowance computed according to his or her completed creditable service credit years of service as follows: Five years but under ten years, one-twelfth of one percent of his or her final average salary for each month of service; ten years but under twenty years, one-twelfth of one and one-half percent of his or her final average salary for each month of service; and twenty years and over one-twelfth of two percent of his or her final average salary for each month of service: PROVIDED, That the recipient of a retirement allowance who shall return to service as a law enforcement officer or fire fighter shall be considered to have terminated his or her retirement status and he or she shall immediately become a member of the retirement system with the status of membership he or she had as of the date of

retirement. Retirement benefits shall be suspended during the period of his or her return to service and he or she shall make contributions and receive service credit. Such a member shall have the right to again retire at any time and his or her retirement allowance shall be recomputed, and paid, based upon additional service rendered and any change in final average salary((~~: PROVIDED FURTHER, That no retirement allowance paid pursuant to this section shall exceed sixty percent of final average salary, except as such allowance may be increased by virtue of RCW 41.26.240, as now or hereafter amended~~)).

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**10/26/2006**	**Z-0829.1 / Z-0830.1**

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by removing the provision that limits the retirement allowance for those who became members on or after February 19, 1974, to 60 percent of their final average salary.

Effective Date: 90 days after session

CURRENT SITUATION:

Currently, the maximum retirement allowance for a member of LEOFF 1 who became a member on or after February 19, 1974, is 60 percent of their final average salary. Those who became members before February 19, 1974, have no such limit on their retirement allowance.

MEMBERS IMPACTED:

We estimate that 454 active members hired on or after February 19, 1974, out of the total 848 active members of this plan could be affected by this bill. Additional members could be affected if they return to work and earn over 30 years of service.

Each year of additional service credit beyond 30 years would result in an increase of about $125 in monthly pension payments per person (based on a current annual salary of $75,222).

ASSUMPTIONS:

We assumed that members with at least 30 years of service, who may be eligible for a disability retirement, will elect the proposed service retirement benefit with no cap in lieu of the 50 percent of pay tax-free disability benefit. The cost of this proposal was based on the change in the liability after this disability assumption change. We assumed that this proposed benefit change would alter future retirement behavior in the plan. We subtracted 0.01 from the retirement rates from age 50 to 54 and subtracted 0.02 from the rates from age 55 to 59. The impact of the retirement assumption change is reflected in the cost.

FISCAL IMPACT:

Description:

There is no immediate fiscal impact while the plan remains in a surplus, or fully funded, position. The current plan is expected to remain fully funded because the market value of assets exceed the liabilities by $365 million. This proposal would reduce the surplus, but as long as there is still a surplus on a market value basis, we would not expect the plan to come out of full funding. However, if there is some adverse experience due to the assumptions not being realized, the plan would be more likely to come out of full funding as a result of the proposed benefit increase. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

Actuarial Determinations:

Although the bill will increase the present value of benefits payable under the system (for existing members impacted by this bill) as shown below, it will not impact the fully funded status. Therefore, there will be no fiscal impact:

	System: LEOFF 1		
(Dollars in Millions)	**Current**	**Increase**	**Total**
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to All Current Members)	$4,330	$22	$4,352
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	$(336)	$22	$(314)
Unfunded Liability (PBO) (The Value of the Total Commitment to All Current Members Attributable to Past Service)	$(385)	$16	$(369)
Increase in Contribution Rates: (Effective 9/1/2006)			
Employee	0.00%		
Employer State	0.00%		

Fiscal Budget Determinations:

There is no projected increase in funding expenditures.

State Actuary's Comments:

We have projected that this bill would use up part of the plan's surplus, but that it would not increase the plan's future funding requirements. This projection reflects the future recognition of prior asset gains and losses and the impact of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets, and assumptions as those used in preparing the September 30, 2004, actuarial valuation report of the Law Enforcement Officers' and Firefighters' Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the system will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

Reduced Retirement Rates										
Age	50	51	52	53	54	55	56	57	58	59
Retirement Rate*	0.08	0.06	0.07	0.07	0.09	0.14	0.14	0.14	0.21	0.21

*Male and female

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

By Representative Fromhold

Z-0829.1 - AMD
By Select Committee on Pension Policy

On page 2, after line 9 insert

Sec. 2. RCW 41.26.080 and 2000 2nd sp.s. c 1 s 907 are each amended to read as follows:

(1)((~~Except as set forth under subsection (2) of this section,~~))The total liability of the plan 1 system shall be funded as follows:

(a) Every plan 1 member shall have deducted from each payroll a sum equal to six percent of his or her basic salary for each pay period.

(b) Every employer shall contribute monthly a sum equal to six percent of the basic salary of each plan 1 employee who is a member of this retirement system. The employer shall transmit the employee and employer contributions with a copy of the payroll to the retirement system monthly.

(c) The remaining liabilities of the plan 1 system shall be funded as provided in chapter 41.45 RCW.

(d) Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his or her salary or compensation. Payment less said contributions shall be a complete discharge of all claims and demands whatsoever for the services rendered by such person during the period covered by such payments, except his or her claim to the benefits to which he or she may be entitled under the provisions of this chapter.

((~~(2) No employer or member contribution is required after June 30, 2000, unless the most recent valuation study for law enforcement officers' and fire fighters' retirement system plan 1 indicates the plan has unfunded liabilities.~~))

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/2/05**	**Z-0829.1 AMD SCPP**

SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by removing the provision that limits the retirement allowance for those who became members on or after February 19, 1974 to 60% of their final average salary.

The bill also resumes 6% member and employer contributions to LEOFF 1.

Effective Date: 90 days after session

CURRENT SITUATION:

Currently, the maximum retirement allowance for a member of LEOFF 1 who became a member on or after February 19, 1974 is 60% of their final average salary. Those who became members before February 19, 1974 have no such limit on their retirement allowance.

State contributions to LEOFF 1 ceased in 1999 when the plan's assets exceeded the plan's fully projected liabilities. Member and employer contributions ceased in 2000. Funding provisions require the resumption of contributions when the most recent valuation indicates the plan has unfunded liabilities.

MEMBERS IMPACTED:

We estimate that 454 active members hired on or after February 19, 1974, out of the total 848 active members of this plan could be affected by the 60% cap portion of this bill. Additional members could be affected if they return to work and earn over 30 years of service.

Each year of additional service credit beyond 30 years would result in an increase of about $125 in monthly pension payments per person (based on a current annual salary of $75,222).

All active members of LEOFF 1 would be impacted by the resumption of 6% contributions.

ASSUMPTIONS:

We assumed that members with at least 30 years of service, who may be eligible for a disability retirement, will elect the proposed service retirement benefit with no cap in lieu of the 50 percent of pay tax-free disability benefit. The cost of this proposal was based on the change in the liability after this disability assumption change. We assumed that this proposed benefit change would alter future retirement behavior

in the plan. We subtracted 0.01 from the retirement rates from age 50 to 54 and subtracted 0.02 from the rates from age 55 to 59. The impact of the retirement assumption change is reflected in the cost. We assumed that the 6% employer contribution would be paid by local employers and not by the state.

FISCAL IMPACT:

Description:

Removal of the 60% cap causes no immediate fiscal impact while the plan remains in a surplus, or fully funded, position. The current plan is expected to remain fully funded because the market value of assets exceed the liabilities by $365 million. The proposal to remove the cap would reduce the surplus, but as long as there is still a surplus on a market value basis, we would not expect the plan to come out of full funding. However, if there is some adverse experience due to the assumptions not being realized, the plan would be more likely to come out of full funding as a result of the proposed benefit increase. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

The collection of contributions from members and local employers would serve to mitigate this proposal's reduction of the plan's funding surplus, making it even less likely that it will come out of full funding in the future. The 6% member contributions and 6% employer contributions, effective July 1, 2006, together have a present value of about $8 million. The increase in liability without the contributions was $22 million. The increase after the contributions is $22 million minus $8 million, or $14 million.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

	System: LEOFF 1		
(Dollars in Millions)	**Current**	**Increase**	**Total**
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	$4,330	$14	$4,344
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	$(336)	$14	$(322)
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	$(385)	$14	$(371)

Increase in Contribution Rates: (Effective 9/1/06)

Employee	6.00%
Employer	6.00%
State	0.00%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	**LEOFF 1**
2006-2007	
State:	
General Fund	$0.0
Non-General Fund	$0.0
Total State	**$0.0**
Local Government	$1.4
Total Employer	$1.4
Total Employee	$1.4
2007-2009	
State:	
General Fund	$0.0
Non-General Fund	$0.0
Total State	**$0.0**
Local Government	$2.2
Total Employer	$2.2
Total Employee	$2.2
2006-2031	
State:	
General Fund	$0.0
Non-General Fund	$0.0
Total State	**$0.0**
Local Government	$5.6
Total Employer	$5.6
Total Employee	$5.6

State Actuary's Comments:

We have projected that this bill would use up part of the plan's surplus, but that it would not increase the plan's future funding requirements. This projection reflects the future recognition of prior asset gains and losses and the impact of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2004 actuarial valuation report of the Law Enforcement Officers' and Firefighters' Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

Reduced Retirement Rates										
Age	50	51	52	53	54	55	56	57	58	59
Retirement Rate*	0.08	0.06	0.07	0.07	0.09	0.14	0.14	0.14	0.21	0.21

*Male and female

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members.

GLOSSARY OF ACTUARIAL TERMS:

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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; plus
- Amortization of the unfunded liability

The normal cost is 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.

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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.

Burkhart, Kelly

Subject: FW: SCPP. Lifting the Cap On LEOFF I

Subject: SCPP. Lifting the Cap On LEOFF I

October 13, 2005

Representative Bill Fromhold, Chair
Select Committee On Pension Policy

Representative Fromhold and Committee Members,

I am a board member of the Retired Fire Fighters of Washington and these are my thoughts and concerns which may or may not represent the members beliefs in general. However I am not writing this letter as the spoke person for or of the organization.

First of all I would like to say there have been changes to the pension system several times. Originally there were the prior acts people who had certain pension rights. In March of 1970 the Leoff I system was created and thus creating a new system for new hires. Prior act personnel retained certain parts of their previous pension system of which Leoff I only new hires did not receive. In 1974 changes to the Leoff I system were made which capped the service pension portion to a maximum of 60%. Then in 1977 the Leoff I system was closed and a new system, Leoff II, was created which had totally different regulations. Now 31 years later those few people left with in the 1974 system, 454, want you to change the system for their benefit, something that I believe is unprecedented.

At the July 19th. SCPP meeting I testified before the committee as did others. During testimony I was surprised to hear post 1974 Leoff I members state that they could not live on the 60% pension that they qualify for. Several members said that if you did not raise the cap that they would have to retire, with a 60% pension, and go to work somewhere else to be able to support themselves.
Over 50% of the 454 people left, I understand, are Captain and above and many are in Appointed Positions which do not require any competitive examination as a qualification for the job, pure politics. It is my opinion that this places them in the $80,000 to 120,000 per year salary or more. At 60% pension that entitles them to a monthly pension benefit of $4,000 - 6,000 or more plus medical benefits. To open the door for 70-80% pensions of these high paying positions while they have not contributed one cent to the system in the last 5 years and will not do so in the future is poor policy at best. At a time when Pers I is so far Under Funded it appears to me this idea of lifting the cap and setting a precedent for the other pension systems to follow is not only a poor idea & poor policy but not fundamentally sound or good judgment for the State or the pension systems.

If the SCPP decides to support this practice you are creating a burden on the entire system for the benefit of a few. Placing the already retired members, who paid their contributions their entire careers, and the system in jeopardy. The actuary has stated that the pension system is like a moving target always changing and could be in trouble if the % of investment gain drops from 8% to 7.3%. No one knows what the future holds. Just consider, if you would for a moment, what would have happened if the Legislature had removed the so called excess from the Leoff I system some 5,6,7 years ago as they were looking to do. The system dropped approximately $1.2 Billion, how would the state have come up with that money today to replace and fund the system.

While we are struggling to keep our pension systems sound private companies are looking to go bankrupt and dump their obligations of their retirees onto the government at a 50% reduction. If we allow our systems to get in trouble will our bond rating go in the toilet. It appears to me there is no reasonable ideology to remove the cap or do anything else that changes the pension systems in the state, including buying 5 years of service or any other idea that gives more money to the individual retiree at the end of their respective careers.

Today there is already an inequity between the systems, Leoff I & Leoff II, do to the contribution holiday for Leoff I members. They have already incurred 10% service credit without making a contribution to the system. To now decide to lift the cap thus allowing them to accrue more service credits of high paying positions and administrative appointments without paying into the system is without a doubt in my opinion poor Physical Responsibility on the Legislatures part. These individuals will receive very good pensions as it is $4-6000 per month with medical benefits so what is the reasoning behind this idea of lifting the cap besides greed.

The Retired Fire Fighters of Washington have in the past not supported this policy and continue to do so at the present time.

Thank You

Frederick W. Corlis
Board Member of the RFFOW

Affiliated with: AFL-CIO
International Association of Fire Fighters
Washington State Labor Council

Washington State Council of Fire Fighters

September 26, 2005

Chair Representative Fromhold
Vice-Chair Senator Fraser
SCPP Committee Members

Subject: Removal of LEOFF 1 Service Credit Cap

The Washington State Council of Fire Fighters (WSCFF) respectfully requests that the Select Committee recommend HB 1873/SB 5901 (LEOFF 1 Cap removal) to the 2006 Legislature. Removal of the service credit cap for LEOFF 1 members hired after February 18, 1974, provides service credit accrual equity with all other LEOFF 1 participants. This bill has no negative impact for any represented group, i.e., Retired Fire Fighters of Washington (RFFOW), retired LEOFF 1 members, active LEOFF 1 members, employer groups, or the state. We have attempted, without success, to convince certain retired LEOFF 1 members to reconsider their position to oppose this proposal.

The WSCFF letter dated July 18, 2005, addressed the policy questions put forth by the Executive Committee on June 21, 2005. Rather than reiterate the supporting evidence that removal of the cap does meet policy considerations, I would like to concentrate on three factors:

- The continuity and retention of institutional memory within our Public Safety provider organizations is important. LEOFF 1 Fire and Police members are highly respected and regarded among their peer groups and their communities. What purpose does it serve to deny service credit to so few of these affected individuals? The retention of valued employees far outweighs other concerns.
- Currently, the employer is relieved of pension contributions for these affected members. This was a legislative proposal, not a scheme advanced by LEOFF 1 members! Encouraging retirement by capping service at thirty years creates an environment whereby the employer replaces the retired employee with an employee who requires contributions from the employer *and the state.*
- LEOFF 1 pension modifications have no bearing on contribution rates for the employers or members. Rates for the employers and members had always been 6% for each until contributions were suspended in mid 2000. This suspension occurred primarily because the state, employers, and members had made sufficient contributions to meet all future obligations. The legislature correctly links contributions (or the suspension thereof) to the ability of this closed system to meet its future obligations. Any attempt to link LEOFF 1 pension modifications to a reinstatement of contribution rates has been shown to be speculative and inaccurate.

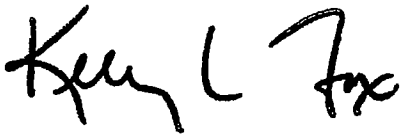
Kelly L. Fox, President • Greg B. Markley, Secretary-Treasurer
1069 Adams Street Southeast, Olympia, WA 98501 • 1-800-572-5762 • (360) 943-3030
Fax (360) 943-2333 • E-mail: wscff@wscff.org • Website: www.wscff.org

Removal of the service credit cap would benefit a minimal number of our membership - approximately 250 out of more than 7,000 members. In the interest of fairness and equity to the fire fighters affected by the cap, this has been a legislative priority from our membership for the past three years. The RFFOW has suggested that retention of any LEOFF 1 member is a detriment to LEOFF 2 members. For the record, the WSCFF is unanimously supportive of this proposal, this despite the fact that 96% of the membership is unaffected by the proposed change. Any suggestion that the proponents of the legislation are "selfish" or would be "abusive" is unfounded and most certainly misplaced.

We have supported the committee's recommendation during the last interim to add a new benefit to the surviving ex-spouses of deceased LEOFF 1 members funded from the system surpluses. This year, the SCPP has the opportunity to recommend legislation that retains institutional memory within the public safety community and provides service credit cap accrual equity within LEOFF 1, utilizing a portion of the same surplus.

We ask for your support in forwarding this important legislative proposal. If you have any questions, please contact me or WSCFF Legislative Liaison, Bud Sizemore.

Respectfully,



Kelly Fox
President

opeiu23/afl-cio/dag

Retired Firefighters of Washington

15310 163rd Ct. SE
Renton, WA 98058-8122
425-226-3793
rffow@attbi.com

RECEIVED
OCT 13 2005
Office of
The State Actuary

Richard Warbrouck
President

Bob Burtch
Secretary

October 12, 2005

Representative Bill Fromhold, Chair
Select Committee on Pension Policy
PO Box 40914
Olympia, WA 98504-0914

Dear Representative Fromhold,

The LEOFF 1 Benefit CAP for service retirement is on the agenda for the October 18 Executive Committee, listed as Item (F).

Due to the time element at the September Select Committee on Pension Policy meeting, we again registered our opposition to this proposal and submitted our comments in writing which I have enclosed. As previously stated we feel that only a few members would benefit from this proposal, mostly those members who have been appointed to a staff or administrative position in a department, for example, chief of the department, assistant chief, chief of training, public relations officer or other similar position.

We feel that the contribution holiday established in 2000 in itself created a inequity, now to allow a certain few to earn additional service credit without making a contribution would create a further inequity, would be difficult for the LEOFF II members to understand and would create a financial liability to the Fund as reported by the State Actuary.

The only fair solution would be to allow individual LEOFF 1 members to purchase an additional five years of service credit by paying the amount equal to what the member and the employer would have contributed. This as you remember is what the legislature established for LEOFF II with the passage of HB 1269 in the 2005 session.

Thank you.

Sincerely,

R C Warbrouck

Richard C. Warbrouck

RENTON FIRE FIGHTERS · Local 864

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS AFL-CIO

P.O. BOX 67 • RENTON, WASHINGTON 98057-0067 • www.iaff864.org

RECEIVED

OCT 26 2005

Office of
The State Actuary

October 10, 2005

To the members of the Select Committee on Pension Policy

During the last two legislative sessions a group of members from the Washington State Council of Firefighters have been attempting legislation to address an inequity for long serving LEOFF I members regarding the 30 year (60%) cap for a service retirement. The members affected were hired between 1974 and the end of LEOFF I in 1977. All LEOFF plan members (I & II) hired prior to 1974 and after 1977 do not have a cap on their service credit accrual. Renton Firefighters Local 864 represents participants of pre 1974 LEOFF I, LEOFF I participants affected by the service credit cap, and LEOFF II participants. All of our members support the removal of the service credit cap.

During the years of the cap the State was experiencing a significant number of early retirements from the newly formed LEOFF I system. The service credit cap was an effort to limit the liability to the State. Unfortunately, this action did not do anything to stem the tide of short-time members taking disability retirements from the system.

In fact, it is some of those members who are now lobbying against the passage of this legislation, stating in writing to you that this is a greedy attempt by a small group to take a free ride on the system. If you check the record, you will find that the more vocal of these members paid into LEOFF I for less than 15 years, and have been collecting fully from the system for more than 20 years. They served under the prior pension act (Chapter 41.18 RCW), and when LEOFF I (41.26 RCW) was created in 1970/1971, the prior funds did NOT transfer over to the new system. In fact, the system that did exist continues to pay additional benefits to some of the members receiving full LEOFF I retirement benefits.

We submit to you that the small group of working LEOFF I members are not greedy people seeking a free ride. They are loyal, experienced public servants who want to receive retirement credit for serving more than 30 years in their chosen profession. You have received testimony in the past which indicates that every year the state does not pay retirement benefits is a significant savings. In speaking to the State Actuary at the most recent LEOFF Educational Association Conference, it appears that a cost was placed on this issue because removing the 'cap' was compared to a person taking a 50% disability retirement. The people still working, after 30 years of service, have proven that they do not want to take the disability which so many have done before. They would like to proudly receive the service retirement that they have earned.

Thank you for our consideration in this matter.

Sincerely,

Craig Soucy
President Renton Firefighters Local 864

Retired Firefighters of Washington
15310 163rd Ct. SE
Renton, WA 98058-8122
425-226-3793
rffow@attbi.com

RECEIVED
DEC 8 - 2005
Office of
The State Actuary

Richard Warbrouck
President

Bob Burtch
Secretary

December 8, 2005

Rerpresentative Bill Fromhold, Chair
PO Box 40600
Olympia, WA 98504-0600

Dear Representative Fromhold,

As you prepare to vote on removing the sixty percent CAP on LEOFF 1 service pensions I would like you to consider that no fire department or police agency has testified that this change is necessary for them to maintain a viable workforce. All other pension systems have a sixty percent CAP except LEOFF II. When the LEOFF II system was developed it was not practical to have the service retirement capped at sixty percent because of the retirement age of 57. If a police officer or firefighter was hired at 21 years of age they were required to work for 36 years until age 57 making a sixty percent CAP unacceptable. If we remove the CAP now, how will we address those LEOFF 1 members who were hired in 1974 and who have now retired after 30 years of service in 2004 or 2005? The members still working have earned 5 years of service credit equaling 10 percent of salary at retirement without having made a pension contribution.

This bill would provide an additional 5 years or more of service credit that would equal 10% or more of salary at retirement. The additional 10% on a salary of $80,000 per year would equal an additional $8,000 per year or $666 per month at retirement.

The proponents have testified that there is no cost for this increase, maybe because the Fund has a surplus. The actuary however has placed a 17 million dollar fiscal note on the bill. If the state as suggested is the ultimate heir to the Fund one could conclude that the state is responsible for the 17 million dollar fiscal note.

Many of the members who would benefit from this change are now senior members in fire departments and police agencies. They are now working in appointed administrative positions or can be appointed to these positions without any competitive examination. These positions have higher salaries that relate to increased retirement benefits as the retirement pay is based on the salary of the position held at the time of retirement.

Representative Conway asked during the November meeting if there is a retirement rehire

provision in the LEOFF law. There is not, but if the CAP is removed any LEOFF 1 member who has retired on a service or disability pension and who was hired after 1974 can return to work. Their pensions would be terminated and they would begin earning additional service credit when reemployed. If they were retired on a disability they would, when reemployed, earn 2% per year of service credit for the number of years they were on a disability pension.

The City of Tacoma recently rehired an assistant police chief who had been on a disability pension for 10 years. When reemployed he was credited with 2% per year of service credit for each year that he was on a disability retirement. He worked for only a few days and retired on a service pension with an additional 20% of retirement pay based on the current salary of the assistant chief of the Tacoma Police Department.

The City of Edmonds has hired a 54 year- old police patrol officer who had retired from another department. He was just featured in the local paper with a statement from the city stating that they were pleased to have gained from his training and work experience.

There is no defined fiduciary responsibility in the statute for the members of the Select Committee on Pension Policy, however the members do feel that there is an implied fiduciary responsibility. To make a change without considering the far-reaching implications would be bad policy and would invite ridicule from the members of the media.

A solution would be to create a LEOFF 1 medical fund with the employees and the employers contributing 6% of salary equal to the previous pension contribution. This would be totally separate from the LEOFF 1 Fund. The Fund would grow from the day it was established and would not be subject to the changes in value of the LEOFF 1 Pension Fund. The medical fund could be administrated by the Department of Retirement Systems. Any employers after having paid a predetermined amount for a medical treatment or for long- term care would apply for a grant from the medical fund to offset their cost. If we had implemented this program in 2002 when we first discussed this issue we would have accumulated approximately $19,269,000.00 in the first two-year period. The nineteen million dollar fund invested at 5% would earn $963,000,00 per year in interest. As you can see, this would have had a real impact in reducing the employer's liability for medical expenses.

We are now three years down the road and would of course have to reevaluate the figures to see what the advantages would be if such a fund was developed. Keep in mind that the 6% contribution would not be that costly for any one employer as no one employer has that many active LEOFF 1 members.

If this was possible:

1) The CAP could be removed.
2) The employees and the employers would be contributing 6% of salary and the members could earn additional service credit.
3) The employers would gain some relief for the medical expenses that they have been asking for.
4) The 17 million fiscal note for removing the CAP would still however come from the LEOFF 1 Fund.

I would be willing to participate in any future discussions as to how such a plan could be developed and administered.

Thank you for your consideration.

Sincerely,

R.C. Warbrouck

Richard C. Warbrouck

Burkhart, Kelly

Subject: FW: December SCPP Meeting

From: Frederick W. Corlis
Sent: Friday, December 09, 2005 12:39 PM
To: Fromhold, Rep. Bill
Cc: Bailey, Rep. Barbara; Mattingly, Corky; Banks, Elaine; millerd@wsdot.wa.gov; Clement, Lois; Moore, Victor; Conway, Rep. Steve; Crouse, Rep. Larry; glen.olsen@clark.wa.gov; Fraser, Sen. Karen; Pridemore, Sen. Craig; Rae, Diane; Goeke, Leland; Thompson, J. Pat; Keller, Bob; Matheson, Sandra
Subject: December SCPP Meeting

SCPP Committee Members,

The issue of lifting the Cap on post 1974 members has been on the table now for quite sometime.

The following are points that I believe are important to consider.

1. The LEOFF I system is a closed system and is currently in the black, who knows how long that will last, however other systems are underfunded. Lifting the Cap will set a precedent that will most likely be passed on throughout the States Pension Systems.

2. Those in the LEOFF I System have not paid into the system since 2000 and continue to not do so while earning service credit. A Precedent that is seen in No Other System.

3. These members will receive up to 60% of their final years salary, not averaged over a number of years as in other plans, and receive full medical benefits for the rest of there respective lives.

4. The vast majority of LEOFF I members, already retired, received 60% or less when they retired.

5. I am told on a weekly basis that they can not live on 60% of their salary and some have testified before this committee the same thing in the past. How then can and are the retired LEOFF I members making it now and in the past. I know of none on Welfare, do you.

6. There is also the issue, now under consideration, to allow members to buy 5 years of service credit upon leaving the system. That will allow them to add another 10% to their pensions. They will have to pay both sides of the contributions to the system to do so, which they have not been paying for the last 5 years, and It will only take 6 years for that to become a push.

7. These members have the opportunity to retire at 60% of there final salary at 50 years of age not like other systems that have to go until they are 65 for the same 60%.

8. If the committee feels it must do something then I would suggest that a **Retire/Rehire** program would be a good one to put in place. Let them retire and come back to work for wages the next day with out gaining further benefits.

It is the opinion of many of the RFFOW that these issues could Jeopardize the system that is currently in the black. The same system that has gone from 136% of funding to 109% of funding in the last 5 years. One never knows what tomorrow brings but many of us feel it is time to leave all the systems alone for the good of all the members active and retied.

With the private sector looking to dump their pension system obligations it only behoves all of us including the legislature to be prudent and not allow the State to get into any further pension troubles then it currently is today.

Thank You

Frederick W. Corlis
RFFOW Board Member

The
Washington State
Law Enforcement Association

November 15, 2005

Chair Representative Frormhold
Vice-Chair Senator Fraser
SCPP Committee Members

Subject: Removal of LEOFF I Service Credit Cap

The Washington State Law Enforcement Association (WSLEA) respectfully requests that the Select Committee recommend HB 1873/SB 5901 (LEOFF I Cap removal) to the 2006 Legislature. Removal of the service credit cap for LEOFF 1 members hired after February 18, 1974, has no negative impact for any represented group, i.e., Retired Fire Fighters of Washington (RFFOW), retired LEOFF 1 members, active LEOFF 1 members, employer groups, or the state. WSLEA has identified three important points:

- The continuity and retention of institutional memory within our Public Safety provider organizations is important. LEOFF 1 Fire and Police members are highly respected and regarded among their peer groups and their communities. What purpose does it serve to deny service credit to so few of these affected individuals? The retention of valued employees far outweighs other concerns.

- Currently, the employer is relieved of pension contributions for these affected members. This was a legislative proposal, not a scheme advanced by LEOFF 1 members. Encouraging retirement by capping service at thirty years creates an environment whereby the employer replaces the retired employee with an employee who requires contributions from the employer and the state.

- LEOFF 1 pension modifciations have no bearing on contribution rates for the employers or members. Rates for the employers and members had always been 6% for each until contributions were suspended in mid 2000. This suspension occurred primarily because the state, employers, and members had made sufficient contributions to meet all future obligations. The legislature correctly links contributions (or the suspension thereof) to the ability of this closed system to meet its future obligations. Any attempt to link LEOFF 1 pension modifications to a reinstatement of contribution rates has been shown to be speculative and inaccurate.

P O BOX 7369 - Olympia, WA 98507-7369 - 1-800-227-9753 - FAX 360-754-8114
www.wslea.org

In the interest of fairness and equity to the LEOFF 1 law enforcement officers and fire fighters affected by the cap, this has been a legislative priority from our association for the past three years.

This year, the SCPP has the opportunity to recommend legislation that retains institutional memory within the public safety community and provides service credit cap accrual equity within LEOFF 1, utilizing a portion of the same surplus.

We ask for your support in forwarding this important legislative proposal. If you have any questions, please contact me or WSLEA Legislative Liaison, Mike Matson.

Respectfully,

Bruce A. Morrison

Bruce A. Morrison
Chairman of the Board

Select Committee on Pension Policy

Judges Benefit Multiplier

(December 2, 2005)

Issue

Judges employed by Washington State after June 30, 1998, – Supreme Court, Court of Appeals, and Superior Court judges – are members of the Public Employees Retirement System (PERS). They also receive an additional retirement benefit called the Judges Retirement Account (JRA). This is a Defined Contribution (DC) account into which members and the state each contribute 2.5 percent of pay. Upon retirement, state employed judges receive their PERS benefits plus distributions from their JRA accounts.

Proposal

The Superior Court Judges Association has asked the SCPP to review the current benefit formula. The Association is proposing to raise the benefit formula to 3.5 percent per year to a maximum benefit of 75 percent of pay. The Judges Association also proposes that the benefit improvement be in lieu of the current JRA benefit received by Superior Court judges, thereby financing the benefit within existing resources. The Superior Court judges are the only judges making this request.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 786-6144

Members Impacted

This proposal would effect all members of PERS serving as Superior Court judges.

According to the Administrative Office of the Courts, there are nine Supreme Court judges, 22 Court of Appeals judges, 179 Superior Court judges, 110 District Court judges, and 120 Municipal Court judges in Washington State.

Current Situation

Since July 1, 1988, newly elected or appointed judges have become members of the PERS Plan 2. Since March 1, 2002, newly elected or appointed judges have had the choice to enter either PERS 2 or PERS 3.

A Plan 2 member is eligible for an unreduced retirement benefit at age 65 with at least five years of service; the member's benefit would be 2 percent of their Average Final Compensation (AFC) times their years of service.

A Plan 3 member would be eligible for an unreduced retirement benefit at age 65 with at least ten years of service (or five years if twelve months of service credit is earned after age 54); their benefit would be 1 percent of their AFC times their years of service plus the accumulations in their individual defined contribution account.

There is no cap on a PERS 2/3 Defined Benefit (DB).

In addition to a PERS benefit, state-employed judges are also eligible for a supplemental benefit from the JRA — a Defined Contribution (DC) plan. The supplemental retirement benefit was created when the earlier Judicial Retirement System was closed (June 30, 1988). This benefit was established under Chapter 109, Laws of 1988, and is found in Chapter 2.14 RCW (see Appendix A). The JRA is available to judges serving on the Supreme Court, Court of Appeals, and Superior Court.

To fund the JRA benefit, members and their employer (the state) each contribute 2.5 percent of pay. Those contributions are deposited into member accounts in the "Judicial Retirement Principal Account" within the State Treasury. Under the direction of the Administrator of the Courts, this account may be deposited in select depository institutions, used to purchase life insurance or fixed or variable annuities, or as is done currently, invested by the State Investment Board.

Upon retirement, member judges are eligible for their PERS benefits, plus a JRA distribution. That distribution may be in the form of a lump-sum or other payment option as adopted by the Administrator for the Courts.

Plan History

Prior to the current PERS – JRA combination, judges were served by the Judges' Retirement Plan (1937 - 1971) and the Judicial Retirement System (1971 - 1988). Both plans offered a maximum benefit of 75 percent of final average salary that could be accrued after about 21½ years of service. The actual accrual rates differed for members with shorter service, but worked out almost the same for those who served long enough to accrue the maximum benefit (see Figure 1).

Figure 1
Service Retirement Formulas in the Judges and Judicial Retirement Plans

Judges	For members with 12 to 18 years of service: 50% of FAS × (Years of service ÷ 18) For members with more than 18 years of service: 50% of FAS + (1/18th of salary for each year over 18) to a maximum of 75% of FAS
Judicial	For members with more than 10 but less than 15 years of service: 3% of FAS per year of service For members with 15 or more years of service: 3.5% of FAS per year of service to a maximum of 75% of FAS

These plans were unusual in that they were funded on a pay-as-you-go basis. This made them inordinately expensive as there was no investment earnings to help defray the cost of the plans. While members' contributions were 7.5 percent of pay in the Judicial Plan and 6.5 percent of pay in the Judges Plan, the state contributions averaged over 40 percent of pay.

Based on recommendations of the Joint Committee on Pension Policy (JCPP), the Judicial Retirement System was closed to new members on June 30, 1988. New Superior Court, Court of Appeals, and Supreme Court judges would become members of PERS 2 and also contribute to the JRA. Because new judges became members of a cost-sharing, pre-funded plan, this lowered their cost and that of the state to about 7.5 percent of pay each, for a total of 15 percent of pay.

Member Characteristics

Based on current data, the average Superior Court judge became a member of PERS at around 40 years of age. That would be considered a mid-career hire for an average PERS member. Their entry date isn't necessarily when they became judges; they may have served in other PERS eligible capacities before their judges service. Superior Court judges are also highly paid relative to the PERS membership at large. Their salaries are set by the "Washington Citizens Commission on Salaries for Elected Officials" (WCCSEO). Superior Court judges annual salaries were set at $124,411 for fiscal year 2004, $128,143 for fiscal year 2005, and will increase to $131,988 in 2006.

Figure 2
Superior Court Judges Membership Demographics 9/30/03

	PERS 1	PERS 2	PERS 3
Active Members	51	102	7
Average Age	58.2	53.4	53.3
Average Years of Service	19.2	11.9	10.4

Retirement Benefit Example

An example of the defined retirement benefit earned by a Superior Court judge would be similar to that earned by a PERS 2 member in a typical civil service position – 2 percent per year of service times AFC. The difference in the retirement benefit rests in the DC accumulations in the JRA. Figure 3 shows an estimated accumulation in such an account and, if annuitized, what that

would represent as a defined benefit. This example assumes an entry age of 40 and retirement at age 65 after 25 years of service. While many judges serve beyond age 65, this is when the member is first eligible for an unreduced defined benefit. This example assumes that PERS and judicial service are the same; members with the same PERS service but with less judicial service would accumulate less in their JRA.

Figure 3
Superior Court Judge
Plan 2 Member Retiring in 2004

Age	65
Years of Service	25
Benefit Ratio (2% × Years of Service)	50%
Average Final Compensation (monthly)	$9,502
Base Benefit	$4,751
JRA Accumulations	$276,928
Annuitized Accumulation (monthly)	$2,084
Total Monthly Benefit	$6,835
% of Average Final Compensation	71.9%
Equivalent DB Accrual Rate per Year	2.88%

In Figure 3, the member's DB is 50 percent of AFC – 2 percent times 25 years of service. With an AFC of $9,502, the base benefit, prior to payment options, is $4,751. Added to the DB is the annuitized JRA accumulations. The estimated accumulations are based on contributions of 5 percent of salary compounded at 8 percent interest (the actuarially assumed rate of return) for 25 years. Judges salaries are assumed to increase at a 3.5 percent annual rate - a bit less than the 4.5 percent assumption for PERS members overall. When added to the DB, the annuitized JRA accumulations increase the total monthly benefit to $6,835. That represents 71.9 percent of the member's AFC and a benefit accrual rate equivalent to 2.88 percent per year of service. It should be noted that a lower/higher long-term rate-of-return on the JRA account would result in lesser/greater, accumulations than in the above example.

Assets invested over the long-term are less sensitive to any single down market period. One risk in a DC design, as is the JRA, is the possibility of poor investment performance in the short term. Judges who accepted late-career appointments, say after age 50, would be more at risk of a "bear market" impeding their JRA accumulations.

Other States

Among the comparative states used in this analysis, judges' retirement benefits are distinct from regular plan members. The principal consistencies among the comparative states' judges' retirement plans is that they tend to be DB plans and have relatively high benefit accrual rates – Ohio's plan is a DB plan, with a DC option. Beyond that, there are significant differences in benefit multipliers, AFC periods, and maximum benefits.

Figure 4
Select Judges Retirement Plan Provisions

	Benefit Multiplier	AFC Period	Maximum Benefit
CalPERS (Judges II)	3.75%	12 months	75%
Colorado PERA	2.5%	3 years	100%
Florida FRS	3.33%	5 fiscal years	100%
Idaho	5%, yrs 1-10 2.5%, yrs 10+	Current Annual	75%
Iowa	3.0%	3 years	60%
Minnesota[1]	3.2%	5 years	76.8%
Missouri	2.5%, 3.33%, 4.17%	Current Salary	50%
Ohio[2]	2.2% up to 30 yrs	3 highest yrs	100%
Oregon **A: Regular** **B: With Pro Tempore service**	**A:** 2.8125% yrs 1-16 1.67% yrs 16+ **B:** 3.75% yrs 1-16 2.0% yrs 16+	36 months	A: 65% B: 75%
Wisconsin	2000 - 2.0% Prior to 2000 - 2.165%	3 highest years	70% or more

1 *After 24 years, members contribute to the Unclassified Employees Retirement Plan.*

2 *Ohio judges (elected officials) may purchase service credit for two times the annual employee contribution rate.*

The benefit multiplier among the comparative states varies from 2.5 percent in Colorado to 4.17 percent in Missouri (see Figure 4). But those multipliers must be viewed in concert with the other elements of the plans, particularly the maximum benefit and participation in Social Security. For instance, Ohio and Colorado members do not participate in Social Security. Missouri's high multiplier is only for those who are appointed at later ages and allows them to accrue a benefit equal to 50 percent of their final salary at age 62 after 12 years of service. Missouri's plan allows a member to receive a maximum benefit of 50 percent of final salary, the lowest of the comparative states. As a result, judges retirement policy in Missouri is considerably different than the policy in Colorado where judges are encouraged to serve longer and retire at later ages.

The AFC period among the plans varies widely as well. Idaho and Missouri use the current salary in the benefit formula and California uses the most recent 12 month salary. Minnesota and Florida use a five-year average. But, again, these design elements should be considered in light of the maximum benefit allowed under these plans. Minnesota and Florida allow members to accrue a benefit at a higher percent of AFC than Idaho, Missouri, or California.

Based on the comparative states, there is little consistency in the retirement plan design and policy for judges. Some plans encourage long service – some short. Some have high multipliers – some low. Some use the current salary to calculate benefits – some use up to five years of salary. The combination of PERS and JRA benefits appears to place Washington State in the middle of the pack in terms of retirement benefits for judges.

Policy

Retirement policy regarding judges employed by the state is inferred in statute. That policy is based on the principal that judicial service warrants a greater retirement benefit than the standard PERS allowance; this is accomplished through the JRA. This policy drove the benefit design in the earlier "Judges" and "Judicial" retirement systems. The accumulation dynamics of a DC account are such that, while not stated, longer membership is advantageous and thus encouraged.

There may also be Bakenhus (contractual rights) issues with any benefit proposal that is not optional. It is possible that a mandatory change in benefits of this nature could harm some individuals. Those whose Judges Retirement Account (JRA) performed well during their judicial service could see their total benefits diminished by a mandatory change.

Additionally, any significant change in benefits for judges may result in a shift in the choices made by future members. Currently there are a number of judges who chose to join PERS 3. It is uncertain whether they would have made that choice if they could have earned a 3.5 percent per year accrual in PERS 2. If the committee wants to forward a proposal to increase the PERS 2 defined benefit multiplier for judges, it may be worthwhile to include a window for PERS 3 judges to move to PERS 2.

Policy Questions

Is a combination DB/DC the best retirement plan design for mid-career hires? What about late-career hires?

In light of the higher compensation received by judges, is it necessary to have a higher multiplier in order for their retirement benefit to be adequate?

Are there recruitment issues that would be resolved by modifying judges retirement benefits?

Benefit Questions

Does the committee want to include the Supreme Court and Court of Appeals judges in this proposal, as they also receive the JRA?

Does the committee want to include PERS District and Municipal Court judges in any proposal, even though they do not currently receive the JRA?

Does the committee want to establish an option for members to purchase past service at the higher multiplier?

If the committee decided to change the plan design for Superior Court judges so as to consolidate the existing DB and DC elements into a DB design, would it want this consolidation of benefits to be of equivalent value to the existing PERS and JRA plans, or would it want to increase the benefits?

Would the committee want to make any benefit proposal optional?

Would the committee want to provide PERS 3 Judges a choice to transfer to PERS 2?

Options

1. Eliminate the Judges Supplemental Retirement Account and create a Superior Court judges benefit that allows PERS 1 and PERS 2 members to accrue a 3.5 percent per year DB to a maximum of 75 percent of AFC and Plan 3 members to accrue a 1.75 percent per year DB to a maximum of 37.5 percent of AFC. Plan 3 members would still be required to contribute 2.5 percent of pay they had formerly

contributed to their JRA to either their PERS 3 member account (instead of a 5 percent minimum contribution it would be a 7.5 percent minimum contribution) or a DC account.

Fiscal Impact: The 2003 normal cost (not including gain-sharing) of the PERS 2/3 employer rate and the PERS 2 member rate is 4.35 percent of pay each. The PERS 1 member contribution rate is 6.0 percent of pay. Those rates support the PERS DB accruals. For the DB to accrue at 3.5 percent per year instead of 2.0 percent per year, the cost would increase on a near proportionate basis. Redirecting the 2.50 percent JRA contribution would make up most of the cost, but the plan would require additional contributions from both the employer and members. This would have a General Fund State cost of $200,000 in 2006-07 and a 25 year cost of $9.1 million.

Alternate Fiscal Impact: If the member judges were to pay the entire cost of the benefit increase, their contribution rates would be the original normal cost plus the JRA contribution plus the entire difference. That would be 1.44 percent for PERS 2 members; (0.72 percent for the member and employer) the average increase in a judge's annual retirement contributions would be $1,792 (2004 salary). This would require no new employer contributions.

2. Eliminate the Judges Supplemental Retirement Account and create a Superior Court judges benefit that allows members to accrue a DB equal to the combined value of the existing PERS and JRA benefits to a maximum of 75 percent of AFC for Plan 2 members and 37.5 percent of AFC for Plan 3 members. This would be an estimated accrual rate of 3.15 percent per year of service for Plan 2 members and 1.575 percent for Plan 3 members. Plan 3 members would still be required to contribute 2.5 percent of pay they had formerly contributed to their JRA to either their PERS 3 member account (instead of a 5 percent minimum contribution it would be a 7.5 percent minimum contribution) or a DC account.

Fiscal Impact: The 2003 normal cost (not including gain-sharing) of the PERS 2/3 employer rate and the PERS 2 employee rate is 4.35 percent of pay each. The PERS 1 member contribution rate is 6.0 percent of pay. Those rates support the PERS 2/3 DB accruals. The 2.50 percent JRA contribution would be added to the normal cost contribution rates to pay for the equivalent increase in the DB accrual. This would require no new member or employer

contributions.

3. Include all judges in any benefit proposal, including District and Municipal Court judges. As District and Municipal Court judges do not pay into the JRA, they and their employers do not have that existing revenue source to off-set part of the cost of any benefit increase. (Note: Cost estimates for District and Municipal Court judges were based on the Superior Court Judges demographic profile. More complete information will result in different costs.)

Fiscal Impacts:

To fund a defined benefit with a 3.5 percent per year accrual, District and Municipal Court judges and their employers would each need to contribute an additional 3.22 percent of pay. The combined employer cost for Superior Court, District Court, and Municipal Court judges would be $1.3 million in 2006-07 ($0.2 million GFS and $1.1 million local) and a 25 year cost of $68.3 million ($9.1 million GFS and $59.2 million local).

To fund a defined benefit with a 3.15 percent per year accrual, District and Municipal Court judges and their employers would each need to contribute an additional 2.50 percent of pay. The Local Government employer cost would be $900,000 in 2006-07 ($0 GFS) and a 25 year cost of $46.0 million ($0 GFS).

4. Create an optional system of benefits allowing judges to accrue a 3.5 percent per year benefit multiplier and a maximum retirement benefit of 75 percent of average final compensation. Allow State employed judges to opt out of the Judges Supplemental Retirement Account and allow members to pay additional contributions in support of these benefits. State Employers would be allowed to contribute, in addition to their regular contributions, an additional 2.5 percent of pay. Plan 3 members would be allowed to transfer to Plan 2 to participate in these benefits. Local judges would be allowed to opt into these benefit provisions and their employers would be allowed to contribute up to an additional and optional 2.5 percent of pay.

Fiscal Impact: State employers will pay the Plan 1/Plan 2 contribution rate as established in the funding chapter, plus an additional 2.5 percent of pay -- this amount will likely be redirected from the JRA contributions they formerly made. State employed

Plan 2 judge members will contribute 250 percent of the overall Plan 2 member contribution rate less 2.5 percent of pay. Plan 1 judges will pay the statutory contribution (6 percent) plus an additional 3.76 percent of pay. Local employers will pay the PERS employer contribution rate as established in the funding chapter, plus an optional 2.5 percent of pay if they so choose. Local judges would be responsible for the remaining cost of the benefits. This would require no new employer contributions, though local employers would have the option to contribute up to, but not exceeding, an additional 2.5 percent of pay. Because the possible employer contributions are optional, this option would have no fiscal impact – if local employers choose to make additional contributions, this option would have a fiscal impact.

5. Keep the existing JRA benefit and retain the existing multiplier.

Fiscal Impact: This would require no new member or employer contributions.

Stakeholder Input

Letter from Leonard Costello, Immediate Past President, Superior Court Judges Association (see Attachments).

Proposal from the Superior Court Judges Association (see Attachments).

Executive Committee Recommendation

At the November meeting, the Executive Committee of the SCPP moved to forward the Option 4 proposal to the full committee for a public hearing and possible executive session.

Bill Draft

Attached

Fiscal Note

Attached

Select Committee on Pension Policy

Judges Benefit Multiplier Bill Summary

(December 12, 2005)

Section 1 PERS member election to discontinue JRA

Section 2 New state-employed judges: PERS membership in expanded benefit multiplier provisions

Section 3 New state-employed judges: TRS membership in expanded benefit multiplier provisions

Section 4 New locally-employed judges: PERS membership in expanded benefit multiplier provisions

Section 5 Existing state-employed PERS 1 and PERS 2 judges: choice to participate in expanded benefit multiplier provisions

Section 6 Existing locally-employed PERS 1 and PERS 2 judges: choice to participate in expanded benefit multiplier provisions

Section 7 Existing state-employed TRS 1 judges: choice to participate in expanded benefit multiplier provisions

Section 8 Existing state-employed PERS 3 judges: choice to transfer and participate in expanded benefit multiplier provisions

Section 9 Existing locally-employed PERS 3 judges: choice to transfer and participate in expanded benefit multiplier provisions

Section 10 PERS 1 state-employed judges: retirement benefit with 3.5% per year accrual, 75% cap

Section 11 TRS 1 state-employed judges" retirement benefit with 3.5% per year accrual, 75% cap

Section 12 PERS 1 locally-employed judges retirement benefit: 3.5% per year accrual, 75% cap

Section 13 PERS 2 state-employed judges: retirement benefit with 3.5% per year accrual, 75% cap

Section 14 PERS 2 locally-employed judges" retirement benefit with 3.5% per year accrual, 75% cap

Section 15 PERS contributions for state-employed judges

Section 16 TRS contributions for state-employed judges

Section 17 PERS contributions for locally-employed judges

Section 18 Optional employer contribution not subject to PFC rate-setting

Section 19 Effective date of January 1, 2007

Robert Wm Baker (360) 786-6144
Office of the State Actuary
December 6, 2005 (12:17 pm)

1 AN ACT Relating to public retirement benefits for justices and
2 judges in Washington State; adding a new section to chapter 2.14 RCW;
3 adding new sections to chapter 41.32 RCW; adding new sections to
4 chapter 41.40 RCW; amending 41.45.060 RCW; adding new sections to
5 chapter 41.45 RCW; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to 2.14 RCW to read
8 as follows:
9 Beginning January 1, 2007 through December 31, 2007, any member of
10 the public employees' retirement system eligible to participate in the
11 judicial retirement account plan under Chapter 2.14 RCW may make a one
12 time irrevocable election, filed in writing with the member's employer,
13 the department of retirement systems, and the administrative office of
14 the courts, to discontinue future contributions to the judicial
15 retirement account plan in lieu of prospective contribution and benefit
16 provisions under this act.

NEW SECTION. **Sec. 2.** A new section is added to 41.40 RCW to read as follows:

(1) Beginning January 1, 2007, any newly elected or appointed supreme court justice, court of appeals judge, or superior court judge, shall not participate in the judicial retirement account under Chapter 2.14 RCW and shall be subject to the benefit and contribution provisions under this act.

(2)(a) Beginning January 1, 2007, any newly elected or appointed supreme court justice, court of appeals judge, or superior court judge, who is a member of plan 3, shall have the option to make a one time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to leave any service credit earned as a member of plan 3 in plan 3; join plan 2; and accrue an additional plan 2 benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of said election in lieu of future employee and employer contributions to the judicial retirement account plan under chapter 2.14 RCW.

(b) A member who chooses to make the election under subsection (2)(a) of this section shall become a dual member of the public employees' retirement system plan 3 and the public employees' retirement system plan 2, and may combine service in each plan for the purpose of determining the member's eligibility to receive a service retirement allowance and qualify for applicable increases under this chapter. The benefits of such a member shall be administered in the same manner as benefits administered under the provisions of chapter 41.54 RCW, with such a member being treated as if a member of different systems for portability purposes. The department shall promulgate rules to ensure the portability of such a member's plan 2 and plan 3 benefits.

(c) A member making said election shall be subject to the contribution and benefit provisions under this act.

(3) Beginning January 1, 2007, any newly elected or appointed supreme court justice, court of appeals judge, or superior court judge, who has not previously established membership in this system, shall

become a member of Plan 2 and shall be subject to the benefit and contribution provisions under this act.

NEW SECTION. **Sec. 3.** A new section is added to 41.32 RCW to read as follows:

Beginning January 1, 2007, any newly elected or appointed supreme court justice, court of appeals judge, or superior court judge, who is a member of plan 1 shall not participate in the judicial retirement account plan under Chapter 2.14 RCW in lieu of prospective contribution and benefit provisions under this act.

NEW SECTION. **Sec. 4.** A new section is added to 41.40 RCW to read as follows:

(1) Beginning January 1, 2007, any newly elected or appointed district court judge or municipal court judge, who is not eligible for membership under chapter 41.28 RCW, shall be subject to the benefit and contribution provisions under this act.

(2)(a) Beginning January 1, 2007, any newly elected or appointed district court judge or municipal court judge, who is a member of plan 3, and who is not eligible for membership under chapter 41.28 RCW, shall have the option to make a one time irrevocable election, filed in writing with the member's employer and the department, to leave any service credit earned as a member of plan 3 in plan 3; join plan 2; and accrue an additional plan 2 benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of said election.

(b) A member who chooses to make the election under subsection (2)(a) of this section shall become a dual member of the public employees' retirement system plan 3 and the public employees' retirement system plan 2, and may combine service in each plan for the purpose of determining the member's eligibility to receive a service retirement allowance and qualify for applicable increases under this chapter. The benefits of such a member shall be administered in the same manner as benefits administered under the provisions of chapter 41.54 RCW, with such a member being treated as if a member of different systems for portability purposes. The department shall promulgate

rules to ensure the portability of such a member's plan 2 and plan 3 benefits.

(c) A member making said election shall be subject to the contribution and benefit provisions under this act.

(3) Beginning January 1, 2007, any newly elected or appointed district court judge, or municipal court judge, who has not previously established membership in this system, and who is not eligible for membership under chapter 41.28 RCW, shall become a member of Plan 2 and shall be subject to the benefit and contribution provisions under this act.

NEW SECTION. **Sec. 5.** A new section is added to chapter 41.40 RCW to read as follows:

(1) Between January 1, 2007 and December 31, 2007, a member of plan 1 or plan 2 employed as a supreme court justice, court of appeals judge, or superior court judge may make a one time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of said election in lieu of future employee and employer contributions to the judicial retirement account plan under chapter 2.14 RCW.

(2)(a) A member who chooses to make the election under subsection (1) of this section may apply to the department to increase the member's benefit multiplier by an additional one and one-half percent per year of service for the period in which the member served as a justice or judge prior to said election. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director. This payment must be made prior to retirement.

(b) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all

lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

NEW SECTION. **Sec. 6.** A new section is added to chapter 41.40 RCW to read as follows:

(1) Between January 1, 2007 and December 31, 2007, a member of plan 1 or plan 2 employed as a district court judge or municipal court judge may make a one time irrevocable election, filed in writing with the member's employer and the department, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of said election.

(2)(a) A member who chooses to make the election under subsection (1) of this section may apply to the department to increase the member's benefit multiplier by one and one-half percent per year of service for the period in which the member served as a judge prior to said election. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director. This payment must be made prior to retirement.

(b) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to

determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

NEW SECTION. **Sec. 7.** A new section is added to chapter 41.32 RCW to read as follows:

(1) Between January 1, 2007 and December 31, 2007, a member of plan 1 employed as a supreme court justice, court of appeals judge, or superior court judge may make a one time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of said election.

(2)(a) A member who chooses to make the election under subsection (1) of this section may apply to the department to increase the member's benefit multiplier by one and one-half percent per year of service for the period in which the member served as a justice or judge prior to said election. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director. This payment must be made prior to retirement.

(b) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

NEW SECTION. **Sec. 8.** A new section is added to chapter 41.40 RCW to read as follows:

(1) Between January 1, 2007 and December 31, 2007, a member of plan 3 employed as a supreme court justice, court of appeals judge, or superior court judge may make a one time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to leave any service credit earned as a member of plan 3 in plan 3; join plan 2, becoming a dual member; and accrue an additional plan 2 benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of said election in lieu of future employee and employer contributions to the judicial retirement account plan under chapter 2.14 RCW.

(2) A member who chooses to make the election under subsection (1) of this section shall become a dual member of the public employees' retirement system plan 3 and the public employees' retirement system plan 2, and may combine service in each plan for the purpose of determining the member's eligibility to receive a service retirement allowance and qualify for applicable increases under this chapter. The benefits of such a member shall be administered in the same manner as benefits administered under the provisions of chapter 41.54 RCW, with such a member being treated as if a member of different systems for portability purposes. The department shall promulgate rules to ensure the portability of such a member's plan 2 and plan 3 benefits.

(3)(a) A member who chooses to make the election under subsection (1) of this section may apply to the department to increase the member's benefit multiplier by two and one-half percent per year of service for the period in which the member served as a justice or judge prior to said election. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director. This payment must be made prior to retirement.

(b) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the

requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

NEW SECTION. **Sec. 9.** A new section is added to chapter 41.40 RCW to read as follows:

(1) Between January 1, 2007 and December 31, 2007, a member of plan 3 employed as a district court judge or municipal court judge may make a one time irrevocable election, filed in writing with the member's employer and the department, to leave any service credit earned as a member of plan 3 in plan 3; and join plan 2, becoming a dual member under section 18 of this act; and accrue an additional plan 2 benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of said election.

(2) A member who chooses to make the election under subsection (1) of this section shall become a dual member of the public employees' retirement system plan 3 and the public employees' retirement system plan 2, and may combine service in each plan for the purpose of determining the member's eligibility to receive a service retirement allowance and qualify for applicable increases under this chapter. The benefits of such a member shall be administered in the same manner as benefits administered under the provisions of chapter 41.54 RCW, with such a member being treated as if a member of different systems for portability purposes. The department shall promulgate rules to ensure the portability of such a member's plan 2 and plan 3 benefits.

(3)(a) A member who chooses to make the election under subsection (1) of this section may apply to the department to increase the member's benefit multiplier by two and one-half percent per year of service for the period in which the member served as a judge prior to said election. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier

as determined by the director. This payment must be made prior to retirement.

(b) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

NEW SECTION. **Sec. 10.** A new section is added to 41.40 RCW under the sub-chapter heading "Plan 1" to read as follows:

(1) In lieu of the retirement allowance provided under RCW 41.40.185, the retirement allowance payable for service as a supreme court justice, court of appeals judge, or superior court judge, for a member who elects to participate under section 5(1) of this act, shall be equal to three and one-half percent of average final compensation for each year of service earned after the date of said election. The total retirement benefit accrued or purchased under this act in combination with benefits accrued during periods served prior to said election shall not exceed seventy-five percent of average final compensation.

(2) In lieu of the retirement allowance provided under RCW 41.40.185, the retirement allowance payable for service as a supreme court justice, court of appeals judge, or superior court judge, for those justices or judges newly elected or appointed after the effective date of this act, shall be equal to three and one-half percent of average final compensation for each year of service after the effective date of this act. The total retirement benefits accrued under this act in combination with benefits accrued during periods served prior to the effective date of this act shall not exceed seventy-five percent of average final compensation.

NEW SECTION. **Sec. 11.** A new section is added to 41.32 RCW under the sub-chapter heading "Plan 1" to read as follows:

(1) In lieu of the retirement allowance provided under RCW 41.32.498, the retirement allowance payable for service as a supreme court justice, court of appeals judge, or superior court judge, for those justices or judges who elected to participate under section 7(1) of this act, shall be equal to three and one-half percent of average final compensation for each year of service earned after the date of said election. The total retirement benefit accrued or purchased under this act in combination with benefits accrued during periods served prior to said election shall not exceed seventy-five percent of average final compensation.

(2) In lieu of the retirement allowance provided under RCW 41.32.498, the retirement allowance payable for service as a supreme court justice, court of appeals judge, or superior court judge, for those justices or judges newly elected or appointed after the effective date of this act, shall be equal to three and one-half percent of average final compensation for each year of service after the effective date of this act. The total retirement benefits accrued under this act in combination with benefits accrued during periods served prior to the effective date of this act shall not exceed seventy-five percent of average final compensation.

NEW SECTION. **Sec. 12.** A new section is added to 41.40 RCW under the sub-chapter heading "Plan 1" to read as follows:

(1) In lieu of the retirement allowance provided under RCW 41.40.185, the retirement allowance payable for service as a district court judge or municipal court judge, for those judges who elected to participate under section 6(1) of this act, shall be equal to three and one-half percent of average final compensation for each year of service earned after said election. The total retirement benefit accrued or purchased under this act in combination with benefits accrued during periods served prior to said election shall not exceed seventy-five percent of average final compensation.

(2) In lieu of the retirement allowance provided under RCW 41.40.185, the retirement allowance payable for service as a district court judge, or municipal court judge, for those judges newly elected

or appointed after the effective date of this act, and who are not eligible for membership under chapter 41.28 RCW, shall be equal to three and one-half percent of average final compensation for each year of service after the effective date of this act. The total retirement benefits accrued under this act in combination with benefits accrued during periods served prior to the effective date of this act shall not exceed seventy-five percent of average final compensation.

NEW SECTION. **Sec. 13.** A new section is added to 41.40 RCW under the sub-chapter heading "Plan 2" to read as follows:

(1) In lieu of the retirement allowance provided under RCW 41.40.620, the retirement allowance payable for service as a supreme court justice, court of appeals judge, or superior court judge, for those justices or judges who elected to participate under section 5(1) of this act, shall be equal to three and one-half percent of average final compensation for each year of service earned after said election. The total retirement benefit accrued or purchased under this act in combination with benefits accrued during periods served prior to said election shall not exceed seventy-five percent of average final compensation.

(2) In lieu of the retirement allowance provided under RCW 41.40.620, the retirement allowance payable for service as a supreme court justice, court of appeals judge, or superior court judge, for those justices or judges newly elected or appointed after the effective date of this act, shall be equal to three and one-half percent of average final compensation for each year of service after the effective date of this act. The total retirement benefits accrued under this act in combination with benefits accrued during periods served prior to the effective date of this act shall not exceed seventy-five percent of average final compensation.

NEW SECTION. **Sec. 14.** A new section is added to 41.40 RCW under the sub-chapter heading "Plan 2" to read as follows:

(1) In lieu of the retirement allowance provided under RCW 41.40.620, the retirement allowance payable for service as a district court judge or municipal court judge for those judges who elected to participate under section 6(1) of this act shall be equal to three and

one-half percent of the average final compensation for each year of such service earned after said election. The total retirement benefit accrued or purchased under this act in combination with benefits accrued during periods served prior to said election shall not exceed seventy-five percent of average final compensation.

(2) In lieu of the retirement allowance provided under RCW 41.40.620, the retirement allowance payable for service as a district court judge, or municipal court judge, for those judges newly elected or appointed after the effective date of this act, and who are not eligible for membership under chapter 41.28 RCW, shall be equal to three and one-half percent of average final compensation for each year of service after the effective date of this act. The total retirement benefits accrued under this act in combination with benefits accrued during periods served prior to the effective date of this act shall not exceed seventy-five percent of average final compensation.

NEW SECTION. **Sec. 15.** A new section is added to 41.45 RCW to read as follows:

(1) The required employer contribution rate in support of public employees' retirement system members employed as supreme court justices, court of appeals judges, and superior court judges who elect to participate under section 5(1) or 8(1) of this act, or who are newly elected or appointed after the effective date of this act, shall consist of the public employees retirement system employer contribution rate established under this chapter plus 2.50 percent of pay.

(2) The required contribution rate for members of the public employees retirement system plan 2 employed as supreme court justices, court of appeals judges, and superior court judges who elect to participate under section 5(1) or 8(1) of this act, or who are newly elected or appointed after the effective date of this act, shall be two hundred and fifty percent of the member contribution rate for the public employees retirement system plan 2 established under this chapter less 2.50 percent of pay.

(3) The required contribution rate for members of the public employees retirement system plan 1 employed as supreme court justices, court of appeals judges, and superior court judges who elect to participate under section 5(1) of this act, or who are newly elected or

appointed after the effective date of this act, shall be the contribution rate established under RCW 41.40.330 plus 3.76 percent of pay.

NEW SECTION. **Sec. 16.** A new section is added to 41.45 RCW to read as follows:

(1) The required employer contribution rate in support of teachers' retirement system members employed as supreme court justices, court of appeals judges, and superior court judges who elect to participate under section 7(1) of this act, or who are newly elected or appointed after the effective date of this act, shall consist of the following:

(a) The teachers retirement system employer contribution rate established under this chapter; plus

(b) An optional amount that shall not exceed 2.50 percent of pay.

(2) The required contribution rate for members of the teachers' retirement system plan 1 employed as supreme court justices, court of appeals judges, and superior court judges who elect to participate under section 7(1) of this act, or who are newly elected or appointed after the effective date of this act, shall be the deductions established under RCW 41.50.235 plus 6.26 percent of pay less any optional employer contribution made under section 1(b) of this section.

NEW SECTION. **Sec. 17.** A new section is added to 41.45 RCW to read as follows:

(1) The required employer contribution rate in support of public employees' retirement system members employed as district court judges and municipal court judges who elect to participate under section 6(1) or 9(1) of this act, or who are newly elected or appointed after the effective date of this act, shall consist of the following:

(a) The public employees retirement system employer contribution rate established under this chapter; plus

(b) An optional amount that shall not exceed 2.50 percent of pay.

(2) The required contribution rate for members of the public employees retirement system plan 2 employed as district court or municipal court judges who elect to participate under section 6(1) or 9(1) of this act, or who are newly elected or appointed after the effective date of this act, shall be two hundred and fifty percent of

the member contribution rate for the public employees retirement system plan 2 established under this chapter less any optional employer contribution made under subsection (1)(b) of this section.

(3) The required contribution rate for members of the public employees retirement system plan 1 employed as district court judges or municipal court judges who elect to participate under section 5(1) of this act, or who are newly elected or appointed after the effective date of this act, shall be the contribution rate established under RCW 41.40.330 plus 6.26 percent of pay less any optional employer contribution made under section 1(b) of this section.

Sec. 18. RCW 41.45.060 and 2005 c 370 s 2 are each amended to read as follows:

RCW Caption: Basic state and employer contribution rates--Role of council. *(Effective July 1, 2006.)*.

(1) The state actuary shall provide actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted by the council under RCW 41.45.030 or 41.45.035.

(2) Not later than September 30, 2002, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system to be used in the ensuing biennial period; and

(c) A basic employer contribution rate for the school employees' retirement system and the public safety employees' retirement system for funding both those systems and the public employees' retirement system plan 1.

<u>(d) The optional basic employer contribution rates under sections 16(1)(b) and 17(1)(b) of this act, for public employees' retirement system members and teachers' retirement system members electing to</u>

participate under this act, shall not be subject to adoption by the council.

The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1 not later than June 30, 2024; and

(b) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate and a Washington state patrol retirement system contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

(6) The director shall collect those rates adopted by the council. The rates established in RCW 41.45.062, or by the council, shall be subject to revision by the legislature.

NEW SECTION. **Sec. 19.** This act takes effect January 1, 2007.

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DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/7/05**	**Judges Benefit Multiplier**

SUMMARY OF BILL:

This bill impacts the Public Employees Retirement System (PERS) and the Judicial Retirement Account Plan (JRA).

The bill allows Supreme Court Justices, Court of Appeals Judges, and Superior Court Judges the option to cease participation in the JRA Plan and establish a prospective 3.5% per year benefit multiplier within PERS with a maximum retirement allowance of 75% of average final compensation.

It also allows District Court and Municipal Court judges the option to establish a prospective 3.5% per year benefit multiplier within PERS with a maximum retirement allowance of 75% of average final compensation.

Judges participating in PERS 3 would be allowed to transfer to PERS 2 and establish dual membership in order to participate in these benefits.

Members would be responsible for all additional contributions above the existing employer contributions.

As an employer, the State would be responsible for the existing employer contributions, plus an additional 2.5% of pay. Former contributions to the JRA would be redirected to support these benefits.

Local employers would be responsible for the existing employer contributions with an option to contribute an additional amount up to, but not exceeding, 2.5% of pay.

Members would also be allowed to purchase the 3.5% benefit multiplier for the past service as judges using lump-sum payments, eligible rollover, direct rollover, or trustee-to-trustee transfers from eligible retirement plans.

Newly elected or appointed Supreme Court Justices, Court of Appeals Judges, Superior Court Judges, District Court Judges, and Municipal Court Judges would become members of PERS 2 and be eligible for the 3.5% per year benefit multiplier and a maximum retirement benefit of 75% of average final compensation. Newly elected judges with prior PERS 1 and PERS 2 service would also participate in these provisions. Newly elected judges with prior PERS 3 service would be given the option to participate in these benefit provisions.

Effective Date: January 1, 2007

CURRENT SITUATION:

Since July 1, 1988, newly elected or appointed judges have become members of the PERS Plan 2. Since March 1, 2002, newly elected or appointed judges have had the choice to enter either PERS 2 or PERS 3.

In addition to a PERS benefit, state-employed judges (Supreme Court Justices, Court of Appeals Judges, and Superior Court Judges) are also eligible for a supplemental benefit from the Judicial Retirement Account Plan (JRA) — a defined contribution (DC) plan. To fund the JRA benefit, members and their employer (the state) each contribute 2.5 percent of pay. Upon retirement, member judges are eligible for their PERS benefits, plus a JRA distribution. That distribution may be in the form of a lump-sum or other payment option as adopted by the Administrator for the Courts.

MEMBERS IMPACTED:

We estimate that 210 Superior Court Judges, Court of Appeals Judges, and Supreme Court Justices; and 230 District and Municipal Court judges, out of the total 156,256 active members of PERS would be affected by this bill.

Increasing the benefit accrual formula from 2.0% to 3.5% represents a 75% increase in accrued benefits for every year of service earned under the new formula. We estimate that for a typical member impacted by this bill, the maximum increase in annual benefits would be between $30,000 and $48,000 a year.

ASSUMPTIONS:

We assumed that all judges have the same demographic, salary, and plan membership profile, and cost, as the Superior Court Judges. We assumed that all eligible judges will elect to receive the enhanced benefits. We assumed that all PERS 3 judges will transfer to PERS 2 to receive the enhanced benefits and that the number transferring is too small to affect Plan 2/3 contribution rates. We assumed the increase in benefit formula will not change retirement behavior. In determining required member and state contributions, we assumed all JRA contributions are redirected to the pension trust fund to fund the benefit improvements. We further assumed that employers of judges who are not participating in the JRA will not opt to make additional contributions on behalf of their employees to fund this benefit.

FISCAL IMPACT:

Description:

This bill will increase retirement benefits by changing the 2% benefit accrual rate per year of service to 3.5% for service earned after the effective date of the bill. This bill will also increase contributions to the system by redirecting contributions currently being made to the JRA to the PERS trust funds and requiring judges to pay a higher contribution rate to fully fund the increased benefits. Judges who do not participate in the JRA would need to make an additional contribution of at least 5%to cover the cost of the benefit improvement. Employer contribution rates do not change since members' are fully funding the cost of benefit improvements not covered by redirecting the JRA contributions.

Employer and member contributions rates could change if the employers of District and Municipal Court judges elect to make extra contributions to fund this benefit. In this case, the local government fiscal costs will increase and employee costs will decrease.

Provisions allowing members to purchase the 3.5% benefit multiplier for past service are assumed to have no fiscal impact since the member is charged the full actuarial cost.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		System: PERS			
		Current	Increase	Increase	Total
			Superior Court Judges*	District & Municipal Court Judges	
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)					
	PERS 1	$12,818	$2	$2	$12,822
	PERS 2/3	$15,288	$12	$14	$15,314
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)					
	PERS 1	$2,563	$0	$0	$2,563
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)					
	PERS 1	$2,254	$0	$0	$2,254
	PERS 2/3	($2,927)	$0	$0	($2,927)

Increase in Contribution Rates:
(Effective 1/1/2007)

	Superior Court Judges*	District & Municipal Court Judges
Current Members		
Employee (Plan 1)	3.76%	6.26%
Employee (Plan 2)	2.75%	5.25%
Employer State	0.00%	0.00%
New Entrants* **		
Employee**	4.19%	6.69%
Employer State	0.00%	0.00%

**Includes Supreme Court Justices and Court of Appeals Judges. Rates do not reflect 2.5 percent member contribution to JRA.*
***Projected long-term contribution rates beginning in 2013.*
****Rate change applied to future new entrant payroll and used for fiscal budget determinations only. A single supplemental rate increase, equal to the increase for current members, would apply initially for all members or employers.*

Fiscal Budget Determinations:

As a result of the higher required member contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	**PERS** Superior Court Judges	**PERS** District & Municipal Court Judges	**Total**
2006-2007			
State:			
General Fund	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0
Total Employee	$0.4	$0.9	$1.3
2007-2009			
State:			
General Fund	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0
Total Employee	$2.4	$4.6	$7.0
2006-2031			
State:			
General Fund	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0
Total Employee	$60.7	$107.7	$168.4

State Actuary's Comments:

We have assumed that local government employers will not opt to make the additional 2.50 percent of pay contribution. If this is not the case, some local government costs will shift from the District and Municipal court judges to their local employer.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, and assumptions as those used in preparing the September 30, 2003 & 2004 actuarial valuation reports of the Public Employee's Retirement System. Additional data for the current number and salaries of judges was provided by the Office of the Administrator of the Courts and was not audited.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

WASHINGTON
COURTS

Superior Court Judges' Association

Michael Trickey, *President-Judge* (05-06)
King County Superior Court
516 Third Ave Rm C-203
Seattle, WA 98104-2361
(206) 296-9265 FAX: (206) 296-0986

Michael Cooper, *President-Elect* (05-06)
Kittitas County Superior Court
205 W 5th Avenue, Suite 207
Ellensburg, WA 98926-2887
(509) 962-7533 FAX: (509) 933-8223

Leonard W. Costello, *Immed. Past President* (05-06)
Kitsap County Superior Court
614 Division Street
Port Orchard, WA 98366-4683
(360) 337-7140 FAX: (360) 337-4673

Gordon Godfrey, *Secretary* (05-06)
Grays Harbor County Superior Court
102 Broadway Avenue W
Montesano, WA 98563-3621
(360) 249-6363 FAX: (360) 249-6381

John Meyer, *Treasurer* (05-06)
Skagit County Superior Court
205 W Kincaid St. Rm. 202
Mount Vernon, WA 98273-4225
(360) 336-9320

Laura Gene Middaugh, *District One Trustee* (03-06)
King County Regional Justice Center
401 4th Avenue N Room 2D
Kent, WA 98032-4429
(206) 296-9225 FAX: (206) 205-2585

Jay White, *District One Trustee* (04-07)
King County Regional Justice Center
401 4th Avenue N Room 2D
Kent, WA 98032-4429
(206) 296-9251 FAX: (206) 205-2585

Ronald E. Culpepper, *District Two Trustee* (05-08)
Pierce County Superior Court
930 Tacoma Avenue S Room 534
Tacoma, WA 98402-2108
(253) 798-6640 FAX: (253) 798-7214

Linda Krese, *District Three Trustee* (03-06)
Snohomish County Superior Court
3000 Rockefeller Avenue MS 502
Everett, WA 98201-4046
(425) 388-3954 FAX: (360) 388-3498

Stephen Warning, *District Four Trustee* (03-06)
Cowlitz County Superior Court
312 SW 1st Avenue
Kelso, WA 98626-1739
(360) 577-3085

Donald W. Schacht, *District Five Trustee* (05-08)
Walla Walla County Superior Court
315 W Main St.
PO Box 836
Walla Walla, WA 99362-0259
(509) 527-3229 FAX: (509) 527-3214

T. W. Small, *District Six Trustee* (04-07)
Chelan County Superior Court
401 Washington Street
Wenatchee, WA 98807-0880
(509) 667-6210 FAX: (509) 667-6588

December 1, 2005

RECEIVED
DEC 6 - 2005
Office of
The State Actuary

Honorable Bill Fromhold
239 JLOB
PO Box 40600
Olympia, Washington 98504-0600

Dear Representative Fromhold:

As president of the Superior Court Judges' Association, I am writing to thank you for the Select Committee's efforts in reviewing the judges' proposal to restore the defined benefit multiplier as an element of the judges' pension benefits. We also appreciate the efforts of the state actuary's office and particularly Mr. Smith and Mr. Baker in working with us in outlining the proposal.

The purpose of this proposal is to continue to attract and retain highly qualified judges to the Washington judiciary. Restoring the pre-1988 multiplier of 3.5% for years of judicial service will bring Washington to a comparable level of judicial defined retirement benefits provided for judges in the 50 states. Judges come to the bench at mid or late career, unlike most state employees, and therefore have less time to accumulate years of service before they retire. For example, the average age that a judge takes the superior court bench is 47.

This proposal is cost neutral to the state. The proposed benefit is entirely funded by the judges themselves by redirecting the JRA account contributions currently made by the employee-judge and the employer to the PERS programs and by the employee-judge paying an additional sum.

If you have any questions about the proposal to restore the judges' defined benefit multiplier, please do not hesitate to contact me at (206) 240-1042, Judge Leonard Costello at (360) 337-4464 or our lobbyist, Tom Parker at (206) 200-7898.

Sincerely,

Michael J. Trickey, President
Superior Court Judges' Association

cc: SCJA Board
Judge Deborah Fleck
Tom Parker

scja/presidents correspondence/trickey/retirement proposal ltr 12 05

WASHINGTON
COURTS

Superior Court Judges' Association

Leonard W. Costello, *President-Judge* (2004-2005)
Kitsap County Superior Court
614 Division Street
Port Orchard, WA 98366-4683
(360) 337-7140 FAX: (360) 337-4673

Michael Trickey, *President-Elect* (2004-2005)
King County Superior Court
516 3rd Avenue, Room C-203
Seattle, WA 98104-2381
(206) 296-9265 FAX: (206) 296-0986

Kathleen M. O'Connor, *Immed. Past President* (2004-2005)
Spokane County Superior Court
1116 W Broadway Avenue
Spokane, WA 99260-0350
(509) 477-4707 FAX: (509) 477-5714

Gordon Godfrey, *Secretary* (2004-2005)
Grays Harbor County Superior Court
102 Broadway Avenue W
Montesano, WA 98563-3621
(360) 249-6363 FAX: (360) 249-6381

Vickie Churchill, *Treasurer* (2004-2005)
Island County Superior Court
101 NE 6th
Coupeville, WA 98239-5000
(360) 679-7361 FAX: (360) 679-7383

Laura Gene Middaugh, *District One Trustee* (2003-2006)
King County Regional Justice Center
401 4th Avenue N Room 2D
Kent, WA 98032-4429
(206) 296-9225 FAX: (206) 205-2585

Jay White, *District One Trustee* (2004-2007)
King County Regional Justice Center
401 4th Avenue N Room 2D
Kent, WA 98032-4429
(206) 296-9251 FAX: (206) 205-2585

Kitty-Ann van Doorninck, *District Two Trustee* (2002-2005)
Pierce County Superior Court
930 Tacoma Avenue S Room 534
Tacoma, WA 98402-2108
(253) 798-6098 FAX: (253) 798-7214

Linda Krese, *District Three Trustee* (2003-2006)
Snohomish County Superior Court
3000 Rockefeller Avenue MS 502
Everett, WA 98201-4046
(425) 388-3954 FAX: (360) 388-3498

Stephen Warning, *District Four Trustee* (2003-2006)
Cowlitz County Superior Court
312 SW 1st Avenue
Kelso, WA 98626-1739
(360) 577-3085

James P. Hutton, *District Five Trustee* (2002-2005)
Yakima County Superior Court
128 N 2nd Street
Yakima, WA 98901-2639
(509) 574-2710 FAX: (509) 574-2701

T. W. Small, *District Six Trustee* (2004-2007)
Chelan County Superior Court
101 Washington Street
Wenatchee, WA 98807-0680
(509) 667-6210 FAX: (509) 667-6588

May 26, 2005

Senator Karen Fraser
Chair, Pension Policy Committee
Olympia, WA

Representative Steve Conway
Vice Chair, Pension Policy Committee
Olympia, WA

Dear Senator Fraser and Representative Conway

On behalf of the superior court judges in Washington State, I respectfully request the Pension Policy Committee review the current benefit formula for judges. Recent independent analysis shows that the benefits of the Washington State Superior Court Judges retirement plan ranks near the bottom of the fifty states. This alarming statistic is in sharp contrast to Washington's judicial reputation as one of the best in the United States.

The superior court judges request the committee consider an improvement to the plan that would increase the current two percent multiplier to three and a half percent for service earned; and set a maximum of 75 percent of pay for the entire benefit. As a possible offset to the increased cost to the state, the judges request the committee explore reducing the state's contribution to the judicial retirement account that is currently set at two and a half percent.

Most of Washington's superior court judges come to the position later in their careers because they want to serve the public good. Our objective in the review is to establish a retirement benefit formula that attracts the best and brightest from the legal community into Washington's judiciary.

Thank you,

Leonard Costello
Immediate Past President

cc: Matt Smith

Representative Bill Fromhold
Chair, Pension Policy Committee
Olympia WA

Dear Representative Fromhold,

This letter is in follow up to several questions from members of the executive committee of the Pension Policy Committee last month regarding the requested changes to the Superior Court Judge's pension plan.

First, executive committee members asked whether the district, municipal, appellate and supreme court judges wanted to be included in the proposal forwarded by the superior court judges. At this time, each of the other associations are considering the proposal but have not formally requested to be included. This could change before the legislature meets in January. Therefore, I recommend the proposal move forward making changes only to the Superior Court Judge's plan.

Second, the question was raised about buying back prior years of judicial service. The Superior Court Judges Association requests the proposal allow for the buy back of prior years at the time the judge retires. The proposal would allow for only the buying back of years of service accumulated in PERS **as a judge.**

If you have any further questions regarding this matter, please do not hesitate to contact me. Thank you for considering this important matter

Sincerely,
Leonard Costello

PROPOSED RETIREMENT BENEFIT FORMULA: RESTORING COMPARABILITY TO JUDICIAL RETIREMENT

Purpose

The purpose of this proposal is to attract and retain highly qualified judges to the Washington judiciary. Returning to the pre-1988 multiplier of 3.5% for years of judicial service will bring Washington to a comparable level of judicial defined retirement benefits provided for judges in the 50 states. It is the intent of this proposal that it be cost neutral to the state. This proposal promotes the second goal of the Select Committee on Pension Policy: to recruit and retain a qualified public workforce, and it does so without increasing the long-term employer cost.

Proposed Improvement

If a judge elects this benefit package, this proposal will increase the current 2% multiplier to 3.5% for judicial service earned after the effective date of the legislation, up to a maximum of 75% (average of highest two years for PERS Plan 1; average of highest five consecutive years for PERS Plan 2). The JRA contribution by the employee and the employer will be redirected to the defined benefit package.

Option to Opt In

Current PERS Plan 1 and 2 plan members will have a one-time opportunity to opt to receive this proposed benefit package. Current PERS Plan 3 members will have a one-time opportunity to opt into PERS Plan 2.

New Judges

New judges will be part of the PERS Plan 2 with these judicial benefits after the effective date, unless the judge has been a member of the PERS Plan 1 through prior public employment. In that event, the new judge will continue as a member of the PERS Plan 1 with the 3.5% multiplier up to a maximum of 75% of the average of the highest two years of judicial service.

Applicability

This proposal includes the Superior Court and Court of Appeals judges and the Supreme Court justices. It provides that the District Court judges and elected Municipal Court judges are eligible to participate if approved by their local legislative bodies.

Buy Back Option

Members or their survivors, including terminated and vested members who are not in pay status, will have the option to buy back years of judicial service (including district//municipal court) at the time of retirement or prior to retirement if permissible under current IRS regulations and may use funds in their JRA account for that purpose.

Membership Demographics (as of 9/30/03 for superior court judges; average age at time of appointment or election to superior court is 47)

	Plan 1	Plan 2	Plan 3
Number of Active Members	51	102	7
Average age	58.2	53.4	53.3
Average Annual Salary	$121,996	$121,965	$121,983

Impact on PERS Plan 2/3 Contribution Rates *(includes employer gain-sharing costs)*

	Employee*	Employer
Rate Under 3.5% Prospective Formula	7.57%	7.69%
Rate Under Current Formula (historical avg.)	4.35%	4.44%
Increase Due to Proposed Improvement	3.22%	3.25%
Current JRA Contribution	2.50%	2.50%

*Plan 3 members do not contribute to their defined benefit

Judges opting into this benefit package will pay an additional 1.44% of their salary per month. (The 1.44% is calculated as follows: 3.22% less 2.50% (.722%) x 2 = 1.44%.) To achieve the 3.5% multiplier, judges will pay the additional cost for both the employee and employer to maintain the cost neutral status for the state of this proposal. The judges currently pay 2.25% as a contribution (compared to the historical average of 4.35% above used by the actuary to determine the additional cost of the proposed new benefit). This 2.25% judge-employee contribution is projected to increase to 3.5% on July 1, 2006.

Impact on PERS Plan 1 Contribution Rates

	Employee	Employer
Rate Under Current Formula (fixed in statute)	6.0%	3.38%
Increase Due to Proposed Improvement	3.76%	
Current JRA Contribution	2.50%	2.50%

PERS Plan 1 is not a 50/50 cost sharing Plan as is PERS Plan 2. Judges opting into this benefit package will pay an additional 1.26% of their salary per month after the 5% (2.5% employee contribution and 2.5% employer contribution) to the JRA account is redirected to this benefit.

Current Estimated Cost of Past Service (optional purchase) *(assuming 3.5% multiplier is applied to past service)*

	Plan 1	Plan 2/3
Total Increase in Liability (present value)	$8,518,807	$9,293,296
Average Increase Per Member	$ 167,035	$ 85,260
Average Increase Per Year of Service	$ 8,700	$ 7,077

Burkhart, Kelly

Subject: FW: Judge's Benefit Multiplier

From: Young, Steve
Sent: Wednesday, December 07, 2005 5:28 PM
To: Office State Actuary, WA
Cc: Wickman, Jeff; Santos, Eva (DOP); Sellars, Mike (DOP); Turner, Brian (DOP); Nielsen, Judd (DOP); Opitz, Wolfgang; Robinson, Gary (DIS)
Subject: [redacted]

Please pass this message to Bob Baker:

The Department of Personnel (DOP) was asked of the possibility of changing the benefit multiplier on the judge's existing retirement plan and the most opportune time to make that change if legislatively approved and signed by the Governor. Requirements for the Human Resources Management System (HRMS) were finalized in December 2004. The HRMS application development was completed and configuration frozen in September 2005. Within the next week, the HRMS project will be in the third, and final, integration test cycle. The final decision to move forward with the planned roll-out schedule as previously published will occur on December 27, 2005. A change of retirement plans, essentially the impact of this proposal, would necessitate the creation of a new retirement plan in HRMS. A new retirement plan would require the proper configuration and regression testing prior to the roll-out of the new retirement plan. The judges being paid from HRMS are contained in the Group 1 roll-out on April 1, 2006. With the current configuration frozen, it would take significant amounts of resources and effort to effect the change prior to April 1, 2006, and could subject the HRMS project to further delay. For these reasons, DOP cannot support an implementation date sooner than January 1, 2007. Making the change after the final HRMS application is implemented on July 1, 2006, will result in reduced risk and lower cost. Please feel to contact me if you have any further questions.

Thx,
Steve

Steve Young, P.E.
HRMS Program Director
Chief Information Officer
PO Box 47580
Olympia, WA 98504-7580
Ph. 360.664.1086
Fax 360.438.7530

Select Committee on Pension Policy

PSERS Membership Eligibility

(December 2, 2005)

Issue

Legislation establishing the Public Safety Employees' Retirement System (PSERS) excluded certain occupational titles, particularly those with supervisory duties and others who may meet the statutory criteria for membership.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 786-6144

Members Impacted

There are an estimated 7,200 PERS 2/3 members with public safety law enforcement responsibilities currently employed by the Washington State Department of corrections, the Washington State Department of Parks and Recreation, the Washington State Gambling Commission, the Washington State Patrol, the Washington State Liquor Control Board, county corrections departments, and city corrections departments not covered under first class city retirement plans chapter 41.28 RCW.

Background

The PSERS legislation was sponsored by the SCPP and was passed into law as Chapter 242, Laws of 2004. It will take effect on July 1, 2006. This plan was established to acknowledge the law enforcement nature of certain public employee occupations that do not meet all the statutory criteria for membership in the Law Enforcement Officers' and Fire Fighters' retirement system (LEOFF).

These public safety employees are currently members of the Public Employees' Retirement System (PERS) and eligible to receive normal retirement after five years of service and attainment of age 65; in Plan 3, it is ten years of service and attainment of age 65. A Plan 2 member may receive an actuarially reduced early retirement after 20 years of service and attainment of age 55. A member with 30 years of service and age 55 may receive a benefit reduced 3 percent per year from age 65.

The PSERS benefit design includes:

- Regular retirement at age 65 with five years of service.
- Unreduced retirement at age 60 with ten years of service in PSERS.
- Three percent early retirement reduction factor (ERF) from age 60 if age 53 with at least 20 years of service.
- Disability early retirement with an actuarial equivalent ERF from age 60.

History

Numerous groups with some law enforcement authority have sought membership in the retirement plans for Law Enforcement Officers' and Fire Fighters' (LEOFF). A few of these groups have been successful. Recently, Emergency Medical Technicians and Fish and Wildlife enforcement officers have gained membership in LEOFF 2 as they met all statutory criteria for membership. Other groups who have sought membership in LEOFF do not meet these statutory criteria.

At the December 10, 2001, meeting of the Joint Committee on Pension Policy (JCPP), the committee passed a motion to study the issue of "... providing additional public safety benefits to

certain members of the Public Employees' Retirement System Plans 2 and 3...". The JCPP heard presentations and public testimony on this issue during the June and July 2002 interim hearings. The committee did not forward a recommendation to the full legislature.

In the 2003 interim, the SCPP formed the PERS Public Safety subgroup to study the issue and brought a recommendation to the executive committee of the SCPP. That recommendation, the establishment of the Public Safety Employees' Retirement System, was endorsed by the full committee, forwarded to the legislature, and passed into law as Chapter 242, Laws of 2004.

SCPP Deliberations

When deliberating on the question of who should be included in membership in PSERS, the SCPP deliberated over using an activity-based criteria or using a statutory list. The committee decided in favor of a statutory list. It was also decided that an activity criteria would be included in the intent section of the legislation.

The committee limited membership in PSERS to those jobs in which there were law enforcement characteristics and duties. Those characteristics, duties, and qualifications were outlined in RCW 41.37.005 and included:

- A high degree of physical risk to member's own personal safety;
- Providing public protection of lives and property;
- Authority and power to arrest;
- Conduct criminal investigations;
- Enforce the criminal laws of the state of Washington;
- Authority to carry a firearm as a part of the job;
- Passage of a civil service examination, and;
- Completion of the Washington Criminal Justice Training Commission (CJTC) basic course or equivalent.

While the above criteria for membership were in the intent section of the legislation, the statutory list of those eligible for membership in PSERS was placed in the definition section (RCW 41.37.010). The list includes city corrections officers, jailers, police support officers, custody officers, and bailiffs; county corrections officers, jailers, custody officers, and sheriffs corrections officers; county probation officers, probation counselors, and court services officers; state correctional officers, correctional sergeants, and community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents.

At the time of passage, it was acknowledged that the legislation probably excluded certain occupational titles, particularly those with supervisory duties, and others who may qualify for membership based on the activity criteria. Because of the delayed effective date, it was felt that there was time for those who wanted to be included in PSERS membership to contact the committee or their legislators for consideration.

Policy

In order for a public employee to be a law enforcement member of LEOFF they must:

- Be employed by a general authority law enforcement agency;
- Be employed on a full-time fully compensated basis to enforce the criminal laws of the state of Washington;
- Pass a civil service examination;
- Meet specific medical and health standards, and;
- Complete CJTC basic training.

While PSERS eligible employees meet some of these standards, they do not meet all of the standards. The SCPP has limited membership in PSERS to public employees who engage in law enforcement activities, are not eligible to be LEOFF members, but who most closely meet the traditional definition of "public safety."

Policy Questions

Does the Committee want to maintain the *law enforcement related* activity criteria for membership in PSERS?
If the Committee wants to expand membership, on what criteria or measure should that membership be based? Should it include supervisory positions?

Does the committee want to consider changing the membership provision from a statutory list to a criteria base? (Job titles may be easier to change administratively than actual job duties.)

Are there other provisions in PSERS the Committee wants to change?

Stakeholder Input

Charles Jones, Correctional Captain, Washington State Department of Corrections (see Attachment).

Lynn Maier, Governmental Relations Director, Washington Public Employees Association, UFCW Local 365 (see Attachment)

Executive Committee Action

At the June 21, 2005, meeting, the Executive Committee of the SCPP recommended that this issue be heard by the full committee in July.

At the July 19, 2005, meeting, the Executive Committee of the SCPP recommended that a bill be drafted incorporating a criteria/duty based membership design while retaining a statutory list of employers.

Executive Committee Recommendation

At the November 15, 2005, meeting, the Executive Committee of the SCPP recommended both a bill draft and an amendment to include the Department of Social and Health Services to the list of employers be forwarded to the full committee for public hearing and possible executive session in December. The amendment would need to be adopted by the full committee before it could modify the existing bill draft.

Bill Draft

Attached

Amendment

Attached

Fiscal Note (Draft)

Attached

Fiscal Note with Amendment (Draft)

Attached

Baker, Bob

From: Baker, Bob
Sent: Wednesday, May 26, 2004 2:20 PM
To: Fraser, Sen. Karen
Cc: Smith, Matt
Subject: FW: Pension Plans

Senator Fraser,

I contacted Mr. Charles Jones. He is a Correctional Captain employed by the Department of Corrections. He was concerned that Correctional Lieutenants and Captains were being excluded from the new Public Safety plan. I informed him that one of the reasons for the extended effective date of the PSERS plan was the recognition that some deserving occupational titles may have been missed and that the legislature would have time to amend the plan if necessary. He was also concerned about the 10 year vesting provision as he may be too old to make membership worth his while. I advised him to draft a letter to the Select Committee on Pension Policy stating his issues and that the State Actuary's Office would inform the committee of his concerns.

Bob Baker

-----Original Message-----
From: Smith, Matt
Sent: Tuesday, May 25, 2004 12:48 PM
To: Baker, Bob
Cc: Burkhart, Kelly
Subject: FW: Pension Plans

Bob, can you help with this? Kelly, please green sheet. Thanks.

-----Original Message-----
From: Fitzsimmons, Brenda
Sent: Tuesday, May 25, 2004 12:43 PM
To: Smith, Matt
Subject: FW: Pension Plans

Matt:
Could you please have someone on your staff contact Mr. Jones for Senator Fraser. Thanks

Brenda

-----Original Message-----
From: chazzjones99@comcast.net [mailto:chazzjones99@comcast.net]
Sent: Thursday, May 13, 2004 4:05 PM
To: Fraser, Sen. Karen
Subject: Pension Plans

SENATE INTERNET E-MAIL DELIVERY SERVICE

TO: Senator Karen Fraser

FROM:

Mr. Charles Jones
2847 Firland st. SW
Tumwater, WA 98512

E-MAIL: chazzjones99@comcast.net

PHONE: 360-570-0837

SUBJECT: Pension Plans

MESSAGE:

How do changes to the current state pension plan occur, If I am excluded from a new pension plan coming into effect in 2006. How can I effect changes. Do I need to take legal action or is there some other avenue or course of action I can take. Any information or direction would be greatly appreciated.

OTE: Mr. Jones has requested a response to this message.

NOTE: We are 99% sure that this constituent is in your district

WPEA

Washington Public Employees Association, UFCW Local 365

OLYMPIA HEADQUARTERS
140 Percival Street NW
P.O. Box 7159, Olympia, WA 98507
(360) 943-1121 1-800-544-WPEA
Fax: (360) 357-7627 wpea@wpea.org

EASTERN REGIONAL OFFICE
N. 4407 Division Street, Suite 514
Spokane, WA 99207
(509) 483-0383 1-877-734-WPEA
Fax: (509) 483-0264 wpeaeast@wpea.org

NORTHWEST REGIONAL OFFICE
18820 Aurora Avenue N., Suite 204
Shoreline, WA 98133
(206) 542-2690 1-877-901-WPEA
Fax: (206) 542-1725 luis@wpea.org

July 7, 2005

TO: Bob Baker
Office of the State Actuary

FROM: Lynn Maier
Governmental Relations Director

RE: WPEA Interest in Additional PSERS Inclusions

As we discussed earlier today, I have compiled the accompanying summary of job duties and qualifications for WPEA members working as DNR Natural Resource Investigators, Forest Crew Supervisors and WSP Deputy State Fire Marshals. As conveyed in my memo sent previously to SCPP members and State Actuary staff, WPEA would appreciate SCPP consideration of these classes for inclusion in PSERS this interim.

Thank you for your assistance in this matter. I look forward to working with you on this issue and others before the SCPP throughout the balance of the interim.

PSERS Membership Requirements and
WPEA Member Job Class Duties/Qualifications

Intent Language RCW 41.37.005 – Public Safety Employees Retirement System

PSERS members' job must contain a high degree of physical risk to their own persons.

Duties involved:

- providing public protection of lives & property
- the authority & power to arrest & conduct investigations
- enforcing the criminal laws of the state
- authority to carry a firearm as part of the job

Qualification/training

- Passage of a civil service examination & completion of the WA Criminal Justice Training Commission (CJTC) basic course or an equivalent.

DNR Natural Resource Investigators **Total staff = 9**

Duties:

- Provide protection to DNR lands, employees and the public
- Conduct complex criminal & civil investigations
- Power to arrest, detain and initiate prosecution of violators
- Determine origin and cause of forest and other fires
- Conduct follow-up investigations for the Attorney General & County Prosecutor

Qualifications:

- Passage of a civil service examination & completion of the CJTC and advanced level fire investigations training or equivalent

DNR Forest Crew Supervisors **Total staff = 50**

Duties:

- Direct a crew of 5-10 or more individuals (inmates and/or Washington Conservation Corps Crews or seasonal workers) performing natural resource management activities, such as fighting grass, brush and forest fires, maintaining trails, roads and campgrounds, establishing and maintaining firebreaks, trails, planting trees and conducting pre-commercial forest thinning, tree planting, vegetation management and rehabilitating streams.

Qualifications:

- Experience as a DNR Forest Worker or forest fire fighter and/or experience as a supervisor of a crew performing outdoor physical labor and/or an A.A. degree in natural resource technology
- Ability to work on uneven terrain in extreme weather conditions for extended periods of time and successfully pass an annual work capacity test at the arduous level
- Valid driver's license without major restrictions
- Incumbents may be required to obtain specialized license regarding public pesticide application and intermediate or combination endorsements to driver's license
- Passage of a civil service exam

Deputy State Fire Marshal **Total staff = 19**

Duties:

- Develops/implements statewide fire programs addressing fire training, life safety inspections and fire investigations
- Works in cooperation with state, federal and local officials in public education, standards and accreditation and emergency mobilization of statewide structure fire resources
- Supports and strengthens grass roots efforts to prevent fire and emergency incidents and to control risk to life, property and community vitality that may result from destructive fire and emergency incidents.

Qualifications:

- Experience as a fire or police officer, codes enforcement officer, insurance industry inspector or investigator or emergency management coordinator
- College-level training in fire protection, police science, law enforcement or allied field
- Uniform Fire Code and Life Safety Code Certification must be obtained with 1st six months; Fire Instructor 1, Fire Investigator 1 and Fire Safety Evaluation System Certification must be obtained with 1st year of employment.
- Experience performing fire and life safety inspections and surveys of residential and health care facilities and/or transient accommodations, day care and group home facilities
- Passage of a civil service exam

RECEIVED
SEP 12 2005
Office of
The State Actuary

Date: August 26, 2005

To: Representative Bill Fromhold
239 JLOB
PO Box 40600
Olympia, WA 98504-0600

From: Dennis Trettel
5300 Glenwood Ave. unit A-1
Everett, WA 98203

RE: Public Safety Employees' Retirement System

Snohomish County
Medical Examiner's Office

Dennis Trettel, D-ABMDI
Master Investigator

D.TRETTEL@co.snohomish.wa.us

(425) 438-6200
FAX (425) 438-6222
9509 29th Ave., West
Everett, WA 98204

Representative Fromhold,

I am writing to you to request assistance for my job to be considered to be added to the Public Safety Employees' Retirement System. I work for Snohomish County as a Death Investigator for the Medical Examiners Office.

To keep things simple and short, my position as a Death Investigator is similar to any Police Detective with the exception of carrying a weapon and having a Law Enforcement Commission. As a Death Investigator, I do have Subpoena Authority and I take Custody of the Decedent. I interview (witnesses) and conduct scene investigations again like Police Detectives and provide police support. We (as death investigators) provide a service to the community 24/7 (and Holidays) and are required to staff our department as so.

I have included a CD-ROM disc (power point presentation) that gives the basics of what we do at the Medical Examiners Office.

What I am requesting, is that the job description of Medical Examiner/Coroner (and Investigators) be considered for admission to the PSERS. The Medical Examiner/Coroner is a large part of Public Safety with regards to the service we provide to the community, which is no different from the service people that have been allowed to join the PSERS.

I, again request any help you may be able to give to us (Medical Examiners/Coroners and Investigators), this is a hard enough job as it is and it would be good to know our service to the community would be recognized and appreciated.

I am available (and look forward) to explain our position further.

Thank you,

Dennis Trettel

The Washington State

Retirement OUTLOOK

For Active Members PERS PSERS SERS LEOFF WSRS Judges July 2004

IN THIS ISSUE

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2004 Legislative update

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Seminar and workshop schedule

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SCPP studying pension issues

DRS receives eighth consecutive clean audit

Your retirement benefit – a lifetime value

2004 legislative update

Following is an overview of significant pension-related bills passed by the 2004 Washington State Legislature and signed by Governor Gary Locke.

Creation of Public Safety Employees' Retirement System

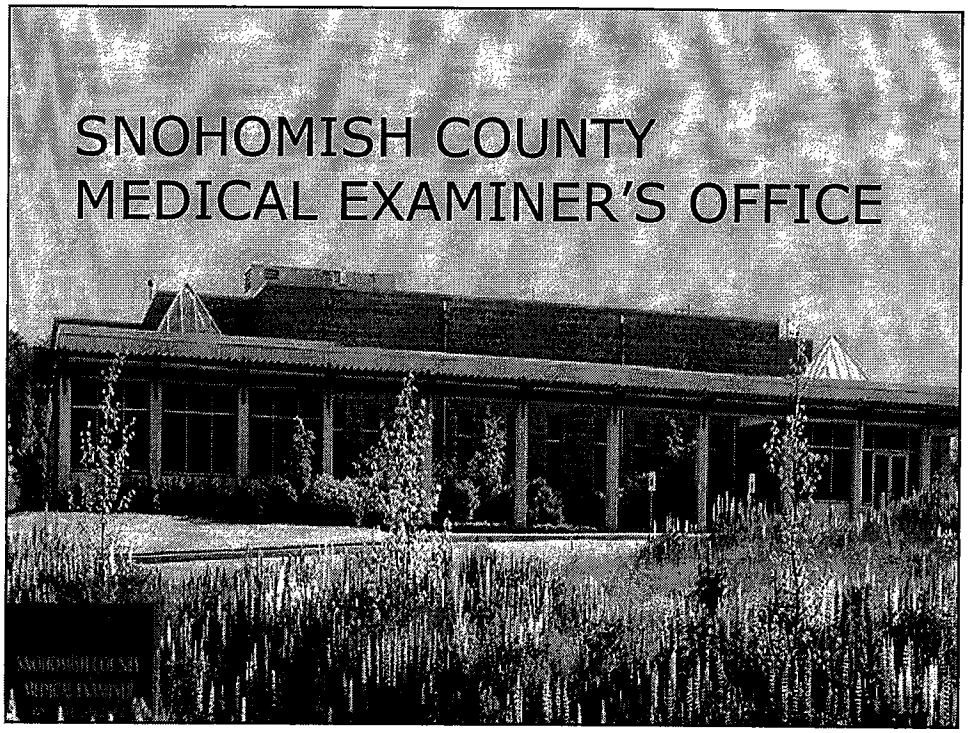
The Legislature created a new retirement system for public safety employees in specific job classes. Those eligible for membership include:

- City corrections, police support and custody officers; jailers and bailiffs
- County corrections and custody officers, sheriff's corrections officers and jailers
- County probation officers and probation counselors
- State correctional officers, sergeants and community corrections officers
- Liquor enforcement officers
- Park rangers
- Commercial vehicle enforcement officers
- Gambling special agents

The new system takes effect in 2006. Public safety employees enrolled in Public Employees' Retirement System (PERS) Plan 2 or Plan 3 on July 1, 2006 will have the choice of joining the new system or remaining in PERS. Those enrolled in PERS Plan 1 will remain in PERS. All public safety employees hired July 1, 2006 and after will become members of the new system.

Watch our Web site for more information on the Public Safety Employees' Retirement System in the coming months.

2004 legislative update continued on page 2



Snohomish County
WASHINGTON

Norman Thiersch M.D.
Chief Medical Examiner

Katherine Raven M.D.
Associate Medical Examiner

Snohomish County WASHINGTON

The primary purpose of the Snohomish County Medical Examiner's Office is to determine the cause and manner of death which are of concern to the public's health, safety and welfare.

The Medical Examiner is a physician and forensic pathologist who is authorized by state statute to investigate sudden, unexpected, violent, suspicious or unnatural deaths of persons who die within the geographical boundaries of Snohomish County.

Snohomish County WASHINGTON

An accurate determination of the cause and manner of death is essential to achieve our goals:

- ☐ The innocent shall be exonerated
- ☐ Homicide shall be recognized
- ☐ Criminal and civil court proceedings will be provided with documented, sound, and impartial medical evidence
- ☐ Unrecognized hazards to public health and safety shall be revealed
- ☐ Industrial hazards should be exposed

INVESTIGATIONS

- **Leon Reichle** — **Chief Medical Investigator**
- **Dennis Trettel** — **Master Investigator**
- **D.K. Carman** — **Medical Investigator**
- **Arleigh Marquis** — **Medical Investigator**
- **Shannon Impett** — **Medical Investigator**

Snohomish County WASHINGTON

The medical investigators in our office have advanced training in forensic death investigation including witness interviews, accident reconstruction, evidence collection and fingerprinting.

Investigators secure and evaluate hospital and office records and perform profiles necessary in suicide determinations.

Snohomish County WASHINGTON

The investigators have a knowledge of ballistics and ammunition and their effects on the human body. They determine time of death based on techniques such as cooling patterns and insect life cycles.

The investigative staff maintains continuing education in forensic sciences by regularly attending seminars and lectures and staying current with the latest literature in the field. They may also be called to testify in the courtroom.

Snohomish County WASHINGTON

When a death under our jurisdiction is reported to the Medical Examiner's office, an investigation surrounding the death is initiated.

The investigation may be done by phone or the medical investigator may travel to investigate the death scene and determine if the body should be brought back to our facility for further examination.

Snohomish County WASHINGTON

Our investigation may include interviewing family and friends of the decedent as well as witnesses, law enforcement and health care providers.

A thorough investigation of the death scene may include collection and preservation of evidence to be examined by the crime lab.

Snohomish County WASHINGTON

Photographs of the scene are taken and personal property on the body will be collected as well as necessary documentation to locate and notify the next of kin.

Any and all personal property that accompanies the decedent to the medical examiner's office will be released to the next-of-kin, unless such property is to be used as evidence in a criminal proceeding.

Snohomish County WASHINGTON

During the investigation, the medical investigator will consult with the forensic pathologist on call and may request his presence at the scene.

A complete investigative report is then prepared and filed.

Pathology

Snohomish County WASHINGTON

All Human remains regardless of their state of preservation will be handled with the dignity befitting what they represent.

When an autopsy examination is required by the Medical Examiner, the autopsy will be performed expeditiously and without delay and in such a manner so as not to disfigure the body in any way.

Snohomish County WASHINGTON

The pathology staff of the medical examiners office consists of two full time forensic pathologists and one full time forensic pathology assistant.

The job of the pathologist is to certify the cause and manner of death based upon the information gathered at the scene, at the lab, and from both gross and microscopic examination at the autopsy

Snohomish County WASHINGTON

- The forensic pathology assistant photographs the body as it comes into the morgue and again after the body has been undressed and cleaned.
- The body is examined for physical evidence like hairs and fibers, and swabs may be taken.
- The clothing and evidence is then logged and packaged.
- X-rays may also be taken.
- After the pathologist dictates the external examination, the body is opened and the organs removed.
- The individual organs are examined and weighed and sections are retained for microscopic evaluation.
- Every attempt will be made to externally reconstruct the body to its original condition. The organs are returned to the body and it is closed, cleaned, and wrapped to be sent to the mortuary.

Snohomish County WASHINGTON

A positive identification is essential before the body is released from this office.

This is accomplished by visual, (usually photographic), fingerprints, or both body and dental x-ray comparison.

RCW 36.24.050

Power to summon witnesses -- Subpoenas

The coroner may issue subpoenas for witnesses returnable forthwith or at such time and place as the coroner may appoint, which may be served by any competent person.

The coroner must summon and examine as witnesses, on oath administered by the coroner, every person, who, in his or her opinion or that of any of the jury, has any knowledge of the facts.

RCW 36.24.010

To act as sheriff under certain conditions

The coroner shall perform the duties of the sheriff in all cases where the sheriff is interested or otherwise incapacitated from serving; and whenever the coroner acts as sheriff he shall possess the powers and perform all the duties of sheriff, and shall be liable on his official bond in like manner as the sheriff would be, and shall be entitled to the same fees as are allowed by law to the sheriff for similar services: PROVIDED, That nothing herein contained shall prevent the court from appointing a suitable person to discharge such duties, as provided by RCW 36.28.090

RCW 46.04.040

Authorized Emergency Vehicle

"Authorized emergency vehicle" means any vehicle of any fire department, police department, sheriff's office, coroner, prosecuting attorney, Washington state patrol, ambulance service, public or private, which need not be classified, registered or authorized by the state patrol, or any other vehicle authorized in writing by the state patrol

RCW 46.52.050

Coroner's reports to sheriff and state patrol

Every coroner or other official performing like functions shall on or before the tenth day of each month, report in writing to the sheriff of the county in which he holds office and to the chief of the Washington state patrol the death of any person within his jurisdiction during the preceding calendar month as a result of an accident involving any vehicle, together with the circumstances of such accident

RCW 68.50.010

Coroner's jurisdiction over remains

The jurisdiction of bodies of all deceased persons who come to their death suddenly when in apparent good health without medical attendance within the thirty-six hours preceding death;
or where the circumstances of death indicate death was caused by unnatural or unlawful means;
or where death occurs under suspicious circumstances;
or where a coroner's autopsy or post mortem or coroner's inquest is to be held;
or where death results from unknown or obscure causes,
or where death occurs within one year following an accident;
or where the death is caused by any violence whatsoever,

RCW 68.50.010

Coroner's jurisdiction over remains (Cont.)

or where death results from a known or suspected abortion; whether self-induced or otherwise;

where death apparently results from drowning, hanging, burns, electrocution, gunshot wounds, stabs or cuts, lightning, starvation, radiation, exposure, alcoholism, narcotics or other addictions,

tetanus, strangulations, suffocation or smothering;

or where death is due to premature birth or still birth;

or where death is due to a violent contagious disease or suspected contagious disease which may be a public health hazard;

or where death results from alleged rape, carnal knowledge or sodomy, where death occurs in a jail or prison;

RCW 68.50.010

Coroner's jurisdiction over remains (cont.)

where a body is found dead or is not claimed by relatives or friends, is hereby vested in the county coroner, which bodies may be removed and placed in the morgue under such rules as are adopted by the coroner with the approval of the county commissioners, having jurisdiction, providing therein how the bodies shall be brought to and cared for at the morgue and held for the proper identification where necessary.

AN ACT Relating to general provisions in the public safety employees' retirement system; amending RCW 41.37.005, 41.37.010, 41.04.270, 41.04.278, and 41.04.393; and declaring an emergency.

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

Sec. 1. RCW 41.37.005 and 2004 c 242 s 1 are each amended to read as follows:

It is the intent of the legislature to establish a separate public safety employees' retirement system for ((~~those~~)) certain public employees whose jobs contain a high degree of physical risk to their own personal safety and who ((~~engage in duties contained in this section. The duties involved in these jobs include providing~~)) provide public protection of lives and property, ((~~the authority and power to arrest, conducting criminal investigations, enforcing the criminal laws of the state of Washington, and the authority to carry a firearm as part of the job. Qualifications and training for these jobs include passage of a civil service examination and completion of the Washington criminal justice training commission basic training course or equivalent. Only those job classes specifically included in RCW 41.37.010(5) by the legislature are public safety employees, and only~~

~~for service earned after the effective date of the inclusion of that job class in RCW 41.37.010(5)~~)) but who are not eligible for membership in the law enforcement officers' and fire fighters' retirement system.

Sec. 2. RCW 41.37.010 and 2005 c 327 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Employer" means the Washington state department of natural resources, the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, and the Washington state liquor control board((~~,~~)); any county corrections department((~~s,~~)); any city corrections department((~~s~~)) not covered under chapter 41.28 RCW((~~,~~)); or other employers employing statewide elective officials.

(5) "Member" means any employee employed by an employer on a full-time((~~, fully compensated~~)) basis ((~~within the following job classes in effect as of January 1, 2004: City corrections officers, jailers, police support officers, custody officers, and bailiffs; county corrections officers, jailers, custody officers, and sheriffs corrections officers; county probation officers and probation counselors; state correctional officers, correctional sergeants, and community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents~~)):

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and

security of incarcerated individuals as a corrections officer or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer; or

(d) Whose primary responsibility is to supervise members eligible under this subsection.

(6)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a

disability occurring in the line of duty only as authorized by RCW 41.37.070;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(8) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) "Regular interest" means such rate as the director may determine.

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(20) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(21) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(22) "Eligible position" means any permanent, full-time, fully compensated position included in subsection (5) of this section.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(24) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(26) "Director" means the director of the department.

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(28) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(29) "Plan" means the Washington public safety employees' retirement system plan 2.

(30) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(31) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(32) "Index B" means the index for the year prior to index A.

(33) "Adjustment ratio" means the value of index A divided by index B.

(34) "Separation from service" occurs when a person has terminated all employment with an employer.

Sec. 3. RCW 41.04.270 and 2005 c 327 s 1 are each amended to read as follows:

(1) Except as provided in chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.35, <u>41.37,</u> 41.40, or 43.43 RCW, on and after March 19, 1976, any member or former member who (a) receives a retirement allowance earned by ((~~said~~)) <u>the</u> former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in

any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

(2) Nothing in this section is intended to apply to any retirement system except those listed in RCW 41.50.030 and the city employee retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b) of this section does not apply to a dual member as defined in RCW 41.54.010.

Sec. 4. RCW 41.04.278 and 2003 c 295 s 2 are each amended to read as follows:

(1) The select committee on pension policy may form three function-specific subcommittees, as set forth under subsection (2) of this section, from the members under RCW 41.04.276(1) (a) through (e), as follows:

(a) A public safety subcommittee with one member from each group under RCW 41.04.276(1) (a) through (e);

(b) An education subcommittee with one member from each group under RCW 41.04.276(1) (a) through (e); and

(c) A state and local government subcommittee, with one retiree member under RCW 41.04.276(1)(d) and two members from each group under RCW 41.04.276(1) (a) through (c) and (e).

The retiree members may serve on more than one subcommittee to ensure representation on each subcommittee.

(2)(a) The public safety subcommittee shall focus on pension issues affecting public safety employees who are members of the law enforcement officers' and fire fighters', public safety employees', and Washington state patrol retirement systems.

(b) The education subcommittee shall focus on pension issues affecting educational employees who are members of the public employees', teachers', and school employees' retirement systems.

(c) The state and local government subcommittee shall focus on pension issues affecting state and local government employees who are members of the public employees' retirement system.

Sec. 5. RCW 41.04.393 and 2003 c 32 s 1 are each amended to read as follows:

Retirement benefits paid under chapter 41.26, 41.37, 41.40, or

43.43 RCW to beneficiaries of public safety officers who die in the line of duty shall be paid in accordance with Title 26 U.S.C. Sec. 101(h) as amended by the Fallen Hero Survivor Benefit Fairness Act of 2001.

NEW SECTION. **Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/6/05**	**Z-0835.6**

SUMMARY OF BILL:

This bill impacts the Public Safety Employees' Retirement System (PSERS) by amending the definition of employer to include the Department of Natural Resources, and by amending the member definition to replace the statutory list of job titles with job duties and activities to form a criteria basis for membership.

Though job titles are no longer listed, it is expected that the new language would allow for the inclusion of 10 Natural Resource Investigators into membership.

Effective Date: Immediately upon signing

CURRENT SITUATION:

Currently PSERS eligible employers and members are based on statutory lists and Natural Resource Investigators are not included in the list of job titles.

MEMBERS IMPACTED:

We used our fiscal note in 2004 for HB 2537 (Chapter 242, Laws of 2004) as the basis for this analysis.

This bill

We estimate that 10 members out of the total 132,448 members in PERS Plans 2/3 would be affected by this bill.

Fiscal note detail for Chapter 242, Laws of 2004

We had previously estimated that approximately 7,200 members out of the total 132,448 members in PERS Plans 2/3 would be eligible to transfer. However, since the enhanced PSERS retirement and disability benefit require at least 10 years of service credit, we estimate that 1,200 members would opt not to transfer from PERS to PSERS. This reduced the estimated initial PSERS population to about 6,000.

Demographic information for the group of PERS Plan 2/3 employees that will likely transfer to PSERS is summarized in the following tables:

Estimated Initial PSERS Population - 2004 Fiscal Note

Job Class	Estimated Count*	GF-S Percentage	Local Government Percentage	Average Annual Salary
State Park Rangers	170	100%	0%	$39,800
Gambling Commission Enforcement Officers	70	0%	0%	$48,500
Liquor Enforcement Officers	55	17%	0%	$44,500
Commercial Vehicle Enforcement Officers	50	6%	0%	$45,200
State Correction Officers	2,800	100%	0%	$38,400
State Community Correction Officers	585	100%	0%	$41,300
County Correction Officers	1,765	0%	100%	$35,100
City Correction Officers**	130	0%	100%	$34,700
Local Community Correction Officers	340	0%	100%	$41,300
Total	**5,965**	**60%**	**36%**	**$38,100**

** Estimated counts increased by a 5% load due to uncertainty in the data and to reflect general conservatism*
*** Does not include employees covered under the first-class cities retirement system which are ineligible for membership*

Estimated Additional PSERS Population - This Bill

Job Class	Estimated Count	GF-S Percentage	Local Government Percentage	Average Annual Salary
Department of Natural Resources (DNR) Investigators	10	100%	0%	$43,183
Total	**10**	**100%**	**0%**	**$43,183**

The average PERS Plan 2/3 member that would likely transfer to PSERS is age 38 with about 7 years of service credit in PERS (as of September 30, 2002).

We estimate that for a typical member impacted by this bill, the increase in benefits would be the option to retire at the following earlier ages:

1. At age 53 or later, with a retirement allowance reduced by 3% per year for each year the member retires prior to age 60 (utilizing portability with PERS for eligibility purposes); or
2. At age 60, with an unreduced retirement allowance after 10 years of PSERS service credit.

ASSUMPTIONS:

This bill

We assumed that the 10 members eligible under this bill have similar demographics and future retirement behavior as the 7,200 members eligible under the current law.

Fiscal note detail for Chapter 242, Laws of 2004

We have assumed that existing PERS Plan 2/3 members who could not benefit from the enhanced benefit provisions in PSERS, due to the 10-year service requirement in PSERS, will opt not to transfer to PSERS. Approximately 17% of the state correction officers in PERS Plans 2/3 fall into this category. We have applied a similar percentage (20%) to the local government job classes where individual PERS member data is unavailable at this time.

We have assumed the following rates of retirement due to the enhanced retirement benefit provisions under this proposed retirement plan. Members with past service in PERS are assumed to retire at rates between the PERS rates and the Public Safety rates (weighted by service in each system).

Public Safety Retirement Rates		
Age	Male	Female
53	3%	3%
54	3%	3%
55	3%	3%
56	8%	8%
57	8%	8%
58	15%	11%
59	16%	12%
60	30%	36%
61	26%	26%
62	36%	36%
63	50%	50%
64	89%	89%
65	46%	31%
66	30%	30%
67	22%	26%
68	22%	26%
69	26%	22%
70	100%	100%

In determining the fiscal budget determinations, we have applied the GF-S and local government percentages contained in the Members Impacted section. We have also increased the average annual salary for state agency job classes by a 10% load due to uncertainty in the data and to reflect general conservatism. We used the high average salary from the Washington City and County 2003 Salary and Benefit Survey for the local government job classes where individual member data was unavailable.

FISCAL IMPACT:

Description:

This bill will transfer prospective service credit in PERS to the proposed PSERS Plan 2 for members that elect to transfer. As a result, the present value of future benefits for existing members impacted by this bill will decrease in PERS and increase in PSERS (see table under Actuarial Determinations).

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	**PERS 2/3**	$12,789	($0.4)	$12,789
	PSERS 2	$385	$0.5	$386
	Total	$13,174	$0.1	$13,174
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	**PERS 2/3**	n/a	n/a	n/a
	PSERS 2	n/a	n/a	n/a
	Total	n/a	n/a	n/a
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	**PERS 2/3**	($3,924)	$0	($3,924)
	PSERS 2	$0	$0	$0
	Total	($3,924)	$0	($3,924)

This bill

The additional costs for members eligible under this bill is insufficient to impact the contribution rates provided in the 2004 fiscal note.

Fiscal note detail for Chapter 242, Laws of 2004

Projected PERS contribution rates will decrease as a result of this proposal. The Aggregate Cost (AC) method in PERS Plans 2/3 results in the funding of some benefits before they are accrued (future benefits). The amount of this "prefunding" depends on the length of one's working career and the magnitude of past investment gains or losses relative to the long-term investment return assumption. Past investment gains

and the "prefunding" of future benefits under the AC method, on an actuarial value basis, will not transfer from PERS to PSERS for the members that elect to transfer. This will serve to temporarily reduce projected PERS contribution rates after the transfer as reflected below.

The initial PSERS contribution rate will exceed the projected PERS rate by about 3% and trend down to about 1% in 2009 and thereafter. PERS contribution rates are projected to increase over the next several biennia due to recent asset losses. The projected PSERS contribution rate, on the other hand, remains relatively stable since the plan starts without any assets (and without any past investment gains or losses that are not yet recognized in the actuarial value of assets). As a result, it may require several biennia before the expected long-term biennial cost of this proposal will surface.

	2004 Fiscal Note			
	PERS Increase	PSERS Increase	PSERS Total	Increase from this Bill
2006-2007				
Employee (Plan 2)	0.00%	3.24%	6.57%	0.00%
Employer	0.00%	3.24%	8.23%*	0.00%
2007-2009				
Employee (Plan 2)	0.00%	2.17%	6.45%	0.00%
Employer	0.00%	2.17%	8.72%	0.00%
2009-2011				
Employee (Plan 2)	(0.04)%	1.33%	6.23%	0.00%
Employer	(0.04)%	1.33%	9.04%	0.00%
Long-Term Rates				
Employee (Plan 2)	0.00%	0.80%	5.30%	0.00%
Employer	0.00%	0.80%	5.30%**	0.00%

* *The employer is projected to contribute 6.57% to PSERS; the remainder is an estimate of the PERS 1 UAAL rate.*

***Assumes that the PERS 1 UAAL has been completely amortized.*

Fiscal Budget Determinations:

As a result of the expanded PSERS membership under this bill, the increase in funding expenditures for DNR is projected to be:

Costs (in Millions):	PERS	PSERS*	Total
2006-2007			
State:			
General Fund	$0.000	$0.016	$0.016
Non-General Fund	$0.000	$0.000	$0.000
Total State	**$0.000**	**$0.016**	**$0.016**
Local Government	$0.000	$0.000	$0.000
Total Employer	$0.000	$0.016	$0.016

Costs (in Millions):	PERS	PSERS*	Total
2007-2009			
State:			
General Fund	$0.000	$0.025	$0.025
Non-General Fund	$0.000	$0.000	$0.000
Total State	**$0.000**	**$0.025**	**$0.025**
Local Government	$0.000	$0.000	$0.000
Total Employer	$0.000	$0.025	$0.025
2006-2031			
State:			
General Fund	($0.081)	$0.291	$0.210
Non-General Fund	$0.000	$0.000	$0.000
Total State	**($0.081)**	**$0.291**	**$0.210**
Local Government	$0.000	$0.000	$0.000
Total Employer	($0.081)	$0.291	$0.210

**Represents the increase in funding expenditures for the members that are assumed to transfer from PERS to PSERS (not the total cost of PSERS).*

State Actuary's Comments:

Estimating the cost of a new retirement system with a high degree of accuracy is very difficult. The actual cost will be borne by the actual membership and actual experience of the plan in the future. Actual experience may vary from what is assumed in this fiscal note.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2002 actuarial valuation report of the Public Employees Retirement System.

   We also relied upon demographic data compiled in the Washington City and County Employee 2003 Salary and Benefit survey for the development of costs for the local government job classes where individual PERS member data is unavailable at this time.

   We used available 2005 data for DNR.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

   We relied upon comparable state agency data as an estimate for local government job classes where individual member data was unavailable.

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

Offered by Robert Keller

.... (Z-0835.4/06) - COMM AMD
By Select Committee on Pension Policy

On page 2, line 15, after "resources," insert "the Washington state department of social and health services,"

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/6/05**	**Z-0835.6 AMD SCPP**

SUMMARY OF BILL:

This bill impacts the Public Safety Employees' Retirement System (PSERS) by amending the definition of employer to include the Department of Natural Resources, and by amending the member definition to replace the statutory list of job titles with job duties and activities to form a criteria basis for membership.

Though job titles are no longer listed, it is expected that the new language would allow for the inclusion of 10 Natural Resource Investigators into membership.

The proposed amendment would add the Department of Social and Health Services (DSHS) to the employer definition. It is expected that this would make 330 Juvenile Rehabilitation Security Officers and supervisors employed by DSHS eligible for membership.

Effective Date: Immediately upon signing

CURRENT SITUATION:

Currently PSERS eligible employers and members are based on statutory lists and Natural Resource Investigators, and Juvenile Rehabilitation Security Officers are not included in the list of job titles

MEMBERS IMPACTED:

We used our fiscal note in 2004 for HB 2537 (Chapter 242, Laws of 2004) as the basis for this analysis.

This bill

We estimate that 340 members out of the total 132,448 members in PERS Plans 2/3 would be affected by this bill.

Fiscal note detail for Chapter 242, Laws of 2004

We had previously estimated that approximately 7,200 members out of the total 132,448 members in PERS plans 2/3 would be eligible to transfer. However, since the enhanced PSERS retirement and disability benefit require at least 10 years of service credit, we estimate that 1,200 members would opt not to transfer from PERS to PSERS. This reduced the estimated initial PSERS population to about 6,000.

Demographic information for the group of PERS Plan 2/3 employees that will likely transfer to PSERS is summarized in the following tables:

Estimated Initial PSERS Population - 2004 Fiscal Note

Job Class	Estimated Count*	GF-S Percentage	Local Government Percentage	Average Annual Salary
State Park Rangers	170	100%	0%	$39,800
Gambling Commission Enforcement Officers	70	0%	0%	$48,500
Liquor Enforcement Officers	55	17%	0%	$44,500
Commercial Vehicle Enforcement Officers	50	6%	0%	$45,200
State Correction Officers	2,800	100%	0%	$38,400
State Community Correction Officers	585	100%	0%	$41,300
County Correction Officers	1,765	0%	100%	$35,100
City Correction Officers**	130	0%	100%	$34,700
Local Community Correction Officers	340	0%	100%	$41,300
Total	**5,965**	**60%**	**36%**	**$38,100**

** Estimated counts increased by a 5% load due to uncertainty in the data and to reflect general conservatism*
*** Does not include employees covered under the first-class cities retirement system which are ineligible for membership*

Estimated Additional PSERS Population - This Bill

Job Class	Estimated Count	GF-S Percentage	Local Government Percentage	Average Annual Salary
Department of Natural Resources (DNR) Investigators	10	100%	0%	$43,183
Department of Social and Health Services (DSHS)	330	100%	0%	$31,816
Total	**340**	**100%**	**0%**	**$32,150**

The average PERS Plan 2/3 member that would likely transfer to PSERS is age 38 with about 7 years of service credit in PERS (as of September 30, 2002).

We estimate that for a typical member impacted by this bill, the increase in benefits would be the option to retire at the following earlier ages:

1. At age 53 or later, with a retirement allowance reduced by 3% per year for each year the member retires prior to age 60 (utilizing portability with PERS for eligibility purposes); or
2. At age 60, with an unreduced retirement allowance after 10 years of PSERS service credit

ASSUMPTIONS:

This bill

We assumed that the 340 members eligible under this bill have similar demographics and future retirement behavior as the 7,200 members eligible under the current law.

Fiscal note detail for Chapter 242, Laws of 2004

We have assumed that existing PERS Plan 2/3 members who could not benefit from the enhanced benefit provisions in PSERS, due to the 10-year service requirement in PSERS, will opt not to transfer to PSERS. Approximately 17% of the state correction officers in PERS Plans 2/3 fall into this category. We have applied a similar percentage (20%) to the local government job classes where individual PERS member data is unavailable at this time.

We have assumed the following rates of retirement due to the enhanced retirement benefit provisions under this proposed retirement plan. Members with past service in PERS are assumed to retire at rates between the PERS rates and the Public Safety rates (weighted by service in each system).

Public Safety Retirement Rates		
Age	Male	Female
53	3%	3%
54	3%	3%
55	3%	3%
56	8%	8%
57	8%	8%
58	15%	11%
59	16%	12%
60	30%	36%
61	26%	26%
62	36%	36%
63	50%	50%
64	89%	89%

Public Safety Retirement Rates		
Age	Male	Female
65	46%	31%
66	30%	30%
67	22%	26%
68	22%	26%
69	26%	22%
70	100%	100%

In determining the fiscal budget determinations, we have applied the GF-S and local government percentages contained in the Members Impacted section. We have also increased the average annual salary for state agency job classes by a 10% load due to uncertainty in the data and to reflect general conservatism. We used the high average salary from the Washington City and County 2003 Salary and Benefit Survey for the local government job classes where individual member data was unavailable.

FISCAL IMPACT:

Description:

This bill will transfer prospective service credit in PERS to the proposed PSERS Plan 2 for members that elect to transfer. As a result, the present value of future benefits for existing members impacted by this bill will decrease in PERS and increase in PSERS (see table under Actuarial Determinations).

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits				
(The Value of the Total Commitment to all Current Members)	**PERS 2/3**	$12,789	($14)	$12,775
	PSERS 2	$385	$18	$403
	Total	$13,174	$4	$13,178
Unfunded Actuarial Accrued Liability				
(The Portion of the Plan 1 Liability that is Amortized at 2024)	**PERS 2/3**	n/a	n/a	n/a
	PSERS 2	n/a	n/a	n/a
	Total	n/a	n/a	n/a
Unfunded Liability (PBO)				
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	**PERS 2/3**	($3,924)	$0	($3,924)
	PSERS 2	$0	$0	$0
	Total	($3,924)	$0	($3,924)

This bill

The additional cost for members eligible under this bill is insufficient to impact the contribution rates provided in the 2004 fiscal note.

Fiscal note detail for Chapter 242, Laws of 2004

Projected PERS contribution rates will decrease as a result of this proposal. The Aggregate Cost (AC) method in PERS Plans 2/3 results in the funding of some benefits before they are accrued (future benefits). The amount of this "prefunding" depends on the length of one's working career and the magnitude of past investment gains or losses relative to the long-term investment return assumption. Past investment gains and the "prefunding" of future benefits under the AC method, on an actuarial value basis, will not transfer from PERS to PSERS for the members that elect to transfer. This will serve to temporarily reduce projected PERS contribution rates after the transfer as reflected below.

The initial PSERS contribution rate will exceed the projected PERS rate by about 3% and trend down to about 1% in 2009 and thereafter. PERS contribution rates are projected to increase over the next several biennia due to recent asset losses. The projected PSERS contribution rate, on the other hand, remains relatively stable since the plan starts without any assets (and without any past investment gains or losses that are not yet recognized in the actuarial value of assets). As a result, it may require several biennia before the expected long-term biennial cost of this proposal will surface.

	2004 Fiscal Note			
	PERS Increase	PSERS Increase	PSERS Total	Increase from this bill
2006-2007				
Employee (Plan 2)	0.00%	3.24%	6.57%	0.00%
Employer	0.00%	3.24%	8.23%*	0.00%
2007-2009				
Employee (Plan 2)	0.00%	2.17%	6.45%	0.00%
Employer	0.00%	2.17%	8.72%	0.00%
2009-2011				
Employee (Plan 2)	(0.04)%	1.33%	6.23%	0.00%
Employer	(0.04)%	1.33%	9.04%	0.00%
Long-Term Rates				
Employee (Plan 2)	0.00%	0.80%	5.30%	0.00%
Employer	0.00%	0.80%	5.30%**	0.00%

* *The employer is projected to contribute 6.57% to PSERS; the remainder is an estimate of the PERS 1 UAAL rate.*

***Assumes that the PERS 1 UAAL has been completely amortized.*

Fiscal Budget Determinations:

As a result of the expanded PSERS membership under this bill, the increase in funding expenditures for DNR and DSHS combined is projected to be:

Costs (in Millions):	PERS	PSERS*	Total
2006-2007			
State:			
General Fund	$0.0	$0.5	$0.5
Non-General Fund	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.5**	**$0.5**
Local Government	$0.0	$0.0	$0.0
Total Employer	$0.0	$ 0.5	$0.5
2007-2009			
State:			
General Fund	$0.0	$0.8	$0.8
Non-General Fund	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.8**	**$0.8**
Local Government	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.8	$0.8
2006-2031			
State:			
General Fund	($2.8)	$9.9	$7.1
Non-General Fund	$0.0	$0.0	$0.0
Total State	**($2.8)**	**$9.9**	**$7.1**
Local Government	$0.0	$0.0	$0.0
Total Employer	($2.8)	$9.9	$7.1

**Represents the increase in funding expenditures for the members that are assumed to transfer from PERS to PSERS (not the total cost of PSERS).*

State Actuary's Comments:

Estimating the cost of a new retirement system with a high degree of accuracy is very difficult. The actual cost will be borne by the actual membership and actual experience of the plan in the future. Actual experience may vary from what is assumed in this fiscal note.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2002 actuarial valuation report of the Public Employees Retirement System.

   We also relied upon demographic data compiled in the Washington City and County Employee 2003 Salary and Benefit survey for the development of costs for the local government job classes where individual PERS member data is unavailable at this time.

   We used available 2005 data for DNR and DSHS.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

   We relied upon comparable state agency data as an estimate for local government job classes where individual member data was unavailable.

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members.

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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; plus
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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.

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

PUBLIC SAFETY SUBGROUP COMMITTEE
DRAFT MINUTES
November 15, 2005

The Public Safety Subgroup Committee met in House Hearing Room C, Olympia, Washington on November 15, 2005.

Committee members attending:

Voting Members:

Representative Conway, Chair
Senator Pridemore
Sandra Matheson
Glenn Olson
Bob Keller

Non Voting Members:

Captain Jeffrey Devere, Chief's Office
Rick Jensen, WSPTA
Bob Maki, Chief's Office
Paul Neal, WSPTA Counsel

Representative Conway called the meeting to order at 8:40 AM.

(1) Approval of Minutes

It was moved to approve the October 18, 2005 Draft Minutes.
Seconded.

MOTION CARRIED

(2) Review of Bill Draft

Laura Harper, Senior Research Analyst, Legal, reported on the "Bill Draft", "Draft Fiscal Note" and the "Contribution Rate Projections" chart.
Discussion followed.

(3) Report from Chief's Office

Captain Devere, Washington State Patrol, Government and Media Relations, reviewed the Washington State Patrol letter submitted to Chair, Representative Fromhold, Select Committee on Pension Policy.

***Elaine M. Banks**
TRS Retirees

Representative Barbara Bailey

Lois Clement
PERS Retirees

Representative Steve Conway

Representative Larry Crouse

***Senator Karen Fraser,**
Vice Chair

***Representative Bill Fromhold,**
Chair

***Leland A. Goeke**
TRS and SERS Employers

***Robert Keller**
PERS Actives

***Sandra J. Matheson**, Director
Department of Retirement Systems

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Victor Moore, Director
Office of Financial Management

Senator Joyce Mulliken

Glenn Olson
PERS Employers

Senator Craig Pridemore

Diane Rae
TRS Actives

J. Pat Thompson
PERS Actives

David Westberg
SERS Actives

*** Executive Committee**

(360) 786-6140
Fax: (360) 586-8135
TDD: 1-800-635-9993

Paul Neal, Washington State Patrol Troopers Association, Counsel, reviewed his letter entitled "Differences in Pension Coverage Between State Troopers and other State Employees."

(5) Subgroup Recommendation

It was moved to submit the Washington State Patrol Contribution rates Bill Draft to the November 15, 2005 Executive Committee. Seconded.

MOTION CARRIED

The meeting adjourned at 9:00 AM.

O:\SCPP\2005\Public Safety Subgroup\11-15-05\Draft Minutes.wpd

History of WSPRS Funding Policy

Select Committee on Pension Policy
Public Safety Subgroup

September 27, 2005

Laura C. Harper
Senior Research Analyst/Legal

What is current policy?

- Cost–Sharing Policy
  - Member contribution rate is ½ cost of system or 2 percent, whichever is greater.
  - Employer pays balance.
- Funding Method
  - WSPRS uses "aggregate" funding method.
  - Does not allow for accrual of UAAL (unfunded actuarial accrued liability).

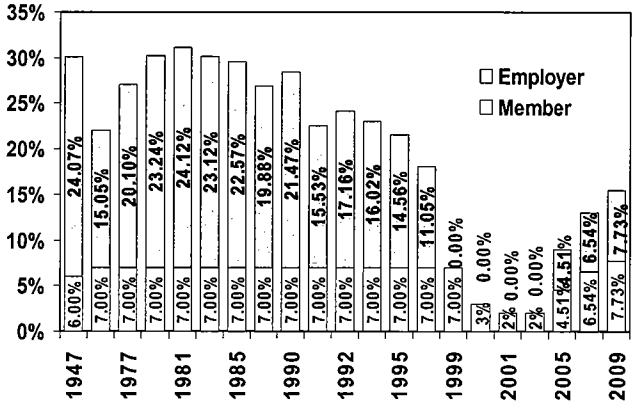
Funding Policy Change

- Cost-Sharing policy changed in 2001.
  - From 1948 until 1999, members paid 7 percent of pay with balance provided by employers.
  - New approach is consistent with the cost-sharing approach in the Plans 2, with the exception of the 2 percent member minimum.

Funding Method Change

- Funding method also changed in 2001.
  - Previous method was "entry age normal."
  - Former method allowed for accrual of UAAL (unfunded actuarial accrued liability).

WSP Member and Employer Contribution Rates Historical 1947-2003 and Forecast 2005 - 2009



Status of Plan in 2001

- When funding provisions were modified, plan was in fully-funded status.
  - Member contributions = 2 percent.
  - Employer contributions = 0 percent.
- State's contribution had been suspended since 1999.

Role of JCPP in 2001 Changes

- 1999 legislature directed JCPP to study the method for setting employer and employee contribution rates during 2000 interim and propose changes.
- 2001 JCPP legislation:
  - Included funding policy changes.
  - Also included substantial benefit changes for members commissioned on or after January 1, 2003, (detailed in 2004 report).

2001 Plan Structure

- Benefit changes did not result in a closed Plan 1 and a new Plan 2.
  - This was a departure from approach in every other Washington retirement system.
  - References to a WSPRS Plan 1 and 2 are to distinguish benefits for old hires and new hires, but are not formal (statutory) distinctions.

2001 Funding Structure

- No WSPRS 2 fund
  - All contributions go to same fund.
  - All members are part of same experience group.
  - All members pay same contribution rate.
- "Plan 2" members add liability to plan but have lower normal cost than "Plan 1" members.

2004-2005 SCPP Activity

- SCPP studied "WSP Rate Stability" in 2004 interim and proposed legislation in 2005.
- In-depth report from last interim provides complete study of this issue (included in materials).
- SCPP established subgroup in 2005 interim.

Issue Today

- Member rates are currently projected to surpass 7 percent in 2009-2011 biennium.
- Possible Bakenhus concern for "Plan 1" members who feel they have a contractual right to historical limit of 7 percent; clearly not a concern for "Plan 2" members.

Issue Today, cont'd.

- Troopers' Association wants to reformulate the 2001 cost-sharing design:
  - ⅓ member, ⅔ employer, with 7 percent cap on member contributions.
- Cost-sharing would return to something more consistent with historical split.

Why are rates increasing?

- Due to smoothing, plan is still recognizing losses from poor investment returns in 2000-2001.
- Plan is open to new entrants.
  - As new members join, new liabilities are recognized very quickly.
  - In closed plans like LEOFF 1, reduction of surplus funds is slower.

Contribution Rate Stability

- "… establish long-term employer contribution rates which will remain a relatively predictable proportion of the future state budgets."
- Recent system-wide legislation addresses historic volatility with smoothing and asset corridor measures.

2004 SCPP Proposal

- Member rates at ⅓ of total cost of system or 7 percent, whichever is less, with member contribution rate floor of 2 percent.
- Employer pays the balance.
- 2 percent floor for member contribution rate helps address rate adequacy.

Status of 2005 SCPP Bill

- Introduced as HB 1317/SB 5341.
- Bill did not move from Appropriations and did not receive a hearing in Ways and Means.
- Is technically still alive for the 2006 legislative session.

Estimated Fiscal Impact on Employers

Total Employer Costs:

2006-07	$ 1.1 million
2007-09	3.7 million
2006-31	114.7 million

Implications of Change

- Changing cost-sharing formula would not change liabilities of plan.
- Would shift ⅙ of cost from members to employers.
- Changes cost allocation of any future benefit improvements: members pay ⅓ instead of ½.

Members Impacted

- 1,057 Active (based on 1/24/05 FN)
  - 997 in WSPRS 1
    - Historically did not pay more than 7 percent.
  - 60 in WSPRS 2

Next Steps

- Recommend that SCPP continue to support HB 1317/SB 5341?
- Introduce same approach as new bill in 2006?
- Pursue some other approach to cost-sharing and rate setting?

Washington State Patrol Rate Stability

(December 15, 2004)

Issue

Contribution rate stability and the current cost-sharing provision in the Washington State Patrol Retirement System (WSPRS) are issues for the Washington State Patrol Trooper's Association. They have forwarded their proposals to the SCPP in recent correspondence and analysis.

As of the most recent forecast, member contribution rates in the WSPRS are expected to increase from the current 2.00% minimum to 7.97% during the 2007-2009 biennium, and to 8.93% in the 2009-2011 biennium. Historically, the WSPRS member contribution rate was set in statute at 7.00% of salary. When the plan was reformed in 2001, a new funding method and cost-sharing design were incorporated. As a result, member contribution rates will soon exceed the former statutory rate. While the Trooper's Association endorses the concept of rate stability, they are also interested in reformulating the current cost-sharing formula.

Staff

Robert Wm. Baker, Senior Research Analyst
(360) 586-9237

Members Impacted

As of the 2003 valuation there were 1,079 active members of the WSPRS (1,045 in Plan 1 and 34 in Plan 2).

Current Situation

The Washington State Patrol Retirement System (WSPRS) was originally established in 1947, and in 2001 was the last of the Plan 1 design systems to be reformed. Among the numerous modifications to the system were changes to the funding provisions. In the original plan, member contributions were set at 7.00% in

statute with the balance of contributions provided by the employer. The current provisions are a modified cost-sharing design in which members pay half the cost of the plan or 2.00% or pay, whichever is greater.

When the funding provisions were modified, the plan was in fully-funded status and member contributions were 2.00% of pay while employer contributions were 0.00%.

History

From 1995 through 1999, the return on plan assets in the State's retirement funds performed well above the actuarially assumed rate of return. As a result, several plans reached funded ratios significantly above 100%, in essence holding greater assets than there were accrued liabilities. In 1999, the State's contributions were suspended in both the WSPRS and the Law Enforcement Officer's and Fire Fighter's Plan 1 (LEOFF 1) when plan assets exceeded the plan's fully projected benefit liability. In 2000, employee and employer contributions were suspended in LEOFF 1, and employee contributions were lowered to 3% in WSPRS. The 1999 legislature also directed the Joint Committee on Pension Policy (JCPP) to study the method for setting employer and employee contribution rates in the WSPRS during the 2000 interim. During the 2000 interim, JCPP studied and proposed changes to the WSPRS. The JCPP submitted legislation that was enacted in 2001 as Chapter 329. That legislation reformed the WSPRS by:

- Changing the COLA from a simple 2% to a compounded 3% CPI-based adjustment for beneficiaries as well as retirees.
- Changing the employee contribution rate from a fixed 7% to the greater of 2% or the employer rate.
- Excluding prospectively voluntary D.O.T. overtime from the definition of salary.

For new members of the WSPRS commissioned on or after January 1, 2003, the new plan differed from the older plan by:

- Changing from a 2 year to a 5 year Average Final Salary (AFS) for calculating retirement benefits.
- Excluding annual and holiday pay cash-outs from compensation in determining member's AFS.
- Changing military service credit provisions to exclude prior military service and requiring employee contributions for interruptive service.
- Removing the post-retirement death benefit and allowing the member to select an actuarial equivalent benefit option at retirement.
- Changing the pre-retirement death benefit for members not eligible to retire or who have less than ten years of service to a refund of the member's accumulated contributions plus interest. For a member who was eligible to retire or who had at least 10 years of service, the benefit was changed to a reduced accrued benefit or 150 percent of the member's accumulated contributions at the survivor's option.

In addition, the legislation provided that the funding of the plan be done on an "aggregate actuarial cost" method, as done for all other Plan 2's. Prior to this change, the system was funded on an "entry age normal" basis.

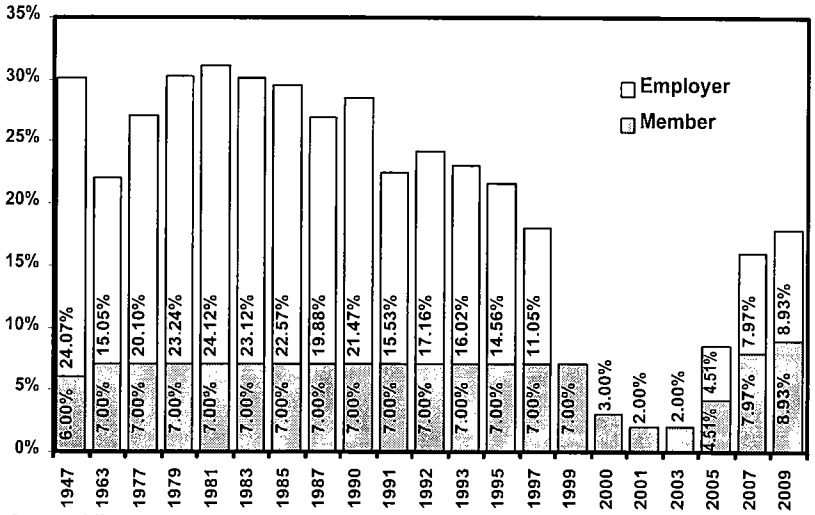
The legislation also attempted to amend the disability provisions in the WSPRS. The existing provisions gave the Chief a principal role in determining disability. And while injured WSPRS members are eligible for Workers Compensation benefits through the Department of Labor and Industries (L&I), disability retirement benefits have been primarily paid from the WSP operating budget rather than the retirement system or L&I. The sections amending the disability provisions were vetoed because of the possible diminishment of benefits in particular situations.

What is also unusual about the changes made to the WSPRS in 2001, and what makes it distinct from the other Plan 2s, is that those changes did not include a typical Plan 2 funding structure. When the other Plan 2s were created (PERS 2, TRS 2, SERS 2, and LEOFF 2), the original plans were closed, and separate funds and funding methods were established. In the WSPRS there are no separate Plan 1 and Plan 2 funds – all contributions are deposited into the same fund. All members, whether Plan 1 or Plan 2, are part of one actuarial experience group, contributions are calculated with no distinction between the plan members, and all members are subject to the same contribution rate.

Contribution Rate History

At its creation in 1947, WSPRS member contributions were set at 6% of pay, and the employer rate was approximately 4 times that (see Figure 1). In 1963, the member rate was fixed at 7% of pay, and employer contribution rates have varied between two and three times the member rate. So while the member contribution rate has historically been very stable, the employer contribution rate has fluctuated significantly.

Figure 1
WSPRS Member and Employer Contribution Rates
Historical 1947-2003 and Forecast 2005-2009



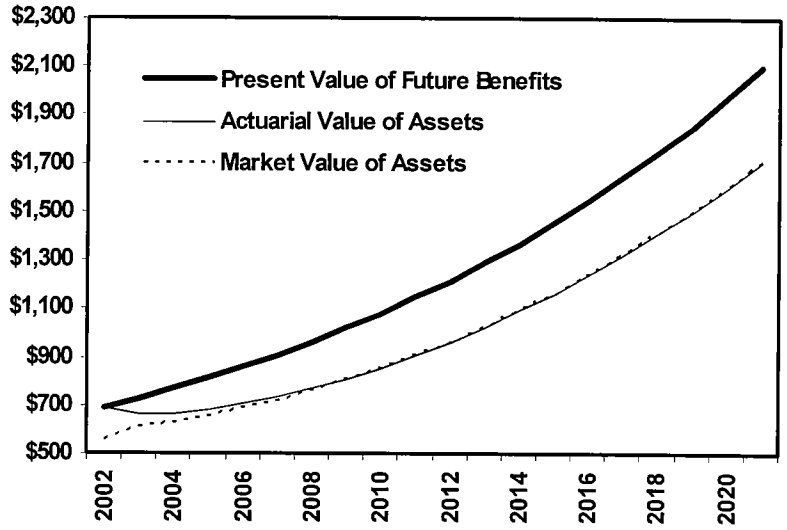
Source: Office of the State Actuary

The funding and contribution rate provisions in the WSPRS have, up to 2001, been similar to those of the other Plan 1s. The plan funding was based on the "entry age normal" method, the member rate was set at a constant percent of salary, and the employer rate was whatever else was required to meet the funding needs of the plan including payments to amortize any unfunded liability. All other Plan 1s – PERS, TRS, and LEOFF – still have statutorily fixed member contribution rates of 6% (the LEOFF 1 member contribution rate is currently 0% as the plan is still fully funded). WSPRS is the only Plan 1 design to change its funding method and change its existing member contribution from a fixed percentage to a cost-sharing percent.

After experiencing a funding ratio of 159% in 1999, the WSP Plan is projected to emerge from full funding in the 2005-2007 biennium. The relatively quick reduction of surplus funds in the WSPRS was not just because of the poor investment markets in 2000 and 2001 but also because the plan is open to new entrants. As new members join, the plan recognizes their liabilities very quickly (see Figure 2), which is then compared with the assets from the single

WSPRS fund, including the surplus assets. Contrast this with the surplus funding experience in LEOFF 1: there have been no new members (liabilities) since 1977 and the reduction of surplus funds, as a result, is slower. Member and employer contribution rates in the WSPRS are each expected to surpass 7% in the 2007-2009 biennium.

Figure 2
Projected Assets and Liabilities in WSPRS



Source: Office of the State Actuary

Because of changes in the WSPRS funding method, member and employer contribution rates are expected to move in unison once the total costs reach and surpass 4% of pay. This is somewhat characteristic of a cost-sharing funding method. The principal difference between the WSPRS and other Plan 2s is the 2% minimum member contribution in the WSPRS; minimum member contributions are not found in the other Plan 2s. As a result of the minimum contribution requirement, WSPRS members will, in the long-run, pay more than half the cost of the plan.

Cost-sharing and Plan Value

Because of the varying degrees of funded status, the value of the retirement plans – the benefits provided to members in retirement – and the long-term level of cost-sharing are not necessarily reflected in the current contribution rates. There are several plans that are not fully funded (see Figure 3) and their contribution rates are higher to pay for the plans' unfunded actuarially accrued

liability. Other plans are in surplus, and depending on the funding method may have lower contributions, or no contributions. Because of these funding differences current contribution rates do not reflect the long-term value of the plans.

Figure 3
Funded Ratios of Plan 1 Systems and WSPRS 2003

PERS 1	TRS 1	LEOFF 1	WSP
85%	93%	112%	123%

A more appropriate indicator of plan value, or benefit value under a defined benefit plan, is the entry age normal cost of the plan. This prices the plan based on the cost of the benefits and the long-term realization of all actuarial assumptions. In this manner, the contribution rates reflect the demographic characteristics of plan members and the value of the benefits in the plan rather than the short-term gains or losses in plan assets. The normal cost of the various retirement systems and plans are shown in Figure 4.

Figure 4
Entry-Age Normal Contribution Rate and Social Security Contribution by System and Plan: Total Percent of Pay

	Entry Age Normal Cost			Social Security Tax			Entry Age + Soc Sec		
Plan	Member	Employer*	Total	Member	Employer	Total	Member	Employer	Total
PERS 1	6.00%	5.31%	11.31%	6.20%	6.20%	12.40%	12.20%	11.51%	23.71%
PERS2/3	4.46%	4.46%	8.92%	6.20%	6.20%	12.40%	10.66%	10.66%	21.32%
TRS 1	6.00%	7.30%	13.30%	6.20%	6.20%	12.40%	12.20%	13.50%	25.70%
TRS 2/3	5.43%	5.43%	10.86%	6.20%	6.20%	12.40%	11.63%	11.63%	23.26%
SERS	4.71%	4.71%	9.42%	6.20%	6.20%	12.40%	10.91%	10.91%	21.82%
LEOFF 1	6.00%	22.46%	28.46%	0.00%	0.00%	0.00%	6.00%	22.46%	28.46%
LEOFF 2	8.36%	8.36%	16.71%	0.00%	0.00%	0.00%	8.36%	8.36%	16.71%
WSPRS	10.69%	10.69%	21.38%	0.00%	0.00%	0.00%	10.69%	10.69%	21.38%

**Does not include contribution rate for Plan 1 UAAL.*

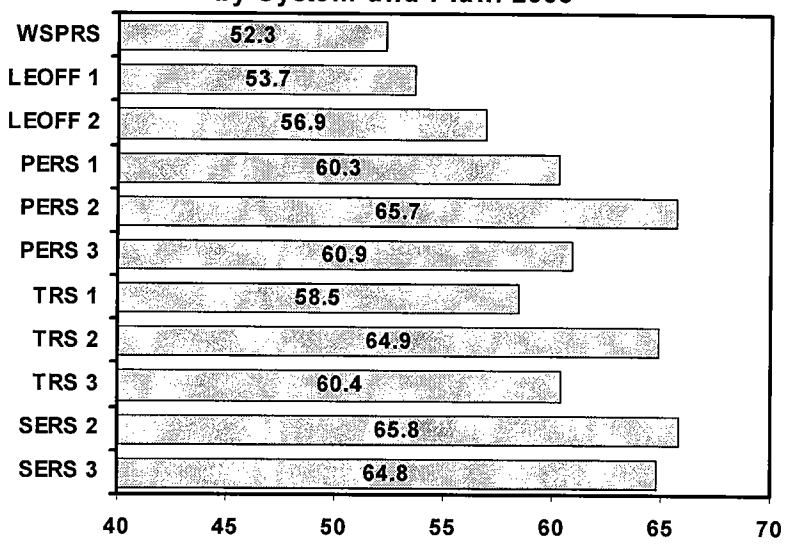
Taking into account both State retirement and Social Security, total contributions to Washington's retirement systems can easily surpass 20% of pay in most plans. The employer commitment to Washington's retirement plans, again summing the normal cost plus any employer contributions to Social Security, can surpass 10% of pay. The total employer contribution in the WSPRS is 10.69% of pay compared to 10.66% on PERS 2/3 and 11.63% in TRS 2/3. The entry age normal cost for the WSPRS is based on the current

mix of Plan 1 and Plan 2 members. This rate will decrease as Plan 1 members are replaced by Plan 2 members.

Age Provisions and Plan Value

All Washington's systems and plans have similar benefit formulas (2% of average final compensation × years of service). Such similar provisions will not cause cost differences within the Plan 1s, or within the Plan 2s. The more costly element that will differentiate these systems and plans is the age at which a member is allowed to retire and receive a benefit. The younger the retirement age, the longer a benefit is received, and the costlier the plan. Because of the inherent danger and physical stresses of public-safety occupations, the age and service provisions in WSPRS and the LEOFF Plans allow for full retirement benefits at relatively young ages: at age 50 in LEOFF 1, age 53 in LEOFF 2, and at age 55 or after 25 years of service in WSPRS. Many WSPRS members have become eligible for full benefits before reaching age 50. The average retirement ages in these public-safety plans are reflective of those provisions (see Figure 5) which would make them more costly than the remaining plans.

Figure 5
Average Retirement Age
by System and Plan: 2003



Three-Legged Stool

The "three-legged-stool" pension model is one in which an individual's retirement income is derived from three sources: an employer provided

pension, personal savings, and Social Security. Social Security benefits are available to all employee groups who elect to join and make contributions. Those contributions are currently 6.2% of pay, up to $87,000 (indexed) in earnings, for both the employee and employer.

Many public-safety retirement plan members, including WSPRS members, do not pay into the Social Security system. Members of several general public employee retirement plans also do not pay into Social Security, Alaska and Ohio Public Employee's Retirement System being examples. Plans covering employees who do not pay into Social Security tend to have more generous benefits than those where members do make Social Security contributions. This is a tacit acknowledgment that when one leg of the three-legged stool is absent, one of the other legs must be more substantial.

WSPRS members also do not pay into Medicare. PERS, TRS, and SERS members and their employers each pay 1.45% of salary as contributions to Medicare.

Even if WSPRS members do not pay into Social Security, that does not necessarily mean they won't inevitably receive Social Security benefits. It is understood that by retiring relatively young, not all members will be permanently leaving the work force. Retired WSPRS members will likely be working in some other public or private-sector job until fully retired; one in which they would probably be contributing to Social Security.

Contributions and Funding in Comparative Systems

Contributions among the comparative states will be different because of the differences in benefit design, funding policies, cost-sharing, and the presence of unfunded liabilities. Employer contributions among the comparison states ranged from 0.00% in Washington to 43.54% in Missouri (see Figure 6).

Figure 6
Comparisons of Provisions in Select State Trooper Plans

	Contribution Rates		**Benefit Multiplier:**	**Benefit Requirements**
	Employer	Member	**__% × Years of Service**	**Age / Service**
California	32.65%	8.00%	3.0% (max 90%)	50 / 5
Colorado	12.85%	10.00%	2.5%	50 / 25, 55 / 20, 60-64 / rule of 80, 65 / 5
Florida	22.15%	0.00%	3.0%	55 / 6, Any age / 25

	Contribution Rates		Benefit Multiplier:	Benefit Requirements
	Employer	Member	__% × Years of Service	Age / Service
Idaho	10.73%	7.65%	2.3% (max 100%)	50 / Rule of 80
Iowa	17.00%	9.35%	2.75% (max 88%)	55 / 22
Minnesota	12.60%	8.40%	3.0%	55 / 3
Missouri	43.54%	0.00%	1.7%	48 / Rule of 80
Ohio	24.50%	10.00%	2.5% up to 20 years, 2.25% 21 to 25 years, 2.00% per year thereafter (max 79.25%)	48 / 25
Oregon	9.49%	6.00%	2.0%	55 / any service, 50 / 25, Any age / 30
Washington	0.00%	2.00%	2.0% (max 75%)	Any age / 25, 55 / Any service

Florida and Missouri are non-contributory plans.
Iowa employer contribution did not include a payment to the plan's unfunded liability.
Missouri employer contribution rate includes a 29.21% payment for the plan's unfunded liability.
California employer contribution rate includes an 18.13% payment for the plan's unfunded liability.
Missouri members pay into Social Security.

Among these comparative systems, only WSPRS has a 50-50 (as long as the costs exceed 4% of pay) cost-sharing design. Most rely on a statutory contribution by the members and a residual contribution by employers to pay the remaining cost of the plan. Two of the plans, Florida and Missouri, are non-contributory plans, meaning the members make no contributions at all.

Benefit design has a direct bearing on the cost and funding requirements of these plans. The California State Patrol plan recently instituted a 3% per year benefit multiplier which will result in a larger benefit and require greater contributions than the 1.7% multiplier used in Missouri. However, Missouri troopers and their employer, pay into Social Security thus providing a benefit that does not show in this accounting.

Funding methods also add to the difficulties in comparing contribution rates. The current funding method in Washington is the aggregate actuarial cost method in which no unfunded actuarially accrued liability (UAAL) is allowed to accumulate outside the plan's normal cost. All of the comparison States use the "entry age normal" funding method and have varying levels of unfunded liabilities. For instance, in Missouri the great majority of their current employer contributions are to cover the plan's UAAL. Over half of the employer contributions in the California Highway Patrol plan are payment for the plan's unfunded liability. Idaho and Colorado's trooper plans also have unfunded liabilities that add to their employer contribution rates. Iowa's trooper plan also has a significant unfunded liability that could increase their current

employer contribution rate by up to 12 percentage points if they chose to fund it. Unfunded liabilities create generational equity issues in that the cost of unfunded pension liabilities of current retirees are passed to future taxpayers.

LEOFF 2 Comparison

The other open public safety related retirement system in Washington State is the Law Enforcement Officers and Fire Fighters retirement system Plan 2 (LEOFF 2). A new Public Safety Employee's Retirement System (PSERS) will open in 2006, but until that time LEOFF 2 will be the point of comparison. Benefit provisions in WSPRS 2 and LEOFF 2 are similar in many ways, particularly in terms of vesting, benefit formula, and COLAs. Where the WSPRS differs is in the provision allowing a member with 25 years of service to retire with an unreduced benefit. This is characteristic of the service-based criteria found in the Plan 1 designs and still found in WSPRS 2. This is more costly than the age and service provision in LEOFF 2.

As with all the Plans 2, the WSPRS and LEOFF 2 are similar in that they both use the "aggregate actuarial cost" funding method (see Figure 7). This method reacts quickly to changes in asset returns, and does not allow the accumulation of an unfunded liability outside the plan's normal cost.

Figure 7
Funding Provisions in WSPRS 2 and LEOFF 2

	WSPRS 2	LEOFF 2
Funding Method	Aggregate Actuarial Cost	
Member Contributions	2% or half the cost of the benefits, whichever is greater.	Half the cost of member benefits
Employer Contributions	(The State is the employer)	30% of the cost of members benefits
State Contributions	Half the cost of members benefits unless total costs are under 4%.	20% of the cost of members benefits

Besides the minimum member contribution in WSPRS, the principal difference in funding policy between the plans is how the employer costs are divided in LEOFF 2. The state is the employer for WSPRS members and pays half the cost of the retirement plan benefits, as long as the costs exceed 4% of pay. While the State is not the employer in LEOFF 2, it still pays 20% of the cost of the benefits, while the actual local government employer pays 30% of the cost of the benefits. A State contribution for those who are local government employees is not found in the other Washington systems and plans; it is likely

a design borne of the significant state contributions to the original LEOFF 1 Plan.

Proposed Cost-sharing Formula

The Trooper's association has proposed reworking the cost-sharing formula. The current 50-50 split with a 2.00% member minimum would be changed to ⅓ member, ⅔ employer, with the member rate capped at 7%. Historically the plan required 7.00% of pay from the members with the State liable for the remaining costs. This resulted in members paying, on average, about one-third of the plan's costs and the employer (the State) paying about two-thirds.

In a second proposal, the Trooper's Association has also requested a phase-in period before the ⅓ - ⅔ formula takes effect. Because their employer has been making no contributions since 1999, they feel their employer should make even larger contributions than are generated in the ⅓ - ⅔ formula. They propose that over the next 3 biennia, members would pay 20% of the cost of the plan, with a 2.0% minimum member contribution rate, and their employer would pay the remaining cost of the plan.

Fiscal Impact

Fiscal analysis of this proposed cost-sharing formula show the member contribution rate in the 2005-2007 biennium declining by 1.5% and the employer rate increasing by 1.5%. This would result in an additional $2.4 million in State contributions to the WSPRS during the 2005-2007 biennium. With a long-term expected normal cost of 21.38%, the current 50-50 cost-sharing would result in member rates and employer rates each trending to 10.69%. Under the ⅓ - ⅔, 7% cap proposal, the member rate would reach a maximum of 7% while the employer rate would trend to 14.39%. The 25-year cost to the State would be $123 million. Under the phase-in proposal, the member contribution rate would fall by 2.51% and the employer contribution rate would increase by 2.51% in the 2005-2007 biennium. This would result in an additional $4.0 million in employer contributions in the first two years. The 25-year cost to the state would be $133.4 million.

Policy Analysis

The policy questions in regards to the WSPRS contribution rate stability issue is whether the plan adheres to the cost-sharing policies outlined for the Plan 2s, whether the current volatile contribution rates are in conflict with existing funding policy, and whether the proposed contribution formula, with the 7% cap, is in keeping with current policy.

Cost-sharing

One of the implicit policies formulated by the Joint Committee on Pension Policy states that "... costs should be shared equally between employees and employers."

When the total funding requirements of the WSPRS are 4% of salary or greater, there is equal cost-sharing. If, as has been the case over the past several years, the plan is fully funded and requires no contributions, then members pay the only contributions to the plan. Since members make contributions when none are necessary but the employer does not, the members will, in the long-run, not share equally in the costs of the plan. The proposed ⅓ - ⅔ cost-sharing formula would be consistent with past practices for the WSPRS but inconsistent with current cost-sharing policies of the Plan 2 systems. The prospect of member contribution rates climbing over 7.00% may also raise a Bakenhus issue for existing Plan 1 members. Existing members never paid contributions above 7.00% of pay. The Bakenhus decision does allow for changes in retirement plan provisions as long as the trade-offs are of equivalent value. In the reform of the State Patrol Plan in 2001, existing members and their beneficiaries received a benefit increase in the form of a 3% CPI-based COLA for retirees and survivors; retirees formerly had a 2% simple COLA, and only in 2000 were survivors eligible to receive a 2% simple COLA. Existing members also received more flexibility in providing survivor benefits for their beneficiaries. Though not a permanent benefit, members also received a short term decline in their contribution rate.

Rate Volatility

Within the Finding Chapter (RCW 41.45) is the policy goal to "establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets."

The projected increases in employer and member contribution rates have

brought this policy to the forefront in current retirement discussions. The volatility of the contribution rates, both during the recent past and over the next several biennia, is in conflict with this existing funding policy. Legislation has been enacted in the past two sessions to address this volatility, and is expected to smooth out any such future fluctuations (Chapter 11 laws of 2003 extended session, and chapter 93 laws of 2004.)

Rate predictability and stability is an issue impacting all systems and plans, including the WSPRS. In response to this volatility the funding report of the State Actuary, heard by the SCPP in July of this year, included a recommendation to establish minimum Plan 2/3 contribution rates based on a combination of entry age and aggregate methods. The report also recommended that the rate charged employers to fund the Plan 1 unfunded liability not be allowed to decrease until the plans were at a funded ratio of 125%. These recommendations seek to add a greater degree of predictability and stability to the funding of the retirement plans in keeping with existing policies.

In addition, the SCPP Pension Funding Council Subgroup proposed a phase-in of the projected rates increases over the next 3 biennia. While this would incur additional costs to the plans, it would observe the policy of predictability.

Policy Conclusion

Two particular elements within the WSPRS design have policy implications. The presence of a minimum contribution rate for members results in an imbalanced cost-sharing relationship. Without an equivalent minimum contribution rate for the employer, members will not share equally with the State in the cost of the plan. The proposed ⅓ - ⅔ contribution formula with a 7% member cap may be in keeping with historical Plan 1 policy, but would be establishing new policy within the Plan 2 systems. The other policy element relates to the stability of the contribution rates; by using the aggregate method to fund the plans, benefits are fully paid over the working lives of the members and no unfunded liability is allowed to accrue outside the plan's normal cost. This does result in rate volatility which may be in conflict with existing funding policy. However, recent legislation has set in place new smoothing methods and asset corridor measures to address this volatility. Furthermore, additional funding recommendations are before the SCPP this interim which also apply to the WSPRS.

Executive Committee Recommendation

Forward two proposals to the full committee for a public hearing:

Proposal #1: Members pay ⅓ of the cost of the plan, with a maximum member contribution rate of 7.0%, and the employer pays the remaining cost of the plan.

Proposal #2: During the first 3 biennia members pay 20% of the cost of the plan, with a 2% minimum member contribution rate, and the employer pays the remaining cost of the plan. After 3 biennia, members pay ⅓ of the cost of the plan, with a maximum member contribution rate of 7.0%, and the employer pays the remaining cost of the plan.

Committee Recommendation

Draft a bill on proposal #1 and forward it to the full legislature.

Bill Drafts

Attached

Fiscal Note

Attached

Administrative Impact

See attached letter from John Charles, Director of Department of Retirement Systems.

Stakeholder Input

Robert Thurston, President
Washington State Troopers Association
See attached correspondence

STATE OF WASHINGTON
DEPARTMENT OF RETIREMENT SYSTEMS
PO Box 48380 • Olympia WA 98504-8380 • (360) 664-7000 • Toll Free 1-800-547-6657

October 28, 2004

RECEIVED
OCT 28 2004
Office of
The State Actuary

The Honorable Karen Fraser, Chair
The Honorable Steve Conway, Vice-Chair
Select Committee on Pension Policy
Post Office Box 40914
Olympia, Washington 98504-0914

Dear Senator Fraser and Representative Conway:

Subject: Washington State Patrol Rate Stability

At the October 19, 2004 Select Committee on Pension Policy (SCPP) meeting, the Department of Retirement Systems (DRS) was asked to provide administrative input on the issue of rate stability in the Washington State Patrol Retirement System (WSPRS). There are three administrative areas of the WSPRS that are important to note: the funding structure of the plan, the accounting of the contributions, and the reporting of the assets in the Department's Comprehensive Annual Financial Report (CAFR).

Funding
As explained in the report to the SCPP, the funding of the plan had historically been a 1/3 – 2/3 split between member and employer, with a 7 percent maximum member contribution. In the 2001 legislation creating Plan 2 and providing for an enhanced cost of living allowance for retirees, that funding was changed to an employee contribution equal to the greater of 2 percent or the employer rate. However, unlike any other Washington State retirement system with multiple plans, the funding of the benefits for each plan was not separated, even though the benefit structure for Plan 1 and Plan 2 is significantly different. Currently, members of both plans pay the same contribution rate, and all benefits are paid from the same fund.

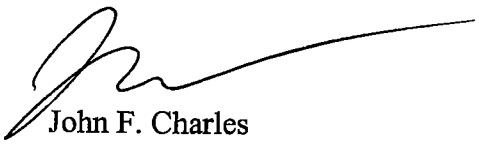
Accounting
When implementing this 2001 legislation, DRS decided to account for the contributions from each plan separately. While the contributions are invested and benefits are paid from one fund per statutory requirement, the Department accounts for them separately to ensure clear records and provide for historical data regarding the contributions received by members of each plan. This practice would allow the Department to easily account for separate Plan 1 and Plan 2 funds should this be necessary in the future.

Reporting

In determining how to report WSPRS Plan 1 and Plan 2 under one fund in the department's and the state's Comprehensive Annual Financial Reports, and in the State Investment Board's Annual Report, we worked with staff from the Office of the State Actuary, the State Investment Board, and the Office of Financial Management, to reach agreement on the appropriate way to accurately represent WSPRS. We agreed that descriptions of the benefit structure and demographic data should be represented for each plan within the system but that all data showing contributions, assets, and liabilities would be represented only at the system level, with footnotes explaining that this includes both Plan 1 and Plan 2. You will see this reporting structure in the 2004 CAFR, published in December.

The issue before the Select Committee on rate stability is complex but the decisions and practices of the Department, when implementing the 2001 legislation, should allow for ease of administration if changes to WSPRS funding policy are made. Please contact me at 664-7312 if you have any further questions.

Sincerely,



John F. Charles
Director

WASHINGTON STATE PATROL TROOPERS ASSOCIATION

200 UNION AVE. SE STE. 200 , OLYMPIA, WASHINGTON 98501 (360) 704-7530 FAX (360) 704-7527

September 9, 2004

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Office of
The State Actuary

COPY

Senator Karen Fraser
P.O. Box 40422
Olympia, WA 98504-0422

Re: WSPRS Contribution Rate Stability

Dear Senator Fraser:

Thank you for taking the time to meet with Rick Jensen and Paul Neal to contribution rate stabilization. We share your concerns, and appreciate your leadership, in this area. All of the systems have seen wide swings in rates in the last six years, but those fluctuations have been most dramatic in the Washington State Patrol Retirement System (WSPRS).

The current contribution rate stabilization recommendation put forward by the State Actuary would require an amendment to the statutes governing contribution rates for the WSPRS. We ask that those amendments incorporate our proposal.

We are proposing a WSPRS contribution formula that is consistent with the statutory history and past practice of the Legislature and the Pension Funding Council:

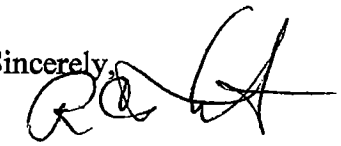
- 7% cap on member contributions;
- 1/3 – 2/3 member to employer contribution ratio effective July 1, 2005.

I am enclosing a copy of our briefing paper on the issue. I would appreciate it if you could give the Trooper's association fifteen to twenty minutes on the October SCPP agenda to present this issue to the full committee.

We are also concerned about retiree health insurance. There are a number of optional plans authorized by the federal tax code. There also appears to be a lot of confusion about what those plans are and how they work. Please consider making the study and discussion of this issue a top priority for the SCPP's work during the 2005 interim.

Thank you for your consideration.

Sincerely,



Robert Thurston, President
Washington State Trooper's Association

cc: Matt Smith

Contribution Rate Stability For Trooper Retirement

October 4, 2004

The Trooper's association shares the SCPP's concern for contribution rate stability. We support the idea of working towards a minimum contribution rate that will guard against the wild swings we are currently experiencing. Under the Actuary's current recommendation, those minimum contribution rates would be equal for employers and employees. The unique history of Trooper retirement requires a modified application.

How We Got Here

Up until 2001, the Troopers paid a statutorily fixed 7% contribution rate. Historically, Troopers have paid one-third of the system cost and the State has paid two-thirds[i].

In 1999 the State's contribution to WSPRS dropped to 0.00%, where it has stayed ever since. In 2001 the Legislature changed the funding formula[ii] greatly reducing the State's obligation. Instead of picking up two-thirds of the cost, the State changed its maximum obligation to one-half. Troopers were required to pick up the slack.

Since 1999 the State has paid nothing while the Troopers have continued to pay. Beginning in 2005, the system cost will exceed 4% of salary[iii]. At that point the Troopers and the State will each be sharing half of the total cost. Beginning in 2007, Trooper contributions will exceed 7%.

Where We Are

Washington State Troopers appear to get better retirement benefits than other State employees. In reality, the State's current funding commitment to Trooper's retirement is much less. The State makes Social Security Contributions for all its employees - except Troopers.

Current employer retirement contribution policy:

	Employer Pension Contribution Policy	**10 year average annual employer contributions**
Troopers (WSPRS)	(A) One-half of actuarial cost of WSPRS[iv];	**5.12%** of salary
All Other State Employees (PERS 2 plus Social Security)	(A) One-half of actuarial costs of PERS[v]; PLUS (B) 7.65% of salary for social security and medicare	**12.03%** of salary

Prepared by
Washington State Patrol Troopers Association
October 18, 2004

Prior to 1999, the level of State retirement contributions for Troopers was equivalent to contributions for other State employees. The State didn't contribute to Social Security for Troopers, but it spent more on WSPRS than on PERS. That made sense. In 2001, that one-third/two-thirds contribution ratio was replaced with a ratio of fifty/fifty. By 2007 Trooper contribution rates will exceed the contractually fixed 7% level.

Contribution Rate Stability for Troopers

Raising Trooper contribution rates above 7% violates constitutionally protected Trooper pension rights. Restoring the 7% cap and keeping the cost sharing at 50-50 will not provide adequate funding. The Trooper's propose:

- Trooper contribution rates capped at 7% - one-third of the current 21% normal cost.
- Long-term contribution ratio of 1/3 - 2/3. Adopt same floor as other plans but with 1/3 – 2/3 cost division. This reinstates the old formula and recognizes the lack of employer social security contributions.
- Restore equilibrium with 80-20 phase in. Three bienniums of the State paying less than its share should be offset with three bienniums of the State paying more. As rates go up for the next three biennia, the State should pay 80% of the cost while the Troopers pay 20% of the cost.

Notes

i 15.1 % Average annual employer contribution to WSPRS since 1963 (7% employee contribution). 13.74% Average annual employer contributions for other state employees.

ii. RCW 41.45.0631 (Ch. 329, Laws of 2001) enacted the following formula:
- Troopers pay 2% of salary or one-half of retirement cost, whichever is greater;
- State pays:
  - Less than Troopers if total cost of system is less than 4%; or
  - One-half of retirement cost if total cost exceeds 4%.

iii. Projected WSPRS contribution rates from the OSA website:

	2003-05	2005-07	2007-09	2009-11
Troopers	2.00%	4.22%	7.97%	8.93%
Employer	0.00%	4.22%	7.97%	8.93%

iv. RCW 41.45.0631; the state makes a Medicare contribution of 1.45% for Troopers employed after July 1, 1986.

v. RCW 41.45.061

Prepared by
Washington State Patrol Troopers Association
October 18, 2004

Transfers from State Patrol Highway Account to Motor Vehicle Fund

Biennium	Biennial Transfer	Total Transfer
2001-03	$48,657,000[1]	$48,657,000
2003-05	$20,000,000[2]	$68,657,000
2005-07	$20,000,000[3]	$88,657,000
2007-09	$25,000,000	$113,657,000
2009-11	$5,000,000	$118,657,000
2011- 13	$15,000,000	$133,657,000
2013 - 15	$15,000,000	$148,657,000

Discontinuance of the transfer will provide more than enough funding for the Trooper pension contribution proposal.

---

[1]ch. 14, sec.406, laws of 2001 as amended by sec 404, ch. 359, laws of 2002.

[2] ch. 360, sec. 405, laws of 2003

[3]Projected transfers taken from DOT ten-year transportation budget plan submitted to Governor's office with 2005-07 DOT budget.

Prepared by
Washington State Trooper's Association
October 18, 2004

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary_st@leg.wa.gov

September 24, 2004

Chief Lowell M. Porter
Washington State Patrol
General Administration Building
P.O. Box 42600
Olympia, Washington 98504-2600

Chief Porter:

The Select Committee on Pension Policy (SCPP) will be holding its next hearing on October 19, 2004, from 10:00 am to 1:00 pm in Senate Hearing Room 4. Among the issues being presented will be Washington State Patrol Retirement System (WSPRS) Contribution Rates.

Based on the results of the 2003 actuarial valuation, the Office of the State Actuary and the SCPP forwarded contribution rate recommendations to the Pension Funding Council for the 2005-2007 biennium. The recommended employer and member contribution rates for the WSPRS were 4.51% of pay.

WSPRS member contribution rates are forecast to exceed 7% in the 2007-2009 biennium. The Troopers Association has asked the SCPP to address this issue.

You are welcome to attend the hearing. Any information you may want to share in this regard would be appreciated.

Sincerely,

Robert Wm. Baker
Senior Research Analyst

cc: Senator Karen Fraser, Chair SCPP
Robert Thurston, Washington State Troopers Association

Enclosure

O:\SCPP\2004\10-19-04 Full\WSP letter.wpd

Representative Gary Alexander

Elaine M. Banks
TRS Retirees

Marty Brown, Director*
Office of Financial Management

Senator Don Carlson

John Charles, Director
Department of Retirement Systems

Representative Steve Conway*
Vice Chair

Representative Larry Crouse

Richard Ford
PERS Retirees

Senator Karen Fraser*
Chair

Representative Bill Fromhold

Leland A. Goeke*
TRS and SERS Employers

Bob Keller
PERS Actives

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Glenn Olson
PERS Employers

Diane Rae
TRS Actives

Senator Debbie Regala

J. Pat Thompson
PERS Actives

David Westberg*
SERS Actives

*Executive Committee

(360) 753-9144
Fax: (360) 586-8135
TDD: 1-800-635-9993

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Office of
The State Actuary

STATE OF WASHINGTON
WASHINGTON STATE PATROL
General Administration Building, PO Box 42600 • Olympia, Washington 98504-2600 • (360) 753-6540

November 9, 2005

The Honorable Bill Fromhold, Chair
Select Committee on Pension Policy
PO Box 40914
Olympia WA 98504-0914

Dear Representative Fromhold:

During the Public Safety Subgroup meeting on October 18, 2005, the funding policy history of the Washington State Patrol Retirement System (WSPRS) was discussed. HB 1317, introduced during the 2005 session and being reconsidered for 2006, proposed to change the contribution rate for members of the WSPRS to seven percent or one-third of the rate adopted under RCW 41.45.060 and 41.45.070 for the WSPRS, whichever is less.

In the course of this meeting, Representative Conway asked the position of the Washington State Patrol (WSP) regarding HB 1317. He was advised the Patrol was unable to provide a position at that time due to concerns regarding the impact this proposal would have to the State Patrol Highway Account, which is expected to have a negative fund balance by July 2007. Representative Conway and the subgroup were advised that the WSP would need to discuss the matter with Governor Gregoire's office before committing to a position.

On October 21, 2005, Captain Jeff DeVere met with representatives from Governor Gregoire's office regarding HB 1317. Discussed were the impacts of increased employer contribution to the 2005 -2007 ($1.1 million) and the 2007 -2009 ($3.7 million) budgets. Attached is the Fund Balance Detail sheet indicating the challenge facing the department regarding this proposal.

The WSP will be unable to provide a definitive position on HB 1317 until the Governor's budget has been finalized in December 2005.

If you have any questions or concerns regarding this matter, please contact me at 360-753-5299.

Sincerely,

CHIEF JOHN R. BATISTE

Captain Jeff DeVere
Government and Media Relations

JKD:mp
cc: Chief John R. Batiste, Washington State Patrol
Marty Brown, Legislative Director, Office of the Governor
Victor Moore, Director, Office of Financial Management
Tom Pillow, President, Washington State Patrol Troopers' Association

Fund Balance Detail

DOT0509 (R) - 2005-07

Washington State Patrol - Request Level

081 - State Patrol Highway Account
($ in Thousands)

	03-05	05-07
Beginning Fund Balance (Phase III)	**12,817**	**21,368**
Revenue Data (0509)		
Total Federal Revenue	6,957	10,544
Total Local Revenue	1,465	2,177
I-776 Impact (refund from prior biennium)	(1,491)	-
Treasury Deposit Earnings (80%)	478	600
ACCESS user fees	1,600	1,600
Transfer - Motor Vehicle Account	(4,000)	1,406
Transfer - DRS	(290)	-
Court DUI cost reimbursement	1,026	1,026
Motor Veh Lics Permits Fees (Sept 2005)	252,037	261,688
Terminal Safety Inspection Fees From UTC	2,500	2,500
Breath Test Fees	1,750	1,750
Other Revenue	1,000	682
Minimum Fund Balance	-	(3,500)
Fund Balance Adjustments	-	898
Revenue Total	**263,032**	**281,371**
Expenditure Data (DOT0509)		
225 010 Field Operations 010 (WSP)	181,187	213,243
225 030 Support Services 030 (WSP)	71,089	84,756
225 90C WSP Capital	2,205	2,801
2006 Supplemental Request		**10,696**
SCPP Pension Proposal		**1,100**
Projected Expenditure Total	**254,481**	**312,596**
Projected Ending Fund Balance	**$ 21,368**	**$ (9,857)**

WASHINGTON STATE PATROL TROOPERS ASSOCIATION

200 UNION AVE. SE STE. 200, OLYMPIA, WASHINGTON 98501 (360) 704-7530 FAX (360) 704-7527

May 26, 2005

RECEIVED

JUN 7 - 2005

Office of
The State Actuary

Senator Karen Fraser, Chair
Select Committee on Pension Policy
417 JAC
PO Box 40422
Olympia, WA 98504-0422

Re: Troopers Association Request for SCPP Agenda Items

Dear Senator Fraser:

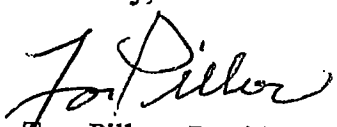
As the incoming president of the Troopers Association, I wanted to first thank you for your help during the last Legislative session. We are particularly pleased with the passage of Second Substitute House Bill 1188, our collective bargaining bill. As always, there is still more work to do. I am writing to ask for your help in allowing us to bring the following issues to the Select Committee on Pension Policy during the 2005 interim:

- Trooper Contributions. We were grateful for the SCPP's support for our contribution rate bill, HB 1317/SB 5341. That bill would have returned the Troopers to a 1/3 – 2/3 contribution ratio with a 7% cap on employee contributions. Unfortunately, neither bill made it out of the house of origin. We would like to continue to work the bill with the Committee during the interim.
- Increase Mandatory Retirement to Age 65. The Troopers have supported this bill in the past and would like to continue to keep it alive during the interim.
- Disabled Troopers Converting to Retirement. As you know, disabled troopers are not retired. Instead, they remain on the payroll at half-salary and are paid out of the Patrol's operating budget. A recent decision of the Chelan County Superior Court, In Re Truman, considered the survivor pension calculation for a Trooper who died while on disability status. While the Troopers association agrees with the decision, it does point out some confusion about the treatment of disabled Troopers under the retirement system. We would like to discuss the possibility of having disabled Troopers continue to contribute to the retirement system and convert to retiree status at age 60.
- Distinctions between WSPRS and PERS. Discussions surrounding the Troopers contribution bill brought to light some ambiguity about the policy differences between WSPRS and PERS 2. We would like an opportunity to discuss those issues with the Committee for background when considering WSPRS issues.

Finally, we are asking you to convene the public safety subcommittee authorized under RCW 41.04.278, to facilitate consideration of these issues.

Thank you for your consideration of this request. Please feel free to either call me at (360) 704-7530 or Rick Jensen at (360) 951-9531 with any questions or for discussion.

Sincerely,



Tom Pillow, President
Washington State Patrol Troopers Association

cc: Matt Smith
Rick Jenson
Davor Gjurassic
Paul Neal

Z-0190.2

HOUSE BILL 1317

State of Washington 59th Legislature 2005 Regular Session

By Representatives Conway, Fromhold and Crouse; by request of Select Committee on Pension Policy

Read first time 01/20/2005. Referred to Committee on Appropriations.

1 AN ACT Relating to member contribution rates in the Washington
2 state patrol retirement system; amending RCW 41.45.0631; providing an
3 effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 41.45.0631 and 2001 c 329 s 11 are each amended to
6 read as follows:
7 Beginning July 1, ((~~2001~~)) 2005, the required contribution rate for
8 members of the Washington state patrol retirement system shall be
9 ((~~two~~)) seven percent or ((~~equal to~~)) one-third of the ((~~employer~~))
10 rate adopted under RCW 41.45.060 and 41.45.070 for the Washington state
11 patrol retirement system, whichever is ((~~greater~~)) less. In no event
12 shall the member contribution rate be less than two percent.

13 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 July 1, 2005.

--- END ---

FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**1/24/05**	**SB 5341/HB 1317**

SUMMARY OF BILL:

This bill impacts the Washington State Patrol (WSP) Retirement System by changing the contribution rate setting formula. The bill would establish member contribution rates at 1/3 of the total cost of the system, or 7 percent, whichever is less. However, in no event will the member rate be less than 2 percent. The employer would then be responsible for paying the remaining costs of the system.

Effective Date: July 1, 2005

CURRENT SITUATION:

Currently the member contribution rate in WSP is set at half the cost of the system or 2 percent, whichever is greater. The employer is then responsible for the remaining costs of the system. Because of the funding status of the system, member contribution rates have been 2 percent since 2001, and there have been no employer contributions.

MEMBERS IMPACTED:

All 1,079 active members of this system would be affected by this bill.

For members impacted by this bill, there would be no increase in benefits, but there would be a decrease in member contributions.

ASSUMPTIONS:

The 1/3 member, 2/3 employer split would apply for all years beginning July 1, 2005. The rates are rounded to two decimal places after multiplying the total rate by 1/3 and 2/3 (for example, the total rate of 9.02% would be split with 3.01% for the member and 6.01% for the employer).

FISCAL IMPACT:

Description:

This would not change the liabilities of the current plan. It would shift 1/6 of the total contributions from members to employers. It would also change the cost allocation of any future benefit improvements so that the members would only be paying for 1/3 instead of 1/2, and the employer would be responsible for 2/3 of the cost instead of 1/2.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

	System: Washington State Patrol (WSP)		
(Dollars in Millions)	**Current**	**Increase**	**Total**
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to all Current Members)	$727	$0	$727
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	$0	$0	$0
Unfunded Liability (PBO) (The Value of the Total Commitment to all Current Members Attributable to Past Service)	($124)	$0	($124)

Increase in Contribution Rates: (Effective 7/1/2005)

Employee	(1.50%)
Employer State	1.50%

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	**WSP**
2005-2007	
State:	
General Fund	$0.1
Non-General Fund	2.3
Total State	**$2.4**
Local Government	$0.0
Total Employer	$2.4
Total Employee	($2.4)

Costs (in Millions):	**WSP**
2007-2009	
State:	
General Fund	$0.3
Non-General Fund	4.5
Total State	**$4.8**
Local Government	$0.0
Total Employer	$4.8
Total Employee	($4.8)
2005-2030	
State:	
General Fund	$7.4
Non-General Fund	115.9
Total State	**$123.3**
Local Government	$0.0
Total Employer	$123.3
Total Employee	($123.3)

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Washington State Patrol Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This fiscal note is intended for use only during the 2005 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

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.)

Projected Benefits: Pension benefit amounts which 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.

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.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Bill Summary
Washington State Patrol Funding

(December 5, 2005)

The draft bill for the 2006 legislative session relating to contribution rates in the Washington State Patrol Retirement System contains the following provisions:

- Strikes the existing rate-setting formula containing a fifty-fifty member to employer split and a 2 percent member minimum.
- Sets contribution rates for the 2007 fiscal year at 3.01 percent for members and 6.01 percent for employers.
- For the next rate-setting cycle (i.e. the 2007-2009 biennium), amends the funding policy to create a new cost allocation formula by which members pay one-third with a 7 percent cap and employers pay the balance.
- Establishes a minimum total contribution rate beginning July 1, 2009, that is equal to 70 percent of the system's normal cost as calculated under the entry age normal cost method.
- Provides for an effective date of July 1, 2006.

AN ACT Relating to contribution rates in the Washington state patrol retirement system; amending RCW 41.45.0631; and providing an effective date.

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

Sec. 1. RCW 41.45.0631 and 2001 c 329 s 11 are each amended to read as follows:

(1) Beginning July 1, ((~~2001~~)) 2006, the required contribution rate for members of the Washington state patrol retirement system shall be ((~~two percent or equal to the employer rate adopted under RCW 41.45.060 and 41.45.070 for the Washington state patrol retirement system, whichever is greater~~)) 3.01 percent and the required basic employer contribution rate shall be 6.01 percent.

(2) Beginning July 1, 2007, the required Washington state patrol retirement system contribution rates shall be adopted under RCW 41.45.060 and 41.45.070, subject to the following funding policies:

(a) The member contribution rate shall be one-third of the total Washington state patrol retirement system contribution rate or seven percent, whichever is less, and the employer contribution rate shall be the balance of the total contribution rate. This allocation formula

shall be applied only after the total Washington state patrol contribution rate has been determined, and the determination shall include the application of any minimum total contribution rate that may be in effect for the Washington state patrol retirement system.

(b) Beginning July 1, 2009, a minimum total contribution rate is established for the Washington state patrol retirement system. The total Washington state patrol retirement system contribution rate as recommended by the pension funding council and adopted by the legislature may exceed, but shall not drop below, the established minimum total contribution rate. The minimum total contribution rate shall equal the total contribution rate required to fund seventy percent of the Washington state patrol retirement system's normal cost as calculated under the entry age normal cost method. Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of this minimum total contribution rate and recommend to the legislature any adjustments as may be needed.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**35**	**11/23/05**	**Z-0885.1**

SUMMARY OF BILL:

This bill impacts the Washington State Patrol (WSP) Retirement System by changing the contribution rate setting formula. This bill sets rates for the 2007 fiscal year at 3.01 percent for members and 6.01 percent for the employer. Beginning July 1, 2007, the member contribution rate is one-third of the total cost of the system or 7 percent, whichever is less, and the employer would then be responsible for the balance. The total contribution rate for the system is determined before the cost-sharing formula is applied. As part of the total contribution rate determination, a minimum total contribution rate is established beginning July 1, 2009. This floor is equal to 70 percent of the Washington State Patrol Retirement System's normal cost as calculated under the entry age normal cost method.

Effective Date: July 1, 2006

CURRENT SITUATION:

Currently, the member contribution rate in WSP is set at half the cost of the system or 2 percent, whichever is greater. The employer is then responsible for the remaining costs of the system. Because of the funded status of the system, member contribution rates were 2 percent in 2001-2005 and there were no employer contributions during that period. Beginning July 1, 2005, both the employer and employee contribution rates were increased to 4.51 percent of pay.

MEMBERS IMPACTED:

All 1,057 active members of this system would be affected by this bill.

For members impacted by this bill, there would be no increase in benefits, but there would be a decrease in member contributions.

ASSUMPTIONS:

The one-third member, two-thirds employer split would apply for all years beginning July 1, 2006. The member contribution rate is rounded to two decimal places after multiplying the total rate by one-third. This rate is then compared to the 7.00 percent maximum to get the final member rate. The state contribution rate would then be the difference between the total rate and the member rate. The minimum total contribution rate of 70 percent of the entry age normal cost rate is established beginning July 1, 2009. The previously described member and employer rate allocation formula is applied only after the calculation of the minimum total contribution rate. Here are some illustrative examples:

- The current total rate of 9.02 percent would be split, with 3.01 percent for the member and 6.01 percent for the employer, effective July 1, 2006.
- A total rate of 12 percent would result in a member contribution of 4.00 percent and the state contribution rate would be 8.00 percent.
- A total rate of 25 percent would result in a rounded member contribution of 8.33 percent, which would be limited to 7.00 percent. The state contribution rate would be 18.00 percent in this case.
- If the entry age normal cost rate were 20 percent, the minimum total contribution rate would be 14 percent, and the member and employer allocations would be 4.67 percent and 9.33 percent respectively.
- With a total rate of 12 percent under the aggregate method and a floor of 70 percent of a 20 percent entry age normal cost rate, or 14 percent, the floor would apply. The member contribution would be 4.67 percent and the state contribution rate would be 9.33 percent
- With a total rate of 25 percent under the aggregate method and a floor of 70 percent of a 20 percent entry age normal cost rate, or 14 percent, the floor would not apply. The member contribution would be 7.00 percent and the state contribution rate would be 18.00 percent.
- With a total rate of 20 percent under the aggregate method and a floor of 70 percent of a 32 percent entry age normal cost rate, or 22.4 percent, the floor would apply before applying the one-third, two-thirds split and the 7 percent member minimum rate. The member contribution would be 7.00 percent and the state contribution rate would be 15.40 percent.
- The projected contribution rates for the current six-year period under the current and proposed formulas are shown in the following table:

	Current Formula		**Proposed Formula**	
Year	**50.00% Member**	**50.00% Employer**	**33.33% Member**	**66.67% Employer**
2005-2006	4.51%	4.51%	4.51%	4.51%
2006-2007	4.51%	4.51%	3.01%	6.01%
2007-2008	6.54%	6.54%	4.36%	8.72%
2008-2009	6.54%	6.54%	4.36%	8.72%
2009-2010	7.73%	7.73%	5.15%	10.31%
2010-2011	7.73%	7.73%	5.15%	10.31%

We did not include any cost impact related to the establishment of a floor contribution rate. A floor, or minimum, contribution rate would not be expected to impact rates in the long run. The short term increase in rates in years in which the floor applied would be offset by lower rates in future years. A floor could actually result in a long-term savings to the extent that investment earnings from the extra contributions due to the floor are used to reduce future contribution requirements. We considered but did not include any cost impact for any issues related to market timing and when the extra contributions from the floor are invested.

The determination that a floor would result in no additional cost and possibly a savings is based on the assumption that any reserve or cushion that is built up from a floor is used to reduce future contribution requirements and not used to provide for benefit increases. If the extra contributions from a floor are used for benefit increases, then there would be a cost to having a floor.

FISCAL IMPACT:

Description:

This proposal would not change the liabilities of the current plan. On average, it would shift one-sixth of the total contributions from members to employers. It would also change the cost allocation of any future benefit improvements so that the members would only be paying for one-third instead of one-half and the employer would be responsible for two-thirds of the cost instead of one-half.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the system and the required actuarial contribution rate as shown below:

	System:	Washington State Patrol	
(Dollars in Millions)	**Current**	**Increase**	**Total**
Actuarial Present Value of Projected Benefits (The Value of the Total Commitment to All Current Members)	$739	$0	$739
Unfunded Actuarial Accrued Liability (The Portion of the Plan 1 Liability that is Amortized at 2024)	$0	$0	$0
Unfunded Liability (PBO) (The Value of the Total Commitment to All Current Members Attributable to Past Service)	($100)	$0	($100)
Increase in Contribution Rates: (Effective 7/1/2006)			
Employee	(1.50%)		
Employer State	1.50%		

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	WSP
2006-2007	
State:	
General Fund	$0.0
Non-General Fund	1.1
Total State:	**$1.1**
Local Government	$0.0
Total Employer	$1.1
Total Employee	($1.1)

Costs (in Millions):	**WSP**
2007-2009	
State:	
General Fund	$0.2
Non-General Fund	3.5
Total State:	**$3.7**
Local Government	$0.0
Total Employer	$3.7
Total Employee	($3.7)
2006-2031	
State:	
General Fund	$3.3
Non-General Fund	111.4
Total State:	**$114.7**
Local Government	$0.0
Total Employer	$114.7
Total Employee	($114.7)

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill, as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets, and assumptions as those used in preparing the September 30, 2004, actuarial valuation report of the Washington State Patrol Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the system will vary from those presented in the valuation report of this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill that were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

GLOSSARY OF ACTUARIAL TERMS:

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.)

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.

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.

Unfunded Actuarial Accrued Liability (UAAL): The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2, and 3 members until the year 2024.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Gain-Sharing Omnibus Bill Summary

(December 8, 2005)

Section 1	TRS 1 24¢ increase in annual increase amount
Section 2	TRS plan 2/3 choice
Section 3	Plan 3 member rate annual choice removed
Section 4	SERS plan 2/3 choice
Section 5	PERS 1 24¢ increase in annual increase amount
Section 6	RCW 41.45.061 clean-up
Section 7	RCW 41.45.070 amended so no supplemental rate related to this act.
Section 8	TRS 3 annual $12 employer contribution with escalator.
Section 9	TRS 3 to TRS 2 prospective transfer window
Section 10	SERS 3 $12 employer contribution with escalator.
Section 11	SERS 3 to SERS 2 prospective transfer window
Section 12	PERS 3 $12 employer contribution with escalator.
Section 13	PERS 3 to PERS 2 prospective transfer window
Section 14	Repealer section for sections of Plan 1 gain-sharing chapter
Section 15	Repealer section for sections of Plan 3 gain-sharing chapter
Section 16	RCW 41.45.054 decodified
Section 17	Temporary non-contractual rights section
Section 18	Effective date

Robert Wm Baker (360) 786-6144
Office of the State Actuary
December 9, 2005 (3:15 pm)

Omnibus

1 AN ACT Relating to public pensions that replaces gain-sharing
2 provisions with certain changes in benefits for the public employees'
3 retirement system, the teachers' retirement system, and the school
4 employees' retirement system; amending RCW 41.32.010, 41.32.835,
5 41.34.040, 41.35.610, 41.40.010, 41.45.061, and 41.45.070; adding new
6 sections to chapter 41.32 RCW; adding new sections to chapter 41.35
7 RCW; adding new sections to chapter 41.40 RCW; repealing RCW 41.31.010,
8 41.31.020, and 41.31.030; repealing RCW 41.31A.010, 41.31A.020,
9 41.31A.030, and 41.31A.040; decodifying 41.45.054; and providing an
10 effective date.

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

12 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read as
13 follows:
14 As used in this chapter, unless a different meaning is plainly
15 required by the context:
16 (1)(a) "Accumulated contributions" for plan 1 members, means the sum
17 of all regular annuity contributions and, except for the purpose of
18 withdrawal at the time of retirement, any amount paid under RCW

41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.

(iii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal

services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340,

28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation

for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an

accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September

1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means((~~, initially, fifty-nine~~)) <u>one dollar and fifty-seven</u> cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

Sec. 2. RCW 41.32.835 and 1995 c 239 s 105 are each amended to read as follows:

(1) All teachers who first become employed by an employer in an eligible position on or after ((~~July 1, 1996, shall be members of plan 3~~)) July 1, 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

Sec. 3. RCW 41.34.040 and 2003 c 156 s 1 are each amended to read as follows:

(1) A member shall contribute from his or her compensation according to one of the following rate structures in addition to the mandatory minimum five percent:

Option A	Contribution Rate
All Ages	0.0% fixed
Option B	

Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
Option C	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
Option D	
All Ages	2.0%
Option E	
All Ages	5.0%
Option F	
All Ages	10.0%

(2) The board shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the board shall conform to the requirements stated in subsections (3) and (5) of this section.

(3)(a) For members of the teachers' retirement system entering plan 3 under RCW 41.32.835 or members of the school employees' retirement system entering plan 3 under RCW 41.35.610, within ninety days of becoming a member he or she has an option to choose one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A.

(b) For members of the public employees' retirement system entering plan 3 under RCW 41.40.785, within the ninety days described in RCW 41.40.785 an employee who irrevocably chooses plan 3 shall select one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A.

(c) For members of the teachers' retirement system transferring to plan 3 under RCW 41.32.817, members of the school employees' retirement

system transferring to plan 3 under RCW 41.35.510, or members of the public employees' retirement system transferring to plan 3 under RCW 41.40.795, upon election to plan 3 he or she must choose one of the above contribution rate structures.

(d) Within ninety days of the date that an employee changes employers, he or she has an option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, he or she shall be assigned option A.

(4) ((~~Each year, members may change their contribution rate option by notifying their employer in writing during the month of January.~~ ~~(5)~~)) Contributions shall begin the first day of the pay cycle in which the rate option is made, or the first day of the pay cycle in which the end of the ninety-day period occurs.

Sec. 4. RCW 41.35.610 and 1998 c 341 s 202 are each amended to read as follows:

(1) All classified employees who first become employed by an employer in an eligible position on or after ((~~September 1, 2000, shall be members of plan 3~~)) July 1, 2007, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default under subsection (1) of this section, the member shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

Sec. 5. RCW 41.40.010 and 2004 c 242 s 53 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly

required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the

equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are

awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months

and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter

service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months

of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during

any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which

compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan 1" means the public employees' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(35) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(36) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor

statistics, United States department of labor.

(37) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(38) "Index B" means the index for the year prior to index A.

(39) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(40) "Adjustment ratio" means the value of index A divided by index B.

(41) "Annual increase" means((~~, initially, fifty-nine~~)) one dollar and fifty-seven cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination.

(43) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

Sec. 6. RCW 41.45.061 and 2004 c 242 s 40 are each amended to read as follows:

(1) The required contribution rate for members of the ((~~plan 2~~))teachers' retirement system plan 2 shall be ((~~fixed at the rates in effect on July 1, 1996, subject to the following:~~

~~(a) Beginning September 1, 1997, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan 2 and 3 rates adopted under RCW 41.45.060, *41.45.054, and 41.45.070 for the teachers' retirement system,~~

~~(b) In addition, the employee contribution rate for plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after July 1, 1996,~~

~~(c) In addition, the employee contribution rate for plan 2 shall not be increased as a result of any distributions pursuant to section 309, chapter 341, Laws of 1998 and RCW 41.31A.020~~))set at the same rate as the employer combined plan 2 and plan 3 rate.

(2) The required contribution rate for members of the school employees' retirement system plan 2 shall ((~~equal the school employees' retirement system employer plan 2 and 3 contribution rate adopted under RCW 41.45.060, *41.45.054, and 41.45.070, except as provided in subsection (3) of this section.~~

~~(3) The member contribution rate for the school employees' retirement system plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after September 1, 2000~~))be set at the same rate as the employer combined plan 2 and plan 3 rate.

((~~(4)~~))(3) The required contribution rate for members of the public employees' retirement system plan 2 shall be set at the same rate as the employer combined plan 2 and plan 3 rate.

((~~(5)~~))(4) The required contribution rate for members of the law enforcement officers' and fire fighters' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

(5) The required contribution rates for members of the teachers' retirement system plan 2 shall not include any increase as a result of any distributions under section 8 of this act.

(6) The ((~~employee~~))required contribution rates for members of the school employees' retirement system plan 2 ((~~under subsections (3) and (4) of this section~~))shall not include any increase as a result of any distributions ((~~pursuant to RCW 41.31A.020 and 41.31A.030~~))under section 10 of this act.

(7) The required contribution rates for members of the public employees' retirement system plan 2 shall not include any increase as a result of any distributions under section 12 of this act.

((~~(7)~~))(8) The required plan 2 and 3 contribution rates for employers shall be adopted in the manner described in RCW 41.45.060, ((~~41.45.054,~~)) and 41.45.070.

((~~(8)~~))(9) The required contribution rate for members of the public safety employees' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

Sec. 7. RCW 41.45.070 and 2004 c 242 s 41 are each amended to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or *41.45.054, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, public safety employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsections (6) and (7) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic member, employer, and state contribution rate established in RCW 41.45.0604 for the law enforcement officers' and fire fighters' retirement system plan 2, the department shall also establish supplemental rates to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system plan 2. Except as provided in subsection (6) of this section, these supplemental rates shall be calculated by the actuary retained by the law enforcement officers' and fire fighters' board and the state actuary through the process provided in RCW 41.26.720(1)(a) and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan 2 and plan 3, the teachers' retirement system plan 2 and plan 3, the public safety employees'

retirement system plan 2, or the school employees' retirement system plan 2 and plan 3 shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

<u>(8) A supplemental rate shall not be charged to pay for the cost of this act prior to July 1, 2007.</u>

<u>NEW SECTION.</u> **Sec. 8.** A new section is added to the plan 3 provisions of Chapter 41.32 to read as follows:

(1) On January 1, 2008, and on January 1st of each year thereafter, the member account of a person meeting the requirements of this section shall be credited with twelve dollars, which shall be increased by three percent per year rounded to the nearest cent, multiplied by the member's service credit total on August 31st of the previous year.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the teachers' retirement system plan 3 who earned service credit during the twelve-month period from September 1st to

August 31st immediately preceding the distribution and had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to RCW 41.32.875; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8) and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

(e) Any person who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(f) Any teacher who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817.

NEW SECTION. **Sec. 9.** A new section is added to chapter 41.32 RCW to read as follows:

Beginning July 1, 2007 and through December 31, 2007, a member of plan 3 may make a one time irrevocable election, filed in writing with the department, to leave any service credit earned as a member of plan 3 in plan 3 and join plan 2. A member who makes such an election shall become a dual plan member and may combine service in each plan for the purpose of determining benefit eligibility. The benefits of such members shall be administered in the same manner as benefits administered under the portability provisions of chapter 41.54 RCW,

with such members being treated as if they were members of different systems for portability purposes. The department shall promulgate rules to ensure the portability of such members' plan 2 and plan 3 benefits.

NEW SECTION. **Sec. 10.** A new section is added to the plan 3 provisions of Chapter 41.35 to read as follows:

(1) On January 1, 2008, and on January 1st of each year thereafter, the member account of a person meeting the requirements of this section shall be credited with twelve dollars, which shall be increased by three percent per year rounded to the nearest cent, multiplied by the member's service credit total on August 31st of the previous year.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the Washington school employees' retirement system plan 3 who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to RCW 41.35.680; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8) and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(d) Any classified employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510; or

(e) Any person who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(f) Any classified employee who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510.

NEW SECTION. **Sec. 11.** A new section is added to chapter 41.35 RCW to read as follows:

Beginning July 1, 2007 and through December 31, 2007, a member of plan 3 may make a one time irrevocable election, filed in writing with the department, to leave any service credit earned as a member of plan 3 in plan 3 and join plan 2. A member who makes such an election shall become a dual plan member and may combine service in each plan for the purpose of determining benefit eligibility. The benefits of such members shall be administered in the same manner as benefits administered under the provisions of chapter 41.54 RCW, with such members being treated as if they were members of different systems for portability purposes. The department shall promulgate rules to ensure the portability of such members' plan 2 and plan 3 benefits

NEW SECTION. **Sec. 12.** A new section is added to the plan 3 provisions of Chapter 41.40 RCW to read as follows:

(1) On January 1, 2008, and on January 1st of each year thereafter, the member account of a person meeting the requirements of this section shall be credited with twelve dollars, which shall be increased by three percent per year rounded to the nearest cent, multiplied by the member's service credit total on August 31st of the previous year.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the public employees' retirement system plan 3 who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to 41.40.820; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8) and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(d) Any public employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by March 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

(e) Any person who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(f) Any public employee who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by March 1, 2002, and who transferred to plan 3 under RCW 41.40.795.

NEW SECTION. **Sec. 13.** A new section is added to chapter 41.40 RCW to read as follows:

Beginning July 1, 2007 and through December 31, 2007, a member of plan 3 may make a one time irrevocable election, filed in writing with the department, to leave any service credit earned as a member of plan 3 in plan 3 and join plan 2. A member who makes such an election shall become a dual plan member and may combine service in each plan for the purpose of determining benefit eligibility. The benefits of such members shall be administered in the same manner as benefits

1 administered under the portability provisions of chapter 41.54 RCW,
2 with such members being treated as if they were members of different
3 systems for portability purposes. The department shall promulgate
4 rules to ensure the portability of such members' plan 2 and plan 3
5 benefits.

6 NEW SECTION. **Sec. 14.** The following acts or parts of acts are each
7 repealed:
8 (1) RCW 41.31.010 and 1998 c 340 s 1;
9 (2) RCW 41.31.020 and 1998 c 340 s 2; and
10 (3) RCW 41.31.030 and 1998 c 340 s 3.

11 NEW SECTION. **Sec. 15.** The following acts or parts of acts are each
12 repealed:
13 (1) RCW 41.31A.010 and 2000 c 247 § 407.
14 (2) RCW 41.31A.020 and 2003 c 294 § 4.
15 (3) RCW 41.31A.030 and 1998 c 341 § 313.
16 (4) RCW 41.31A.040 and 2000 c 247 § 409.

17 NEW SECTION. **Sec. 16.** RCW 41.45.054 is decodified, effective July
18 1, 2007.

19 NEW SECTION. **Sec. 17.** The benefits provided under this act are not
20 provided to employees as a matter of contractual right prior to July 1,
21 2007. The legislature retains the right to alter or abolish these
22 benefits at any time prior to July 1, 2007.

23 NEW SECTION. **Sec. 18.** This act takes effect July 1, 2007.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/12/05**	**Omnibus gain-sharing bill**

SUMMARY OF BILL:

This bill impacts the Public Employees' Retirement System Plan 1 and Plan 3, the Teachers' Retirement System Plan 1 and Plan 3, and the School Employees' Retirement System Plan 3 by:

- Repealing Plan 1 and Plan 3 gain-sharing.
- Providing a one-time permanent $0.24 increase in the Plan 1 Uniform COLA.
- Providing a one-time Plan 3 to Plan 2 prospective transfer window for all current Plan 3 members.
- Establishing Plan 2/3 choice for TRS and SERS new hires.
- Repealing annual rate flexibility for PERS, TRS, and SERS Plans 3.
- Establishing an annual Plan 3 employer defined contribution of $12 per year of service (increased by 3% per year) for existing Plan 3 members only (and after transfer window).

Effective Date: July 1, 2007

CURRENT SITUATION:

Currently, gain-sharing applies to the Plans 1 and 3 of PERS, TRS, and SERS. Gain-sharing is a mechanism that increases benefits. The increases are not automatic, but are contingent on the occurrence of "extraordinary investment gains." Extraordinary gains occur when the compound average of investment returns on pension fund assets exceeds 10% for the previous four state fiscal years. When this occurs, a calculation is performed to determine a dollar amount that will be distributed to eligible members. Gain-sharing calculations are currently made once each biennium with potential distributions occurring in January of even-numbered years. There have been two gain-sharing distributions since the inception of gain-sharing: one in 1998 and one in 2000.

When gain-sharing occurs, one-half of the gain for PERS 1 and TRS 1 is used to fund a permanent increase in the PERS 1 and TRS 1 Uniform COLA for current and future retirees. The gain is used to boost the Annual Increase Amount. The Annual Increase Amount, which increases each year by at least 3 percent, is multiplied by each retirees' total years of service to determine the annual uniform increase retirees receive when they are COLA eligible. Thirty-eight cents of the current annual increase amount is the result of gain-sharing. The Annual Increase Amount is scheduled to increase to $1.29 on July 1, 2006 and to $1.33 on July 1, 2007.

In the Plans 3, active, retired and terminated vested members receive gain-sharing distributions as a lump sum dollar amount that is deposited directly into their defined contribution accounts based on years of service credit.

Currently, of the three systems, PERS is the only one that has Plan 2/3 choice at hire. New PERS employees have a period of ninety days to make an irrevocable choice to become a member of Plan 2 or Plan 3. At the end of ninety days, if the member has not made a choice to become a member of Plan 2, he or she automatically becomes a member of Plan 3. In TRS and SERS, new employees automatically become members of Plan 3, and the Plans 2 are closed to new hires.

Current law provides that members of the Plans 3 may change their contribution rate option by notifying their employer in writing during the month of January. In practice, this provision is only available to TRS 3 members, as the IRS did not approve contribution rate flexibility for PERS and SERS when the plans were qualified this last year. Removal of the annual contribution choice provisions in PERS and SERS has become a matter of IRS compliance.

MEMBERS IMPACTED:

The 24 cent COLA and the repeal of Plan 1 gain-sharing will impact all 75,390 members of PERS 1 and all 45,961 members of TRS 1.

For a typical Plan 1 member impacted by this bill, the uncertain and irregular adjustment to the Annual Increase Amount provided by gain-sharing is exchanged for a definitely determinable increase. Instead of providing adjustments to the Annual Increase Amount with gain-sharing, the Annual Increase Amount would be permanently increased by 24 cents. A retiree with 25 years of service would get an initial increase of $6 per month. This $6 increase will become a permanent part of the Uniform COLA Annual Increase Amount, growing by 3% per year thereafter.

The repeal and modification of Plan 3 gain-sharing for PERS, TRS and SERS could potentially impact all current and future members of PERS 3, TRS 3, and SERS 3, including all of the active Plan 3 members except those that would not meet the requirement of having a minimum $1,000 balance in the member account, all of the Plan 3 annuitants, all of the Plan 3 terminated vested members meeting the minimum balance requirement, and any Plan 3 terminated non-vested members who are rehired.

(As of September 30, 2004)	**PERS 3**	**TRS 3**	**SERS 3**
Active	19,855	49,302	29,430
Annuitants	222	541	481
Terminated and Vested	1,284	2,761	2,035
Total	21,361	52,604	31,946

The $12 Plan 3 contribution will impact the same Plan 3 members impacted by the repeal of gain-sharing, to receive the contribution at any time in the future, a Plan 3 member would need to meet the eligibility requirements on the effective date of the act and the eligibility requirements on the effective date of a future distribution.

The Plan 3 contribution multiplier would increase at 3% per year and the contribution amount would increase for each additional year of service. The amount would continue to be deposited to the eligible member's defined contribution (DC) account for life, or until termination of employment if the member is non-vested. Below is a summary of costs for an average member and sample benefits for an active member with ten years of service in each system:

(As of September 30, 2004)	**PERS 3**	**TRS 3**	**SERS 3**
Contribution per year of service	$12	$12	$12
Average present value of benefits (all members)	$2,900	$3,600	$2,700
Total contribution to DC account, 1st year*	$120	$120	$120
Total contribution to DC account, 2nd year*	$136	$136	$136
Total contribution to DC account, 20th year*	$610	$610	$610

**Active member, assuming member remains continuously active on a full-time basis.*

Regarding the Plan 2/3 prospective choice, this will impact TRS and SERS members hired on or after July 1, 2007. We estimate that from October 1, 2007 to September 30, 2008, there will be a total of 4,568 new TRS members and 5,452 new SERS members. The number of new members is expected to increase each year. We estimate that 50% of these new members would elect to join Plan 2 and 50% would elect Plan 3.

All active members of the Plans 3 could be impacted by the provision that would allow a window of opportunity to join Plan 2 for prospective service. For members electing to transfer, the prior service would remain in Plan 3, and future service would be credited in Plan 2. Some of these impacted members are currently in Plan 3 by way of transfer. Some TRS 3 and SERS 3 actives are in Plan 3 solely because Plan 2 membership was closed when they entered service. There are also some PERS 3 actives who entered after the creation of Plan 3 by electing to join Plan 3 (or failing to join Plan 2 within 90 days of hire). We estimate that about 50% of Plan 3 members would elect to transfer. Below is a breakdown of this membership status:

Plan 3 Active Membership Status *(As of September 30, 2004)*	**PERS 3**	**TRS 3**	**SERS 3**
Transferred from Plan 2	12,203	21,821	15,307
Hired after Plan 3 inception date*	7,652	27,481	14,123
Total Active Membership	19,855	49,302	29,430

**PERS new entrants have a choice between Plan 2 and Plan 3. TRS and SERS new entrants must join Plan 3.*

The removal of the Plan 3 provision that allows members to change their employee contribution rate by notifying their employer in writing during the month of January would affect 19,855 active PERS 3 members, 49,302 active TRS 3 members, and 29,430 active SERS 3 members. This change would impact the defined contribution portion of the plan and would have no impact on benefits under the defined benefit plan. Transferring from Plan 3 to Plan 2 might have an impact on eligibility for retiree medical benefits, but this would not have an impact on contribution rates for the defined benefit pension plan.

ASSUMPTIONS:

We assumed that employer contribution rates would decrease after the proposed repeal of gain-sharing because rates under current policy and generally adopted by the PFC, subject to legislative approval, include the cost of future gain-sharing benefits. The cost impact was developed using the same logic as used for the 2003 valuation (rates were determined assuming a delayed effective date from the valuation date to 2007).

For pricing the cost of prospective choice, we determined the Entry Age Normal Cost rate (EANC) for Plan 2 as if every active Plan 2 and Plan 3 member were in Plan 2, and we determined the EANC for Plan 3 as if every active Plan 2 and Plan 3 member were in Plan 3. We calculated the excess of the employer portion of the EANC for Plan 2 over the EANC for Plan 3 and then took 50% of the difference to reflect our assumption that 50% of new members in TRS and SERS would elect to join Plan 2 and 50% would elect Plan 3. Since the choice would only apply to new members, we assumed no rate increase for choice for the current members, and applied the rate increase for choice to the projected payroll for the new members only.

We considered making an adjustment for the cost of prospective choice based on the age of members who would elect Plan 2 compared to the age of members who would elect Plan 3, however, after reviewing the choices made by new members in PERS over an 18-month period, there was no significant difference in choice based on age.

In pricing the opportunity for Plan 3 members to Plan 2, for prospective service we assumed that approximately 50% of the current actives would elect to do so. In addition, we assumed that the members who would choose this option would be the older half of the actives, since Plan 2 provisions generally benefit older members more than do Plan 3 provisions.

For the $12 Plan 3 contribution, we projected the total years of credited service for eligible Plan 3 members, active and inactive, under current assumptions, multiplied the service by the indexed benefit, and took the present value at 8%.

FISCAL IMPACT:

Description:

The decrease in contribution rates from the proposed repeal of future gain-sharing is partially offset by the increase due to the proposed benefit improvements.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing (decreasing) the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current*	Increase	Total
Actuarial Present Value of Projected Benefits	**PERS**	$28,718	$(286)	$28,432
(The Value of the Total Commitment to all Current Members)	**TRS**	$16,407	$(283)	$16,124
	SERS	$2,296	$(57)	$2,239
Unfunded Actuarial Accrued Liability	**PERS 1**	$3,052	$(229)	$2,823
(The Portion of the Plan 1 Liability that is Amortized at 2024)	**TRS 1**	$1,816	$(179)	$1,637
Unfunded Liability (PBO)	**PERS**	$(162)	$(228)	$(390)
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	**TRS**	$309	$(233)	$76
	SERS	$(360)	$(32)	$(392)

**Includes the value of future gain-sharing benefits.*

Increase in Contribution Rates: (Effective 07/01/07 for PERS; 09/01/07 for TRS and SERS)	PERS	TRS	SERS
Current Members			
Employee (Plan 2)			
Repeal Gain-Sharing	0.00%	0.00%	0.00%
Plan 2/3 Prospective Choice	0.00%	0.00%	0.00%
Transfer to Plan 2 for Prospective Service	0.01%	0.18%	0.16%
Plan 3 Contribution	0.00%	0.00%	0.00%
Total Benefit Improvements	0.01%	0.18%	0.16%
Net Employee (Plan 2)	0.01%	0.18%	0.16%
Employer State			
Repeal Plan 1 Gain-Sharing	(0.46%)	(0.94%)	(0.46%)
$0.24 Plan 1 Uniform COLA Increase	0.23%	0.47%	0.23%
Net Plan 1 Employer State	(0.23%)	(0.47%)	(0.23%)
Repeal Plan 2/3 Gain-Sharing	(0.25)%	(1.24)%	(2.09)%
Plan 2/3 Prospective Choice	0.00%	0.00%	0.00%
Transfer to Plan 2 for Prospective Service	0.01%	0.18%	0.16%
Plan 3 Contribution	0.10%	0.54%	0.82%
Total Plan 2/3 Benefit Improvements	0.11%	0.72%	0.98%
Net Plan 2/3 Employer State	(0.14)%	(0.52)%	(1.11)%
Total Employer State - Current Members	(0.37)%	(0.99)%	(1.34)%

Increase in Contribution Rates:
(Effective 07/01/07 for PERS; 09/01/07 for TRS and SERS)

	PERS	TRS	SERS
New Entrants*			
Employee (Plan 2)			
Repeal Plan 3 Gain-Sharing	0.00%	0.00%	0.00%
Plan 2/3 Prospective Choice	0.00%	0.13%	0.15%
Transfer to Plan 2 for Prospective Service	0.00%	0.00%	0.00%
Plan 3 Contribution	0.00%	0.00%	0.00%
Total Benefit Improvements	0.00%	0.13%	0.15%
Net Employee (Plan 2)	0.00%	0.13%	0.15%
Employer State			
Repeal Plan 3 Gain-Sharing	(0.34)%	(1.05)%	(2.50)%
Plan 2/3 Prospective Choice	0.00%	0.13%	0.15%
Transfer to Plan 2 for Prospective Service	0.00%	0.00%	0.00%
Plan 3 Contribution	0.00%	0.00%	0.00%
Total Plan 2/3Benefit Improvements	0.00%	0.13%	0.15%
Net Employer State - New Entrants	(0.34)%	(0.92)%	(2.35)%

**Rate change applied to future new entrant payroll and used for fiscal budget determinations only. A single supplemental rate increase, equal to the increase for current members, would apply initially for all members or employers.*

Fiscal Budget Determinations (repeal gain-sharing - all plans):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($24.3)	($127.5)	($34.0)	($185.8)
Non-General Fund	($42.6)	$0.0	$0.0	($42.6)
Total State	**($66.9)**	**($127.5)**	**($34.0)**	**($228.4)**
Local Government	($59.9)	($63.6)	($51.1)	($174.6)
Total Employer	($126.8)	($191.1)	($85.1)	($403.0)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($445.1)	($2,251.3)	($838.5)	($3,534.9)
Non-General Fund	($802.1)	$0.0	$0.0	($802.1)
Total State	**($1,247.2)**	**($2,251.3)**	**($838.5)**	**($4,337.0)**
Local Government	($1,120.2)	($1,124.3)	($1,258.2)	($3,502.7)
Total Employer	($2,367.4)	($3,375.6)	($2,096.7)	($7,839.7)
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (benefit improvements - all plans):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$10.4	$63.0	$12.1	$85.5
Non-General Fund	$17.8	$0.0	$0.0	$17.8
Total State	**$28.2**	**$63.0**	**$12.1**	**$103.3**
Local Government	$25.2	$31.5	$18.0	$74.7
Total Employer	$53.4	$94.5	$30.1	$178.0
Total Employee	$1.0	$3.0	$2.1	$6.1
2006-2031				
State:				
General Fund	$126.6	$793.2	$135.8	$1,055.6
Non-General Fund	$214.6	$0.0	$0.0	$214.6
Total State	**$341.2**	**$793.2**	**$135.8**	**$1,270.2**
Local Government	$303.3	$396.2	$204.0	$903.5
Total Employer	$644.5	$1,189.4	$339.8	$2,173.7
Total Employee	$7.7	$98.1	$56.6	$162.4

Fiscal Budget Determinations (all changes - all Plans):

As a result of the higher (lower) required contribution rate, the increase (decrease) in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($13.9)	($64.5)	($21.9)	($100.3)
Non-General Fund	($24.8)	$0.0	$0.0	($24.8)
Total State	**($38.7)**	**($64.5)**	**($21.9)**	**($125.1)**
Local Government	($34.7)	($32.1)	($33.1)	($99.9)
Total Employer	($73.4)	($96.6)	($55.0)	($225.0)
Total Employee	$1.0	$3.0	$2.1	$6.1
2006-2031				
State:				
General Fund	($318.5)	($1,458.1)	($702.7)	($2,479.3)
Non-General Fund	($587.5)	$0.0	$0.0	($587.5)
Total State	**($906.0)**	**($1,458.1)**	**($702.7)**	**($3,066.8)**
Local Government	($816.9)	($728.1)	($1,054.2)	($2,599.2)
Total Employer	($1,722.9)	($2,186.2)	($1,756.9)	($5,666.0)
Total Employee	$7.7	$98.1	$56.6	$162.4

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. All benefit improvement costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2004 actuarial valuation report of the Teachers' Retirement System, School Employees' Retirement System, and Public Employees' Retirement System. Gain-sharing costs were based on the methods used in the 2003 valuation, adjusted for the delay in the recognition of the cost of gain-sharing.

2. As with the costs developed in the actuarial valuation, the emerging costs of the Systems will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members. Benefit improvement rate increases are based on rates that exclude the cost of gain-sharing.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

Supplement to Gain-Sharing Omnibus Bill Fiscal Note

(December 12, 2005)

Fiscal Budget Determinations (repeal Plan 1 gain sharing only):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($16.1)	($56.1)	($6.0)	($78.2)
Non-General Fund	($26.6)	$0.0	$0.0	($26.6)
Total State	**($42.7)**	**($56.1)**	**($6.0)**	**($104.8)**
Local Government	($37.9)	($28.0)	($9.0)	($74.9)
Total Employer	($80.6)	($84.1)	($15.0)	($179.7)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($217.4)	($733.1)	($80.9)	($1,031.4)
Non-General Fund	($359.0)	$0.0	$0.0	($359.0)
Total State	**($576.4)**	**($733.1)**	**($80.9)**	**($1,390.4)**
Local Government	($511.2)	($366.2)	($121.3)	($998.7)
Total Employer	($1,087.6)	($1,099.3)	($202.2)	($2,389.1)
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Plan 1 $0.24 uniform COLA increase):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$8.1	$28.0	$3.0	$39.1
Non-General Fund	$13.3	$0.0	$0.0	$13.3
Total State	**$21.4**	**$28.0**	**$3.0**	**$52.4**
Local Government	$19.0	$14.0	$4.5	$37.5
Total Employer	$40.4	$42.0	$7.5	$89.9
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$108.7	$366.8	$40.3	$515.8
Non-General Fund	$179.6	$0.0	$0.0	$179.6
Total State	**$288.3**	**$366.8**	**$40.3**	**$695.4**
Local Government	$255.6	$183.2	$60.5	$499.3
Total Employer	$543.9	$550.0	$100.8	$1,194.7
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Plan 1 all changes):

As a result of the higher (lower) required contribution rates, the increase (decrease) in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($8.0)	($28.1)	($3.0)	($39.1)
Non-General Fund	($13.3)	$0.0	$0.0	($13.3)
Total State	**($21.3)**	**($28.1)**	**($3.0)**	**($52.4)**
Local Government	($18.9)	($14.0)	($4.5)	($37.4)
Total Employer	($40.2)	($42.1)	($7.5)	($89.8)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($108.7)	($366.3)	($40.6)	($515.6)
Non-General Fund	($179.4)	$0.0	$0.0	($179.4)
Total State	**($288.1)**	**($366.3)**	**($40.6)**	**($695.0)**
Local Government	($255.6)	($183.0)	($60.8)	($499.4)
Total Employer	($543.7)	($549.3)	($101.4)	($1,194.4)
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Repeal Plan 3 gain sharing only):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($8.2)	($71.4)	($28.0)	($107.6)
Non-General Fund	($16.0)	$0.0	$0.0	($16.0)
Total State	**($24.2)**	**($71.4)**	**($28.0)**	**($123.6)**
Local Government	($22.0)	($35.6)	($42.1)	($99.7)
Total Employer	($46.2)	($107.0)	($70.1)	($223.3)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($227.7)	($1,518.2)	($757.6)	($2,503.5)
Non-General Fund	($443.1)	$0.0	$0.0	($443.1)
Total State	**($670.8)**	**($1,518.2)**	**($757.6)**	**($2,946.6)**
Local Government	($609.0)	($758.1)	($1,136.9)	($2,504.0)
Total Employer	($1,279.8)	($2,276.3)	($1,894.5)	($5,450.6)
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Plan 3 transfer prospectively to Plan 2):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$0.2	$8.3	$1.4	$9.9
Non-General Fund	$0.4	$0.0	$0.0	$0.4
Total State	**$0.6**	**$8.3**	**$1.4**	**$10.3**
Local Government	$0.6	$4.2	$2.0	$6.8
Total Employer	$1.2	$12.5	$3.4	$17.1
Total Employee	$1.0	$1.6	$1.4	$4.0
2006-2031				
State:				
General Fund	$1.6	$75.9	$9.4	$86.9
Non-General Fund	$3.4	$0.0	$0.0	$3.4
Total State	**$5.0**	**$75.9**	**$9.4**	**$90.3**
Local Government	$4.4	$37.8	$13.9	$56.1
Total Employer	$9.4	$113.7	$23.3	$146.4
Total Employee	$7.7	$9.6	$9.0	$26.3

Fiscal Budget Determinations (Plan 2/3 prospective choice):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$0.0	$1.8	$0.6	$2.4
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$1.8**	**$0.6**	**$2.4**
Local Government	$0.0	$0.9	$0.9	$1.8
Total Employer	$0.0	$2.7	$1.5	$4.2
Total Employee	$0.0	$1.4	$0.7	$2.1
2006-2031				
State:				
General Fund	$0.0	$123.5	$38.1	$161.6
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$123.5**	**$38.1**	**$161.6**
Local Government	$0.0	$61.7	$57.2	$118.9
Total Employer	$0.0	$185.2	$95.3	$280.5
Total Employee	$0.0	$88.5	$47.6	$136.1

Fiscal Budget Determinations (Plan 3 employer defined contributions):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$2.1	$24.9	$7.1	$34.1
Non-General Fund	$4.1	$0.0	$0.0	$4.1
Total State	**$6.2**	**$24.9**	**$7.1**	**$38.2**
Local Government	$5.6	$12.4	$10.6	$28.6
Total Employer	$11.8	$37.3	$17.7	$66.8
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$16.3	$227.0	$48.0	$291.3
Non-General Fund	$31.6	$0.0	$0.0	$31.6
Total State	**$47.9**	**$227.0**	**$48.0**	**$322.9**
Local Government	$43.3	$113.5	$72.4	$229.2
Total Employer	$91.2	$340.5	$120.4	$552.1
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Plan 2/3 all benefit improvements):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$2.3	$35.0	$9.1	$46.4
Non-General Fund	$4.5	$0.0	$0.0	$4.5
Total State	**$6.8**	**$35.0**	**$9.1**	**$50.9**
Local Government	$6.2	$17.5	$13.5	$37.2
Total Employer	$13.0	$52.5	$22.6	$88.1
Total Employee	$1.0	$3.0	$2.1	$6.1
2006-2031				
State:				
General Fund	$17.9	$426.4	$95.5	$539.8
Non-General Fund	$35.0	$0.0	$0.0	$35.0
Total State	**$52.9**	**$426.4**	**$95.5**	**$574.8**
Local Government	$47.7	$213.0	$143.5	$404.2
Total Employer	$100.6	$639.4	$239.0	$979.0
Total Employee	$7.7	$98.1	$56.6	$162.4

Fiscal Budget Determinations (Plan 2/3 all changes):

As a result of the higher (lower) required contribution rates, the increase (decrease) in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($5.9)	($36.4)	($18.9)	($61.2)
Non-General Fund	($11.5)	$0.0	$0.0	($11.5)
Total State	**($17.4)**	**($36.4)**	**($18.9)**	**($72.7)**
Local Government	($15.8)	($18.1)	($28.6)	($62.5)
Total Employer	($33.2)	($54.5)	($47.5)	($135.2)
Total Employee	$1.0	$3.0	$2.1	$6.1
2006-2031				
State:				
General Fund	($209.8)	($1,091.8)	($662.1)	($1,963.7)
Non-General Fund	($408.1)	$0.0	$0.0	($408.1)
Total State	**($617.9)**	**($1,091.8)**	**($662.1)**	**($2,371.8)**
Local Government	($561.3)	($545.1)	($993.4)	($2,099.8)
Total Employer	($1,179.2)	($1,636.9)	($1,655.5)	($4,471.6)
Total Employee	$7.7	$98.1	$56.6	$162.4

$1,000 Minimum

1 AN ACT Relating to a one thousand dollar minimum monthly benefit
2 for plan 1 members of the public employees' retirement system and plan
3 1 members of the teachers' retirement system; amending RCW 41.32.4851
4 and 41.40.1984; and providing an effective date.

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

6 **Sec. 1.** RCW 41.32.4851 and 2004 c 85 s 1 are each amended to read
7 as follows:
8 (1) No one who becomes a beneficiary after June 30, 1995, shall
9 receive a monthly retirement allowance of less than twenty-four dollars
10 and twenty-two cents times the number of years of service creditable to
11 the person whose service is the basis of such retirement allowance.
12 (2) If the retirement allowance payable was adjusted at the time
13 benefit payments to the beneficiary commenced, the minimum allowance
14 provided in this section shall be adjusted in a manner consistent with
15 that adjustment.
16 (3) Beginning July 1, 1996, the minimum benefit set forth in
17 subsection (1) of this section shall be adjusted annually by the annual
18 increase.

(4) Those receiving a temporary disability benefit under RCW 41.32.540 shall not be eligible for the benefit provided by this section.

(5) Beginning July 1, 2004, the minimum benefit set forth in subsection (1) of this section, prior to adjustments set forth in subsection (2) of this section, for a beneficiary with at least twenty-five years of service and who has been retired at least twenty years shall be one thousand dollars per month. ((~~The minimum benefit in this subsection shall not be adjusted by the annual increase provided in subsection (3) of this section.~~)) On July 1, 2006, and each year thereafter, the minimum benefit in this subsection shall be increased by three percent, rounded to the nearest cent.

(6) Beginning July 1, 2006, the minimum benefit set forth in subsection (1) of this section, prior to adjustments set forth in subsection (2) of this section, for a beneficiary with at least twenty years of service and who has been retired at least twenty-five years shall be one thousand dollars per month. On July 1, 2006, and each year thereafter, the minimum benefit in this subsection shall be increased by three percent, rounded to the nearest cent.

Sec. 2. RCW 41.40.1984 and 2004 c 85 s 2 are each amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, no one who becomes a beneficiary after June 30, 1995, shall receive a monthly retirement allowance of less than twenty-four dollars and twenty-two cents times the number of years of service creditable to the person whose service is the basis of such retirement allowance.

(2) Where the retirement allowance payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum allowance provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Beginning July 1, 1996, the minimum benefit set forth in subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a benefit under RCW 41.40.220(1) or under RCW 41.44.170 (3) and (5) shall not be eligible for the benefit provided by this section.

(5) For persons who served as elected officials and whose accumulated employee contributions and credited interest was less than seven hundred fifty dollars at the time of retirement, the minimum benefit under subsection (1) of this section shall be ten dollars per month per each year of creditable service.

(6) Beginning July 1, 2004, the minimum benefit set forth in subsection (1) of this section, prior to adjustments set forth in subsection (2) of this section, for a beneficiary with at least twenty-five years of service and who has been retired at least twenty years shall be one thousand dollars per month. ((~~The minimum benefit in this subsection shall not be adjusted by the annual increase provided in subsection (3) of this section.~~)) On July 1, 2006, and each year thereafter, the minimum benefit in this subsection shall be increased by three percent, rounded to the nearest cent.

(7) Beginning July 1, 2006, the minimum benefit set forth in subsection (1) of this section, prior to adjustments set forth in subsection (2) of this section, for a beneficiary with at least twenty years of service and who has been retired at least twenty-five years shall be one thousand dollars per month. On July 1, 2006, and each year thereafter, the minimum benefit in this subsection shall be increased by three percent, rounded to the nearest cent.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/12/05**	**Z-0959.2**

SUMMARY OF BILL

This legislation impacts the Public Employees' Retirement System Plan 1 (PERS 1) and the Teachers' Retirement System Plan 1 (TRS 1) by:

- Establishing a $1,000 alternative minimum benefit for members with 20 years of service who have been retired 25 years.
- Establishing a 3% annual escalator for both $1,000 alternative minimum benefit provisions.

Effective Date: July 1, 2006

CURRENT SITUATION:

The current $1,000 alternative minimum benefit was established in 2004. PERS 1 and TRS 1 members with 25 years of service who have been retired 20 years are eligible for this benefit. The benefit has no automatic escalator and, as a result, will effectively cease in 2010 when the original minimum benefit, which increases each year by the Annual Increase Amount, will produce a benefit greater than $1,000 for a retired member with 25 years of service.

MEMBERS IMPACTED:

The new eligibility requirements for the $1,000 minimum will impact 561 out 54,465 PERS 1 retirees , and 497 out of 34,624 TRS 1 retirees. Indexing the $1,000 will impact an additional 391 PERS 1 members and 338 TRS 1 members.

A typical member newly eligible for the alternative minimum under this bill will see their monthly benefit in 2006 increase from $821 to $1,030 before voluntary reductions. Due to the new indexing provision, members currently receiving the alternative minimum in 2006 will see their monthly benefit increase from $1,000 to $1,030 before voluntary reductions. Thereafter, the alternative minimum will continue to increase by 3% a year for all members receiving the benefit.

FISCAL IMPACT:

Description:

The benefit improvements in this bill will increase the required employer contribution rate for the PERS and TRS Plan 1 UAAL. Current funding policy requires SERS employers to pay the PERS Plan 1 UAAL contribution rate, therefore, this bill will have a fiscal impact on SERS employers.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits	**PERS 1**	$12,818	$11	$12,829
(The Value of the Total Commitment to all Current Members)	**TRS 1**	$10,360	$3	$10,363
Unfunded Actuarial Accrued Liability	**PERS 1**	$2,563	$11	$2,574
(The Portion of the Plan 1 Liability that is Amortized at 2024)	**TRS 1**	$1,415	$3	$1,418
Unfunded Liability (PBO)	**PERS 1**	$2,254	$11	$2,265
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	**TRS 1**	$1,192	$3	$1,195

Increase in Contribution Rates: (Effective 09/01/06 unless indicated otherwise)	**PERS/ SERS**	**TRS**
Employee	0.00%	0.00%
Employer State	0.01%	0.01%

Fiscal Budget Determinations:

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.1	$0.3	$0.1	$0.5
Non-General Fund	$0.2	$0.0	$0.0	$0.2
Total State	**$0.3**	**$0.3**	**$0.1**	**$0.7**
Local Government	$0.3	$0.1	$0.1	$0.5
Total Employer	$0.6	$0.4	$0.2	$1.2
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$0.4	$0.6	$0.2	$1.2
Non-General Fund	$0.6	$0.0	$0.0	$0.6
Total State	**$1.0**	**$0.6**	**$0.2**	**$1.8**
Local Government	$0.8	$0.3	$0.2	$1.3
Total Employer	$1.8	$0.9	$0.4	$3.1
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$4.9	$8.0	$1.9	$14.8
Non-General Fund	$8.1	$0.0	$0.0	$8.1
Total State	**$13.0**	**$8.0**	**$1.9**	**$22.9**
Local Government	$11.3	$4.0	$2.6	$17.9
Total Employer	$24.3	$12.0	$4.5	$40.8
Total Employee	$0.0	$0.0	$0.0	$0.0

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2004 actuarial valuation report of the Teachers' Retirement System and Public Employees' Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the Systems will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members. Benefit improvement rate increases are based on rates that exclude the cost of gain sharing.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

Age 66 COLA

AN ACT Relating to public employees' retirement system, plan 1 and teachers' retirement system, plan 1 age and retirement requirements for receipt of the annual increase amount; amending RCW 41.40.197 and 41.32.489; and providing an effective date.

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

Sec. 1. RCW 41.40.197 and 2005 c 327 s 8 are each amended to read as follows:

(1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year <u>by July 1st in the calendar year in which the annual increase is given</u> and has attained at least age sixty-six by ((~~July 1st~~)) <u>December 31st</u> in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.40.1984.

(3) If otherwise eligible, those receiving an annual adjustment under RCW 41.40.188(1)(c) shall be eligible for the annual increase adjustment in addition to the benefit that would have been received absent this section.

(4) Those receiving a benefit under RCW 41.40.220(1), or a survivor of a disabled member under RCW 41.44.170(5) shall be eligible for the benefit provided by this section.

(5) 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.

Sec. 2. RCW 41.32.489 and 1995 c 345 s 2 are each amended to read as follows:

(1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year <u>by July 1st in the calendar year in which the annual increase is given</u> and has attained at least age sixty-six by ((~~July 1st~~)) <u>December 31st</u> in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.32.4851.

(3) The following persons shall also be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary receiving the minimum benefit on June 30, 1995, under RCW 41.32.485; or

(b) A recipient of a survivor benefit on June 30, 1995, which has been increased by RCW 41.32.575.

(4) If otherwise eligible, those receiving an annual adjustment under RCW 41.32.530(1)(d) shall be eligible for the annual increase adjustment in addition to the benefit that would have been received absent this section.

(5) Those receiving a temporary disability benefit under RCW

41.32.540 shall not be eligible for the benefit provided by this section.

(6) 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.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/8/05**	**Z-0942.1**

SUMMARY OF BILL

This legislation impacts the Public Employees' Retirement System Plan 1 (PERS 1) and the Teachers' Retirement System Plan 1 (TRS 1) by amending Uniform COLA eligibility requirements to include all retirees who have been retired one year and will have attained age 66 by December 31st of the calendar year in which the increase is given.

Effective Date: July 1, 2006

CURRENT SITUATION:

The current Uniform COLA provisions require PERS 1 and TRS 1 members to have been retired one year and to be at least age 66 on July 1st to be eligible for the adjustment paid on July 1st. The Uniform COLA increase amount for 2006 will be $1.29 per month/per year of service. This amount increases by at least 3% per year.

MEMBERS IMPACTED:

This bill will impact half the members in PERS 1 and TRS 1 under age 65–approximately 16,178 PERS 1 and 11,283 TRS 1 members. The table below shows membership by age and status.

TRS Plan 1	Under Age 65	Total
Receiving a Benefit	11,499	34,624
Actives	9,620	9,862
Terminated & Vested	1,446	1,475

PERS Plan 1	Under Age 65	Total
Receiving a Benefit	12,610	54,568
Actives	16,893	17,829
Terminated & Vested	2,854	2,993

A typical member impacted will receive the Uniform COLA one year earlier. In 2006, this amounts to an additional $387 for a retiree with 25 years of service.

ASSUMPTIONS:

PERS and TRS Plan 1 members under the age of 65 whose birth date falls between July 2 and December 31 will receive the Uniform COLA one year earlier under this bill. We assumed that one-half of the PERS 1 and TRS 1 members currently under the age of 65 fall into this group and will be eligible to receive the Uniform COLA one year earlier.

FISCAL IMPACT:

Description:

The benefit improvements in this bill will increase the required employer contribution rate for the PERS and TRS Plan 1 UAAL. Current funding policy requires SERS employers to pay the PERS Plan 1 UAAL contribution rate; therefore, this bill will have a fiscal impact on SERS employers.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits	**PERS 1**	$12,818	$34	$12,852
(The Value of the Total Commitment to all Current Members)	**TRS 1**	$10,360	$30	$10,390
Unfunded Actuarial Accrued Liability	**PERS 1**	$2,563	$34	$2,597
(The Portion of the Plan 1 Liability that is Amortized at 2024)	**TRS 1**	$1,415	$30	$1,445
Unfunded Liability (PBO)	**PERS 1**	$2,254	$32	$2,286
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	**TRS 1**	$1,192	$29	$1,221

Increase in Contribution Rates: (Effective 09/01/06 unless indicated otherwise)	**PERS/ SERS**	**TRS**
Employee	0.00%	0.00%
Employer State	0.03%	0.06%

Fiscal Budget Determinations:

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.4	$1.6	$0.2	$2.2
Non-General Fund	$0.7	$0.0	$0.0	$0.7
Total State	**$1.1**	**$1.6**	**$0.2**	**$2.9**
Local Government	$0.9	$0.9	$0.2	$2.0
Total Employer	$2.0	$2.5	$0.4	$4.9
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$1.0	$3.5	$0.4	$4.9
Non-General Fund	$1.7	$0.0	$0.0	$1.7
Total State	**$2.7**	**$3.5**	**$0.4**	**$6.6**
Local Government	$2.5	$1.8	$0.6	$4.9
Total Employer	$5.2	$5.3	$1.0	$11.5
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$14.7	$48.5	$5.5	$68.7
Non-General Fund	$24.3	$0.0	$0.0	$24.3
Total State	**$39.0**	**$48.5**	**$5.5**	**$93.0**
Local Government	$34.2	$24.2	$8.1	$66.5
Total Employer	$73.2	$72.7	$13.6	$159.5
Total Employee	$0.0	$0.0	$0.0	$0.0

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2004 actuarial valuation report of the Teachers' Retirement System and Public Employees' Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the Systems will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members. Benefit improvement rate increases are based on rates that exclude the cost of gain sharing.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

Rule of 90

AN ACT Relating to providing unreduced retirement benefits in the plans 2 and 3 of the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system; amending RCW 41.40.630, 41.40.820, 41.32.765, 41.32.875, 41.35.420, and 41.35.680; and providing an effective date.

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

Sec. 1. RCW 41.40.630 and 2000 c 247 s 901 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) UNREDUCED RETIREMENT. Any member who has completed at least five service credit years and for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more shall be eligible to retire and receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(3) EARLY RETIREMENT. Any member who has completed at least twenty

service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

((~~(3)~~)) (4) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 2. RCW 41.40.820 and 2000 c 247 s 309 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or

(c) Completed five service credit years by the transfer payment date specified in RCW 41.40.795, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.40.795;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790.

(2) UNREDUCED RETIREMENT. Any member who has completed the number of service credit years required in subsection (1) of this section and for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more shall be eligible to retire and receive a retirement allowance computed according to the provisions of RCW 41.40.790.

(3) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number

of years between age at retirement and the attainment of age sixty-five.

((~~(3)~~)) (4) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 3. RCW 41.32.765 and 2000 c 247 s 902 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) UNREDUCED RETIREMENT. Any member who has completed at least five service credit years and for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more shall be eligible to retire and receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(3) EARLY RETIREMENT. Any member who has completed at least twenty service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

((~~(3)~~)) (4) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 4. RCW 41.32.875 and 2000 c 247 s 903 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or

(c) Completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(2) UNREDUCED RETIREMENT. Any member who has completed the number of service credit years required in subsection (1) of this section and for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more shall be eligible to retire and receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(3) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

((~~(3)~~)) (4) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 5. RCW 41.35.420 and 2000 c 247 s 905 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to

the provisions of RCW 41.35.400.

(2) UNREDUCED RETIREMENT. Any member who has completed at least five service credit years and for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more shall be eligible to retire and receive a retirement allowance computed according to the provisions of RCW 41.35.400.

(3) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

((~~(3)~~)) (4) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

Sec. 6. RCW 41.35.680 and 2000 c 247 s 906 are each amended to read as follows:

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or

(c) Completed five service credit years by September 1, 2000, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.35.510;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620.

(2) UNREDUCED RETIREMENT. Any member who has completed the number of service credit years required in subsection (1) of this section and for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more

shall be eligible to retire and receive a retirement allowance computed according to the provisions of RCW 41.35.620.

(3) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

((~~(3)~~)) (4) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

NEW SECTION. **Sec. 7.** This act takes effect July 1, 2006.

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**12/8/05**	**Z-0954.1**

SUMMARY OF BILL:

This bill impacts the Plans 2 and 3 of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS) and the School Employees' Retirement System (SERS) by offering unreduced retirement to any vested member for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more ("rule of 90").

Effective Date: July 1, 2006

CURRENT SITUATION:

Currently, in the PERS, TRS and SERS Plans 2/3, a member is eligible for either normal, early or alternate early retirement. The early retirement provisions involve reduced benefits. Normal retirement is a full benefit.

In the Plans 2, normal retirement is available to those who have earned at least five years of service credit and who have attained age 65. This bill would add another category of retirement that involves a full or "unreduced" benefit. It would apply to any vested member for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more ("rule of 90").

In the Plans 3, normal retirement is currently available to any member who is at least age 65 and who has completed ten service credit years, or who has completed five service years including twelve service credit months after attaining age 54. This bill would provide an unreduced retirement benefit to any vested Plan 3 member who satisfies the rule of 90.

MEMBERS IMPACTED:

	PERS 2	PERS 3	TRS 2	TRS 3	SERS 2	SERS 3
Number of Affected - Active	83,165	15,023	5,184	38,873	11,988	16,629
Total Active Members	118,572	19,855	7,470	49,302	20,424	29,430

For a member impacted by this bill, the increase in benefits would be the removal of benefit reduction for early retirement without the Rule of 90. For example, a member retiring at age 60 with 30 years of service would be entitled to an unreduced benefit instead of a benefit with a 15% reduction.

This bill would also increase the number of retirees eligible for subsidized medical benefits from the Public Employees' Benefit Board (PEBB).

The table below shows the number of new non-medicare eligible retirees by year we expect under this bill:

New Retirements Under Rule of 90 by Year *Not Eligible for Medicare*						
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
TRS	30	46	81	123	190	286
PERS	86	125	193	299	426	560
SERS	32	41	62	88	113	143
Total	148	212	336	510	729	989

Note: 50% of PERS retirements are from State agencies.

ASSUMPTIONS:

We assumed that there would be an increase in retirement rates due to the rule of 90. The additional rates or "kickers" are provided at the end of this fiscal note.

FISCAL IMPACT:

Description:

The liabilities and rates do not include the value of future gain-sharing benefits. Chapter 370, Laws of 2005 delayed recognition of the cost of future gain-sharing benefits until the 2007-2009 biennium.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System (for existing members impacted by this bill) and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits	**PERS 2/3**	$ 15,280	$ 815	$ 16,095
(The Value of the Total Commitment to all Current Members)	**TRS 2/3**	$ 5,256	$ 386	$ 5,642
	SERS 2/3	$ 2,126	$ 83	$ 2,209
Unfunded Actuarial Accrued Liability	**PERS 1**	$ 3,563	$ (24)	$ 2,539
(The Portion of the Plan 1 Liability that is Amortized at 2024)	**TRS 1**	$ 1,415	$ (23)	$ 1,392
Unfunded Liability (PBO)	**PERS 2/3**	$ (2,927)	$ 446	$ (2,481)
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	**TRS 2/3**	$ (1,427)	$ 194	$ (1,233)
	SERS 2/3	$ (439)	$ 49	$ (390)

Increase in Contribution Rates: (Effective 9/1/06)	PERS	TRS	SERS
Current Members			
Employee (Plan 2 only)	0.73%	1.00%	0.57%
Employer State	0.73%	1.00%	0.57%
New Entrants*			
Employee (Plan 2 only)	0.27%	N/A	N/A
Employer State	0.27%	0.53%	0.22%

**Rate change applied to future new entrant payroll and used for fiscal budget determinations only. A single supplemental rate increase, equal to the increase for current members, would apply initially for all members or employers.*

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$7.1	$24.3	$2.6	$34.0
Non-General Fund	$14.0	$0.0	$0.0	$14.0
Total State	**$21.1**	**$24.3**	**$2.6**	**$48.0**
Local Government	$19.2	$13.4	$3.9	$36.5
Total Employer	$40.3	$37.7	$6.5	$84.5
Total Employee	$31.2	$4.2	$2.2	$37.6
2007-2009				
State:				
General Fund	$17.3	$52.4	$6.0	$75.7
Non-General Fund	$34.0	$0.0	$0.0	$34.0
Total State	**$51.3**	**$52.4**	**$6.0**	**$109.7**
Local Government	$46.7	$26.2	$9.0	$81.9
Total Employer	$98.0	$78.6	$15.0	$191.6
Total Employee	$76.2	$8.4	$4.9	$89.5
2006-2031				
State:				
General Fund	$267.8	$924.2	$90.4	$1,282.4
Non-General Fund	$524.0	$0.0	$0.0	$524.0
Total State	**$791.8**	**$924.2**	**$90.4**	**$1,806.4**
Local Government	$719.7	$464.1	$135.7	$1,319.5
Total Employer	$1,511.5	$1,388.3	$226.1	$3,125.9
Total Employee	$1,002.8	$56.6	$34.5	$1,093.9

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers' Retirement System, School Employees' Retirement System, and Public Employees' Retirement System. Fiscal Budget Determinations were based on 2004 data. This excludes the cost of future gain-sharing.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

Rule of 90

Kicker Added to Retirement Probability						
	PERS Male	PERS Female	SERS Male	SERS Female	TRS Male	TRS Female
Age						
55	0.35	0.29	0.30	0.30	0.30	0.30
56	0.35	0.29	0.30	0.30	0.30	0.30
57	0.35	0.29	0.30	0.30	0.30	0.30
58	0.29	0.22	0.30	0.30	0.30	0.30
59	0.29	0.22	0.30	0.30	0.30	0.30
60	0.29	0.22	0.30	0.30	0.30	0.30
61	0.29	0.22	0.25	0.30	0.30	0.30
62	0.29	0.16	0.25	0.20	0.30	0.20
63	0.11	0.16	0.25	0.20	0.25	0.20
64	0.11	0.16	0.25	0.20	0.25	0.20

The kicker (additional retirement rate) is added to the retirement probability at the age when a member is first eligible for the Rule of 90. For each year after the year first eligible, 25% of the kicker is added.

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members. Benefit improvement rate increases are based on rates that exclude the cost of gain sharing.

GLOSSARY OF ACTUARIAL TERMS:

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.)

Projected Benefits: Pension benefit amounts which 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.

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.

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.

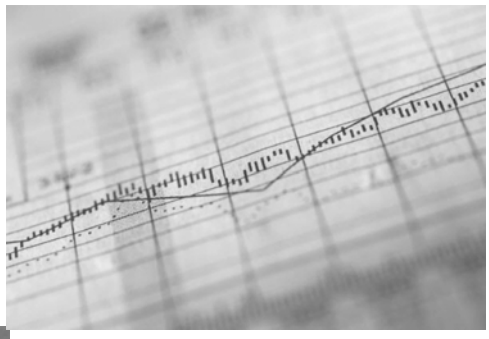
Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

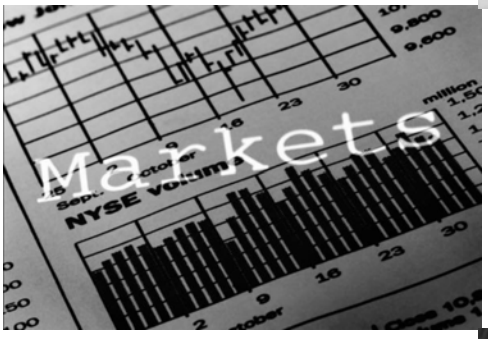
Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Washington State Legislature

DRAFT



Select Committee on Pension Policy



Gain-Sharing Study

December 2005

Prepared by:
The Select Committee on Pension Policy
PO Box 40914 - Olympia, Washington 98504-0914
Phone: 360.786.6140 - E-mail: actuary.state@leg.wa.gov

The Select Committee on Pension Policy

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Lois Clement, PERS Retirees
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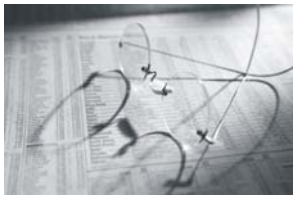
Gain-Sharing Trade-Off Bar Graph Analysis

Executive Summary



In the investment boom of the late 1990s numerous public retirement plans enhanced member benefits as a direct result of the strong returns experienced by their retirement plans' assets. In the State of Washington, certain retirement benefits were enhanced and others were created that were tied directly to the future investment performance of the retirement plans' assets – these benefits were called "gain-sharing."

The distribution of these gain-sharing benefits is triggered when the compounded annual rate of return of the retirement plans' assets is 10 percent or more for four years running. When that threshold is met, half the returns over 10 percent are used to augment Plan 1 members' Uniform cost-of-living adjustment (COLA) and Plan 3 members' defined contribution accounts.

Because of the investment threshold method used to trigger the distribution of benefits, gain-sharing was originally assumed to pay for itself. But extensive review by the Office of the State Actuary (OSA) resulted in the identification of liabilities related to gain-sharing. In the 2003 Actuarial Valuation Report (AVR), gain-sharing was recognized as adding $622 million to the present value of fully projected benefits (PVFPB) liability in the Plans 2/3, and increasing the unfunded actuarial accrued liability (UAAL) of PERS 1 and TRS 1 by $930 million.

In recognizing the costs of future gain-sharing, the OSA recommended the employer contribution rates be increased in the Public Employees' Retirement System Plan 1 and Plan 3 (PERS 1 and PERS 3), in the Teachers' Retirement System Plan 1 and Plan 3 (TRS 1 and TRS 3), and in the School Employees' Retirement System Plan 3 (SERS 3).

In lieu of raising contribution rates during a period of fiscal tightness, the legislature directed the Select Committee on Pension Policy (SCPP) under Chapter 370, section 6, subsection 10, Laws of 2005, to:

> *"study the options available to the legislature for addressing the liability associated with future gain-sharing benefits"* and *"report the findings and recommendations of its study to the legislative fiscal committees by no later than December 15, 2005."*

This report is in response to that study mandate.

Leading off this report is a discussion of the liability associated with future gain-sharing. In order to appreciate that liability, it is important to understand that gain-sharing benefits are paid entirely from employer contributions. In contrast to the cost-sharing design of the Plans 2, member contribution rates in the Plans 1 are fixed

in statute and member contributions the Plans 3 are deposited into individual defined contribution accounts. As a result, any benefit enhancement in the Plans 1 or Plans 3, such as gain-sharing, will be paid (or funded) through increased employer contributions. At this point, gain-sharing benefits are neither pre-funded like other benefits, nor pay-as-you-go like Social Security. They are post-funded; contribution rates increase after a gain-sharing event. While there is a semblance of investment earnings to pay for gain-sharing because of the threshold mechanism to trigger an event, that mechanism actually undercuts the long-term returns on the plans' assets, thus adding to the plans' unfunded liabilities.

Who Benefits?

After understanding why there are liabilities associated with gain-sharing, it is also necessary to understand who receives and who doesn't receive gain-sharing benefits. Currently, gain-sharing provides benefits for current and future retired members of TRS and PERS Plans 1 as well as term-vested, active, and retired members of the TRS, SERS, and PERS Plans 3. Plan 1 members receive a boost in the "annual increase amount" used in calculating their Uniform COLA. Eligible Plan 3 members receive distributions to their individual accounts based on their years of service.

Plan 2 members do not participate in gain-sharing. During the period this benefit was being considered, the contribution rates in the Plans 2 were declining significantly. This was a result of the strong investment performance of the plan assets and the funding policy that allowed for quick contribution rate adjustments to accommodate those returns. This decline in contribution rates resulted in temporary increases in take-home pay for the Plan 2 members, which was considered a benefit of sorts.

Since its creation, there have been two gain-sharing events. During those events, over $2 billion in gain-sharing was allocated either in the form of benefits or paying-down the PERS 1 and TRS 1 UAAL.

What can be done?

Gain-sharing is a material benefit that has significant liabilities and unique funding issues. Adding to its complexity is the fact that gain-sharing is one of a handful of retirement benefits whose statute contains a "non-contractual rights" clause. That clause states that the legislature can amend or repeal the benefit at any time. This clause has never been tested in court and, as a result, has some legal uncertainty. Because of that uncertainty, the SCPP requested a formal opinion from the Attorney General (AG) as to the validity of the non-contractual rights clause.

The Attorney General Opinion (AGO) dated November 2, 2005, stated that *"where the Legislature has enacted statutes providing 'gain-sharing' … members have no enforceable right or current reasonable expectation of receiving such benefits."*

The AGO further said that *"the Legislature may amend or repeal these particular statutes at any time."* This AGO adds flexibility to the options the legislature may consider when dealing with the future liability of gain-sharing. (A complete copy of the AGO may be found in Appendix A of this report.)

While some may still be concerned with any legal risk, that risk is centered on current plan members. The standard established under the *Bakenhus v. Seattle* ruling was that benefits in place *at the time of hire* are a contractual right. So there is no legal risk to eliminate gain-sharing for those who are not yet hired, and the bulk of projected cost for future gain-sharing in the Plans 3 is for new members (see Figure 3).

The Study Mandate Options

The gain-sharing study mandate listed several possible options the legislature might use to address the future gain-sharing liability. The first option listed in the study mandate is to **repeal gain-sharing**. This would be the most straight-forward method of dealing with future gain-sharing liabilities as they would be eliminated altogether.

The second option listed in the study mandate would be to **suspend gain-sharing**. This would mean suspending the granting and funding of gain-sharing until some specific date in the future. This option would limit future liability to those gain-sharing events that would occur after the suspension period.

The third option would **delay** the inclusion of gain-sharing costs in the contribution rate calculations until after a gain-sharing event. This was the practice set forth in the original gain-sharing legislation for the first gain-sharing event.

The fourth option would be to **make gain-sharing discretionary** with the legislature. This would mean that the legislature would decide whether or not to grant a distribution in the event that the "extraordinary gain" threshold has been met. This would make gain-sharing similar to the ad hoc benefit improvements granted in the past and would limit gain-sharing liabilities to those benefits that were granted.

Possibly the most complex option listed in the study mandate involves **repealing gain-sharing** benefits and providing alternative benefits. Several factors need to be addressed with any replacement option. Would the replacement benefits be of equal or of lesser actuarial value than gain-sharing and, if replacement benefits were to be of lesser value, what proportion of the liability of gain-sharing would they replace? Would the replacement benefits be of a similar nature or would they be altogether different? (The cost of the various replacement options can be found in the Fiscal notes and Supplement in Appendix B.)

Alternative Options

Because the list of possible options to address the liability of future gain-sharing in the study mandate was open-ended, several other options were also explored. The option to retain and pre-fund gain-sharing would keep the benefit structure intact and initiate the funding of gain-sharing. That funding could be in any manner the legislature decided.

The option to retain and post-fund gain-sharing would delay the inclusion of gain-sharing rates until after a gain-sharing event. This was the practice set forth in the first gain-sharing event.

The option to repeal gain-sharing and provide Plan 3 members a choice to return to the Plans 2 was also examined. This would recognize that the presence of gain-sharing benefits may have provided an incentive for members to transfer or join the Plans 3.

The option to increase the thresholds for a gain-sharing event was also explored. The look-back period could be lengthened from four years to six or eight years. The rate of return threshold could be increased from 10 percent to 12 percent. The distribution frequency could be lengthened from two years (even numbered) to every four years. Any combination of these elements would reduce the existing gain-sharing liability.

The final alternative option discussed in this report would be to replace the Plan 3 gain-sharing benefit with an employer-defined contribution into a notional account invested by the employer. This would be like a supplemental defined benefit that would be available to members upon retirement in the form of a defined contribution.

Analyzing the Options

In analyzing these many options to address the future liability of gain-sharing, decision makers may first want to consider the following questions. Is gain-sharing affordable? Is gain-sharing sound pension policy?

- If gain-sharing is affordable, then a funding policy could be recommended or gain-sharing could be replaced with benefits of equal expense.
- If gain-sharing is not affordable it could be repealed outright or replaced with less expensive benefits.
- If gain-sharing were sound pension policy then the decision may be to retain the benefit and establish a funding policy.

- If gain-sharing were not sound pension policy then it may be repealed and replaced with alternative benefits that are funded in a more recognized method.

Decision Factors

After analyzing the various gain-sharing options and questions regarding affordability and sound pension policy, a decision process may consider several key factors that distinguish those options. Those factors could be the fiscal factors, legal factors, stakeholder interests, and SCPP goals. The following table is a synopsis of those considerations.

	Key Decision Factors			
Options	**Fiscal**	**Legal**	**Stakeholder Interests**	**SCPP Goals**
Repeal and not replace	Eliminates all gain-sharing liability; no 07-09 budget impact	Allowable under AGO, but could result in litigation	Would eliminate a benefit upon which members depend	Contrary to the SCPP goal to increase and maintain members' purchasing power
Repeal and replace	Liability depends on the portion of gain-sharing being replaced; 07-09 budget impact	Allowable under AGO, and minimizes possible litigation over a repeal	May result in a more frequent and desirable benefit	May help establish benefits more in keeping with SCPP goals
Suspend benefit and funding	Could eliminate the liability of an event that occurred during the suspension period	Allowable under AGO, but could result in litigation	May eliminate a benefit upon which members depend	Would be in conflict with SCPP goals
Make discretionary	Could eliminate the liability of an event that was triggered but not granted	Allowable under AGO, but could result in litigation	May eliminate a benefit upon which members depend	Would be in conflict with SCPP goals
Retain and pre-fund	Liability pre-funded; 07-09 budget impact	Eliminates any "systematic funding" concerns	Retains a benefit upon which members depend	Would be in keeping with SCPP goals
Retain and post-fund	Liability funded as in current practice; no 07-09 budget impact	Possible "systematic funding" concerns	Retains a benefit upon which members depend	Would be somewhat in conflict with SCPP goals

SCPP Recommendation

In their deliberations to reach a recommendation, the SCPP strived to balance the fiscal factors, legal factors, and stakeholder interests along with the committee's own findings and goals. As a result, the recommendation of the SCPP is to forward an omnibus bill that repeals and replaces Plan 1 and Plan 3 gain-sharing with the following provisions that represent about 50 percent of the 2007-09 projected costs for retaining and pre-funding future gain-sharing benefits:

- One-time $0.24 increase in the Plan 1 Uniform COLA;
- SERS and TRS 2/3 choice for new entrants;
- One-time prospective transfer window from Plan 3 to Plan 2 for all current Plan 3 members;
- Annual Plan 3 employer defined contributions for existing Plan 3 members of $12 per year of service increased by 3 percent per year; and,
- Repeal annual rate flexibility for PERS, TRS and SERS Plans 3.

The following items were recommended by the SCPP to be stand-alone bills:

- Age 66 COLA eligibility for PERS 1 and TRS 1 retirees;
- Expanded eligibility — 20 years of service and 25 years of retirement — for the alternate $1,000 minimum benefit and 3 percent annual escalator for PERS 1 and TRS 1 retirees, and;
- Full Rule-of-90 eligibility (age plus years of service) for unreduced retirement in the Plans 2/3.

Introduction

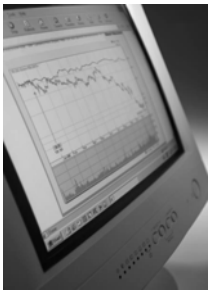
In the investment boom of the late 1990s numerous public retirement plans enhanced member benefits as a direct result of the strong returns experienced by their retirement plan's assets. In the State of Washington, certain retirement benefits were enhanced and others were created that were tied directly to the future investment performance of the retirement plans' assets – these benefits were called "gain-sharing."

Gain-sharing was originally proposed as a way to provide periodic non-contractual benefit increases to members of the PERS 1 and PERS 3, SERS 3, and TRS 1 and TRS 3 by tapping the "extraordinary investment gains" earned by the retirement funds. The OSA recently established a method to determine the cost of future gain-sharing benefits. In lieu of recognizing the cost of future gain-sharing benefits, the legislature has, per Chapter 370, section 6, subsection 10, Laws of 2005, directed the SCPP to...

> *"... study the options available to the legislature for addressing the liability associated with future gain-sharing benefits. These options may include, but shall not be limited to, repealing, delaying, or suspending the gain-sharing provisions in law; making gain-sharing discretionary; or replacing gain-sharing benefits with other benefits such as plan choice, employer defined contributions, retirement eligibility enhancements, and post-retirement adjustments. The select committee on pension policy shall report the findings and recommendations of its study to the legislative fiscal committees by no later than December 15, 2005."*

This SCPP study examines the liability related with gain-sharing, discusses the options outlined in the mandating legislation, analyzes those options in terms of their fiscal and policy concerns, and forwards a recommendation from the SCPP to the fiscal committees.

Understanding the Liability



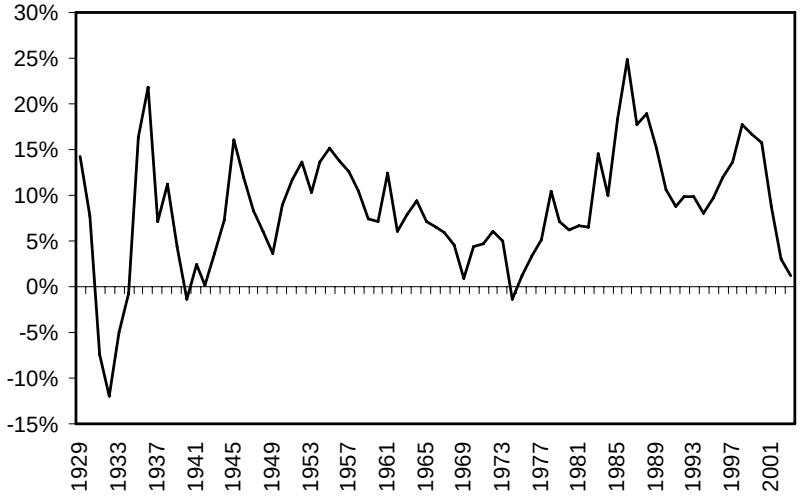
Understanding the Liability of Gain-Sharing

Why is there a cost – a liability – associated with past and future gain-sharing? Principally, because it is a means to distribute material benefits and all benefits have a cost. Originally, those benefits were thought to have no cost because the source of the benefits was the "extraordinary" gains of the plan assets during the investment boom of the 1990s. Those gains were thought to be permanent – far enough above the historical norms to be outside that investment experience.

In examining the investment return history, however, the threshold for defining "extraordinary" gains – a compound rate of return above 10 percent over a four-year period – was not atypical for the plan assets' investment experience (see Figure 1). For instance, based on the current asset mix and the historical rates of return, there were 28 four-year periods between 1929 and 2003 where the average rate of return was above 10 percent. What is apparent from this history is that these periods of high returns are needed to balance the similarly frequent periods of low returns so that the average rate of return is close to the actuarial assumption.

Figure 1

Investment Returns by Current Retirement Plan Asset Mix
1929-2003 (4-year Averages)



Tracking the Liability and Cost of Gain-Sharing

With the advent of the 2002 Actuarial Valuation Report (AVR), the OSA gave the following notice in the Actuarial Certification section that gain-sharing was being examined:

"The gain-sharing benefit provision of PERS and TRS Plans 1, and PERS, TRS, and SERS Plans 3 are not reflected in this valuation. The funding methodology and materiality of these provisions is currently under review. If it is determined that the gain-sharing benefit provisions represent a material liability to the plans, then the actuarial value of the benefit provisions must be reflected in the liabilities of the plans unless contrary to existing law."

In the 2003 AVR, released in December of 2004, the OSA finalized its review of gain-sharing. Gain-sharing was recognized as a component in the normal cost of the Plans 2/3, and a component in the Unfunded Actuarial Accrued Liability (UAAL) of PERS 1 and TRS 1. In recognizing those costs, the OSA recommended contribution rate adjustments to fund past and future gain-sharing (see Figure 2).

Figure 2

Contribution Rate Recommendations 2003 Actuarial Valuation Report			
	PERS	**TRS**	**SERS**
Change in Employer Contribution Rates Due to Future Gain-sharing	0.65%	2.01%	2.35%

The OSA's projections of the cost of future gain-sharing recognizes that there are different liability dynamics for the Plans 1 compared to the Plans 3. The Plans 1 are closed plans; there are no new members to enter the plans to add to the existing gain-sharing liability. The Plans 3 are open plans; new members are continuously being added, thus adding to that liability and the cost to fund gain-sharing. As a result, the projected budget cost in the Plans 3 can be characterized as that which is related to current members and that which is related to future members. This can be illustrated in Figure 3 which shows the cost of future gain-sharing in a fiscal impact format. The table differentiates Plan 1 and Plan 3 costs, with the costs for current and future members in the Plans 3 also identified. While the cost for future Plan 3 members is the smallest proportion of the 2007-2009 tally, it constitutes the bulk of the cost through 2031.

Figure 3

Projected Cost of Future Gain-sharing in Plans 1 and Plans 3				
Costs (in millions)	Plan 1	Plan 3 Members		
	Members	Current	Future	Total
2007-2009				
State:				
General Fund	$78.2	$80.3	$27.3	$185.8
Non-General Fund	$26.6	$10.3	$5.7	$42.6
Total State	**$104.8**	**$90.6**	**$33.0**	**$228.4**
Local Government	$74.9	$69.4	$30.3	$174.6
Total Employer	$179.7	$160.0	$63.3	$403.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$1,031.4	$684.8	$1,818.7	$3,534.9
Non-General Fund	$359.0	$78.8	$364.3	$802.1
Total State	**$1,390.4**	**$763.6**	**$2,183.0**	**$4,337.0**
Local Government	$998.7	$552.7	$1,951.3	$3,502.7
Total Employer	$2,389.1	$1,316.3	$4,134.3	$7,839.7
Total Employee	$0.0	$0.0	$0.0	$0.0

Who Pays?

Gain-sharing benefits are provided to the Plan 1 members of PERS and TRS and the Plan 3 members of PERS, SERS, and TRS. The Plans 1 and Plans 3 are not equal cost-sharing plans; the Plan 1 member contribution rates are set in statute at 6 percent of pay, and the Plan 3 member contributions - chosen by the member upon joining - are deposited in individual defined contribution accounts. As these member rates are, in essence, fixed, any benefit enhancement in these plans would be funded by a contribution rate adjustment paid by the employer (unless there were an explicit statutory change in the member rates). That is why the contribution rates, which recognize the future cost of gain-sharing, are solely employer rates.

How is it Funded?

Currently, the liabilities of future gain-sharing benefits are not being recognized; monies are not set aside and invested, like the contributions for other retirement benefits in Washington's public retirement plans. If a retirement benefit is not systematically funded, it would typically be funded on a pay-as-you-go basis (similar to Social Security); in those instances, monies would be appropriated during the same period that the benefits were paid. But pay-as-you-go does not accurately describe how gain-sharing is funded despite the resemblance to pay-as-you-go provided by the statutory criteria used to trigger a gain-sharing event (see Figure 4).

Figure 4 – Plan 1 Gain-Sharing Increase Amount

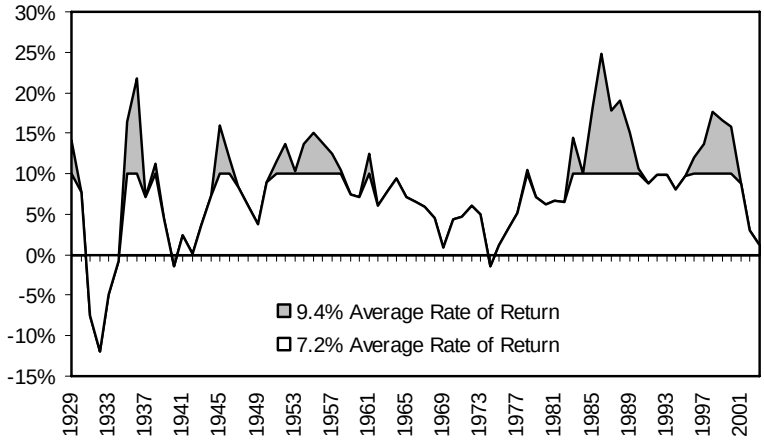
RCW 41.31.020
Gain-sharing increase amount calculated.

(1) The gain-sharing increase amount shall be the amount of increase, rounded to the nearest cent, that can be fully funded in actuarial present value by the amount of extraordinary investment gains, if any. The amount of extraordinary investment gains shall be calculated as follows:

(a) One-half of the sum of the value of the net assets held in trust for pension benefits in the teachers' retirement system plan 1 fund and the public employees' retirement system plan 1 fund at the close of the previous state fiscal year;
(b) Multiplied by the amount which the compound average of investment returns on those assets over the previous four state fiscal years exceeds ten percent.

Gain-sharing events and benefits are triggered by temporary gains and, as a result, those gains are not available to offset future losses. This can be illustrated by revisiting the graph showing the rate-of-return history. By artificially capping the asset gains at 10 percent, the assumed rate of future investment return is undercut and the average rate-of-return declines (see Figure 5). If the average return is reduced to below the actuarially assumed rate of return, contributions will need to increase to compensate.

Figure 5
Investment Rate of Return by Retirement Plan Asset Mix: 1929-2003 (4-year Averages)



If the costs of future gain-sharing benefits are not recognized at the time of the event, then gain-sharing must be a post-funded benefit. Contribution rates will increase after a gain-sharing event. Such a process results in higher contributions than would be required because there are unrealized investment gains.

Who Benefits?

Gain-sharing provides benefits for current and future retired members of TRS and PERS Plans 1 as well as term-vested, active, and retired members of the TRS, SERS, and PERS Plans 3. The current counts of active, term-vested, service retirees, and survivors are included in Figure 6. Plan 2 members do not participate in gain-sharing.

Figure 6

Membership by System and Plan
2004 Actuarial Valuation

	PERS 1	PERS 3	TRS 1	TRS 3	SERS 3
Actives	17,829	19,855	9,862	49,302	29,430
Term Vested*	2,993	1,284	1,475	2,761	2,035
Service Retirees	46,572	190	31,366	472	445
Survivors	6,264	14	2,450	39	13

*Term-vested members are those who left employment, were vested, and who did not withdraw their contributions.

Plan 2 members were excluded from gain-sharing benefits because of their dynamic contribution rates. As investment returns on plan assets improved during the peak of the last investment cycle, Plan 2 contribution rates fell significantly, providing a temporary boost in members' take-home pay. The current rising contribution rates will result in a diminishment of Plan 2 member's take-home pay. Past Plan 1 and 3 gain-sharing benefits, however, are permanent.

How do They Benefit?

Currently, gain-sharing occurs when the compound average of investment returns on pension fund assets exceeds 10 percent for the previous four state fiscal years. The "compound average" recognizes the interest paid on previously earned interest as well as on the principal. Gain-sharing calculations are currently made once each biennium with potential distributions occurring in January of even-numbered years.

When the previous four-year compound average investment return exceeds 10 percent, calculations are performed to determine one-half the amount in excess of the 10 percent return that will be distributed to eligible Plan 1 and Plan 3 members.

Plan 1 Gain-Sharing Allotments

Plan 1 members receive an enhancement in the "annual increase amount" used in calculating their Uniform COLA (see Figure 7). Eligible Plan 3 members, those whose account balances are $1,000 or more, receive distributions to their individual accounts based on their years of service.

Figure 7

Sample Uniform COLA calculation – 30 years of service

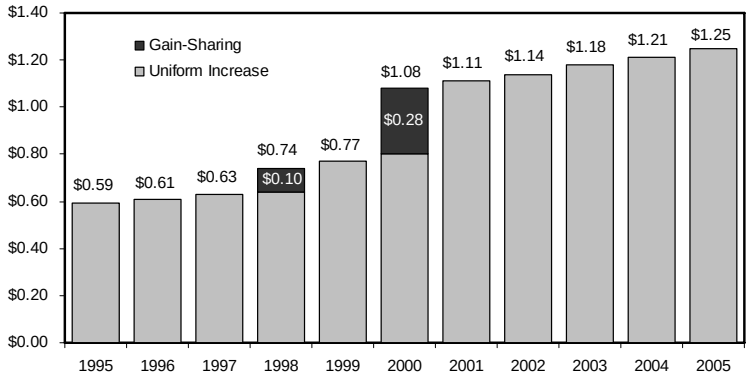
Annual Increase Amount × Years of Service = Monthly Benefit Increase
$1.25 × 30 = $37.50

While all Plan 1 members benefit from the gain-sharing allotments that permanently boost the Uniform COLA, Plan 3 members must qualify to receive gain-sharing distributions. Members must have at least $1,000 in their individual defined contribution accounts. Considering that the minimum contribution for Plan 3 members is 5 percent of pay, an average full-time worker would need less than one year of service to accumulate that amount.

Since its passage as Chapters 340 and 341, Laws of 1998, there have been two gain-sharing events for PERS 1 and TRS 1 members – in 1998 and 2000. In 1998, the first event for Plan 1 members was codified in Chapter 340 as an increase of 10 cents in the annual increase amount. The annual increase amount was scheduled to increase to 64 cents - gain-sharing boosted that to 74 cents. In 2000, the annual increase amount was scheduled to increase to 80 cents - gain-sharing boosted that by 28 cents to $1.08 (see Figure 8). All in all, a total of $924 million was allotted to Plan 1 members to augment their Uniform COLA.

Figure 8

PERS 1 and TRS 1 Annual Increase Amount



While $924 million was allotted in the form of permanent increases in the Uniform COLA, another $924 million was allotted to draw down the date for amortizing the UAAL of PERS 1 and TRS 1. After these two events, the date to amortize the Plan 1 UAAL was drawn down to December 31, 2016. Since then the UAAL amortization date has been returned to June 30, 2024, (chapter 11, subsection 1, second special session, Laws of 2001.)

Plan 3 Gain-Sharing Distributions

Gain-sharing events for Plan 3 members involve direct distributions to members' defined contribution accounts. The first distribution in 1998 paid $134.43 per year of service to eligible TRS 3 members; a total of $28 million was distributed. The distribution in 2000 paid $254.23 per year of service to eligible members, for a total disbursement of $73 million. The average Plan 3 member received $709.49 in 1998 and $2,051.52 in 2000.

Supplemental SERS 3 and PERS 3 Gain-Sharing Distributions

SERS 3 was created on September 1, 2000, and PERS 3 was created on March 1, 2002. Neither plan was in existence when the first TRS 3 gain-sharing distribution was paid. The original gain-sharing legislation provided for distributions equivalent to the 1998 and 2000 gain-sharing payments for PERS 2 members who transferred to SERS 3. Chapter 247, Laws of 2000 provided for a supplemental gain-sharing distribution equivalent to the 2000 payment for PERS 2 members who transferred into PERS 3. A total of $76 million was distributed to SERS 3 and PERS 3 members since the advent of gain-sharing.

Total Gain-Sharing Allotments

Taking all systems and plans into account, a total of over $2 billion has been allocated, either in the form of benefits or paying down the PERS 1 and TRS 1 UAAL (see Figure 9, next page).

Figure 9

Gain-sharing Allocations (dollars in millions)		
July 1998	**PERS 1 & TRS 1**	$580*
	TRS 3	$28
January 2000	**PERS 1 & TRS 1**	$1,268*
	TRS 3	$73
March 2001	**SERS 3**	$50
March 2003	**PERS 3**	$26
	TOTAL	$2,025

* Half to enhance the Annual Increase Amount and half to pay down the PERS 1 and TRS 1 UAAL.

Can it be Eliminated?

In light of the potential consequences related to the significant provisional changes being proposed, the SCPP asked for a formal opinion from the Attorney General's office (AG). Through the State Actuary the SCPP asked:

> "*Do the provisions in RCW 41.31.030, RCW 41.31A.020(4), RCW 41.31A.030(5), and RCW 41.31A.040(5), containing 'non-contractual rights' clauses, negate any contractual obligation of the state to provide gain-sharing benefits in the future?*"

The Attorney General Opinion (AGO) dated November 2, 2005, answered "yes," stating:

> "*Where the Legislature has enacted statutes providing 'gain-sharing' benefits to retirement system members if certain circumstances occur, but has included language reserving the right to repeal or modify such benefits before they are actually granted, pension system members have no enforceable right or current reasonable expectation of receiving such benefits.*"

The AGO further stated:

> "*Here, the statutes in question have always clearly and unequivocally provided that the gain-sharing provisions do not create a contractual right in any public employee member or beneficiary to receive gain-sharing distributions in the future, and that the Legislature may amend or repeal these particular statutes at any time.*"

(Note: For a complete copy of the AGO, see Appendix A.)

This opinion adds flexibility to the options the legislature may consider when dealing with the future liability of gain-sharing. While some may still be concerned with any legal risk to the removal of a retirement benefit for current members, there should be no such concern when changing benefits for new members. Different tiers of benefits occur when retirement plans are closed and new retirement plans open. The gist of the standard established under the *Bakenhus v. Seattle* ruling was that the benefits in place *at the time of hire* are a contractual right. Therefore, while there may be some legal risk to the repeal of gain-sharing for existing members, there is no legal risk for the elimination of gain-sharing for those who are not yet hired. In terms of addressing the liability associated with future gain-sharing, the bulk of the projected cost of future gain-sharing benefits in the Plans 3 is for new members (see Figure 3).

Understanding the Options

The study mandate in Chapter 370, section 6, subsection 10, Laws of 2005 directed the SCPP to study the options available to the legislature for addressing the liability associated with future gain-sharing. The list of options was open-ended; while it included those options in this immediate discussion, this section will also describe other options not mentioned in the study mandate including amending the mechanisms (thresholds) that trigger gain-sharing events. This section is followed by an analysis of the options.

Repeal and Not Replace

The first option listed in the study mandate is to repeal future gain-sharing. This would be the most straight-forward method of dealing with future gain-sharing liabilities as they would be eliminated altogether. What would not be eliminated in this option would be the possibility of litigation. Regardless of the AG's opinion, the employee and retiree groups could file claims in connection with a repeal of gain-sharing.

Repeal and Replace

Possibly the most complex option listed in the replacement study mandate would involve repealing gain-sharing benefits and providing alternative benefits. HB 1324, introduced by the SCPP during the 2005 legislative session, was an attempt to do just this.

One consideration within this option is whether or not those replacement benefits would be of equal or of lesser actuarial value than gain-sharing. One of the undesirable characteristics of gain-sharing is its uncertain availability from year to year; benefits are only available if certain investment conditions are met. If certainty was considered to have positive value and uncertainty a negative value, would a more certain benefit, say a lower cost annual benefit, be a satisfactory replacement? If the replacement benefits were to be of lesser value, what proportion of the liability of gain-sharing could be replaced?

The other consideration when discussing replacement benefits is whether they are of a similar nature or altogether different from gain-sharing. In an informal advice letter, the AG's recommendation was to replace any repealed benefit with a similar benefit. Therefore, if gain-sharing was used to enhance members' COLA, ideally the replacement should be COLA-related.

The repeal and replace option does have some contractual rights implications and requires an effort to work within the elements of the *Bakenhus* decision. If a court found contrary to the AG's opinion, employers might be liable for not only the gain-sharing benefits but any replacement benefit as well.

Suspend Benefits and Suspend Funding

Another option listed in study mandate is to suspend gain-sharing. This would mean suspending the granting and funding of gain-sharing until some specific date in the future. In terms of addressing gain-sharing liability, the suspending option would limit the liability to those gain-sharing events that would occur after the suspension period. This has different policy implications than delaying funding, because the funding of gain-sharing would occur or resume after a specific date rather than after a gain-sharing event.

Make Discretionary

The option to make gain-sharing discretionary with the legislature would mean that the legislature would decide whether or not to grant a distribution in the event that the "extraordinary gains" thresholds have been met. This would, in essence, return the legislature to a position of granting ad hoc COLA improvements for PERS 1 and TRS 1 retirees. It would also be the first step in granting ad hoc benefit improvements or distributions for Plan 3 members.

Retain and Pre-Fund

The option to retain and pre-fund gain-sharing would keep the benefit structure intact and initiate the funding of future gain-sharing. That funding could be in any manner the legislature decided. The funding could be an immediate inclusion of contributions at the rates recommended by the OSA, or it could be a phase-in of rates similar to the phase-in of employer contributions in funding legislation passed during the last legislative session.

Retain and Post-Fund (Delay)

This option would mean delaying the inclusion of gain-sharing costs in the contribution rate calculations until after a gain-sharing event. This was the practice set forth in the original gain-sharing legislation for the first gain-sharing event. Normally the cost of new benefits implemented between actuarial valuations are accounted for in what is known as a "supplemental" contribution rate; this assures that members and employers pay for a benefit as it is being earned. In the original legislation, the first gain-sharing events were specifically exempted from the supplemental contribution rate provision in the funding chapter.

Other Options

The preceding discussions covered those specific options and provisions listed in the study mandate. The mandate, however, was open-ended in that its directive to the committee used the language, "*These options may include, but shall not be limited to....*" As a result, the following discussions will cover some of those alternative options.

Plan 3 to Plan 2 Transfer

One alternative option would be to repeal gain-sharing and provide an option to return to the Plans 2 for those who transferred into the Plans 3. This would recognize that the presence of gain-sharing may have been an incentive for Plan 2 members to transfer to Plan 3, and repealing gain-sharing should be accompanied by some remedy.

Change Gain-Sharing Thresholds

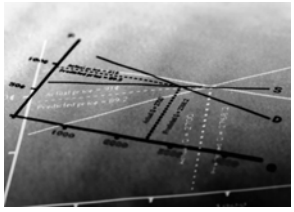
Another alternative option would be to increase the thresholds for a gain-sharing event. The look-back period could be lengthened from four years to eight years, or the look-back period could be lengthened from four years to eight years and the rate of return threshold could be raised from 10 percent to 12 percent. In addition, the frequency could be lengthened from every two years to every four years. Any combination of these modifications would address the liability associated with gain-sharing while retaining the basic gain-sharing benefit structure.

Employer Defined Contributions

The final alternative option discussed in this section is to replace the Plan 3 gain-sharing benefit with an employer-defined contribution. In this option, the employer would contribute a fixed percent of pay into a notional member account that would be guaranteed a fixed interest credit (i.e., 5.5 percent).

This would be funded similarly to a defined benefit plan, where the employer would be responsible for the investment risk and the defined employer contribution would not go into an individual Plan 3 member account but rather a member reserve under the Plan 2/3 Commingled Trust Fund. The value of the member account would be available upon separation from service as a lump sum or optional life annuity.

Analyzing the Options



Fiscal vs. Policy Concerns

Any proposed provision in retirement law involves deliberation that addresses both fiscal and policy concerns. The benefit design and funding method of gain-sharing benefits leads to fiscal and policy questions regarding its affordability and its policy soundness.

Is Gain-Sharing Affordable?

Gain-sharing does have a cost. Those costs are well documented in the supporting fiscal note and supplement that are attached to this report. The methodology for estimating the value of future gain-sharing is disclosed in the 2003 AVR.

If, after examining those costs, it is determined that gain-sharing is affordable, it would then be a matter of setting the funding policy to pay for gain-sharing or replace gain-sharing with an alternative benefit of equal expense.

> Setting the funding policy would allow the recognition of future gain-sharing liabilities or it would continue to post-fund gain-sharing after each event. Recognizing the liabilities of future gain-sharing would address part of the liability issue by allowing the accumulation of earnings to pay for future benefits.
>
> Replacing gain-sharing with alternative benefits of equal expense could resolve the uncertain aspect of gain-sharing. Providing added regularity to the benefit would also allow for the recognition of alternative benefits and compliance with overarching funding policy.

If, after examining those costs, it is determined that gain-sharing is not affordable, it would then be a matter of repealing gain-sharing outright or repealing and replacing gain-sharing with less expensive alternative benefits.

> Repealing gain-sharing and not replacing it with alternative benefits would eliminate all future gain-sharing liabilities (other than those associated with possible litigation).
>
> Repealing gain-sharing and replacing it with less expensive alternative benefits would involve decisions on how much less the alternative benefits would cost. Would those benefits be one-half the cost? Would they be one-third the cost? Would they be similar benefits or something altogether different?

Is Gain-Sharing Sound Pension Policy?

Then there is the question of whether gain-sharing is sound pension policy. In terms of the overarching policies within the public pension systems administered by Washington State, gain-sharing has broken new ground in terms of certainty – when and how much of a benefit members receive – and funding.

In terms of determinability, gain-sharing benefits are not easily predicted for any given year. While that is not a concern in terms of regulatory compliance, it may be a concern to plan members.

In terms of funding, gain-sharing is unique. All other retirement benefits in the Plans 1 and Plans 2/3 are pre-funded – contributions are made during the members working lives to pay for their benefits before they retire. Gain-sharing benefits are funded after-the-fact or post-funded – contribution rates will increase after a gain-sharing event rather than before.

If it is determined that gain-sharing is sound pension policy, it would then be a matter of retaining it as a benefit and setting the funding policy.

> Retaining the gain-sharing benefit would not require any legislative action.
>
> Setting the funding policy, as stated in the affordability discussion, would allow the recognition of future gain-sharing or it would continue to post-fund gain-sharing after each event. Recognizing future gain-sharing would address the liability issue by allowing the accumulation of earnings to pay for future benefits.

If it is determined that gain-sharing is not sound pension policy, it would then be a matter of repealing and replacing gain-sharing with alternative benefits and policy.

> Repealing gain-sharing and replacing it with alternative benefits and policy would involve decisions on how much the alternative benefits would cost. Would they be similar benefits or something altogether different? Would the policy guiding those alternative benefits be within the existing policy or would it be a new policy?

Key Decision Factors

In any decision to modify a provision such as gain-sharing, numerous factors may be taken into account. These factors may include fiscal factors, legal factors, stakeholder interests, and SCPP goals.

Fiscal factors center on the cost of gain-sharing or any proposed replacement. Those costs are outlined in the Fiscal Notes and supplement in Appendix B. But fiscal issues can delve beyond the dollars gleaned from these fiscal notes. Fiscal issues may also address funding methods as they have a direct bearing on the ultimate cost of a benefit. Recognizing the future costs, pay-as-you-go, or post-funding methods have very different impacts on employer contribution rates.

Legal factors may be addressed as well. The AGO provides some legal clarity on the non-contractual rights clause, and possibly assurance, to those who may consider amending or repealing gain-sharing. But possible litigation is never without cost and risk. Beyond the contractual rights issues (*Bakenhus v. Seattle*), there may also be funding issues for which members may take umbrage; the unique post-funding method used for gain-sharing may invite a contest based on members' right to a "systematically funded" retirement plan under *Weaver v. Evans*.

Stakeholder interests may also be considered in any decision to modify a benefit provision. Gain-sharing impacts a large number of active, retired, and even terminated-vested members of the various retirement systems. Despite its sporadic nature, members may have come to rely on gain-sharing distributions.

SCPP goals may also be considered in this decision process. Those goals outline the general policy driving the efforts of the Select Committee on Pension Policy (SCPP). Consideration for those goals may be considered a part of balancing fiscal and policy issues. A complete list of the SCPP goals can be found in Appendix C.

Analyzing the Options under the Decision Factors

Each of the options discussed in the preceding chapter of this report have distinct implications relative to the decision factors noted above. This section will discuss those options within the scope of each of those factors.

Repeal and Not Replace

Fiscal factors: By repealing gain-sharing, the amount needed to recognize future benefits would be eliminated. Were the future costs of gain-sharing to be recognized, it would require an increase in employer contribution rates of 0.71 percent in PERS, 2.18 percent in TRS, and 2.55 percent in SERS. General Fund State (GFS) costs would increase $185.8 million and total employer costs would increase $403 million in the 2007-09 biennium. GFS costs would increase $3.5 billion and total employer costs would increase $7.8 billion over the next 25 years. Since future gain-sharing benefits have never been recognized, this would result in state and local governments avoiding a potential expense.

Legal factors: In the AGO, plan members have no contractual right to future gain-sharing and the legislature has the right to amend or repeal it. Regardless of the AGO, the non-contractual rights clause has not been tested in court. A straight repeal may result in future litigation risk.

Stakeholder interests: Repealing gain-sharing would eliminate a material benefit to a large number of active, retired, and term-vested members. Those members may have come to rely on those benefits. Some members transferred into Plan 3 from Plan 2 because of the availability of gain-sharing. A straight repeal may result in stakeholders litigating to test the validity of a "non-contractual rights" clause.

SCPP Goals: As gain-sharing is used to enhance the PERS 1 and TRS 1 COLA, repealing and not replacing gain-sharing would be contrary to the SCPP goal to increase and maintain members' purchasing power.

Repeal and Replace

The gain-sharing study mandate referenced "… plan choice, employer defined contributions, retirement eligibility enhancements, and post-retirement adjustments" as possible replacement benefits. These replacements are generally similar to those in HB 1324 from the 2005 session. Except for the fiscal specifics, these replacement benefits have similar key decision factors.

The legal concerns with any repeal and replace proposal(s) for gain-sharing include not only the "non-contractual" issue as stated above, but also the nature and value of the replacement benefits. In 2004, at the Actuary's request the AG's office provided informal advice regarding the nature and value of possible replacement benefits for gain-sharing. The AG's informal advice on the nature of the replacement benefit was that if gain-sharing were repealed and replaced by another benefit, and litigation were to occur, courts favor comparable benefits that are similar to the old benefit. The AG also believed that it is reasonable to adjust the value of an uncertain and unpredictable benefit when determining the value of a comparable replacement which has little or no uncertainty. As a result, a more certain (frequent) replacement benefit could have a lesser actuarial liability than gain-sharing and still be considered of similar value.

Fiscal factors: Any replacement benefit's impact on the liability associated with future gain-sharing would depend on the portion of gain-sharing being replaced. If the replacement benefit(s) is (are) a one-to-one trade-off, there would be no diminution of the overall liability.

Legal factors: In the AGO, plan members have no contractual right to future gain-sharing and the legislature has the right to amend or repeal it. Providing replacement benefits, particularly more frequent benefits, could help mitigate possible future litigation risk.

Stakeholder interests: Any significant replacement benefit that was more frequent would be an advantage over the sporadic nature of the gain-sharing benefit. Additional issues involve the value of the replacement benefits. A one-for-one trade-off would be ideal from a members' perspective, but not realistic from a budget writers' perspective.

SCPP Goals: Any replacement benefit that helps to enhance member COLAs, retirement eligibility, and adheres to the statutory goals in the funding chapter would be in accordance with SCPP goals.

Additional legal factors and the fiscal impact for each of these replacement benefits will be outlined below. For a complete examination of the fiscal impact of each of these replacement benefits, please reference the updated fiscal note and supplement in Appendix B.

Plan Choice

Relative to the AG's informal advice, plan choice has no link to the original gain-sharing benefits. It has no relationship with annual disbursements to defined contribution accounts and is of no value to existing active, term-vested, or retired Plan 3 members who benefit from gain-sharing.

Fiscal Impact: The normal costs are higher in the Plans 2 compared to the Plans 3, so as new members join the Plans 2, those higher costs would be realized. As a result, plan choice would increase contribution rates by 0.13 percent in TRS, and 0.15 percent in SERS. State general fund costs in the 2007-09 fiscal year would be $2.4 million and total employer costs (state and local government combined) would be $4.2 million. State general fund costs over the next 25 years would reach $161.6 million and total employer costs would tally to $280.5 million.

Employer Defined Contributions

Annual employer contributions to Plan 3 members' defined contribution accounts would replace a portion of the gain-sharing distributions. In HB 1324, only SERS members would receive this benefit. This proposal includes PERS 3 and TRS 3 members as well and costs have increased accordingly.

In terms of the AG's informal opinion, employer contributions are a good match as Plan 3 gain-sharing is used to provide distributions to Plan 3 member accounts.

Fiscal Impact: The fiscal impact of an annual employer contribution would depend on the amount being distributed and to which systems. In this proposal, the amount of employer-provided defined contribution was to be

$12 per year of service increased by 3 percent per year. According to the fiscal note, contribution rates would increase 0.10 percent in PERS, 0.54 percent in TRS, and 0.82 percent in SERS. State general fund costs in the 2007-09 fiscal year would be $34.1 million and total employer costs would be $66.8 million. State general fund costs over the next 25 years would reach $291.3 million and total employer costs would tally to $552.1 million.

Retirement Eligibility Enhancements

The current discussion on retirement eligibility has focused on lowering the retirement age in the Plans 2/3. Members of the Plans 2/3 are eligible for an unreduced retirement at age 65 with five/ten years of service. The principal focus is establishing a "Rule-of-90" in these plans. A Rule-of-90 would combine a member's age and years of service to determine retirement eligibility; a member who was age 55 with 35 years of service (55+35=90) would be eligible for an unreduced retirement benefit.

In terms of the AG's informal advice, trading away Plan 3 gain-sharing for a Rule-of-90 proposal has several policy challenges. An enhanced retirement eligibility benefit is not within the same scope as current gain-sharing benefits which provide distributions to Plan 3 members' defined contribution accounts. Additionally, trading away a Plan 3 benefit to provide an enhanced Plan 2 benefit is not within the scope of the same plan. Finally, such a provision does not benefit certain groups that are currently eligible for gain-sharing distributions – retirees and term-vested members for example. However, it does address SCPP goals concerning retirement eligibility.

Fiscal impact: The full Rule-of-90 would result in employer contribution rate increases of 0.73 percent in PERS, 1.00 percent in TRS, and 0.57 percent in SERS. State general fund costs in the 2007-09 fiscal year would be $75.7 million and total employer costs would be $191.6 million. State general fund costs over the next 25 years would reach $1.3 billion and total employer costs would tally to $3.1 billion. The costs for other variations on the Rule-of-90 can be found in Appendix D.

Post-Retirement Adjustments

Post-retirement adjustments refer to enhancing Plan 1 COLA provisions. In this analysis, several Plan 1 provisions were enhanced including the Uniform Increase Amount, the age eligibility standard to receive the Uniform COLA, and the age/service eligibility to receive the alternative $1,000 minimum benefit and the indexing of that benefit.

In terms of the AG's informal advice, each of these adjustments fall within the same scope as the original Plan 1 gain-sharing – that of enhancing or retaining Plan 1 retirees' purchasing power. While the age eligibility and $1,000 alternative minimum benefit impact a smaller share of the membership, they still stay within the scope of the original gain-sharing benefit.

Fiscal Impact: Increasing the "Uniform Increase Amount" would result in increased employer contribution rates of 0.23 percent in PERS, 0.47 percent in TRS, and 0.23 percent in SERS. State general fund costs in the 2007-09 fiscal year would be $39.1 million and total employer costs would be $89.9 million. State general fund costs over the next 25 years would reach $515.8 million and total employer costs would tally to $1.2 billion. To examine the fiscal impact of the other individual Plan 1 benefit enhancements see the fiscal note and fiscal note supplement in Appendix B.

Plan 3 to Plan 2 Transfer

The final repeal and replace option examined in this report would be to provide Plan 3 members a choice to return to the Plans 2. This would recognize that the presence of gain-sharing benefits may have provided an incentive for members to transfer or join the Plans 3. The AGO may presume that members read the pension statutes, but the great majority of members peruse the plan information available through the Department of Retirement Systems. It has been alleged that this information did not discuss the non-contractual nature of gain-sharing.

Fiscal Impact: Allowing Plan 3 members to prospectively return to Plan 2 would increase employer contributions by 0.01 percent in PERS, 0.18 percent in TRS, and 0.16 percent in SERS. The General Fund State (GFS) cost in 2007-09 would be $9.9 million, and total employer costs would be $17.1 million. Over 25 years, the GFS costs would be $86.9 million, and total employer costs would be $146.4 million.

Suspend Gain-Sharing Benefit and Suspend Funding

Fiscal factors: This option could eliminate the liability of a gain-sharing event that was suspended during the suspension period. This would limit the liabilities associated with future gain-sharing events to those that would occur after the suspension period, though the majority of those liabilities for Plan 3 will always be in the future.

Legal factors: In the AGO, any amendment to gain-sharing is allowable. While any such change has the risk of litigation, a suspended benefit would probably not be as great a risk as an outright repeal.

Stakeholder interests: Depending on the period, suspending gain-sharing benefit and funding may or may not eliminate a gain-sharing distribution. This could make gain-sharing even less predictable, less certain, and less desirable than it is currently.

SCPP goals: Suspending gain-sharing would be in conflict with the SCPP goal to maintain consistency with funding policies outlined in chapter 41.45 RCW – these are to provide for full funding, predictable rates, and funding of benefit increases over the working lives of the members.

Make Discretionary

Fiscal factors: Making gain-sharing discretionary with the legislature would only limit gain-sharing liabilities if gain-sharing distributions, though triggered, were not granted. It would not be possible to forecast such discretion in a funding model and the OSA would recommend the benefit be recognized in an accepted manner until there was some experience.

Legal factors: In the AGO, any amendment to gain-sharing is allowable. Any such change has the risk of litigation.

Stakeholder interests: Making gain-sharing distributions discretionary with the legislature may or may not eliminate a gain-sharing distribution. This makes gain-sharing potentially more sporadic than it is currently.

Retain and Pre-Fund

Fiscal factors: Recognizing the costs of future gain-sharing would address the future liabilities associated with gain-sharing only to the extent that the liability would be acknowledged and funded. This would require an increase in employer contribution rates of 0.71 percent in PERS, 2.18 percent in TRS, and 2.55 percent in SERS. GFS costs in the 2007-09 biennium would be $185.8 million and total local government costs would be $403 million. Over the next 25 years GFS costs would be $3.5 billion and total employer costs would be $7.8 billion.

Legal factors: Recognizing the costs of future gain-sharing would eliminate any "systematic funding" concerns there might be with the current funding method for gain-sharing.

Stakeholder interests: Retaining and recognizing the future costs of gain-sharing provides greater guarantee for currently eligible members - but not for Plan 2 members. This may also set the stage to trade gain-sharing for a benefit with greater certainty.

SCPP goals: Pre-funding would be in keeping with the SCPP goal to fund retirement benefits systematically.

Retain and Post-Fund (Delay)

Fiscal factors: Delaying the funding of gain-sharing compounds the liabilities associated with future gain-sharing. When gain-sharing is funded – after an event– the contributions will be greater than had these costs been recognized earlier.

Legal factors: Post-funding a material benefit is outside the norm and may not be considered a "systematic funding" policy.

Stakeholder interests: This is the status quo benefit and funding policy. While it retains the existing benefit, it does not address the frequency or certainty of the benefit, nor does it address the funding aspect that makes the benefit more costly than it needs to be.

SCPP goals: Retention of the benefit is in keeping with the SCPP goals, but the funding method is contrary to the goal to maintain consistency with the funding policies outlined in RCW 41.45.

The following table is a synopsis of the key decision factors as outlined in this chapter.

	Key Decision Factors			
Options	**Fiscal**	**Legal**	**Stakeholder Interests**	**SCPP Goals**
Repeal and not replace	Eliminates all gain-sharing liability; no 07-09 budget impact	Allowable under AGO, but could result in litigation	Would eliminate a benefit upon which members depend	Contrary to the SCPP goal to increase and maintain members' purchasing power
Repeal and replace	Liability depends on the portion of gain-sharing being replaced; 07-09 budget impact	Allowable under AGO, and minimizes possible litigation over a reapeal	May result in a more frequent and desirable benefit	May help establish benefits more in keeping with SCPP goals
Suspend benefit and funding	Could eliminate the liability of an event that occurred during the suspension period	Allowable under AGO, but could result in litigation	May eliminate a benefit upon which members depend	Would be in conflict with SCPP goals
Make discretionary	Could eliminate the liability of an event that was triggered but not granted	Allowable under AGO, but could result in litigation	May eliminate a benefit upon which members depend	Would be in conflict with SCPP goals
Retain and pre-fund	Liability pre-funded; 07-09 budget impact	Eliminates any "systematic funding" concerns	Retains a benefit upon which members depend	Would be in keeping with SCPP goals
Retain and post-fund	Liability funded as in current practice; no 07-09 budget impact	Possible "systematic funding" concerns	Retains a benefit upon which members depend	Would be somewhat in conflict with SCPP goals

Recommendation

SCPP Recommendation and Supporting Findings

In their deliberations to reach a recommendation, the SCPP strived to balance the fiscal factors, legal factors, stakeholder interests, and policy issues surrounding gain-sharing with the committee's own findings and goals. Among the key findings are the following:

Fiscal Findings

Gain-sharing is a material benefit with a material liability. Because of the Plans 1 and Plans 3 are not equal cost-sharing plans, the cost of gain-sharing is paid through increased employer contributions. The cost to recognize gain-sharing's liability would be $185.8 million in GFS, and $403 million in total employer costs in 2007-09. The 25-year cost of recognizing gain-sharing would be $3.5 billion in GFS, and $7.8 billion in total employer costs.

Legal Findings

In the Attorney General's Opinion, the non-contractual clause in the gain-sharing statute allows the legislature to amend or repeal the benefit. The Attorney General also suggests that were gain-sharing to be replaced with alternative benefits, those benefits should be of a similar nature.

Stakeholder Interest Findings

Stakeholders have expressed concern with the certainty, systematic funding, contractual rights, and the Plan 2 exclusion from gain-sharing. Stakeholders may find that a more certain benefit is preferable to the sporadic distributions from gain-sharing. They may also prefer that all benefits be systematically funded. It can be assumed that stakeholders prefer a contractual benefit to one that can be granted and then taken away. Some stakeholders have also suggested that Plan 2 members were excluded from gain-sharing for erroneous reasons -- they received temporary pay increases from declining contribution rates while Plan 1 and Plan 3 members received permanent benefit increases from gain-sharing distributions.

SCPP Goals

To be in keeping with the funding goals of Chapter 41.45 RCW and the SCPP, the liability of gain-sharing, or any replacement benefit liability, should be recognized and funded in a systematic manner.

Benefit improvements for Plan 1 members would involve improving and maintaining their purchasing power, another SCPP goal. Benefit improvements for Plan 2/3 members that relate to retirement eligibility – improving the normal retirement age, would also be in keeping with SCPP goals.

It is also the SCPP's finding that certainty has a greater value than uncertainty. Any alternative, more regular benefits need not be as costly as gain-sharing.

Recommendation

As a result, the SCPP recommends repealing gain-sharing and replacing it with the following more certain, and more inclusive alternative benefits that have a total cost of about half the 2007-09 projected costs for retaining and pre-funding future gain-sharing benefits:

- One-time $0.24 increase in the Plan 1 Uniform COLA;
- SERS and TRS 2/3 Plan choice for new entrants;
- One-time prospective transfer window from Plan 3 to Plan 2 for all current Plan 3 members (employer paid);
- Employer defined contributions of $12 per year of service increased by 3 percent per year for existing Plan 3 members; and,
- Repeal annual rate flexibility for PERS, TRS and SERS Plans 3.

Stand-alone Bills

In concert with the SCPP goals, but recognizing that those eligible for benefits under these proposals have a less direct connection with those eligible for the original gain-sharing benefits, the following items were recommended by the SCPP to be stand-alone bills.

- Plan 1 age 66 COLA eligibility,
- Expanded eligibility for alternative $1,000 minimum benefit and 3 percent annual escalator to Plan 1 members with 20 years of service who have been retired 25 years; and
- Full rule of 90 for Plan 2/3 members.

Appendices

Appendix A 37
Attorney General Opinion

Appendix B 45
Draft Fiscal Notes and Supplement

Appendix C 87
SCPP Goals

Appendix D 91
Rule-of-90 Alternatives

Appendix E 101
Gain-Sharing Trade-Off Bar Graph Analysis

Appendix A

Attorney General Opinion

PENSIONS – PUBLIC EMPLOYEES' RETIREMENT SYSTEMS – RETIREMENT – Effect of "non-contractual rights clause" on Legislature's future obligation to provide "gain-sharing benefits".

Where the Legislature has enacted statutes providing "gain-sharing" benefits to retirement system members if certain circumstances occur, but has included language reserving the right to repeal or modify such benefits before they are actually granted, pension system members have no enforceable right or current reasonable expectation of receiving such benefits.

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November 2, 2005

The Honorable Matthew M. Smith
State Actuary
P.O. Box 40914
Olympia, WA 98504-0914

Cite as:
AGO 2005 No. 16

Dear Mr. Smith:

By letter previously acknowledged, you have requested our opinion on the following question:

> **Do the provisions in RCW 41.31.030, RCW 41.31A.020(4), RCW 41.31A.030(5), and RCW 41.31A.040(5), containing "non-contractual rights clauses", negate any contractual obligation of the state to provide gain-sharing benefits in the future?**

BRIEF ANSWER

For the reasons set forth below, we conclude that the answer to your question is yes, in that the Legislature retains the authority to amend or repeal the gain-sharing provisions of the public employee pension statutes in the future and, if it does so, no contractual claim can be made for gain-sharing distributions due after that date. While the Washington Supreme Court has held that the pension statutes do create certain rights for public employees that are contractual in nature, the Court has also held that those rights consist of a pension substantially in accord with the statutes as they exist when the employee begins service.

Here, the statutes in question have always clearly and unequivocally provided that the gain-sharing provisions do not create a contractual right in any public employee member or

beneficiary to receive gain-sharing distributions in the future, and that the Legislature may amend or repeal these particular statutes at any time.

ANALYSIS

Your question concerns the "gain-sharing" provisions of the public employee pension statutes that the Legislature enacted in 1998 and amended in 2000 and 2003. RCW 41.31 and 41.31A provide for an additional payment to be made to members and beneficiaries of certain pension plans when there have been four consecutive years of "extraordinary gains". When gain-sharing occurs, half of the extraordinary gains are distributed to eligible members or beneficiaries.[1] RCW 41.31.020; RCW 41.31A.020(3), .030(3), .040(3). RCW 41.31 governs gain-sharing for persons covered by Public Employees' Retirement System (PERS) Plan 1 and Teachers' Retirement System (TRS) Plan 1. RCW 41.31A governs gain-sharing for persons covered by PERS Plan 3, TRS Plan 3, and School Employees' Retirement System (SERS) Plan 3.

However, in the 1998 act, as well as the 2000 and 2003 amendments, the Legislature enacted reservation of rights clauses that specifically limited the gain-sharing rights of current and future members and beneficiaries. The Plan 1 clause states:

> The legislature reserves the right to amend or repeal this chapter in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that amendment or repeal.

RCW 41.31.030. The Plan 3 clauses are worded substantially the same. They read:

> 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 distribution not granted prior to that time.

RCW 41.31A.020(4), .030(5), .040(5).

Your question concerns the effect of the above provisions, in light of the law governing public pensions in this state. We turn first to the seminal Washington case on this subject, *Bakenhus v. City of Seattle*, 48 Wn.2d 695, 701, 296 P.2d 536 (1956). There, the Court stated:

> [T]he employee who accepts a job to which a pension plan is applicable contracts for a substantial pension and is entitled to receive the same when he has fulfilled the prescribed conditions. His pension rights may be modified prior to retirement, but only for the purpose of keeping the pension system flexible and maintaining its integrity.

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[1] The actual manner of distribution of the gain-sharing amount set out in detail in the statutes is complicated and not necessary to the discussion of the issues in this opinion.

The Court has since clarified that "at least some pension rights are contractual in nature". *Retired Pub. Employees Coun. v. Charles,* 148 Wn.2d 602, 624, 62 P.3d 470 (2003). While the pension statutes are not in themselves contracts, they provide the right to receive certain benefits that constitute deferred compensation to the employee for services rendered. *Noah v. State,* 112 Wn.2d 841, 844, 774 P.2d 516 (1989). If it were otherwise, these benefits would amount to mere gratuities that are prohibited by the state constitution. *Bakenhus,* 48 Wn.2d at 698. Accordingly, the following have been held to be vested rights that are protected from subsequent impairment: size of a pension (*Bakenhus*); right to the statutory retirement age at the time of employment (*Eagan v. Spellman,* 90 Wn.2d 248, 258, 581 P.2d 1038 (1978)); right to a practice of including certain lump sum payments in the calculation of retirement benefits (*Washington Ass'n of Cy. Officials v. Washington Pub. Employees' Ret. Sys. Bd.,* 89 Wn.2d 729, 733, 575 P.2d 230 (1978)); right to add to a pension by using accrued vacation pay (*Washington Fed'n of State Employees v. State,* 98 Wn.2d 677, 679, 658 P.2d 634 (1983)); and right to the systematic funding of the retirement system to maintain actuarial soundness (*Charles,* 148 Wn.2d at 625).

Nevertheless, the question remains: Assuming that a certain pension benefit created by statute constitutes a right contractual in nature, what is the extent of the right that has been created? *Bakenhus* answered as follows:

> The problem arises in determining the extent of the contractual undertaking on the part of the state or municipal authority which has promised the pension. . . . *The promise on which the employee relies is that which is made at the time he enters employment; and the obligation of the employer is based upon that promise.*

48 Wn.2d at 700 (emphasis added). This interpretation of the pension statutes is reasonable, *Bakenhus* continued, because it "gives effect to the reasonable expectations of the employee and at the same time allows the legislature the freedom necessary to improve the pension system and adapt it to changing economic conditions". *Id.* at 701.

The right to a public pension "commence[s] . . . with the first day of employment or service, and continue[s] to vest with each day's service thereafter". *Tembruell v. City of Seattle,* 64 Wn.2d 503, 506, 392 P.2d 453 (1964). Significantly, however, as clarified in *Noah,* such "vesting" refers to "the contractual right to a pension *substantially in accord with the statutes as they existed when the employee begins service*". *Noah,* 112 Wn.2d at 845 n.1 (emphasis added).

In the cases noted above, the Supreme Court invalidated attempts to rescind pension benefits previously granted to public employees. Those cases are all distinguishable from the present situation, however, because none of them involved statutes containing clauses that both specifically reserve the Legislature's right to amend or repeal the benefits in question in the future (*e.g.,* gain-sharing), *and* they clearly state that the Legislature is not granting any contractual right to any benefits not granted before such amendment or repeal. We find this difference to be critical, because the "contractual" theory underpinning *Bakenhus* (and subsequent public pension cases) stresses the importance of: (1) upholding the "reasonable

expectations" of the member or beneficiary,[2] and (2) not reneging on the promise originally made to the members when they joined the pension system. We do not read the decisions to hold that the Legislature is prohibited from initially setting clear limits on the benefits being afforded to members and beneficiaries; rather, we read them to hold that the Legislature cannot later retroactively depart from the terms set forth in the original statutes granting such benefits.

A recent Oregon case related to pension benefits concurs with this reasoning. *Strunk v. Pub. Employees Ret. Bd.*, 338 Or. 145, 108 P.3d 1058 (2005). Although the Oregon Supreme Court has held that the pension statutes can create contractual rights for PERS beneficiaries, it has also held that the Legislature may limit the extent of such contractual rights by including clear statutory language to this effect. One of the issues raised in *Strunk* concerned the Oregon Legislature's 1991 repeal of the tax exemption for PERS benefits. The Oregon Supreme Court had held (in an earlier case, *Hughes v. Oregon,* 314 Or. 1, 838 P.2d 1018 (1992)) that this repeal in effect breached PERS members' contractual rights, requiring a legislative remedy. When the Oregon Legislature failed to act, class action litigation was brought, leading to a settlement for damages covering all PERS retirees who were PERS members before the effective date of the 1991 tax repeal. The Legislature adopted the terms of the settlement and codified them in the Oregon statutes, specifically Or. Rev. Stat. §§ 238.375 to 238.380. The implementation of these terms resulted in an annual increase in employer contribution rates to PERS of approximately 1.4 percent. Significantly, however, the Oregon Legislature included the following provision in Or. Rev. Stat § 238.375(3):

> No member of the system or beneficiary of a member of the system shall acquire a right, contractual or otherwise, to the increased benefits provided by [Or. Rev. Stat. §§ 238.375 - .380].

Strunk, 108 P.3d at 1079.

When the Oregon Legislature passed certain laws in 2003 lowering PERS retirement benefits, the PERS member petitioners in *Strunk* argued that doing so impermissibly repealed the benefits they had obtained by virtue of the settlement that had been codified into the Oregon PERS statutes. The court disagreed:

> Respondents argue, we conclude correctly, that the . . . settlement agreement by its specific terms limited petitioners' rights to those set out in the 1991 legislation and that that legislation expressly disavowed the creation of any contractual rights. The wording of ORS 238.375(3) . . . could not be clearer in that respect. Nothing about the context of that wording alters what we perceive to be the legislature's manifest intent. Because petitioners have failed to demonstrate a

[2] The "reasonable expectation" test is an objective test, rather than one based upon the specific expectations of individual employees. *Bowles v. Dep't of Ret. Sys.,* 121 Wn.2d 52, 67, 847 P.2d 440 (1993). Furthermore, a retirement system member is presumed to know the law by reading the pension statute. *Retired Pub. Employees Coun. v. State,* 104 Wn. App. 147, 151-52, 16 P.3d 65 (2001).

> contractual right that [the 2003 Oregon laws are] capable of breaching with respect to the . . . settlement, we reject their argument.

Id.

The Washington State Supreme Court has addressed the Legislature's power to amend contractual rights in public contracts in non-pension contexts. These cases indicate that contract rights may be made subject to future alteration by the Legislature, *if* the Legislature's reservation clause is clear and specific enough. In *Caritas Servs., Inc. v. Dep't of Social & Health Servs.*, 123 Wn.2d 391, 869 P.2d 28 (1994), at issue was whether amendments to the Nursing Homes Auditing and Cost Reimbursement Act of 1980 (RCW 74.46), and related regulations, unconstitutionally impaired contract rights by retroactively reducing nursing home reimbursement rates under the Medicaid program. The contract clause there provided:

> All rights and obligations of the parties to this agreement shall be . . . governed by the terms of this agreement or as set forth in the laws and regulations of the State of Washington and the United States, *as now existing or hereafter adopted or amended*, relating to the administration of the Title XIX Medicaid program, payment for services under such program and operation of nursing homes generally[.]

Caritas, 123 Wn.2d at 404 (ellipses and emphasis in original). The Court found that this language was not specific enough to allow the Legislature to subject the existing contract to future, retroactive modification. "[O]ur case law requires such reservation clauses to be made *explicitly* contingent on future acts of the Legislature with retroactive effect." *Id.* at 406 (emphasis in original). Similarly, in *Carlstrom v. State,* 103 Wn.2d 391, 393-95, 694 P.2d 1 (1985), the Court held that a reservation clause that made a public employment contract "subject to all present and future acts of the legislature" was not specific enough to subject the contract to retroactive modification. *Accord Cont'l Illinois Nat'l Bank & Trust Co. v. Washington,* 696 F.2d 692, 698-99 (9th Cir. 1983).

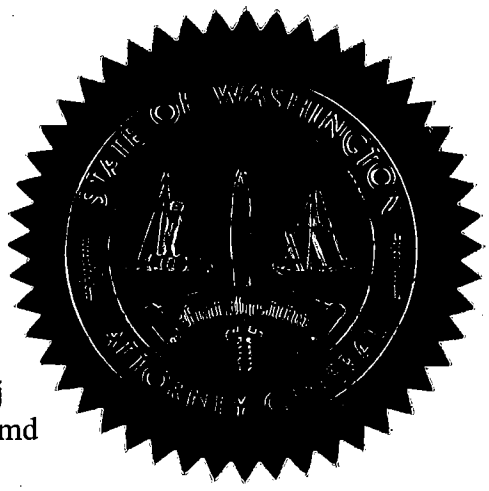
On the other hand, the Court in *Caritas* added: "To forestall confusion, we note that states or agencies may put potential contractors explicitly on notice that the terms of a public contract are subject to retroactive adjustment as the whims or the budgetary necessity of the state may dictate." *Caritas,* 123 Wn.2d at 406-07, n.9. *See also Trustees of Dartmouth College v. Woodward,* 17 U.S. 518, 666, 4 L. Ed. 629 (1819) (Story, J., concurring). In *Carlstrom,* the Court emphasized that "[t]he Legislature knows how to use plain English to make existing contracts subject to future modification" (*Carlstrom*, 103 Wn.2d at 398), thus implying that the Court would uphold and enforce such specific language in a future case. The Court has also reiterated that reservation clauses must adhere to policies of fairness, such as those underlying the public pension cases. *Caritas*, 123 Wn.2d at 407, n.9, citing Laurence H. Tribe, *American Constitutional Law* 618-19 (2d ed. 1988) ("noting that the most basic purposes of the contract clause point to the simple principle that the government must keep its word"), and citing *General Motors Corp. v. Romein,* 503 U.S. 181, 191, 112 S. Ct. 1105, 117 L. Ed. 2d 328 (1992)

(retroactive legislation presents problems of unfairness where it deprives citizens of legitimate expectations).

Applying these principles, we believe that the provisions in RCW 41.31.030, 41.31A020(4), 41.31A.030(5), and 41.31A.040(5), containing "non-contractual rights clauses", are sufficient to negate any obligation of the state to provide gain-sharing benefits that have not been provided prior to any subsequent modification or repeal of the gain-sharing statutes. The reservation clauses here do not contain merely general statements that the gain-sharing statutes are "subject to all present and future acts of the legislature" (*Carlstrom*, 103 Wn.2d at 393-95), or that they are subject to laws "now existing or hereafter adopted or amended" (*Caritas*, 123 Wn.2d at 404). They go much further than this, stating not only that the Legislature reserves the right to amend or repeal these sections in the future, but also stating—clearly and explicitly—that "no member or beneficiary has a contractual right to receive [a gain-sharing] distribution not granted prior to that time" (RCW 41.31.030; RCW 41.31A.020(4), .030(5), .040(5)).

A retirement system member is presumed to know the law by reading the pension statute. *Retired Pub. Employees Coun. v. State,* 104 Wn. App. at 151-52. As the Oregon Supreme Court held in construing nearly identical language in *Strunk,* we do not believe the Legislature's expressed intent could be clearer in this respect. Furthermore, we do not believe that members or beneficiaries, in light of this language, can claim a "reasonable expectation" (in the words of *Bakenhus*) to receive a continuous and unending right to gain-sharing distributions in the future. "The promise on which the employee relies is that which is made at the time he enters employment; and the obligation of the employer is based upon that promise." *Bakenhus,* 48 Wn.2d at 700. The "promise" of the Legislature here included a specific—but clearly limited—right to receive gain-sharing.

We trust that the foregoing will be of assistance to you.



Sincerely,

ROB MCKENNA
Attorney General

GREGORY J. TRAUTMAN
Assistant Attorney General
(360) 664-1183

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Appendix B

Draft Fiscal Notes and Supplement

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/12/05	Omnibus gain-sharing bill

SUMMARY OF BILL:

This bill impacts the Public Employees' Retirement System Plan 1 and Plan 3, the Teachers' Retirement System Plan 1 and Plan 3, and the School Employees' Retirement System Plan 3 by:

- Repealing Plan 1 and Plan 3 gain-sharing.
- Providing a one-time permanent $0.24 increase in the Plan 1 Uniform COLA.
- Providing a one-time Plan 3 to Plan 2 prospective transfer window for all current Plan 3 members.
- Establishing Plan 2/3 choice for TRS and SERS new hires.
- Repealing annual rate flexibility for PERS, TRS, and SERS Plans 3.
- Establishing an annual Plan 3 employer defined contribution of $12 per year of service (increased by 3% per year) for existing Plan 3 members only (and after transfer window).

Effective Date: July 1, 2007

CURRENT SITUATION:

Currently, gain-sharing applies to the Plans 1 and 3 of PERS, TRS, and SERS. Gain-sharing is a mechanism that increases benefits. The increases are not automatic, but are contingent on the occurrence of "extraordinary investment gains." Extraordinary gains occur when the compound average of investment returns on pension fund assets exceeds 10% for the previous four state fiscal years. When this occurs, a calculation is performed to determine a dollar amount that will be distributed to eligible members. Gain-sharing calculations are currently made once each biennium with potential distributions occurring in January of even-numbered years. There have been two gain-sharing distributions since the inception of gain-sharing: one in 1998 and one in 2000.

When gain-sharing occurs, one-half of the gain for PERS 1 and TRS 1 is used to fund a permanent increase in the PERS 1 and TRS 1 Uniform COLA for current and future retirees. The gain is used to boost the Annual Increase Amount. The Annual Increase Amount, which increases each year by at least 3 percent, is multiplied by each retirees' total years of service to determine the annual uniform increase retirees receive when they are COLA eligible. Thirty-eight cents of the current annual increase amount is the result of gain-sharing. The Annual Increase Amount is scheduled to increase to $1.29 on July 1, 2006 and to $1.33 on July 1, 2007.

In the Plans 3, active, retired and terminated vested members receive gain-sharing distributions as a lump sum dollar amount that is deposited directly into their defined contribution accounts based on years of

service credit.

Currently, of the three systems, PERS is the only one that has Plan 2/3 choice at hire. New PERS employees have a period of ninety days to make an irrevocable choice to become a member of Plan 2 or Plan 3. At the end of ninety days, if the member has not made a choice to become a member of Plan 2, he or she automatically becomes a member of Plan 3. In TRS and SERS, new employees automatically become members of Plan 3, and the Plans 2 are closed to new hires.

Current law provides that members of the Plans 3 may change their contribution rate option by notifying their employer in writing during the month of January. In practice, this provision is only available to TRS 3 members, as the IRS did not approve contribution rate flexibility for PERS and SERS when the plans were qualified this last year. Removal of the annual contribution choice provisions in PERS and SERS has become a matter of IRS compliance.

MEMBERS IMPACTED:

The 24 cent COLA and the repeal of Plan 1 gain-sharing will impact all 75,390 members of PERS 1 and all 45,961 members of TRS 1.

For a typical Plan 1 member impacted by this bill, the uncertain and irregular adjustment to the Annual Increase Amount provided by gain-sharing is exchanged for a definitely determinable increase. Instead of providing adjustments to the Annual Increase Amount with gain-sharing, the Annual Increase Amount would be permanently increased by 24 cents. A retiree with 25 years of service would get an initial increase of $6 per month. This $6 increase will become a permanent part of the Uniform COLA Annual Increase Amount, growing by 3% per year thereafter.

The repeal and modification of Plan 3 gain-sharing for PERS, TRS and SERS could potentially impact all current and future members of PERS 3, TRS 3, and SERS 3, including all of the active Plan 3 members except those that would not meet the requirement of having a minimum $1,000 balance in the member account, all of the Plan 3 annuitants, all of the Plan 3 terminated vested members meeting the minimum balance requirement, and any Plan 3 terminated non-vested members who are rehired.

(As of September 30, 2004)	PERS 3	TRS 3	SERS 3
Active	19,855	49,302	29,430
Annuitants	222	541	481
Terminated and Vested	1,284	2,761	2,035
Total	21,361	52,604	31,946

The $12 Plan 3 contribution will impact the same Plan 3 members impacted by the repeal of gain-sharing, to receive the contribution at any time in the future, a Plan 3 member would need to meet the eligibility requirements on the effective date of the act and the eligibility requirements on the effective date of a future distribution.

The Plan 3 contribution multiplier would increase at 3% per year and the contribution amount would increase for each additional year of service. The amount would continue to be deposited to the eligible member's defined contribution (DC) account for life, or until termination of employment if the member is non-vested. Below is a summary of costs for an average member and sample benefits for an active member with ten years of service in each system:

(As of September 30, 2004)	PERS 3	TRS 3	SERS 3
Contribution per year of service	$12	$12	$12
Average present value of benefits (all members)	$2,900	$3,600	$2,700
Total contribution to DC account, 1st year*	$120	$120	$120
Total contribution to DC account, 2nd year*	$136	$136	$136
Total contribution to DC account, 20th year*	$610	$610	$610

**Active member, assuming member remains continuously active on a full-time basis.*

Regarding the Plan 2/3 prospective choice, this will impact TRS and SERS members hired on or after July 1, 2007. We estimate that from October 1, 2007 to September 30, 2008, there will be a total of 4,568 new TRS members and 5,452 new SERS members. The number of new members is expected to increase each year. We estimate that 50% of these new members would elect to join Plan 2 and 50% would elect Plan 3.

All active members of the Plans 3 could be impacted by the provision that would allow a window of opportunity to join Plan 2 for prospective service. For members electing to transfer, the prior service would remain in Plan 3, and future service would be credited in Plan 2. Some of these impacted members are currently in Plan 3 by way of transfer. Some TRS 3 and SERS 3 actives are in Plan 3 solely because Plan 2 membership was closed when they entered service. There are also some PERS 3 actives who entered after the creation of Plan 3 by electing to join Plan 3 (or failing to join Plan 2 within 90 days of hire). We estimate that about 50% of Plan 3 members would elect to transfer. Below is a breakdown of this membership status:

Plan 3 Active Membership Status *(As of September 30, 2004)*	PERS 3	TRS 3	SERS 3
Transferred from Plan 2	12,203	21,821	15,307
Hired after Plan 3 inception date*	7,652	27,481	14,123
Total Active Membership	19,855	49,302	29,430

**PERS new entrants have a choice between Plan 2 and Plan 3. TRS and SERS new entrants must join Plan 3.*

The removal of the Plan 3 provision that allows members to change their employee contribution rate by notifying their employer in writing during the month of January would affect 19,855 active PERS 3 members, 49,302 active TRS 3 members, and 29,430 active SERS 3 members. This change would impact the defined contribution portion of the plan and would have no impact on benefits under the defined benefit plan. Transferring from Plan 3 to Plan 2 might have an impact on eligibility for retiree medical benefits, but this would not have an impact on contribution rates for the defined benefit pension plan.

ASSUMPTIONS:

We assumed that employer contribution rates would decrease after the proposed repeal of gain-sharing because rates under current policy and generally adopted by the PFC, subject to legislative approval, include the cost of future gain-sharing benefits. The cost impact was developed using the same logic as used for the 2003 valuation (rates were determined assuming a delayed effective date from the valuation date to 2007).

For pricing the cost of prospective choice, we determined the Entry Age Normal Cost rate (EANC) for Plan 2 as if every active Plan 2 and Plan 3 member were in Plan 2, and we determined the EANC for Plan 3 as if every active Plan 2 and Plan 3 member were in Plan 3. We calculated the excess of the employer portion of the EANC for Plan 2 over the EANC for Plan 3 and then took 50% of the difference to reflect our assumption that 50% of new members in TRS and SERS would elect to join Plan 2 and 50% would elect Plan 3. Since the choice would only apply to new members, we assumed no rate increase for choice for the current members, and applied the rate increase for choice to the projected payroll for the new members only.

We considered making an adjustment for the cost of prospective choice based on the age of members who would elect Plan 2 compared to the age of members who would elect Plan 3, however, after reviewing the choices made by new members in PERS over an 18-month period, there was no significant difference in choice based on age.

In pricing the opportunity for Plan 3 members to Plan 2, for prospective service we assumed that approximately 50% of the current actives would elect to do so. In addition, we assumed that the members who would choose this option would be the older half of the actives, since Plan 2 provisions generally benefit older members more than do Plan 3 provisions.

For the $12 Plan 3 contribution, we projected the total years of credited service for eligible Plan 3 members, active and inactive, under current assumptions, multiplied the service by the indexed benefit, and took the present value at 8%.

FISCAL IMPACT:

Description:

The decrease in contribution rates from the proposed repeal of future gain-sharing is partially offset by the increase due to the proposed benefit improvements.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing (decreasing) the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current*	Increase	Total
Actuarial Present Value of Projected Benefits	PERS	$28,718	$(286)	$28,432
(The Value of the Total Commitment to all Current Members)	TRS	$16,407	$(283)	$16,124
	SERS	$2,296	$(57)	$2,239
Unfunded Actuarial Accrued Liability	PERS 1	$3,052	$(229)	$2,823
(The Portion of the Plan 1 Liability that is Amortized at 2024)	TRS 1	$1,816	$(179)	$1,637
Unfunded Liability (PBO)	PERS	$(162)	$(228)	$(390)
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	TRS	$309	$(233)	$76
	SERS	$(360)	$(32)	$(392)

**Includes the value of future gain-sharing benefits.*

Increase in Contribution Rates: (Effective 07/01/07 for PERS; 09/01/07 for TRS and SERS)	PERS	TRS	SERS
Current Members			
Employee (Plan 2)			
Repeal Gain-Sharing	0.00%	0.00%	0.00%
Plan 2/3 Prospective Choice	0.00%	0.00%	0.00%
Transfer to Plan 2 for Prospective Service	0.01%	0.18%	0.16%
Plan 3 Contribution	0.00%	0.00%	0.00%
Total Benefit Improvements	0.01%	0.18%	0.16%
Net Employee (Plan 2)	0.01%	0.18%	0.16%
Employer State			
Repeal Plan 1 Gain-Sharing	(0.46%)	(0.94%)	(0.46%)
$0.24 Plan 1 Uniform COLA Increase	0.23%	0.47%	0.23%
Net Plan 1 Employer State	(0.23%)	(0.47%)	(0.23%)
Repeal Plan 2/3 Gain-Sharing	(0.25)%	(1.24)%	(2.09)%
Plan 2/3 Prospective Choice	0.00%	0.00%	0.00%
Transfer to Plan 2 for Prospective Service	0.01%	0.18%	0.16%
Plan 3 Contribution	0.10%	0.54%	0.82%
Total Benefit Improvements	0.11%	0.72%	0.98%
Net Plan 2/3 Employer State	(0.14)%	(0.52)%	(1.11)%
Total Employer State - Current Members	(0.37)%	(0.99)%	(1.34)%

Increase in Contribution Rates: (Effective 07/01/07 for PERS; 09/01/07 for TRS and SERS)	PERS	TRS	SERS
New Entrants*			
Employee (Plan 2)			
Repeal Plan 3 Gain-Sharing	0.00%	0.00%	0.00%
Plan 2/3 Prospective Choice	0.00%	0.13%	0.15%
Transfer to Plan 2 for Prospective Service	0.00%	0.00%	0.00%
Plan 3 Contribution	0.00%	0.00%	0.00%
Total Benefit Improvements	0.00%	0.13%	0.15%
Net Employee (Plan 2)	0.00%	0.13%	0.15%
Employer State			
Repeal Plan 3 Gain-Sharing	(0.34)%	(1.05)%	(2.50)%
Plan 2/3 Prospective Choice	0.00%	0.13%	0.15%
Transfer to Plan 2 for Prospective Service	0.00%	0.00%	0.00%
Plan 3 Contribution	0.00%	0.00%	0.00%
Total Plan 2/3Benefit Improvements	0.00%	0.13%	0.15%
Net Employer State - New Entrants	(0.34)%	(0.92)%	(2.35)%

**Rate change applied to future new entrant payroll and used for fiscal budget determinations only. A single supplemental rate increase, equal to the increase for current members, would apply initially for all members or employers.*

Fiscal Budget Determinations (repeal gain-sharing - all plans):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($24.3)	($127.5)	($34.0)	($185.8)
Non-General Fund	($42.6)	$0.0	$0.0	($42.6)
Total State	($66.9)	($127.5)	($34.0)	($228.4)
Local Government	($59.9)	($63.6)	($51.1)	($174.6)
Total Employer	($126.8)	($191.1)	($85.1)	($403.0)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($445.1)	($2,251.3)	($838.5)	($3,534.9)
Non-General Fund	($802.1)	$0.0	$0.0	($802.1)
Total State	($1,247.2)	($2,251.3)	($838.5)	($4,337.0)
Local Government	($1,120.2)	($1,124.3)	($1,258.2)	($3,502.7)
Total Employer	($2,367.4)	($3,375.6)	($2,096.7)	($7,839.7)
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (benefit improvements - all plans):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$10.4	$63.0	$12.1	$85.5
Non-General Fund	$17.8	$0.0	$0.0	$17.8
Total State	$28.2	$63.0	$12.1	$103.3
Local Government	$25.2	$31.5	$18.0	$74.7
Total Employer	$53.4	$94.5	$30.1	$178.0
Total Employee	$1.0	$3.0	$2.1	$6.1
2006-2031				
State:				
General Fund	$126.6	$793.2	$135.8	$1,055.6
Non-General Fund	$214.6	$0.0	$0.0	$214.6
Total State	$341.2	$793.2	$135.8	$1,270.2
Local Government	$303.3	$396.2	$204.0	$903.5
Total Employer	$644.5	$1,189.4	$339.8	$2,173.7
Total Employee	$7.7	$98.1	$56.6	$162.4

Fiscal Budget Determinations (all changes - all Plans):

As a result of the higher (lower) required contribution rate, the increase (decrease) in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($13.9)	($64.5)	($21.9)	($100.3)
Non-General Fund	($24.8)	$0.0	$0.0	($24.8)
Total State	($38.7)	($64.5)	($21.9)	($125.1)
Local Government	($34.7)	($32.1)	($33.1)	($99.9)
Total Employer	($73.4)	($96.6)	($55.0)	($225.0)
Total Employee	$1.0	$3.0	$2.1	$6.1
2006-2031				
State:				
General Fund	($318.5)	($1,458.1)	($702.7)	($2,479.3)
Non-General Fund	($587.5)	$0.0	$0.0	($587.5)
Total State	($906.0)	($1,458.1)	($702.7)	($3,066.8)
Local Government	($816.9)	($728.1)	($1,054.2)	($2,599.2)
Total Employer	($1,722.9)	($2,186.2)	($1,756.9)	($5,666.0)
Total Employee	$7.7	$98.1	$56.6	$162.4

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. All benefit improvement costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2004 actuarial valuation report of the Teachers' Retirement System, School Employees' Retirement System, and Public Employees' Retirement System. Gain-sharing costs were based on the methods used in the 2003 valuation, adjusted for the delay in the recognition of the cost of gain-sharing.

2. As with the costs developed in the actuarial valuation, the emerging costs of the Systems will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members. Benefit improvement rate increases are based on rates that exclude the cost of gain-sharing.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

Supplement to Gain-Sharing Omnibus Bill Fiscal Note

(December 12, 2005)

Fiscal Budget Determinations (repeal Plan 1 gain sharing only):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($16.1)	($56.1)	($6.0)	($78.2)
Non-General Fund	($26.6)	$0.0	$0.0	($26.6)
Total State	($42.7)	($56.1)	($6.0)	($104.8)
Local Government	($37.9)	($28.0)	($9.0)	($74.9)
Total Employer	($80.6)	($84.1)	($15.0)	($179.7)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($217.4)	($733.1)	($80.9)	($1,031.4)
Non-General Fund	($359.0)	$0.0	$0.0	($359.0)
Total State	($576.4)	($733.1)	($80.9)	($1,390.4)
Local Government	($511.2)	($366.2)	($121.3)	($998.7)
Total Employer	($1,087.6)	($1,099.3)	($202.2)	($2,389.1)
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Plan 1 $0.24 uniform COLA increase):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$8.1	$28.0	$3.0	$39.1
Non-General Fund	$13.3	$0.0	$0.0	$13.3
Total State	$21.4	$28.0	$3.0	$52.4
Local Government	$19.0	$14.0	$4.5	$37.5
Total Employer	$40.4	$42.0	$7.5	$89.9
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$108.7	$366.8	$40.3	$515.8
Non-General Fund	$179.6	$0.0	$0.0	$179.6
Total State	$288.3	$366.8	$40.3	$695.4
Local Government	$255.6	$183.2	$60.5	$499.3
Total Employer	$543.9	$550.0	$100.8	$1,194.7
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Plan 1 all changes):

As a result of the higher (lower) required contribution rates, the increase (decrease) in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($8.0)	($28.1)	($3.0)	($39.1)
Non-General Fund	($13.3)	$0.0	$0.0	($13.3)
Total State	($21.3)	($28.1)	($3.0)	($52.4)
Local Government	($18.9)	($14.0)	($4.5)	($37.4)
Total Employer	($40.2)	($42.1)	($7.5)	($89.8)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($108.7)	($366.3)	($40.6)	($515.6)
Non-General Fund	($179.4)	$0.0	$0.0	($179.4)
Total State	($288.1)	($366.3)	($40.6)	($695.0)
Local Government	($255.6)	($183.0)	($60.8)	($499.4)
Total Employer	($543.7)	($549.3)	($101.4)	($1,194.4)
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Repeal Plan 3 gain sharing only):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($8.2)	($71.4)	($28.0)	($107.6)
Non-General Fund	($16.0)	$0.0	$0.0	($16.0)
Total State	($24.2)	($71.4)	($28.0)	($123.6)
Local Government	($22.0)	($35.6)	($42.1)	($99.7)
Total Employer	($46.2)	($107.0)	($70.1)	($223.3)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($227.7)	($1,518.2)	($757.6)	($2,503.5)
Non-General Fund	($443.1)	$0.0	$0.0	($443.1)
Total State	($670.8)	($1,518.2)	($757.6)	($2,946.6)
Local Government	($609.0)	($758.1)	($1,136.9)	($2,504.0)
Total Employer	($1,279.8)	($2,276.3)	($1,894.5)	($5,450.6)
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Plan 3 transfer prospectively to Plan 2):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$0.2	$8.3	$1.4	$9.9
Non-General Fund	$0.4	$0.0	$0.0	$0.4
Total State	$0.6	$8.3	$1.4	$10.3
Local Government	$0.6	$4.2	$2.0	$6.8
Total Employer	$1.2	$12.5	$3.4	$17.1
Total Employee	$1.0	$1.6	$1.4	$4.0
2006-2031				
State:				
General Fund	$1.6	$75.9	$9.4	$86.9
Non-General Fund	$3.4	$0.0	$0.0	$3.4
Total State	$5.0	$75.9	$9.4	$90.3
Local Government	$4.4	$37.8	$13.9	$56.1
Total Employer	$9.4	$113.7	$23.3	$146.4
Total Employee	$7.7	$9.6	$9.0	$26.3

Fiscal Budget Determinations (Plan 2/3 prospective choice):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$0.0	$1.8	$0.6	$2.4
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$1.8	$0.6	$2.4
Local Government	$0.0	$0.9	$0.9	$1.8
Total Employer	$0.0	$2.7	$1.5	$4.2
Total Employee	$0.0	$1.4	$0.7	$2.1
2006-2031				
State:				
General Fund	$0.0	$123.5	$38.1	$161.6
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$123.5	$38.1	$161.6
Local Government	$0.0	$61.7	$57.2	$118.9
Total Employer	$0.0	$185.2	$95.3	$280.5
Total Employee	$0.0	$88.5	$47.6	$136.1

Fiscal Budget Determinations (Plan 3 employer defined contributions):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$2.1	$24.9	$7.1	$34.1
Non-General Fund	$4.1	$0.0	$0.0	$4.1
Total State	$6.2	$24.9	$7.1	$38.2
Local Government	$5.6	$12.4	$10.6	$28.6
Total Employer	$11.8	$37.3	$17.7	$66.8
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$16.3	$227.0	$48.0	$291.3
Non-General Fund	$31.6	$0.0	$0.0	$31.6
Total State	$47.9	$227.0	$48.0	$322.9
Local Government	$43.3	$113.5	$72.4	$229.2
Total Employer	$91.2	$340.5	$120.4	$552.1
Total Employee	$0.0	$0.0	$0.0	$0.0

Fiscal Budget Determinations (Plan 2/3 all benefit improvements):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$2.3	$35.0	$9.1	$46.4
Non-General Fund	$4.5	$0.0	$0.0	$4.5
Total State	$6.8	$35.0	$9.1	$50.9
Local Government	$6.2	$17.5	$13.5	$37.2
Total Employer	$13.0	$52.5	$22.6	$88.1
Total Employee	$1.0	$3.0	$2.1	$6.1
2006-2031				
State:				
General Fund	$17.9	$426.4	$95.5	$539.8
Non-General Fund	$35.0	$0.0	$0.0	$35.0
Total State	$52.9	$426.4	$95.5	$574.8
Local Government	$47.7	$213.0	$143.5	$404.2
Total Employer	$100.6	$639.4	$239.0	$979.0
Total Employee	$7.7	$98.1	$56.6	$162.4

Fiscal Budget Determinations (Plan 2/3 all changes):

As a result of the higher (lower) required contribution rates, the increase (decrease) in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$0.0	$0.0	$0.0	$0.0
Non-General Fund	$0.0	$0.0	$0.0	$0.0
Total State	$0.0	$0.0	$0.0	$0.0
Local Government	$0.0	$0.0	$0.0	$0.0
Total Employer	$0.0	$0.0	$0.0	$0.0
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($5.9)	($36.4)	($18.9)	($61.2)
Non-General Fund	($11.5)	$0.0	$0.0	($11.5)
Total State	($17.4)	($36.4)	($18.9)	($72.7)
Local Government	($15.8)	($18.1)	($28.6)	($62.5)
Total Employer	($33.2)	($54.5)	($47.5)	($135.2)
Total Employee	$1.0	$3.0	$2.1	$6.1
2006-2031				
State:				
General Fund	($209.8)	($1,091.8)	($662.1)	($1,963.7)
Non-General Fund	($408.1)	$0.0	$0.0	($408.1)
Total State	($617.9)	($1,091.8)	($662.1)	($2,371.8)
Local Government	($561.3)	($545.1)	($993.4)	($2,099.8)
Total Employer	($1,179.2)	($1,636.9)	($1,655.5)	($4,471.6)
Total Employee	$7.7	$98.1	$56.6	$162.4

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/1/05	Age 66 COLA

SUMMARY OF BILL

This legislation impacts the Public Employees' Retirement System Plan 1 (PERS 1) and the Teachers' Retirement System Plan 1 (TRS 1) by amending Uniform COLA eligibility requirements to include all retirees who have been retired one year and will have attained age 66 by December 31st of the calendar year in which the increase is given.

Effective Date: 90 days after session.

CURRENT SITUATION:

The current Uniform COLA provisions require PERS 1 and TRS 1 members to have been retired one year and to be at least age 66 on July 1st to be eligible for the adjustment paid on July 1st. The Uniform COLA increase amount for 2006 will be $1.29 per month/per year of service. This amount increases by at least 3% per year.

MEMBERS IMPACTED:

This bill will impact half the members in PERS 1 and TRS 1 under age 65–approximately 16,178 PERS 1 and 11,283 TRS 1 members. The table below shows membership by age and status.

TRS Plan 1	Under Age 65	Total
Receiving a Benefit	11,499	34,624
Actives	9,620	9,862
Terminated & Vested	1,446	1,475

PERS Plan 1	Under Age 65	Total
Receiving a Benefit	12,610	54,568
Actives	16,893	17,829
Terminated & Vested	2,854	2,993

A typical member impacted will receive the Uniform COLA one year earlier. In 2006, this amounts to an additional $387 for a retiree with 25 years of service.

ASSUMPTIONS:

PERS and TRS Plan 1 members under the age of 65 whose birth date falls between July 2 and December 31 will receive the Uniform COLA one year earlier under this bill. We assumed that one-half of the PERS 1 and TRS 1 members currently under the age of 65 fall into this group and will be eligible to receive the Uniform COLA one year earlier.

FISCAL IMPACT:

Description:

The benefit improvements in this bill will increase the required employer contribution rate for the PERS and TRS Plan 1 UAAL. Current funding policy requires SERS employers to pay the PERS Plan 1 UAAL contribution rate, therefore, this bill will have a fiscal impact on SERS.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits	PERS 1	$12,818	$34	$12,852
(The Value of the Total Commitment to all Current Members)	TRS 1	$10,360	$30	$10,390
Unfunded Actuarial Accrued Liability	PERS 1	$2,563	$34	$2,597
(The Portion of the Plan 1 Liability that is Amortized at 2024)	TRS 1	$1,415	$30	$1,445
Unfunded Liability (PBO)	PERS 1	$2,254	$32	$2,286
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	TRS 1	$1,192	$29	$1,221

Increase in Contribution Rates: (Effective 09/01/06 unless indicated otherwise)	PERS/ SERS	TRS
Employee	0.00%	0.00%
Employer State	0.03%	0.06%

Fiscal Budget Determinations:

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	SERS	TRS	Total
2006-2007				
State:				
General Fund	$0.4	$0.2	$1.6	$2.2
Non-General Fund	$0.7	$0.0	$0.0	$0.7
Total State	$1.1	$0.2	$1.6	$2.9
Local Government	$0.9	$0.2	$0.9	$2.0
Total Employer	$2.0	$0.4	$2.5	$4.9
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$1.0	$0.4	$3.5	$4.9
Non-General Fund	$1.7	$0.0	$0.0	$1.7
Total State	$2.7	$0.4	$3.5	$6.6
Local Government	$2.5	$0.6	$1.8	$4.9
Total Employer	$5.2	$1.0	$5.3	$11.5
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$14.7	$5.5	$48.5	$68.7
Non-General Fund	$24.3	$0.0	$0.0	$24.3
Total State	$39.0	$5.5	$48.5	$93.0
Local Government	$34.2	$8.1	$24.2	$66.5
Total Employer	$73.2	$13.6	$72.7	$159.5
Total Employee	$0.0	$0.0	$0.0	$0.0

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2004 actuarial valuation report of the Teachers' Retirement System and Public Employees' Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the Systems will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members. Benefit improvement rate increases are based on rates that exclude the cost of gain sharing.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/1/05	$1,000 Minimum

SUMMARY OF BILL

This legislation impacts the Public Employees' Retirement System Plan 1 (PERS 1) and the Teachers' Retirement System Plan 1 (TRS 1) by:

- Establishing a $1,000 alternative minimum benefit for members with 20 years of service who have been retired 25 years.
- Establishing a 3% annual escalator for both $1,000 alternative minimum benefit provisions.

Effective Date: 90 days after session. Benefit provisions would be effective July 1, 2006.

CURRENT SITUATION:

The current $1,000 alternative minimum benefit was established in 2004. PERS 1 and TRS 1 members with 25 years of service who have been retired 20 years are eligible for this benefit. The benefit has no automatic escalator and, as a result, will effectively cease in 2010 when the original minimum benefit, which increases each year by the Annual Increase Amount, will produce a benefit greater than $1,000 for a retired member with 25 years of service.

MEMBERS IMPACTED:

The new eligibility requirements for the $1,000 minimum will impact 561 out 54,465 PERS 1 retirees , and 497 out of 34,624 TRS 1 retirees. Indexing the $1,000 will impact an additional 391 PERS 1 members and 338 TRS 1 members.

A typical member newly eligible for the alternative minimum under this bill will see their monthly benefit in 2006 increase from $821 to $1,030 before voluntary reductions. Due to the new indexing provision, members currently receiving the alternative minimum in 2006 will see their monthly benefit increase from $1,000 to $1,030 before voluntary reductions. Thereafter, the alternative minimum will continue to increase by 3% a year for all members receiving the benefit.

FISCAL IMPACT:

Description:

The benefit improvements in this bill will increase the required employer contribution rate for the PERS and TRS Plan 1 UAAL. Current funding policy requires SERS employers to pay the PERS Plan 1 UAAL contribution rate, therefore, this bill will have a fiscal impact on SERS.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits	PERS 1	$12,818	$11	$12,830
(The Value of the Total Commitment to all Current Members)	TRS 1	$10,360	$3	$10,363
Unfunded Actuarial Accrued Liability	PERS 1	$2,563	$11	$2,574
(The Portion of the Plan 1 Liability that is Amortized at 2024)	TRS 1	$1,415	$3	$1,418
Unfunded Liability (PBO)	PERS 1	$2,254	$11	$2,265
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	TRS 1	$1,192	$3	$1,195

Increase in Contribution Rates: (Effective 09/01/06 unless indicated otherwise)	PERS/ SERS	TRS
Employee	0.00%	0.00%
Employer State	0.01%	0.01%

Fiscal Budget Determinations:

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	SERS	TRS	Total
2006-2007				
State:				
General Fund	$0.1	$0.1	$0.3	$0.5
Non-General Fund	$0.2	$0.0	$0.0	$0.2
Total State	$0.3	$0.1	$0.3	$0.7
Local Government	$0.3	$0.1	$0.1	$0.5
Total Employer	$0.6	$0.2	$0.4	$1.2
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	$0.4	$0.2	$0.6	$1.2
Non-General Fund	$0.6	$0.0	$0.0	$0.6
Total State	$1.0	$0.2	$0.6	$1.8
Local Government	$0.8	$0.2	$0.3	$1.3
Total Employer	$1.8	$0.4	$0.9	$3.1
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	$4.9	$1.9	$8.0	$14.8
Non-General Fund	$8.1	$0.0	$0.0	$8.1
Total State	$13.0	$1.9	$8.0	$22.9
Local Government	$11.3	$2.6	$4.0	$17.9
Total Employer	$24.3	$4.5	$12.0	$40.8
Total Employee	$0.0	$0.0	$0.0	$0.0

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2004 actuarial valuation report of the Teachers' Retirement System and Public Employees' Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the Systems will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members. Benefit improvement rate increases are based on rates that exclude the cost of gain sharing.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	8/1/05	Full Rule of 90

SUMMARY OF BILL:

This bill impacts the Plans 2 and 3 of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS) and the School Employees' Retirement System (SERS) by offering unreduced retirement to any vested member for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more ("rule of 90").

Effective Date: July 1, 2007

CURRENT SITUATION:

Currently, in the PERS, TRS and SERS Plans 2/3, a member is eligible for either normal, early or alternate early retirement. The early retirement provisions involve reduced benefits. Normal retirement is a full benefit.

In the Plans 2, normal retirement is available to those who have earned at least five years of service credit and who have attained age 65. This bill would add another category of retirement that involves a full or "unreduced" benefit. It would apply to any vested member for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more ("rule of 90").

In the Plans 3, normal retirement is currently available to any member who is at least age 65 and who has completed ten service credit years, or who has completed five service years including twelve service credit months after attaining age 54. This bill would provide an unreduced retirement benefit to any vested Plan 3 member who satisfies the rule of 90.

MEMBERS IMPACTED:

We estimate that 82,259 members out of 117,262 active members in PERS 2, 13,497 out of 17,548 active members in PERS 3, 5,209 out of 7,637 active members in TRS 2, 37,310 members out of 47,263 active members in TRS 3, 12,455 out of 21,504 active members in SERS 2, and 16,167 members out of 27,710 active members in SERS 3 would be affected by this bill.

For a member impacted by this bill, the increase in benefits would be the removal of benefit reduction for early retirement without the Rule of 90. For example, a member retiring at age 60 with 30 years of service would be entitled to an unreduced benefit instead of a benefit with a 15 percent reduction.

ASSUMPTIONS:

We assumed that there would be an increase in retirement rates due to the rule of 90. The additional rates or "kickers" are provided at the end of this fiscal note.

FISCAL IMPACT:

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System (for existing members impacted by this bill) and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits	PERS 2/3	$ 14,159	$ 756	$ 14,915
(The Value of the Total Commitment to all Current Members)	TRS 2/3	$ 4,876	$ 358	$ 5,234
	SERS 2/3	$ 1,979	$ 77	$ 2,056
Unfunded Actuarial Accrued Liability	PERS 1	$ 2,123	$ (20)	$ 2,103
(The Portion of the Plan 1 Liability that is Amortized at 2024)	TRS 1	$ 1,012	$ (17)	$ 995
Unfunded Liability (PBO)	PERS 2/3	$ (3,236)	$ 399	$ (2,837)
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	TRS 2/3	$ (1,535)	$ 173	$ (1,362)
	SERS 2/3	$ (495)	$ 43	$ (452)

Increase in Contribution Rates: (Effective 9/1/2006)

	PERS 2	TRS 2	SERS 2
Current Members			
Employee (plan 2 only)	0.73%	1.00%	0.57%
Employer	0.73%	1.00%	0.57%
New Entrants			
Employee			
Employer	0.27%	0.53%	0.22%

The PERS Employer rate increase of 0.73 percent is made up of a normal cost rate increase of 0.75 percent minus a Plan 1 UAAL rate decrease of 0.02 percent.

The TRS Employer rate increase of 1.00 percent is made up of a normal cost rate increase of 1.06 percent minus a Plan 1 UAAL rate decrease of 0.06 percent.

The SERS Employer rate increase of 0.57 percent is made up of a normal cost rate increase of 0.59 percent minus a Plan 1 UAAL rate decrease of 0.02 percent.

Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

Costs (in Millions):	PERS	TRS	SERS	Total
2006-2007				
State:				
General Fund	$7.1	$24.3	$2.6	$34.0
Non-General Fund	14.0	0.0	0.0	14.0
Total State	21.1	24.3	2.6	48.0
Local Government	19.2	13.4	3.9	36.5
Total Employer	40.3	37.7	6.5	84.5
Total Employee	$31.2	$4.2	$2.2	$37.6
2007-2009				
State:				
General Fund	$17.3	$52.4	$6.0	$75.7
Non-General Fund	34.0	0.0	0.0	34.0
Total State	51.3	52.4	6.0	109.7
Local Government	46.7	26.2	9.0	81.9
Total Employer	98.0	78.6	15.0	191.6
Total Employee	$76.2	$8.4	$4.9	$89.5
2006-2031				
State:				
General Fund	$267.8	$926.2	$90.4	$1,284.4
Non-General Fund	524.0	0.0	0.0	524.0
Total State	791.8	926.2	90.4	1,808.4
Local Government	719.7	464.1	135.7	1,319.5
Total Employer	1,511.5	1,390.3	226.1	3,127.9
Total Employee	$1,002.8	$56.6	$34.5	$1,093.9

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers Retirement System, School Employee's Retirement System, and Public Employee's Retirement System. Fiscal Budget results were based on preliminary 2004 data.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

Rule of 90

	Kicker Added to Retirement Probability					
	PERS Male	PERS Female	SERS Male	SERS Female	TRS Male	TRS Female
Age						
55	0.35	0.29	0.30	0.30	0.30	0.30
56	0.35	0.29	0.30	0.30	0.30	0.30
57	0.35	0.29	0.30	0.30	0.30	0.30
58	0.29	0.22	0.30	0.30	0.30	0.30
59	0.29	0.22	0.30	0.30	0.30	0.30
60	0.29	0.22	0.30	0.30	0.30	0.30
61	0.29	0.22	0.25	0.30	0.30	0.30
62	0.29	0.16	0.25	0.20	0.30	0.20
63	0.11	0.16	0.25	0.20	0.25	0.20
64	0.11	0.16	0.25	0.20	0.25	0.20

The kicker (additional retirement rate) is added to the retirement probability at the age when a member is first eligible for the Rule of 90. For each year after the year first eligible, 25 percent of the kicker is added.

4. 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.

5. This fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. The entry age normal cost increase for the bill is 0.27 percent for PERS Plan 2 members, 0.27 percent for PERS employers, 0.53 percent for TRS employers, and 0.22 percent for SERS employers. The entry age normal cost increase was used to determine the increase in funding expenditures for future new entrants. Rate increases are based on rates that exclude the cost of gain sharing.

GLOSSARY OF ACTUARIAL TERMS:

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.)

Projected Benefits: Pension benefit amounts which 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.

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.

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.

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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Unfunded Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Appendix C

SCPP Goals

Goals for Washington State Public Pensions

Revised and Adopted October 18, 2005

1. Contribution Rate Setting: To establish and maintain adequate, predictable and stable contribution rates, with equal cost-sharing by employers and employees in the Plans 2, so as to assure the long-term financial soundness of the retirement systems.

2. Balanced Long-Term Management: To manage the state retirement systems in such a way as to create stability, competitiveness, and adaptability in Washington's public pension plans, with responsiveness to human resource policies for recruiting and retaining a quality public workforce.

3. Retirement Eligibility: To establish a normal retirement age for members currently in the Plans 2/3 of PERS, SERS, and TRS that balances employer and employee needs, affordability, flexibility, and the value of the retirement benefit over time.

4. Purchasing Power: To restore lost purchasing power and, to the extent feasible, to increase future purchasing power of retiree benefits in the Plans 1 of PERS and TRS while providing long-term benefit security to retirees.

5. Consistency with the Statutory Goals within the Actuarial Funding Chapter: To be consistent with the goals outlined in the RCW 41.45.010:

    a. to provide a dependable and systematic process for funding the benefits to members and retirees of the Washington State Retirement Systems;
    b. to continue to fully fund the retirement system plans 2 and 3, and the Washington State Patrol Retirement System, as provided by law;
    c. to fully amortize the total costs of PERS 1, TRS 1 and LEOFF 1, not later than June 30, 2024;
    d. to establish predictable long-term employer contribution rates which will remain a relatively predictable portion of future state budgets; and
    e. to fund, to the extent feasible, benefit increases over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

Appendix D

Rule-of-90 Alternatives

Select Committee on Pension Policy
Gain-Sharing Subgroup
Rule of 90 for Unreduced Retirement

(August 10, 2005)

Rule of 90 for Unreduced Retirement - Immediate Effective Date
Benefit Improvements and Rate Increases Effective in 2006

Estimated Fiscal Impact

	Rule of 90 All Service				Rule of 90 Prospective Only			
Costs (in Millions):	PERS	TRS	SERS	Total	PERS	TRS	SERS	Total
Increase in Contribution Rates								
Employee (Plan 2 Only)	0.73%	1.00%	0.57%		0.27%	0.53%	0.22%	
Employer	0.73%	1.00%	0.57%		0.27%	0.53%	0.22%	
2006-2007								
State:								
General Fund	$7.1	$24.3	$2.6	$34.0	$3.1	$14.1	$1.1	$18.3
Non-General Fund	$14.0	$0.0	$0.0	$14.0	$6.0	$0.0	$0.0	$6.0
Total State	$21.1	$24.3	$2.6	$48.0	$9.1	$14.1	$1.1	$24.3
Local Government	$19.2	$13.4	$3.9	$36.5	$8.2	$7.7	$1.7	$17.6
Total Employer	$40.3	$37.7	$6.5	$84.5	$17.3	$21.8	$2.8	$41.9
Total Employee	$31.2	$4.2	$2.2	$37.6	$12.7	$2.2	$0.9	$15.8
2007-2009								
State:								
General Fund	$17.3	$52.4	$6.0	$75.7	$8.0	$31.6	$2.9	$42.5
Non-General Fund	$34.0	$0.0	$0.0	$34.0	$15.6	$0.0	$0.0	$15.6
Total State	$51.3	$52.4	$6.0	$109.7	$23.6	$31.6	$2.9	$58.1
Local Government	$46.7	$26.2	$9.0	$81.9	$21.4	$15.8	$4.3	$41.5
Total Employer	$98.0	$78.6	$15.0	$191.6	$45.0	$47.4	$7.2	$99.6
Total Employee	$76.2	$8.4	$4.9	$89.5	$32.4	$4.4	$1.9	$38.7
2006-2031								
State:								
General Fund	$267.8	$926.2	$90.4	$1,284.4	$195.6	$740.0	$70.5	$1,006.1
Non-General Fund	$524.0	$0.0	$0.0	$524.0	$380.6	$0.0	$0.0	$380.6
Total State	$791.8	$926.2	$90.4	$1,808.4	$576.2	$740.0	$70.5	$1,386.7
Local Government	$719.7	$464.1	$135.7	$1,319.5	$522.6	$370.1	$105.5	$998.2
Total Employer	$1,511.5	$1,390.3	$226.1	$3,127.9	$1,098.8	$1,110.1	$176.0	$2,384.9
Total Employee	$1,002.8	$56.6	$34.5	$1,093.9	$635.4	$30.2	$13.3	$678.9

Note: All data based on preliminary 2004 valuation

Rule of 90 for Unreduced Retirement - Three-Year Delay in Effective Date
Benefit Improvements and Rate Increases Effective in 2009

Estimated Fiscal Impact

	Rule of 90 All Service				Rule of 90 Prospective Only			
Costs (in Millions):	PERS	TRS	SERS	Total	PERS	TRS	SERS	Total
Increase in Contribution Rates								
Employee (Plan 2 Only)	0.94%	1.32%	0.76%		0.27%	0.53%	0.22%	
Employer	0.94%	1.32%	0.76%		0.27%	0.53%	0.22%	
2009-2011								
State:								
General Fund	$20.2	$69.2	$7.1	$96.5	$8.2	$35.0	$3.1	$46.3
Non-General Fund	$39.5	$0.0	$0.0	$39.5	$16.1	$0.0	$0.0	$16.1
Total State	$59.7	$69.2	$7.1	$136.0	$24.3	$35.0	$3.1	$62.4
Local Government	$54.2	$34.6	$10.7	$99.5	$22.0	$17.5	$4.5	$44.0
Total Employer	$113.9	$103.8	$17.8	$235.5	$46.3	$52.5	$7.6	$106.4
Total Employee	$88.9	$10.6	$5.7	$105.2	$32.1	$4.3	$1.7	$38.1
2011-2013								
State:								
General Fund	$22.2	$71.5	$7.6	$101.3	$10.1	$39.1	$3.7	$52.9
Non-General Fund	$43.5	$0.0	$0.0	$43.5	$19.5	$0.0	$0.0	$19.5
Total State	$65.7	$71.5	$7.6	$144.8	$29.6	$39.1	$3.7	$72.4
Local Government	$59.7	$35.7	$11.4	$106.8	$26.8	$19.5	$5.4	$51.7
Total Employer	$125.4	$107.2	$19.0	$251.6	$56.4	$58.6	$9.1	$124.1
Total Employee	$96.9	$9.7	$5.7	$112.3	$37.7	$3.9	$1.6	$43.2
2009-2034								
State:								
General Fund	$323.2	$1,161.9	$109.4	$1,594.5	$231.6	$868.0	$83.5	$1,183.1
Non-General Fund	$631.6	$0.0	$0.0	$631.6	$450.7	$0.0	$0.0	$450.7
Total State	$954.8	$1,161.9	$109.4	$2,226.1	$682.3	$868.0	$83.5	$1,633.8
Local Government	$867.1	$580.2	$163.8	$1,611.1	$619.1	$433.4	$124.9	$1,177.4
Total Employer	$1,821.9	$1,742.1	$273.2	$3,837.2	$1,301.4	$1,301.4	$208.4	$2,811.2
Total Employee	$1,182.3	$58.5	$36.7	$1,277.5	$724.7	$23.7	$10.7	$759.1

Note: All data based on preliminary 2004 valuation

Select Committee on Pension Policy
Gain-Sharing Subgroup
Rule of 90 with Age 60 Minimum

(September 15, 2005)

Rule of 90 for Unreduced Retirement - Effective in 2006

Estimated Fiscal Impact

	Rule of 90 - Minimum Age 60 All Service				Rule of 90 - Minimum Age 60 Prospective Only			
Costs (in Millions):	PERS	TRS	SERS	Total	PERS	TRS	SERS	Total
Increase in Contribution Rates								
Employee (Plan 2 Only)	0.50%	0.70%	0.47%		0.18%	0.34%	0.17%	
Employer	0.50%	0.70%	0.47%		0.18%	0.34%	0.17%	
2006-2007								
State:								
General Fund	$4.9	$16.9	$2.1	$23.9	$2.0	$9.0	$0.9	$11.9
Non-General Fund	$9.6	$0.0	$0.0	$9.6	$4.0	$0.0	$0.0	$4.0
Total State	$14.5	$16.9	$2.1	$33.5	$6.0	$9.0	$0.9	$15.9
Local Government	$13.1	$9.3	$3.2	$25.6	$5.5	$5.0	$1.3	$11.8
Total Employer	$27.6	$26.2	$5.3	$59.1	$11.5	$14.0	$2.2	$27.7
Total Employee	$21.4	$3.0	$1.8	$26.2	$8.5	$1.4	$0.7	$10.6
2007-2009								
State:								
General Fund	$11.9	$36.3	$4.9	$53.1	$5.3	$20.3	$2.2	$27.8
Non-General Fund	$23.3	$0.0	$0.0	$23.3	$10.4	$0.0	$0.0	$10.4
Total State	$35.2	$36.3	$4.9	$76.4	$15.7	$20.3	$2.2	$38.2
Local Government	$32.0	$18.2	$7.4	$57.6	$14.2	$10.1	$3.3	$27.6
Total Employer	$67.2	$54.5	$12.3	$134.0	$29.9	$30.4	$5.5	$65.8
Total Employee	$52.1	$5.9	$4.1	$62.1	$21.6	$2.8	$1.4	$25.8
2006-2031								
State:								
General Fund	$181.8	$619.6	$72.4	$873.8	$130.3	$474.8	$54.1	$659.2
Non-General Fund	$355.5	$0.0	$0.0	$355.5	$253.8	$0.0	$0.0	$253.8
Total State	$537.3	$619.6	$72.4	$1,229.3	$384.1	$474.8	$54.1	$913.0
Local Government	$488.3	$310.5	$108.5	$907.3	$348.5	$237.4	$81.3	$667.2
Total Employer	$1,025.6	$930.1	$180.9	$2,136.6	$732.6	$712.2	$135.4	$1,580.2
Total Employee	$679.3	$39.9	$28.1	$747.3	$423.5	$19.2	$10.3	$453.0

Note: All data based on preliminary 2004 valuation.

Rule of 90 Retirement Ages

(October 4, 2005)

Rule of 90 Retirement Ages

Retirement age when first eligible for unreduced benefits after adding a Rule of 90 retirement age

	Hire Age	Retirement Age	Number of Active Plan 2/3 Members in 2004 PERS	TRS	SERS	Total
	18	54	1,345	0	232	1,577
	20	55	3,687	32	647	4,366
	22	56	7,691	3,623	1,093	12,407
	24	57	10,309	8,799	1,359	20,467
	26	58	10,486	6,871	1,481	18,838
	28	59	10,604	5,240	1,717	17,561
	30	60	10,531	4,365	2,222	17,118
	32	61	10,137	3,777	3,145	17,059
	34	62	9,720	3,284	3,993	16,997
	36	63	9,504	3,217	4,717	17,438
	38	64	9,007	3,167	5,124	17,298
	40	65	45,406	14,397	24,124	83,927
Total			138,427	56,772	49,854	245,053

	Hire Age	Retirement Age	Number of Active Plan 2/3 Members in 2004 PERS	TRS	SERS	Total
	18	54	1%	0%	0%	1%
	20	55	3%	0%	1%	2%
	22	56	6%	6%	2%	5%
	24	57	7%	15%	3%	8%
	26	58	8%	12%	3%	8%
	28	59	8%	9%	3%	7%
	30	60	8%	8%	4%	7%
	32	61	7%	7%	6%	7%
	34	62	7%	6%	8%	7%
	36	63	7%	6%	9%	7%
	38	64	7%	6%	10%	7%
	40	65	33%	25%	48%	34%
Total			100%	100%	100%	100%

Attaining Rule of 90 Retirement Ages by Year

(October 7, 2005)

Attaining Rule of 90 Retirement Age by Year
TRS

Age	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
54	0	0	0	0	0	0	0	0	0	0	0	0
55	0	0	0	0	0	0	0	0	0	0	1	1
56	0	0	0	0	0	4	50	36	26	23	647	786
57	0	0	0	0	10	91	199	207	155	108	6,577	7,347
58	0	0	0	5	54	151	174	157	130	141	7,191	8,003
59	0	0	7	48	112	137	110	104	103	167	5,156	5,944
60	0	2	37	72	107	99	74	100	128	149	4,025	4,793
61	1	41	80	89	67	71	96	87	103	107	3,211	3,953
62	18	43	82	62	56	74	82	107	113	138	2,756	3,531
63	65	46	29	41	71	92	76	93	117	124	2,483	3,237
64	52	35	29	53	74	83	90	127	149	144	2,379	3,215
65	111	87	122	187	269	373	508	641	814	899	11,951	15,962
Total	247	254	386	557	820	1,175	1,459	1,659	1,838	2,000	46,377	56,772

Attaining Rule of 90 Retirement Age by Year
PERS

Age	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
54	0	0	0	0	0	0	0	6	11	17	384	418
55	0	0	0	0	0	0	20	73	118	105	2,123	2,439
56	1	0	0	0	0	22	100	180	163	120	4,784	5,370
57	1	0	0	0	45	155	266	241	215	179	8,518	9,620
58	0	0	0	45	143	247	194	206	212	257	9,069	10,373
59	1	0	37	146	234	238	179	199	228	295	9,006	10,563
60	1	47	101	217	216	226	212	264	312	325	8,696	10,617
61	20	137	188	207	216	164	205	279	318	305	8,294	10,333
62	94	124	185	156	186	213	275	290	277	337	7,777	9,914
63	205	139	114	180	189	249	271	268	309	349	7,549	9,822
64	230	101	114	128	230	268	227	280	306	350	6,866	9,100
65	737	454	701	824	1,097	1,391	1,679	1,939	2,156	2,452	36,428	49,858
Total	1,290	1,002	1,440	1,903	2,556	3,173	3,628	4,225	4,625	5,091	109,494	138,427

Attaining Rule of 90 Retirement Age by Year
SERS

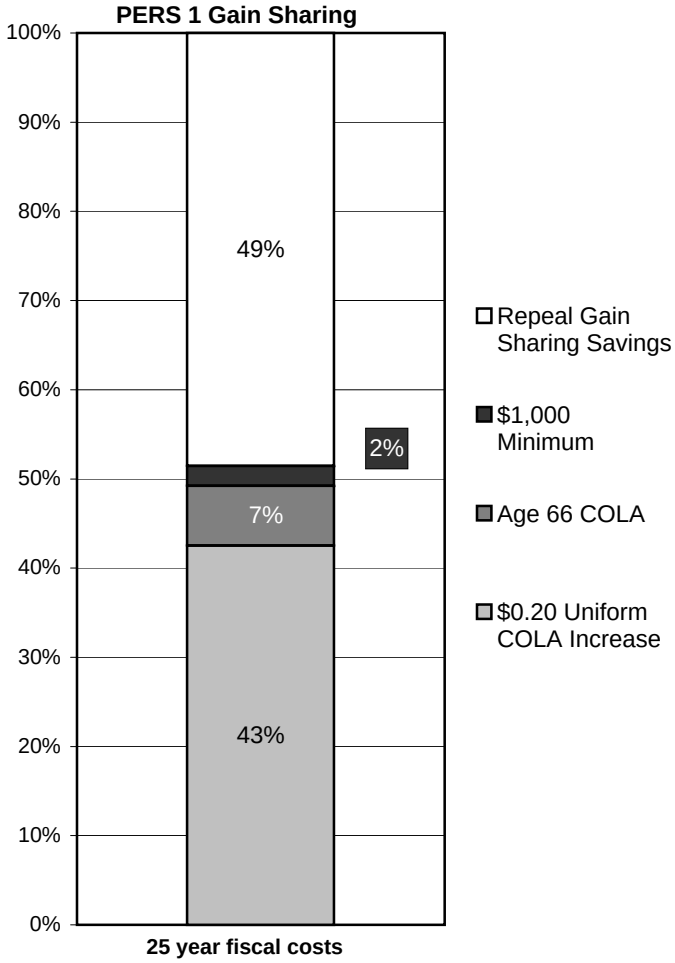
Age	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
54	0	0	0	0	0	0	0	1	3	3	45	52
55	0	0	0	0	0	0	2	6	13	19	422	462
56	0	0	0	0	0	5	11	23	16	17	767	839
57	0	0	0	0	1	25	16	23	18	24	1,192	1,299
58	0	0	0	6	18	27	24	28	33	26	1,242	1,404
59	0	0	3	16	21	26	31	32	29	38	1,373	1,569
60	0	4	21	33	23	33	35	32	40	50	1,668	1,939
61	3	25	35	43	40	29	49	76	60	72	2,199	2,631
62	20	28	58	52	60	65	83	82	79	88	2,930	3,545
63	53	58	43	65	83	88	90	84	131	136	3,583	4,414
64	77	36	50	61	96	104	97	132	145	163	4,002	4,963
65	276	178	269	378	446	610	760	949	1,080	1,252	20,539	26,737
Total	429	329	479	654	788	1,012	1,198	1,468	1,647	1,888	39,962	49,854

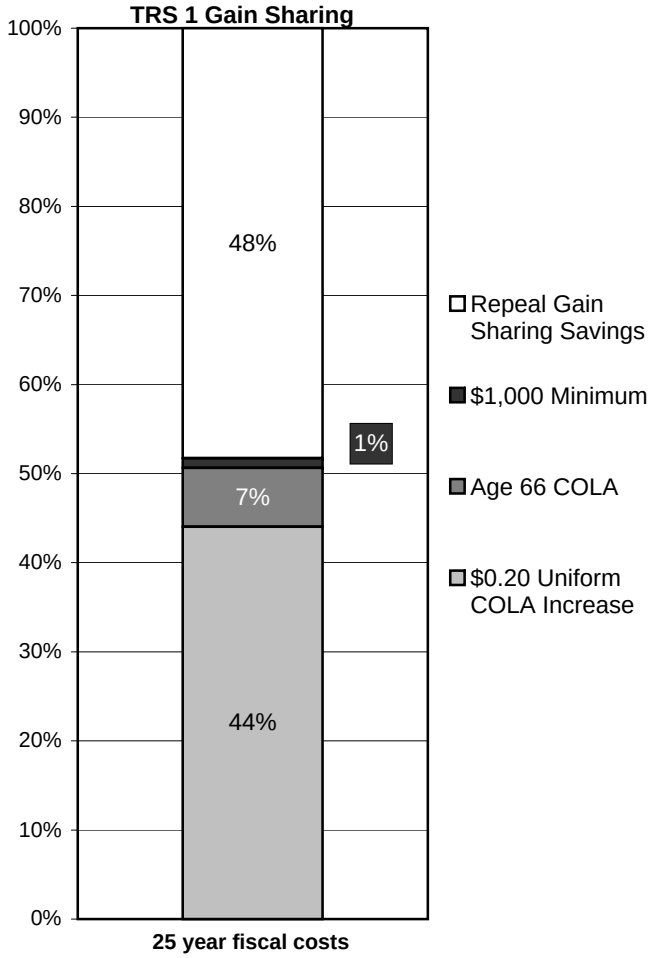
Appendix E

Gain-Sharing Trade-Off Bar Graph Analysis

Select Committee on Pension Policy

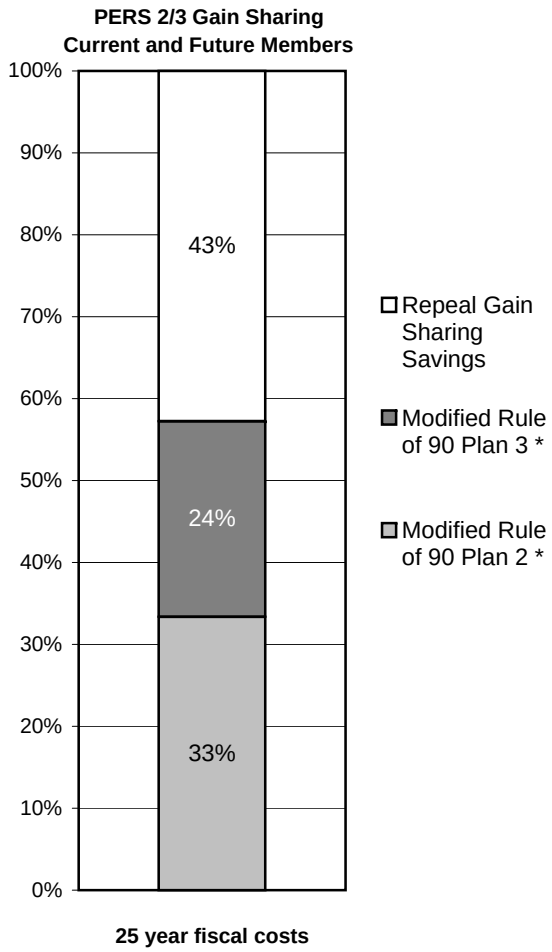
Fiscal Analysis of HB 1324 - Plan 1

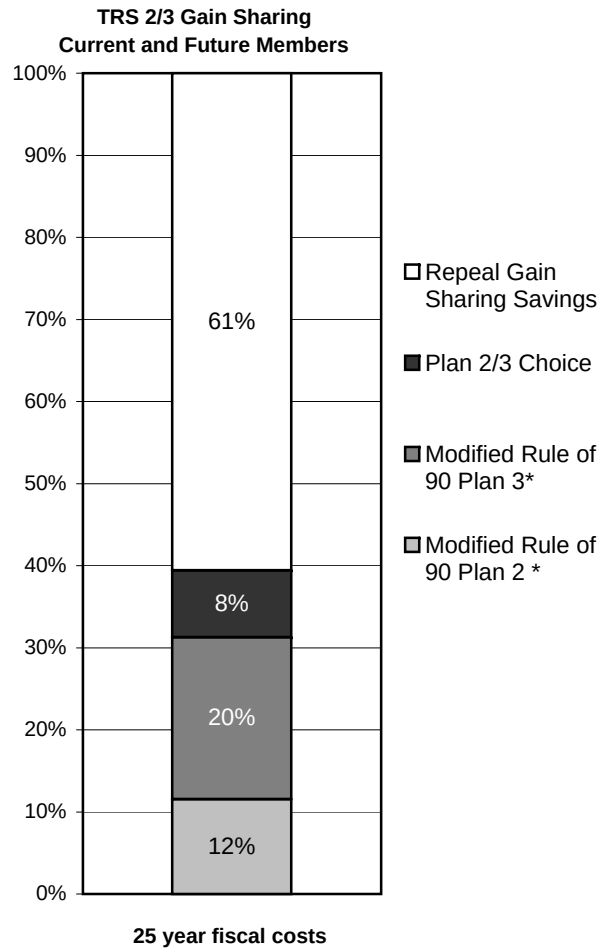


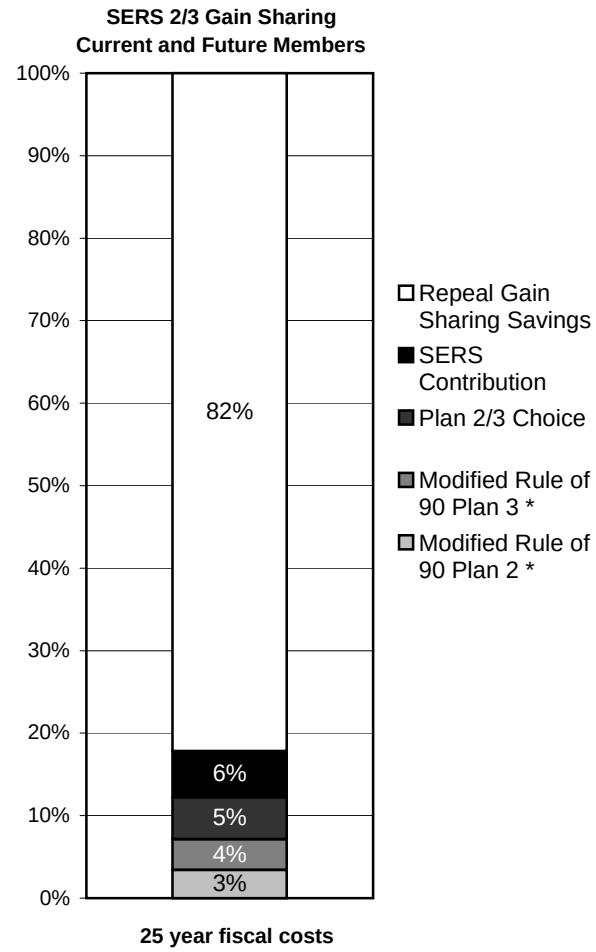


Select Committee on Pension Policy

Fiscal Analysis of HB 1324 - Plan 2/3





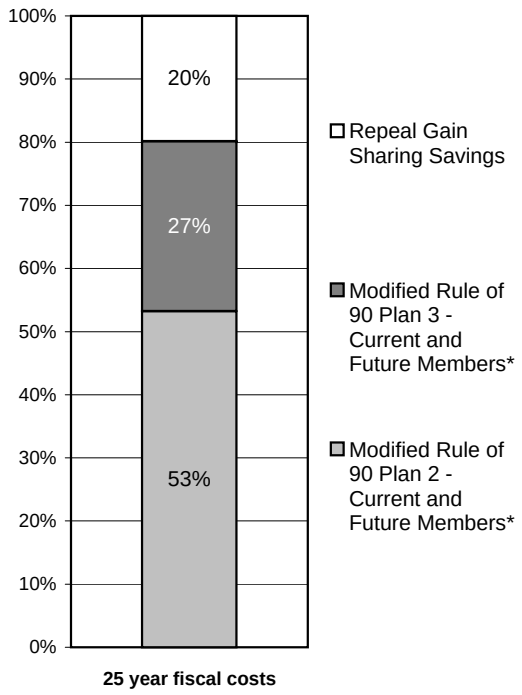


* Rule of 90 for prospective service only, minimum age 60

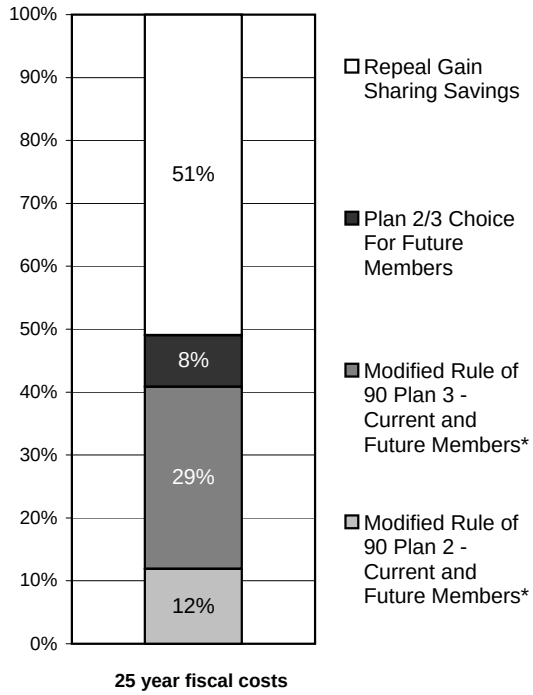
Select Committee on Pension Policy
Gain-Sharing Subgroup

Rule of 90 with Age 60 Minimum

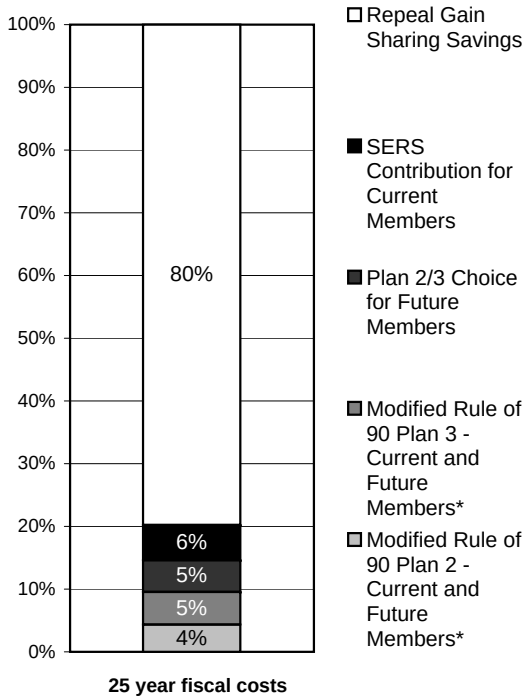
PERS 2/3 Gain Sharing
Current and Future Members



TRS 2/3 Gain Sharing
Current and Future Members



SERS 2/3 Gain Sharing
Current and Future Members

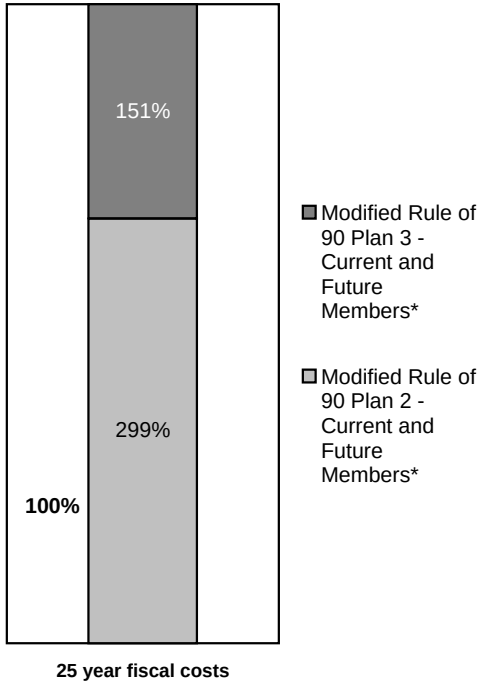


*Rule of 90 for all service, miniumum age 60

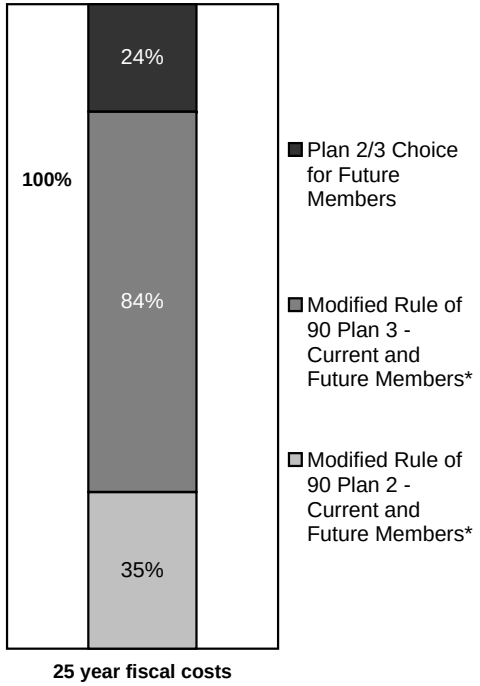
Select Committee on Pension Policy
Gain-Sharing Subgroup

Rule of 90 with Age 60 Minimum

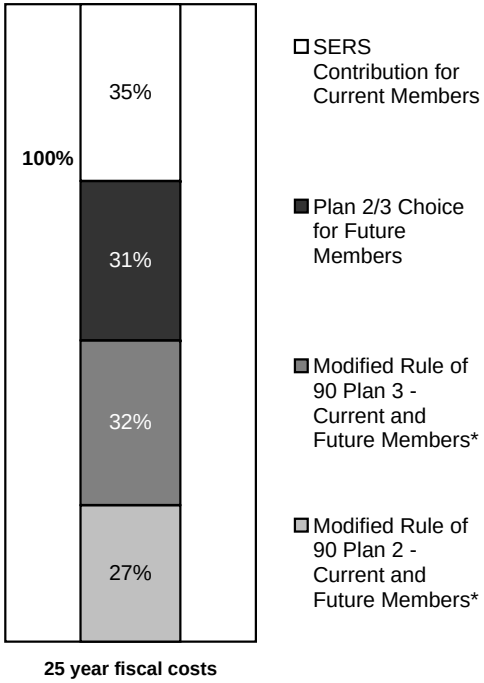
PERS 2/3 Gain Sharing
Current Members Only



TRS 2/3 Gain Sharing
Current Members Only



SERS 2/3 Gain Sharing
Current Members Only

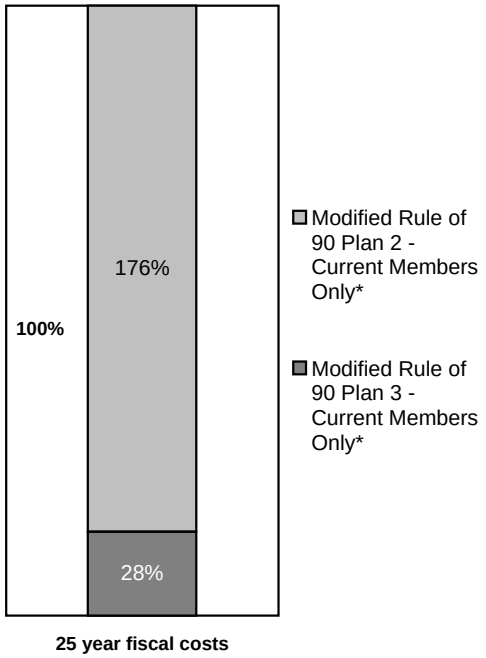


*Rule of 90 for all service, miniumum age 60

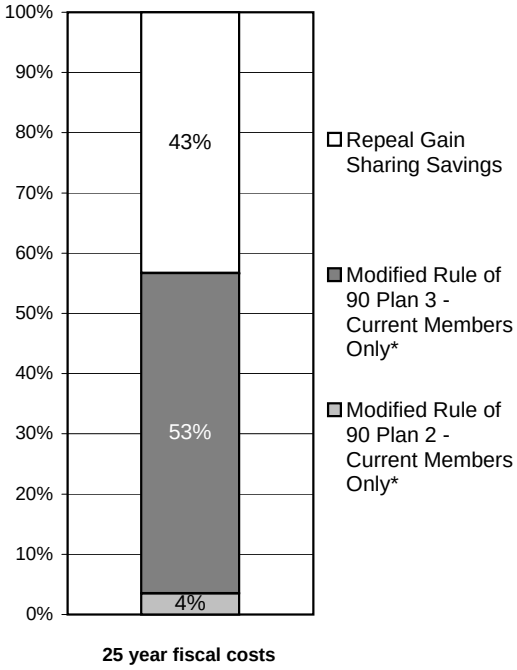
Select Committee on Pension Policy
Gain-Sharing Subgroup

Rule of 90 with Age 60 Minimum

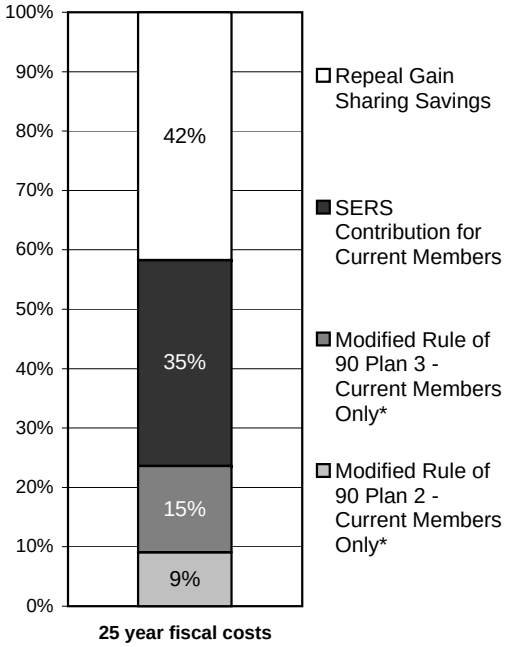
PERS 2/3 Gain Sharing
Current Members Only



TRS 2/3 Gain Sharing
Current Members Only

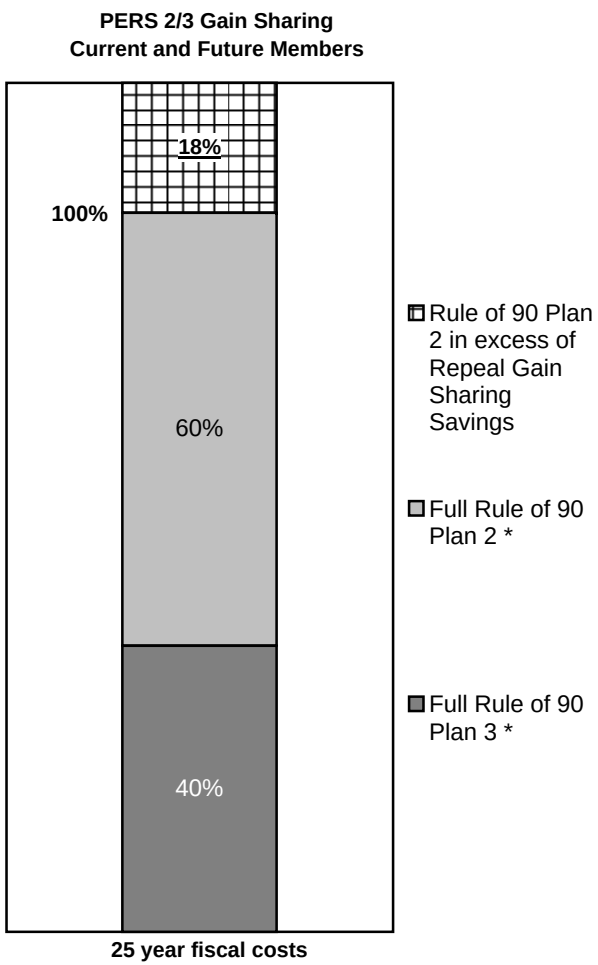


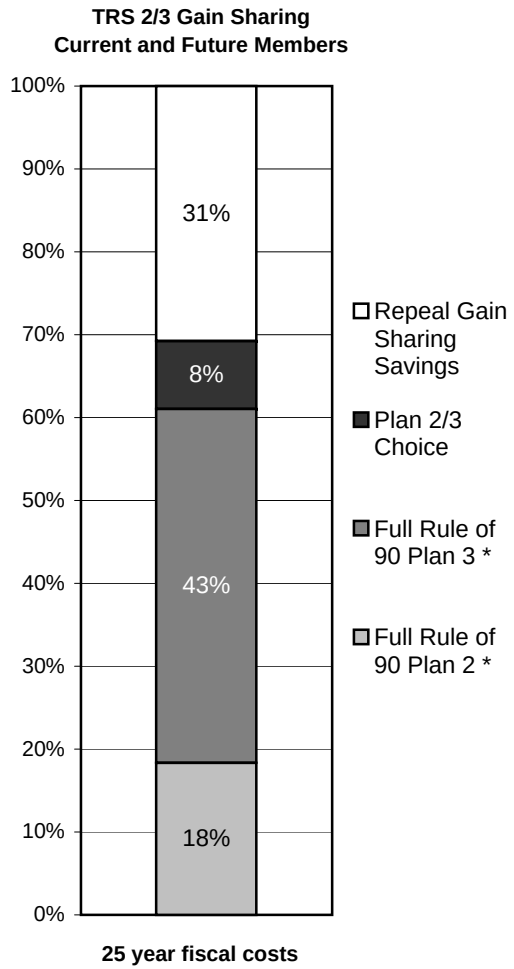
SERS 2/3 Gain Sharing
Current Members Only

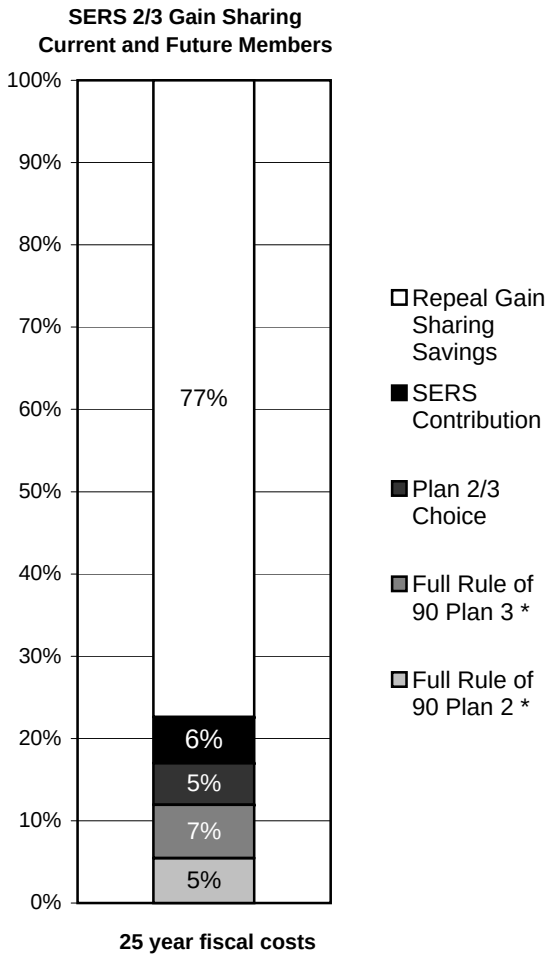


*Rule of 90 for all service, miniumum age 60

Fiscal Analysis of HB 1324 - Plan 2/3







*Rule of 90 for all service, no minimum age

Washington State School Retirees' Association ~ 4276 Pacific Avenue SE, Lacey, WA 98503-1216

MEMORANDUM

TO: Robert Baker, Senior Research Analyst ~ Office of the State Actuary (OSA)

FROM: Leslie Main, WSSRA Legislative Coordinator

DATE: December 8, 2005

SUBJECT: WSSRA' s Positions re: Gain Sharing Options Mandated for Study

---

The Washington State School Retirees' Association (WSSRA) respectfully reiterates the following positions as to the Gain Sharing options mandated for study by the SCPP under ESHB 1044 (2005) for inclusion, as you see appropriate, in the Select Committee on Pension Policy's (SCPP) report to the Legislature:

Repeal of Gain Sharing –
WSSRA acknowledges that this option would remove all fiscal liability of employers for future Gain Sharing disbursements. However, it does not remove the obligation of employers to continue to provide Gain Sharing benefits which members of Plans 1 and 3 have come to expect and depend upon. Gain Sharing provides important benefits for members of both Plans 1 and 3. Therefore, **WSSRA strongly opposes any repeal of Gain Sharing without enactment of replacement benefits of significant value**.

Delay of Gain Sharing; Suspending the Gain Sharing Provisions in Law; or Making Gain Sharing Discretionary –
WSSRA opposes these options which appear to be nothing more than a thinly veiled "take-away" of benefits. School retirees are concerned that with the ongoing budget challenges facing the State and local government employers, should any of these three options be enacted, the chances any Gain Sharing distribution ever being authorized by the Legislature are slim to NONE! This concern is based on findings that avoiding funding of future Gain Sharing distributions until the distributions are made results in significant increases in employer pension contribution rates. Additionally, WSSRA is concerned that these options are contrary to professional actuarial standards of practice (i.e. recognition of future benefits as a material liability) and current pension funding statute (i.e. full-systematic funding of the pension systems).

Other (Replacement) Benefits -
It is the position of WSSRA that of the options at issue, **establishment of Gain Sharing replacement benefits is the only option which can be supported**. In all fairness, any new package of Plan 1 and Plan 3 replacement benefits should be based on a $1 for $1 value to projected future Gain Sharing distributions as prescribed by currently established Gain Sharing statute. However, in the spirit of compromise, WSSRA is working with policy makers to craft a less costly, yet significant, package of Gain Sharing replacement benefits which addresses issues related to recovery of purchasing power for Plan 1 members, concerns of Plan 3 members regarding plan design, and employers facing ongoing budget challenges.

Thank you for the opportunity to provide input into this important report. If you have any questions regarding WSSRA's positions on the Gain Sharing options mandated for study by the SCPP, please contact me at WSSRA, 1-800-544-5219 or 360-413-5496.

November 18, 2005

RECEIVED
NOV 22 2005
Office of
The State Actuary

Governor Christine Gregoire
P.O.Box 40002
Olympia WA 98504-0002

Dear Governor,

I want to commend you for taking a firm stand against the federal government's effort to cut spending for a waste treatment plant at the Hanford Nuclear reservation. I agree that it is unconscionable for the federal government to break its commitment to clean up the Hanford project.

I also would like to request that your budget director be directed to place a line item budget amount into the 2006 supplemental budget to provide for the "buy out of gain sharing", a 1998 legislative commitment to active and retirees of Plan I and Plan III members of the state retirement system to share in what was called extra ordinary gains.

Gain sharing was a good faith legislative commitment to share with active and retirees when the investment market exceeded a 10% average return over four years. This past session the legislature had prepared legislation, HB1043 to repeal the "gain sharing" benefit that was previously negotiated in good faith and approved as an active and retiree benefit. Gain sharing is a part of the COLA benefit to reduce the loss of purchasing power for Plan I retirees.

On 11/2/05 the Select Committee on Pension Policy received an Attorney General's opinion on gain sharing which stated that gain sharing is not a contractual right. If the legislature decides to repeal gain sharing as it proposed last session, in HB 1043, it is only appropriate that an agreed upon buy out replacement benefit be provided. It would be unconscionable for the legislature to repeal this legislative approved benefit without a mutually agreed replacement benefit.

Please place a good faith budget estimate as a line item in your supplemental budget which would be used for the buy out of the gain sharing benefit.

I repeat, it would be unconscionable for the legislature to repeal this benefit without an acceptable replacement benefit. The legislature has for too many years used under funding of the pension system to balance the state budget.

Sincerely,

Robert Warnecke
Past Legislative Chair
Washington School Retirees Association
1033 South 9th Street
Mount Vernon, WA 98274

copy to: Representative Bill Fromhold
Chair SCPP

Burkhart, Kelly

Subject: FW: teacher retirement

-----Original Message-----
From: tareybs@comcast.net [mailto:tareybs@comcast.net]
Sent: Wednesday, December 07, 2005 6:33 PM
To: Fromhold, Rep. Bill
Subject: NC: teacher retirement

HOUSE INTERNET E-MAIL DELIVERY SERVICE

TO: Representative Bill Fromhold

FROM:

Jeff Reyburn (Non-Constituent from District 6)
n. 15706 Timberglen Ct
Spokane, WA 99208

E-MAIL: tareybs@comcast.net

PHONE: 509 467-1127

SUBJECT: teacher retirement

MESSAGE:

Dear Representative Fromhold:

I am a public school teacher here in Spokane (Lewis and Clark H. S.) I am almost halfway through my 36th year of teaching. Having moved to Washington in 1985, I am a member of the TRS plan three retirement. I know you must be aware that there are three separate and very unequal plans for the state's teachers. I am asking that you look into the possibility of adopting some form of a rule of 90, whereby teachers enrolled in plan 3 with a combined total of 90 years of age/service could retire without penalty and draw their defined benefit.
Although I am still a very effective teacher, I am getting weary. I am also expensive compared to a teacher beginning his career. Educational changes, innovation, technology, and test culture have taken their toll on me, and I am sure a younger teacher would be more tractable and less of a pain in the ass for the educational establishment. Whether I chose to retire early or not, at lest I would have an option. I see where the state has unexpected revenues and feel that this could be an opportune time to invest it in us.
I see that the Select Committee on Pension Policy is scheduled to meet on Dec. 13. I appreciate any consideration that you can give this plan.
Thank you, Jeff Reyburn
n. 15706 Timberglen Ct.

Washington State
School Retirees Association

4726 Pacific Ave. SE Lacey, WA 98503-1216 • PHONE (360) 413-5496

Testimony before the Select Committee on Pension Policy

Re: Gain Sharing Subgroup Recommendations & TRS/PERS 1 Unfunded Liability Subgroup Recommendations

December 13, 2005

Honorable Chair and Committee members, the Washington State School Retirees' Association (WSSRA) is pleased that its #1 priority of recovery of lost purchasing power for current TRS/PERS Plan 1 retirees, as well as priorities related to equitable trade-off benefits for Plan 3 Gain Sharing, Plan 2/3 recruitment and retention issues, and the need for resumed payments toward the Plan 1 Unfunded Liability are all addressed by proposals being considered for your adoption today.

Omnibus Gain Sharing Replacement Benefits Package

Gain Sharing is an important benefit for active and retired members of both Plans 1 and 3. Members of Plan 1 depend on Gain Sharing to augment the increasingly inadequate Uniform Plan 1 COLA. Members of Plan 3 depend on Gain Sharing to boost the value of their Defined Contribution accounts. Throughout the '05 Interim WSSRA has been of the position that any repeal of Gain Sharing must be accompanied by Gain Sharing replacement benefits of a $1 for $1 value to future Gain Sharing costs. However, we acknowledge the fiscal and political climates which necessitate compromise by all parties involved ~ advocates and budget-writers alike. Accordingly, **WSSRA asks that in exchange for repeal of Plan 1 and Plan 3 Gain Sharing the SCPP include the following important provisions in their new Omnibus Gain Sharing Replacement Benefit Package:**

- **One-time permanent $0.24 increase in the TRS/PERS Uniform Plan 1 COLA** ~ This adjustment to the Uniform COLA would provide much-needed relief to current Plan 1 retirees who are struggling to make ends meet with defined benefits of diminishing value. For example, members of TRS/PERS Plan 1 who retired during the 1970s have experienced a 50% erosion of their purchasing power. Additionally, such an increase would protect future Plan 1 retirees from such extreme declines in their purchasing power.
- **One-time Plan 3 to Plan 2 prospective transfer window for all current TRS/SERS/PERS Plan 3 members** ~ This provision would go far in deterring potential legal challenge by Plan 3 members who entered Plan 3 with the understanding that Gain Sharing would be a permanent benefit.
- **Plan 2/3 choice for TRS and SERS new hires** – Allowing new members of TRS and SERS to choose whether to go into Plan 2 or Plan 3 would also bring these plans into uniformity and equity with the new hire policy of PERS.
- **Repeal of annual rate flexibility for TRS 3 (previously approved by the IRS) and SERS 3 / PERS 3 (not approved by the IRS)** – This provision is in response to an unfortunate shift in policy by the IRS, but is thought to be needed in order to safeguard IRS plan qualification of TRS/SERS/PERS 3.
- **Employer contributions to Defined Contribution (DC) accounts of existing Plan 3 members (who meet current eligibility criteria for Gain Sharing and remain in Plan 3 after the transfer window)** – As with the increase to the Uniform Plan 1 COLA, this provision would provide the most equity as "replacement benefits" for Plan 3 members as it maintains the spirit of current Gain Sharing by providing an important ongoing benefit.

In 1998 active and retired school and public employees made many compromises in order to achieve enactment of Gain Sharing benefits currently in statute. Yet again compromises have been made to craft a modest, yet significant, package of Gain Sharing replacement benefits. The cost of the Gain Sharing Replacement Benefits for Plans 1 and 3 must be viewed in light of savings realized through the repeal of Gain Sharing. The proposed replacement benefits cost $0.50 on the $1 ~ that's one-half ~ of what the costs would be if Gain Sharing is maintained in statute and pre-funded as a material liability to the pension system.

Other Plan 1 COLA Improvements

- **Age 66 COLA** - Extending initial eligibility so that all TRS/PERS 1 retirees would begin receiving their pension adjustment in July of the calendar year they turn 66 would bring fairness to those TRS/PERS 1 retirees who currently, because of their post-June 30th birthday, must wait until nearly age 67 to begin receiving their COLA.
- **Expanding eligibility for the $1,000 Minimum Benefit to those with 20 years of service and 25 years retired, and adding a 3% annual escalator to the original (2004) and expanded $1,000 Minimum Benefit** - This proposal is another positive step forward in bringing relief to long-time retirees with significant years of service credit and minimal pension benefits.

Plan 2/3 Retirement Eligibility

- **Full Rule of 90** - Providing a full "Rule of 90" (age + years of service = 90) as an alternative to the age 65 normal retirement eligibility criteria would help to address recruitment and retention concerns shared by employers and employees pertaining to need for flexibility in the timing of retirement for members of Plans 2/3.
- **5-year vesting in Plan 3** – Providing uniformity in the vesting criteria of all TRS/SERS/PERS plans by changing the vesting eligibility criteria for members of TRS/SERS/PERS Plan 3 from 10 to 5 years would help to bring equity between plans. Plan 3 members should not be singled out to fulfill the burdensome vesting criteria of 10 years.

Plan 1 Unfunded Liability

WSSRA shares the SCPP's ongoing concerns over inadequate pension funding and supports the SCPP's adoption of the following proposal:

- Establishment of a phased-in resumption of employers' Unfunded Liability contributions to the TRS/PERS 1 Unfunded Liability over a 3-year period beginning in July of 2006 (Note: The cost of the phase-in would be contained to the phase-in period.), and
- Establishment of a TRS/PERS 1 Unfunded Actuarial Accrued Liability (UAAL) contribution rate floor of 80% of expected long-term costs (i.e. 2.68% for PERS and 4.71% for TRS), and a target funding ratio of 125%; both of which would take effect the first biennium after the phase-in period is complete.

Though WSSRA is disturbed that the Plan 1 Unfunded Liability neglected to include the cost of pre-funding Gain Sharing benefits currently in statute, we are pleased that provisions establishing a contribution rate floor and target funding ratio were included in the proposal in order to promote future contribution rate adequacy and stability.

In closing, many legislators and other policy makers have commented over the 2005 Interim that, "there's no longer any excuse for not doing the right thing." WSSRA agrees! It's time to do the right thing with respect to both retirement benefit improvements and responsible pension funding. Steps taken toward responsible pension funding should not be made to the exclusion of, and at the expense of, pension improvements for current and future retirees! Plan 1 retirees continue to experience diminishing purchasing power as each year goes by; Plan 2/3 members continue to struggle with unnecessarily burdensome retirement eligibility issues. The Legislature needs to face its responsibility to: 1.) provide benefits which maintain their value throughout the retirement years of Plan 1 members, and 2.) pay on the Plan 1 debt that has been left to increase while other budget priorities have taken center stage....**NOW IS THE TIME TO DEAL WITH PENSIONS....ON BOTH THE BENEFITS AND FUNDING SIDES OF THE EQUATION!**

Thank you for this opportunity to address these important issues. Please contact WSSRA Executive Director, Ed Gonion, or Legislative Coordinator, Leslie Main at 1-800-544-5219 if you would like to discuss these issues further or have any questions regarding WSSRA's positions.

Rate Floor with Target Funding Ratio

(October 17, 2005)

Example

The following are excerpts from HB 1324 (2005 session) and provide an example of a rate floor with a target funding ratio that was included in last year's SCPP proposal:

> *"Beginning July 1, 2009, an additional minimum 2.75 percent is added to the minimum employer contribution rate of 4.00 percent for the public employees' retirement system until the actuarial value of assets equals one hundred 125 percent of the actuarial accrued liability for the public employees' retirement system plan 1 or June 30, 2024, whichever comes first."*
>
> *"Upon completion of each biennial actuarial valuation, the pension funding council and the state actuary shall review the appropriateness of the minimum contribution rates and the pension funding council shall recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience."*

Purpose of a Rate Floor with a Target Funding Ratio

Rate Floor

The addition of a rate floor under current Plan 1 funding policy would:

- eliminate a potential form of rate escalation at the end of the scheduled amortization period;
- stabilize future rates; and
- improve the adequacy of Plan 1 unfunded actuarial accrued liability (UAAL) rates over the long-term.

Under current funding policy, employer contribution rates necessary to amortize the Plan 1 UAAL by June 30, 2024 fluctuate based on the results of a biennial actuarial valuation. There is currently no statutory floor rate in place and contributions to the PERS 1 and TRS 1 UAAL have been suspended since the beginning of the 2003-05 biennium.

Under current funding policy, Plan 1 UAAL rates decrease as Plan 1 funded status improves and increase as funded status weakens. Short-term fluctuations in Plan 1 UAAL rates are largely based on short-term investment performance and directly correlated with the plan's asset allocation policy. Riskier assets classes, with the reward of higher long-term investment return and lower long-term plan costs, will produce more volatile investment returns in the short-term. Asset smoothing techniques help dampen rate volatility, but on their own cannot eliminate rate volatility entirely during periods of extraordinary investment performance.

In the absence of a rate floor, Plan 1 UAAL rates will decrease below expected long-term levels during periods of extraordinary investment performance and then return to expected long-term levels after the downward cyclical investment markets that historically follow. Given the fixed statutory amortization date of June 30, 2024, any premature reduction of Plan 1 UAAL contribution rates in the short-term will lead to escalating Plan 1 UAAL contribution rates at the end of the amortization period.

A Plan 1 UAAL rate floor will eliminate this type of potential escalation in rates, stabilize future rates and improve the adequacy of Plan 1 UAAL rates over the long-term.

Funding Target

The addition of a funding target under current Plan 1 funding policy would serve two purposes:

- increase the likelihood that once amortized, future contributions to the Plan 1 UAAL would not be required; and
- ensure that the floor contribution rates do not produce an excessive asset reserve.

A target funding ratio would be attained when the plan's assets divided by the plan's actuarial accrued liability exceeds a target percentage - say 140 percent. The assets would be calculated under the current asset smoothing method and the liabilities would be calculated under current assumptions and methods for determining on-going contribution requirements.

A plan that is exactly 100 percent funded on a particular valuation date may require additional contributions in the future. The key is understanding the purpose of the measurement and the assumptions used to determine the funded status under that measurement.

The following is an excerpt for the 2003 actuarial certification letter:

> *"The primary purpose of this valuation is to determine contribution requirements for the systems listed above as of the valuation date and should not be used for other purposes."*

The purpose of this statement is to inform the reader that the valuation results will vary depending on the intended purpose of the measurement. Is the reader seeking contribution requirements for an open and on-going plan? Seeking the lump-sum contribution required to settle the plan's unfunded liabilities under a closed plan? Perhaps the reader would like to know the contribution rate required to completely amortize the Plan 1 UAAL by 2024 and be reasonably assured that no future contributions would be required under current plan provisions?

Clearly, the results of a single actuarial valuation cannot accommodate all of the purposes listed above. Each measurement requires a unique set of actuarial assumptions and methods that produces materially different results.

Under current funding policy, the Plan 1 UAAL rate is calculated using assumptions that model expected long-term economic and demographic conditions over an extended measurement period - say 30 to 40 plus years into the future. However, the current amortization date is June 30, 2024 - less than 20 years from today. Applying an interest rate assumption over a period shorter than the intended measurement period (i.e., the duration of the amortization period is less than the duration of the measurement period for all plan liabilities) increases the likelihood that the interest assumption will not be achieved over the remaining amortization period. As a result, it is more likely than not that contributions to the Plan 1 UAAL will be required after June 30, 2024.

One way of addressing this situation is to tie the Plan 1 UAAL amortization policy to a target funding ratio. This would avoid a separate and distinct measurement of the Plan 1 UAAL. Under a target funding ratio, contributions to the Plan 1 UAAL would continue until a "target reserve" is established and the target reserve would decrease the likelihood that further contributions would be required following the amortization period.

Combining the target funding ratio with the rate floor provides a form of a "check and balance" between these two policies. A rate floor without a target funding ratio could produce an excessive asset reserve and unnecessarily increase plan costs. A funding target without a floor contribution rate would likely not be attained.

Appropriate Level of Floor Rates

The selection of an appropriate rate floor requires actuarial judgement and actuarial projections. Certainly, the selection of any rate floor will improve the rate stability issues mentioned previously. However, the improvements from such a funding policy change would diminish as the level of the rate floor decreases as a percentage of the long-term expected contribution rate. A floor contribution rate between 80 and 100 percent of the expected long-term rate would be appropriate for this purpose. This would correspond with rates between 2.68 and 3.35 percent for PERS 1 and rates between 4.71 and 5.89 percent in TRS 1. (Note: these rates exclude the cost of future gain-sharing benefits).

Appropriate Target Funding Ratio

The selection of an appropriate target funding ratio also involves actuarial judgement. A funding target closer to 100 percent could produce an insufficient reserve for the purposes stated above. On the other hand, a target ratio in excess of 150 percent may produce an excessive reserve and unnecessarily increase the long-term cost of the plan. An excessive reserve could also lead to increased demand for benefit enhancements - further increasing the long-term cost of the plan.

Federal law concerning minimum funding requirements for qualified retirement plans in the private sector provides some insight on this topic. Prior to the passage of the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001, the full funding limit credit under Section 412 of the Internal Revenue Code (IRC) was based on 150 percent of the plan's current liability. This was increased to 170 percent (for plan years beginning in 2003) following the

passage of EGTRRA. The provisions of EGTRRA are set to expire for plan years beginning after December 31, 2010. Section 412 of the IRC does not apply to governmental plans, but does provide one point of reference in regards to full funding.

A funding target of 125 to 150 percent would be appropriate. The State Actuary recommends a funding target of 125 percent.

Summary

The addition of a Plan 1 UAAL rate floor tied to a target funding ratio would:

- eliminate a potential form of rate escalation at the end of the scheduled amortization period;
- stabilize future rates;
- improve the adequacy of Plan 1 UAAL rates over the long-term;
- increase the likelihood that once amortized, future contributions to the Plan 1 UAAL would not be required; and
- ensure that the floor contribution rates do not produce an excessive asset reserve.

The State Actuary recommends a floor contribution rate between 80 and 100 percent of the expected long-term rate. This would correspond with rates between 2.68 and 3.35 percent for PERS 1 and rates between 4.71 and 5.89 percent in TRS 1. (Note: these rates exclude the cost of future gain-sharing benefits).

The State Actuary recommends a funding target of 125 percent.

Next Steps

The subgroup will need to select floor PERS 1/TRS 1 UAAL rates (and decide whether or not to include the cost of future gain-sharing benefits) and select a target funding ratio. Staff will then prepare draft bill language for the full committee.

Washington State
School Retirees Association

4726 Pacific Ave. SE Lacey, WA 98503-1216 • PHONE (360) 413-5496

MEMORANDUM

RECEIVED
OCT 24 2005
Office of
The State Actuary

TO: Select Committee on Pension Policy (SCPP) Plan 1 Unfunded Liability Subgroup
Victor Moore, Chair
Senator Craig Pridemore
Representative Barbara Bailey
Glenn Olson – PERS Employer Representative

FROM: Robert Rhule, WSSRA Legislative Committee Chair
Leslie Main, WSSRA Legislative Coordinator

DATE: October 20, 2005

RE: Calculation of Unfunded Liability Costs

The Washington State School Retirees' Association (WSSRA) has a long and consistent record of advocating responsible pension funding, particularly with respect to amortization of the TRS/PERS Plan 1 Unfunded Liability. Accordingly, we are very appreciative and interested in the SCPP's desire to put forth a recommendation to the Legislature as to the resumption of payment toward this important employer obligation. It was our original understanding that the Plan 1 Unfunded Liability Subgroup was charged with analysis of the technical aspects of options related to the Unfunded Liability; the results of which would then be communicated to the full SCPP for their use in developing a policy recommendation. We are now aware that the Subgroup has decided to put forth a policy recommendation to the full SCPP.

WSSRA understands that payment of the TRS/PERS 1 Unfunded Liability represents a challenge to General Fund-State (GF-S), non-GF-S, and local government employers alike. However, it is our concern that omission of future Gain Sharing costs from a policy recommendation of the Plan 1 Unfunded Liability Subgroup would not fully represent total material liabilities of the TRS/PERS 1 pension funds. A case could be made that enactment of ESHB 1044 by the Legislature during the 2005 Session justifies omission of Gain Sharing costs from calculation of Unfunded Liability contributions during the remainder of the 2005-07 biennium. Nonetheless, it is the strong belief of WSSRA that until the Legislature takes definitive action on Gain Sharing, the costs of future Gain Sharing disbursements resulting from currently established statute should be accounted for in any calculation of Unfunded Liability obligations from 2007-09 and beyond.

Aside from the fiscal ramifications, WSSRA is also concerned about the policy implications of omitting the costs of future Gain Sharing disbursements from any recommendation of the Plan 1 Unfunded Liability Subgroup. We understand that some parties may hope to see a repeal of Gain Sharing benefits without any replacement benefits and thus realize only savings to employers. However, such a total "take away" of Gain Sharing benefits by the Legislature is not a forgone conclusion that should be utilized in the development of a policy recommendation dealing with resumption of employer payments toward the Plan 1 Unfunded Liability.

WSSRA therefore requests that any policy recommendation put forth by the Plan 1 Unfunded Liability Subgroup to the full SCPP be accompanied by cost estimates which include the cost of future Gain Sharing benefits. Thank you for your consideration of these important issues.

cc: Representative Bill Fromhold, SCPP Chair
Senator Karen Fraser, SCPP Vice-Chair
Matt Smith, State Actuary

Select Committee on Pension Policy

Bill Summary
Plan 1 Unfunded Liability

(November 15, 2005)

The draft bill for the 2006 legislative session relating to contribution rates for the Plan 1 Unfunded Actuarial Accrued Liability (UAAL) contains the following provisions:

- Establishes minimum contribution rates for the Plan 1 UAAL beginning in 2009: 2.68 percent for PERS and 4.71 percent for TRS.

- The minimum contribution rates would remain effective until the target funding ratio of 125 percent is achieved or the amortization date of June 30, 2024, is reached - whichever comes first.

- Establishes a three-year phase-in to the minimum contribution rates. In fiscal year 2007, the rates would be 0.87 percent for PERS and 1.29 percent for TRS.

- Describes the approach for calculating contribution rates for years two and three of the phase-in (2007-2009 biennium).

- Provides for an effective date of July 1, 2006.

AN ACT Relating to payment of the unfunded actuarial accrued liability in plan 1 of the public employees' retirement system and plan 1 of the teachers' retirement system; adding a new section to chapter 41.45 RCW; and providing an effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.45 RCW to read as follows:

(1) It is the intent of the legislature to provide for the systematic payment of the plan 1 unfunded actuarial accrued liability in a manner that promotes contribution rate adequacy and stability for the affected systems. To this end, minimum contribution rates are established for the sole purpose of amortizing the unfunded actuarial accrued liability in the plans 1 of the public employees' retirement system and the teachers' retirement system. This change in funding policy requires a three-year phase-in of contribution rates beginning in 2006, with established minimum contribution rates becoming effective in 2009. The phase-in rates for the plan 1 unfunded actuarial accrued liability are in addition to the phase-in rates established pursuant to RCW 41.45.062.

(2) Beginning July 1, 2006, a 0.87 percent contribution is established as part of the basic state and employer contribution rate for the public employees' retirement system and the public safety employees' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the public employees' retirement system plan 1.

(3) Beginning September 1, 2006, a 0.87 percent contribution is established as part of the basic state and employer contribution rate for the school employees' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the public employees' retirement system plan 1.

(4) Beginning September 1, 2006, a 1.29 percent contribution is established as part of the basic state and employer contribution rate for the teachers' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the teachers' retirement system plan 1.

(5) Upon completion of the 2005 actuarial valuation, the pension funding council and the state actuary shall review the contribution rates for the plan 1 unfunded actuarial accrued liability for 2007-2008 and 2008-2009 and by September 30, 2006, the pension funding council shall adopt contribution rates to complete the three-year phase-in schedule, adjusted for any material changes in benefits or actuarial assumptions, methods, and experience. The expected present value of projected contributions during the three-year phase-in period shall be the same as the expected present value of projected contributions that would have been collected without the phase-in, as determined by the state actuary and adjusted for any material changes in benefits or actuarial assumptions, methods, or experience.

(6) Beginning July 1, 2009, a minimum 2.68 percent contribution is established as part of the basic state and employer contribution rate for the public employees' retirement system and the public safety employees' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the public employees' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(7) Beginning September 1, 2009, a minimum 2.68 percent

contribution is established as part of the basic state and employer contribution rate for the school employees' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the public employees' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(8) Beginning September 1, 2009, a minimum 4.71 percent contribution is established as part of the basic state and employer contribution rate for the teachers' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the teachers' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the teachers' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(9) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2006.

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**11/30/05**	**Z-0884.1**

SUMMARY OF BILL:

This bill impacts the Plans 1 of the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) by providing minimum contribution rates for paying the unfunded actuarial accrued liability (UAAL) in those plans. The minimum contribution rates would be 2.68% for the PERS 1 UAAL and 4.71% for the TRS 1 UAAL. These minimum rates would become effective in 2009, and would remain in effect until the target funding ratio of 125% is achieved or the amortization date of June 30, 2024 is reached, whichever comes first.

The proposed legislation would also establish a three-year phase-in to the minimum contribution rates. In the 2006-2007 fiscal year, the rates would be 0.87% for the PERS 1 UAAL and 1.29% for the TRS 1 UAAL. The contribution rates for years two and three of the phase-in would be adopted by the pension funding council according to the following standard: the expected present value of projected contributions during the three-year phase-in period would be the same as the expected present value of projected contributions that would have been collected without the phase-in, as determined by the state actuary and adjusted for any material changes in benefits or actuarial assumptions, methods or experience.

Effective Date: July 1, 2006

CURRENT SITUATION:

Payments to amortize the Plan 1 UAAL are normally collected as a component of employer contribution rates. According to current funding policy, liability for the Plans 1 is spread among all PERS, TRS, SERS and PSERS employers. This liability is also spread over time. Current funding policy requires that the UAAL be fully amortized by June 30, 2024.

Payments for the Plan 1 UAAL have been suspended for the current biennium, and were suspended in the previous biennium. Regular payments are scheduled to resume July 1, 2007.

MEMBERS IMPACTED:

The bill would impact all 75,390 members of PERS 1 and all 45,961 members of TRS 1 by recommencing employer contributions in 2006 instead of 2007, and establishing a minimum employer contribution rate in 2009 for the amortization of existing UAAL in PERS 1 and TRS 1.

PERS Plan 1	Members
Receiving a Benefit	54,568
Actives	17,829
Terminated & Vested	2,993

TRS Plan 1	Members
Receiving a Benefit	34,624
Actives	9,862
Terminated & Vested	1,475

Member contributions would not change as a result of this bill.

ASSUMPTIONS:

Contribution Rate Phase-In

The bill establishes a schedule of smoothed or phased-in contribution rates for 2006-2009. The rates for 2006-07 are specified. We assume that the 2007-2009 Plan 1 UAAL rates will be adjusted so that the expected present value of the contributions over 2006-2009 would be the same with or without the phase-in.

Minimum Contribution Rate (Floor)

We project that the contribution rates for the amortization of the PERS and TRS Plan 1 UAAL beginning in 2009, will exceed the minimum rates, or floors in the bill throughout the remainder of the amortization period.

FISCAL IMPACT:

Contribution Rate Phase-In

The rates under the 3-year phase-in will be higher in the 2006-07 than required under current law, and will be lower in 2007-08 and 2008-09 than required under the projected 2005 actuarial valuation.

Minimum Contribution Rate (Floor)

There is no fiscal impact for the minimum contribution rate or floor because any additional contributions due to a floor would be offset by reduced contributions in future years.

The floor or minimum contribution rate would not impact rates in the long run. The short term increase in rates in years in which the floor applied would be offset by lower rates in future years. A floor could actually result in a long term savings to the extent that investment earnings from the extra contributions

due to the floor are used to reduce future contribution requirements. We considered but did not include any cost impact for any issues related to market timing and when the extra contributions from the floor are invested.

The determination that a floor would result in no additional cost and possibly a savings is based on the assumption that any temporary reserve or "cushion" that is built up from a floor is used to reduce future contribution requirements and not used to provide for benefit increases. If the extra contributions from a floor are used for benefit increases, then there would be a cost to having a floor.

Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

(Dollars in Millions)		Current	Increase	Total
Actuarial Present Value of Projected Benefits	PERS	$28,099	$0	$28,099
(The Value of the Total Commitment to all Current Members)	TRS	$15,616	$0	$15,616
	SERS	$2,126	$0	$ 2,126
Unfunded Actuarial Accrued Liability	PERS 1	$2,564	$0	$2,564
(The Portion of the Plan 1 Liability that is Amortized at 2024)	TRS 1	$1,417	$0	$1,417
Unfunded Liability (PBO)	PERS	($673)	$0	($673)
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	TRS	($235)	$0	($235)
	SERS	($360)	$0	($360)

Increase in Contribution Rates:

We determined that the following adjustments to the Plan 1 UAAL rates would result in the same present value of contributions. The rates are effective 7/1/06 for PERS and PSERS, and 9/1/06 for TRS and SERS:

Year	PERS / SERS / PSERS	TRS
2006-2007	0.87%	1.29%
2007-2008	(0.88)%	(1.30%)
2008-2009	0.00%	(0.02%)
2009-2011 & thereafter	0.00%	0.00%

There is no change to the member rates.

Fiscal Budget Determinations:

As a result of the higher (lower) required contribution rate, the increase (decrease) in funding expenditures is projected to be:

Costs (in Millions):	PERS*	TRS	SERS	Total
2006-2007				
State:				
General Fund	$14.0	$34.2	$4.5	$52.7
Non-General Fund	$23.1	$0.0	$0.0	$23.1
Total State	**$37.1**	**$34.2**	**$4.5**	**$75.8**
Local Government	$33.0	$18.8	$6.8	$58.6
Total Employer	$70.1	$53.0	$11.3	$134.4
Total Employee	$0.0	$0.0	$0.0	$0.0
2007-2009				
State:				
General Fund	($15.0)	($38.4)	($5.6)	($59.0)
Non-General Fund	($24.8)	$0.0	$0.0	($24.8)
Total State	**($39.8)**	**($38.4)**	**($5.6)**	**($83.8)**
Local Government	($35.3)	($19.2)	($8.4)	($62.9)
Total Employer	($75.1)	($57.6)	($14.0)	($146.7)
Total Employee	$0.0	$0.0	$0.0	$0.0
2006-2031				
State:				
General Fund	($1.0)	($4.2)	($1.1)	($6.3)
Non-General Fund	($1.7)	$0.0	$0.0	($1.7)
Total State	**($2.7)**	**($4.2)**	**($1.1)**	**($8.0)**
Local Government	($2.3)	($0.4)	($1.6)	($4.3)
Total Employer	($5.0)	($4.6)	($2.7)	($12.3)
Total Employee	$0.0	$0.0	$0.0	$0.0

* Includes PSERS effective 7/1/06

State Actuary's Comments:

This fiscal note involves calculations that require assumptions about future economic events and acts of future Legislatures. It assumes that the cost of future gain sharing will not be recognized under the phase-in schedule, that the contribution rates for 2007-2009 will be adjusted to complete the 3-year phase-in schedule, and that the Plan 1 amortization payments will resume in 2006 with no change in the amortization date. If any of these events occur differently than assumed, then the long term cost of this bill will change.

STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2004 actuarial valuation report of the Public Employees' Retirement System Retirement System, the Teachers' Retirement System, and the School Employees' Retirement System.

2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.

3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report, or within the body of this fiscal note, include the following: None

4. 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.

5. This draft fiscal note is intended for use only during the 2006 Legislative Session.

6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.

7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. Entry age normal cost rate increases are used to determine the increase in funding expenditures for future new entrants. Aggregate rate increases are used to calculate the increase in funding expenditures for current plan members.

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. The method does not produce an unfunded liability. The normal cost is determined for the entire group rather than an individual basis.

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; plus
- Amortization of the unfunded liability

The normal cost is 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.

Pension Benefit Obligation (PBO): The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

Projected Benefits: Pension benefit amounts which 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 Liability (Unfunded PBO): The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

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.

Rate Phase-In Proposals

(November 7, 2005)

Phase-In Proposals

- **Current Law** - no rate phase-in; full Plan 1 UAAL rates resume at the beginning of the 2007-09 biennium
- **1-Year Phase-In with Catch-Up** - full 2005-07 payment with interest made during 2006-07; no phase-in thereafter
- **3-Year Phase-In with Catch-Up** - full 2005-2007 payment with interest made during 2006-2009; no phase-in thereafter
- **4-Year Phase-In with Catch-Up** - full 2005-2007 payment with interest made during 2006-2010; no phase-in thereafter
- **2-Year Phase-In** - rate increases over 2006-08 with the same present value as current law over a 2-year phase-in period
- **3-Year Phase-In** - rate increases over 2006-09 with the same present value as current law over a 3-year phase-in period
- **4-Year Phase-In** - rate increases over 2006-10 with the same present value as current law over a 4-year phase-in period

Plan 1 UAAL Rate Phase-In Schedules*

	2006-07	2007-08	2008-09	2009-10	2010-11
PERS 1					
Current Law	0.00%	2.63%	2.63%	3.13%	3.13%
1-Year Phase-in with Catch-up	3.44%	2.38%	2.38%	2.88%	2.88%
3-Year Phase-in with Catch-up	1.38%	2.76%	4.14%	2.88%	2.88%
4-Year Phase-in with Catch-up	1.12%	2.24%	3.36%	4.48%	2.88%
2-Year Phase-in	0.87%	1.75%	2.63%	3.13%	3.13%
3-Year Phase-in	0.87%	1.75%	2.63%	3.13%	3.13%
4-Year Phase-in	0.84%	1.68%	2.51%	3.35%	3.13%
TRS 1					
Current Law	0.00%	3.85%	3.85%	5.21%	5.21%
1-Year Phase-in with Catch-up	4.05%	3.55%	3.55%	4.91%	4.91%
3-Year Phase-in with Catch-up	1.88%	3.75%	5.63%	4.91%	4.91%
4-Year Phase-in with Catch-up	1.62%	3.24%	4.87%	6.49%	4.91%
2-Year Phase-in	1.28%	2.54%	3.85%	5.21%	5.21%
3-Year Phase-in	1.29%	2.55%	3.83%	5.21%	5.21%
4-Year Phase-in	1.29%	2.58%	3.86%	5.15%	5.21%

* All rates shown in this exhibit exclude the cost of future gain-sharing benefits. The UAAL rates are in addition to the normal cost rates for PERS, SERS, TRS, and PSERS.

Total Employer Rates under Phase-In Schedules*

	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011
PERS					
Current Law	3.50%	6.69%	7.37%	7.33%	7.33%
1-Year Phase-in with Catch-up	6.94%	6.44%	7.12%	7.08%	7.08%
3-Year Phase-in with Catch-up	4.88%	6.82%	8.88%	7.08%	7.08%
4-Year Phase-in with Catch-up	4.62%	6.30%	8.10%	8.68%	7.08%
2-Year Phase-in	4.37%	5.81%	7.37%	7.33%	7.33%
3-Year Phase-in	4.37%	5.81%	7.37%	7.33%	7.33%
4-Year Phase-in	4.34%	5.74%	7.25%	7.55%	7.33%
TRS					
Current Law	3.25%	7.14%	7.63%	9.86%	9.86%
1-Year Phase-in with Catch-up	7.30%	6.84%	7.33%	9.56%	9.56%
3-Year Phase-in with Catch-up	5.13%	7.04%	9.41%	9.56%	9.56%
4-Year Phase-in with Catch-up	4.87%	6.53%	8.65%	11.14%	9.56%
2-Year Phase-in	4.53%	5.83%	7.63%	9.86%	9.86%
3-Year Phase-in	4.54%	5.84%	7.61%	9.86%	9.86%
4-Year Phase-in	4.54%	5.87%	7.64%	9.80%	9.86%

*All rates shown in this exhibit exclude the cost of future gain-sharing benefits and an administrative expense rate of 0.19%.

Fiscal Impact of the Phase-In Schedules

Costs (in Millions):	1 Year Phase-in w/ Catch-up	3 Year Phase-in w/ Catch-up	4 Year Phase-in w/ Catch-up	2 Year Phase-in	3 Year Phase-in	4 Year Phase-in
2006-2007						
State:						
General Fund	$ 180.5	$ 79.2	$ 66.9	$ 52.5	$ 52.7	$ 52.0
Non-General Fund	$ 91.5	$ 36.7	$ 29.8	$ 23.1	$ 23.1	$ 22.3
Total State	**$ 272.0**	**$ 115.9**	**$ 96.7**	**$ 75.6**	**$ 75.8**	**$ 74.3**
Local Government	$ 216.2	$ 90.5	$ 74.8	$ 58.4	$ 58.6	$ 57.2
Total Employer	$ 488.2	$ 206.4	$ 171.5	$ 134.0	$ 134.4	$ 131.5
Total Employee	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.0
2007-2008						
State:						
General Fund	$ (14.6)	$ 0.1	$ (26.9)	$(58.6)	$(58.4)	$(59.1)
Non-General Fund	$ (7.0)	$ 3.7	$ (11.0)	$(24.8)	$(24.8)	$(26.7)
Total State	**$ (21.6)**	**$ 3.8**	**$ (37.9)**	**$(83.4)**	**$(83.2)**	**$(85.8)**
Local Government	$ (16.8)	$ 4.9	$ (28.1)	$(62.7)	$(62.6)	$(65.5)
Total Employer	$ (38.4)	$ 8.7	$ (66.0)	$(146.1)	$(145.8)	$(151.3)
Total Employee	$ 0.0	$ 0.0	$ 0.0	$0.0	$0.0	$0.0

Costs (in Millions):	1 Year Phase-in w/ Catch-up	3 Year Phase-in w/ Catch-up	4 Year Phase-in w/ Catch-up	2 Year Phase-in	3 Year Phase-in	4 Year Phase-in
2008-2009						
State:						
General Fund	$ (15.4)	$ 91.8	$ 49.3	$ 0.0	$ (0.6)	$ (2.7)
Non-General Fund	$ (7.4)	$ 45.0	$ 21.7	$ 0.0	$ 0.0	$ (3.6)
Total State	**$ (22.8)**	**$ 136.8**	**$ 71.0**	**$ 0.0**	**$ (0.6)**	**$ (6.3)**
Local Government	$ (17.7)	$ 106.4	$ 53.9	$ 0.0	$ (0.3)	$ (6.1)
Total Employer	$ (40.5)	$ 243.2	$ 124.9	$ 0.0	$ (0.9)	$ (12.4)
Total Employee	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.0
2009-2010						
State:						
General Fund	$ (16.3)	$ (16.3)	$ 76.7	$ 0.0	$ 0.0	$ 3.9
Non-General Fund	$ (7.9)	$ (7.9)	$ 42.5	$ 0.0	$ 0.0	$ 6.9
Total State	**$ (24.2)**	**$ (24.2)**	**$ 119.2**	**$ 0.0**	**$ 0.0**	**$ 10.8**
Local Government	$ (18.7)	$ (18.7)	$ 95.6	$ 0.0	$ 0.0	$ 11.2
Total Employer	$ (42.9)	$ (42.9)	$ 214.8	$ 0.0	$ 0.0	$ 22.0
Total Employee	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.0
2010-2011						
State:						
General Fund	$ (17.2)	$ (17.2)	$ (17.2)	$ 0.0	$ 0.0	$ 0.0
Non-General Fund	$ (8.3)	$ (8.3)	$ (8.3)	$ 0.0	$ 0.0	$ 0.0
Total State	**$ (25.5)**	**$ (25.5)**	**$ (25.5)**	**$ 0.0**	**$ 0.0**	**$ 0.0**
Local Government	$ (19.8)	$ (19.8)	$ (19.8)	$ 0.0	$ 0.0	$ 0.0
Total Employer	$ (45.3)	$ (45.3)	$ (45.3)	$ 0.0	$ 0.0	$ 0.0
Total Employee	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.0	$ 0.0
2006-2031 (25 Year)						
State:						
General Fund	$ (215.8)	$ (195.2)	$ (184.0)	n/a	n/a	n/a
Non-General Fund	$ (103.6)	$ (95.3)	$ (89.8)	n/a	n/a	n/a
Total State	**$ (319.4)**	**$ (290.5)**	**$ (273.8)**	n/a	n/a	n/a
Local Government	$ (244.7)	$ (224.6)	$ (211.5)	n/a	n/a	n/a
Total Employer	$ (564.1)	$ (515.1)	$ (485.3)	n/a	n/a	n/a
Total Employee	$ 0.0	$ 0.0	$ 0.0	n/a	n/a	n/a

Laura Harper 360-786-6145
Office of State Actuary
December 12, 2005 (2:34 pm)

1 AN ACT Relating to minimum contribution rates for the public
2 employees' retirement system, the public safety employees' retirement
3 system, the school employees' retirement system, and the teachers'
4 retirement system; amending RCW 41.45.020; adding new sections to
5 chapter 41.45 RCW; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
7
8 **Sec. 1.** RCW 41.45.020 and 2004 c 242 s 37 and 2004 c 93 s 1 are
9 each reenacted and amended to read as follows:
10 As used in this chapter, the following terms have the meanings
11 indicated unless the context clearly requires otherwise.
12 (1) "Council" means the pension funding council created in RCW
13 41.45.100.
14 (2) "Department" means the department of retirement systems.
15 (3) "Law enforcement officers' and fire fighters' retirement system
16 plan 1" and "law enforcement officers' and fire fighters' retirement
17 system plan 2" means the benefits and funding provisions under chapter
18 41.26 RCW.

(4) "Public employees' retirement system plan 1," "public employees' retirement system plan 2," and "public employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan 1," "teachers' retirement system plan 2," and "teachers' retirement system plan 3" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "School employees' retirement system plan 2" and "school employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.35 RCW.

(7) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(8) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(9) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(10) "State retirement systems" means the retirement systems listed in RCW 41.50.030.

(11) "Classified employee" means a member of the Washington school employees' retirement system plan 2 or plan 3 as defined in RCW 41.35.010.

(12) "Teacher" means a member of the teachers' retirement system as defined in RCW 41.32.010(15).

(13) "Select committee" means the select committee on pension policy created in RCW 41.04.276.

(14) "Actuarial value of assets" means the value of pension plan investments and other property used by the actuary for the purpose of an actuarial valuation.

(15) "Public safety employees' retirement system plan 2" means the benefits and funding provisions established under chapter 41.37 RCW.

(16) "Normal cost" means the portion of the actuarial present value of projected benefits and expenses that is allocated to a period, typically twelve months, under the actuarial cost method.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.45 RCW to read as follows:

(1) Beginning July 1, 2009, a minimum 2.68 percent contribution is established as part of the basic state and employer contribution rate for the public employees' retirement system and the public safety employees' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the public employees' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(2) Beginning September 1, 2009, a minimum 2.68 percent contribution is established as part of the basic state and employer contribution rate for the school employees' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the public employees' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(3) Beginning September 1, 2009, a minimum 4.71 percent contribution is established as part of the basic state and employer contribution rate for the teachers' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the teachers' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the teachers' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(4) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.45 RCW to read as follows:

(1) Beginning July 1, 2009, a minimum contribution rate is established for the plan 2/3 normal cost as part of the basic state and employer contribution rate for the public employees' retirement system. The minimum contribution rate for the plan 2/3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plan 2/3 employer normal cost as calculated under the entry age normal cost method.

(2) Beginning September 1, 2009, a minimum contribution rate is established for the plan 2/3 normal cost as part of the basic state and employer contribution rate for the school employees' retirement system. The minimum contribution rate for the plan 2/3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plan 2/3 employer normal cost as calculated under the entry age normal cost method.

(3) Beginning September 1, 2009, a minimum contribution rate is established for the plan 2/3 normal cost as part of the basic state and employer contribution rate for the teachers' retirement system. The minimum contribution rate for the plan 2/3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plan 2/3 employer normal cost as calculated under the entry age normal cost method.

(4) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.45 RCW to read as follows:

(1) Beginning July 1, 2009, a minimum contribution rate is established for the plan 2/3 normal cost as part of the required contribution rate for members of plan 2 of the public employees' retirement system. The minimum contribution rate for the plan 2/3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plan 2/3 employee normal cost as calculated under the entry age normal cost method.

(2) Beginning September 1, 2009, a minimum contribution rate is established for the plan 2/3 normal cost as part of the required contribution rate for members of plan 2 of the school employees' retirement system. The minimum contribution rate for the plan 2/3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plan 2/3 employee normal cost as calculated under the entry age normal cost method.

(3) Beginning September 1, 2009, a minimum contribution rate is established for the plan 2/3 normal cost as part of the required contribution rate for members of plan 2 of the teachers' retirement system. The minimum contribution rate for the plan 2/3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plan 2/3 employee normal cost as calculated under the entry age normal cost method.

(4) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience.

NEW SECTION. **Sec. 5.** This act takes effect July 1, 2009.

--- END ---

Select Committee on Pension Policy

P.O. Box 40914
Olympia, WA 98504-0914
actuary.state@leg.wa.gov

***Elaine M. Banks**
TRS Retirees

Representative Barbara Bailey

Lois Clement
PERS Retirees

Representative Steve Conway

Representative Larry Crouse

***Senator Karen Fraser,**
Vice Chair

***Representative Bill Fromhold,**
Chair

***Leland A. Goeke**
TRS and SERS Employers

***Robert Keller**
PERS Actives

***Sandra J. Matheson**, Director
Department of Retirement Systems

Corky Mattingly
PERS Employers

Doug Miller
PERS Employers

Victor Moore, Director
Office of Financial Management

Senator Joyce Mulliken

Glenn Olson
PERS Employers

Senator Craig Pridemore

Diane Rae
TRS Actives

J. Pat Thompson
PERS Actives

David Westberg
SERS Actives

*** Executive Committee**

December 2, 2005

Senator Margarita Prentice, Chair
Senate Ways and Means Committee

Senator Joseph Zarelli, Ranking Minority Member
Senate Ways and Means Committee

Representative Helen Sommers, Chair
House Appropriations Committee

Representative Gary Alexander, Ranking Minority Member
House Appropriations Committee

RE: 2005 Post-Retirement Employment Program Report

Dear Chair Prentice, Chair Sommers, Senator Zarelli and Representative Alexander:

The Office of the State Actuary (OSA) has delivered its 2005 Post-Retirement Employment Program Report to the Select Committee on Pension Policy (SCPP), as required by Chapter 518, Laws of 2005. The SCPP has considered the report and offers the following response and recommendations:

1. Further study is needed. While the report is responsive to the study mandate, it is clear that cost is just one of many factors in determining an appropriate workforce strategy for public employees. The expanded post-retirement employment program was originally introduced to respond to workforce shortages, primarily in the education sector. The OSA report took no position as to whether the program has been successful in addressing these shortages, or whether the program is necessary to continue to avert them, assuming they still exist.

(360) 786-6140
Fax: (360) 586-8135
TDD: 1-800-635-9993

While the OSA has access to certain data collected by the Department of Retirement Systems for the purpose of performing actuarial valuations, data from other sources would be required to fully evaluate the success of the program as a personnel tool. We recommend that some other entity may be more appropriate than the OSA to profile the state's public workforce, evaluate workforce needs, set personnel goals, and recommend an appropriate strategy to reach those goals. Perhaps a multidisciplinary task force would be an appropriate body to undertake this effort.

The expanded retire-rehire program is currently available in the Plans 1 of the Public Employees' Retirement System and Teachers' Retirement System. By far the largest employers in these plans are the K-12 employers, so we would view representatives of that group as critical to the success of any further study. Other affected entities include state agencies, counties, higher education institutions, county subdivisions and cities.

2. No immediate or significant changes in current practices are required at this time. In light of our recommendation for further study, we believe that significant legislative action would be premature. However, we are recommending, as a sort of "stopgap measure," legislation that would implement certain procedural safeguards to help avoid abuses within the program. These safeguards would involve no changes to hour limits or waiting periods, and thus, would have **no cost**. Instead, we recommend that employers be required to hire retirees pursuant to a written policy. Further, we recommend consistency between PERS 1 and TRS 1 regarding the following: a) prohibitions against prior agreements to rehire retirees, and b) requirements that employers document their need to hire retirees and keep records of their hiring processes.

Thank you for your consideration of these recommendations. We would be happy to discuss them with you in more detail.

Sincerely,

Representative Bill Fromhold, Chair
Select Committee on Pension Policy

Senator Karen Fraser, Vice-Chair
Select Committee on Pension Policy

cc: Matt Smith, State Actuary
David Schumacher, Sr. Staff Coordinator/Capital Budget Coordinator
Charlie Gavigan, Staff Coordinator

Select Committee on Pension Policy

Bill Summary
Post-Retirement Employment

(November 28, 2005)

The draft bill for the 2006 legislative session relating to post-retirement employment contains the following provisions:

- For TRS 1, prohibits any written or verbal agreement to return to work with the same employer and imposes a potential misdemeanor penalty (already effective in PERS 1). Clarifies for both systems that mere inquiries do not constitute an agreement.

- For TRS 1, requires employers to document the need to hire retirees and to keep records of the actual hiring process (already effective in PERS 1).

- For TRS 1 and PERS 1, requires employers to rehire retirees pursuant to a written policy.

- Provides for an effective date of July 1, 2006.

Laura Harper 360-786-6145
Office of State Actuary
November 30, 2005 (10:03 am)

1 AN ACT Relating to the public employment of retirees from the plans
2 1 of the teachers' retirement system and the public employees'
3 retirement system; amending RCW 41.32.010; amending RCW 41.32.055 and
4 prescribing penalties; amending RCW 41.32.570; amending RCW 41.40.010;
5 amending RCW 41.40.037 and providing an effective date.

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

7 **Sec. 1.** RCW 41.32.010 and 2005 c 131 s 8 are each amended to read
8 as follows:
9 As used in this chapter, unless a different meaning is plainly
10 required by the context:
11 (1)(a) "Accumulated contributions" for plan 1 members, means the
12 sum of all regular annuity contributions and, except for the purpose of
13 withdrawal at the time of retirement, any amount paid under RCW
14 41.50.165(2) with regular interest thereon.
15 (b) "Accumulated contributions" for plan 2 members, means the sum
16 of all contributions standing to the credit of a member in the member's
17 individual account, including any amount paid under RCW 41.50.165(2),
18 together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.

(iii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system who has not been removed from membership under RCW 41.32.878 or 41.32.768. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's

individual account in the member reserve. This subsection shall apply only to plan 1 members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable

compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.32.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. Mere expressions or inquiries about post-retirement employment by an employer or employee that do not constitute a commitment to re-employ the employee after retirement are not an agreement under this section.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

Sec. 2. RCW 41.32.055 and 2003 c 53 s 218 are each amended to read as follows:

(1) Any person who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system, except under subsection (2) of this section, in any attempt to defraud such system as a result of such act, is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(2) Any person who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement systems related to a member's separation from service and

qualification for a retirement allowance under RCW 41.32.480 in any attempt to defraud such system as a result of such act, is guilty of a gross misdemeanor.

Sec. 3. RCW 41.32.570 and 2003 c 295 s 6 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) Except under subsection (3) of this section, ((~~A~~))any retired teacher or retired administrator who enters service in any public educational institution in Washington state ((~~and who has satisfied the break in employment requirement of subsection (1) of this section~~))at least one calendar month after his or her accrual date shall cease to receive pension payments while engaged in such service, after the retiree has rendered service for more than ((~~one thousand five hundred~~))eight hundred sixty-seven hours in a school year.

(3) Any retired teacher or retired administrator who enters service in any public educational institution in Washington state one calendar month or more after his or her accrual date and:

(a) is hired pursuant to a written policy into a position for which the school board has documented a justifiable need to hire a retiree into the position;

(b) is hired through the established process for the position with the approval of the school board or other highest decision-making authority of the prospective employer; and

(c) whose employer retains records of the procedures followed and the decisions made in hiring the retired teacher or retired administrator and provides those records in the event of an audit;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a school year.

(4) When a retired teacher or administrator renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that fiscal year.

((~~(3)~~)) (5) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

((~~(4)~~)) (6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five hundred twenty-five hours per year without a reduction of his or her pension.

Sec. 4. RCW 41.40.010 and 2004 c 242 s 53 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of

the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater

than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to

such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest

consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan 1" means the public employees' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(35) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(36) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage

earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(37) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(38) "Index B" means the index for the year prior to index A.

(39) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(40) "Adjustment ratio" means the value of index A divided by index B.

(41) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. <u>Mere expressions or inquiries about post-retirement employment by an employer or employee that do not constitute a commitment to re-employ the employee after retirement are not an agreement under this subsection.</u>

(43) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

Sec. 5. RCW 41.40.037 and 2005 c 319 s 103 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit

reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

(b) A retiree from plan 1 who enters employment with an employer at least three calendar months after his or her accrual date and:

(i) Is hired pursuant to a written policy into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, the ((~~joint~~)) select committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired

prior to July 27, 2003, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

NEW SECTION. **Sec. 6.** This act takes effect July 1, 2006.

--- END ---

DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	**035**	**11/23/05**	**Post-Ret Employment**

SUMMARY OF BILL:

This bill impacts the Plan 1 of the Teachers' Retirement System (TRS 1) and Plan 1 of the Public Employees' Retirement System (PERS 1). It adds some of the same general hiring qualifications to TRS 1 as currently exist for PERS 1 retirees who seek to work in excess of 867 hours annually. Those include a prohibition of any written or verbal agreement to return to work with the same employer. Under the proposed legislation, a TRS 1 separation from service that is pursuant to such an agreement would constitute a potential misdemeanor violation of the statute entitled "Penalties for False Statements," RCW 41.32.055. Further, TRS 1 employers would be subject to certain record-keeping requirements when they rehire these retirees, including documentation of the need to hire the retiree and records of the actual hiring process. The language for these requirements largely tracks that of the existing PERS 1 statute. Finally, the bill would require both PERS 1 and TRS 1 employers to rehire retirees pursuant to a written policy.

Effective Date: July 1, 2006

CURRENT SITUATION:

Currently, PERS 1 retirees are subject to more specific rules affecting post-retirement employment than TRS 1 retirees. PERS 1 retirees are subject to an amended definition of "separation from service" so that any written or verbal agreement to return to work with the same employer creates a potential violation of the statute entitled "Penalties for False Statements," RCW 41.40.55. Further, PERS 1 employers are subject to certain record-keeping requirements when they hire these retirees, including documentation of the need to hire the retirees and records of the actual hiring process.

Currently, there is no requirement in either system to hire retirees pursuant to a written policy.

MEMBERS IMPACTED:

This bill potentially affects all current and future PERS 1 and TRS 1 retirees. Beneficiaries of retired members are not affected. Members potentially affected include 69,126 PERS 1 and 43,511 TRS 1 active, terminated vested, and retired members as of September 30, 2004.

FISCAL IMPACT:

None. We assume that the changes proposed under this bill will not alter future retirement behavior in the affected systems.

Burkhart, Kelly

Subject: FW: Email from Jeff Hall

Importance: High

Attachments: JRA Final Bill Draft (Revised) for Code Reviser 11-30-05.doc

Mr. Smith,

The Board for Judicial Administration would like to seek introduction of the attached bill in the upcoming legislative session. This bill makes technical corrections to the Judicial Retirement Account with the primary purpose being to allow for the distribution of funds from an individual account pursuant to a qualified domestic relations order. The bill also makes several other technical corrections.

I spoke with Mr. Robert Baker of your office earlier this week and he suggested that I forward this bill draft to you at the earliest possible date. I have not previously worked on legislation affecting a pension system and am therefore not entirely certain as to how to proceed. Based on my conversation with Mr. Baker it is my understanding that since this bill will not have an actuarial impact, formal endorsement or approval of the Select Committee on Pension Policy is not required, but that there may be an opportunity to present the bill to the committee during public testimony at the December 13th meeting. It has been my intention to independently seek sponsorship of the bill by members of the committee and had intended to do so outside of the committee hearing process, though Mr. Baker indicated that the hearing may also present an opportunity to request committee member sponsorship of the legislation.

I am out of the office Friday through Monday, but hope I might have an opportunity to discuss how I might best proceed at your convenience early next week. I'll be taking this final version to the code reviser's office for a z-draft on Tuesday.

Thank you in advance for your time and attention to the above.

Jeff Hall, Executive Director
Board for Judicial Administration
Administrative Office of the Courts
PO Box 41174
Olympia, WA 98504-1174
360-357-2131

Judicial Retirement System Bill Draft
Board for Judicial Administration

NOTE: This proposed bill draft includes sections which are not amended for purposes of providing the reader with the context of all sections. Only amended sections will be included in the actual bill draft. Comments on the proposed changes are included in boxed italics following some of the amended sections.

Chapter 2.14 RCW
RETIREMENT OF JUDGES -- SUPPLEMENTAL RETIREMENT

RCW 2.14.010 - Purpose.

(1) The purpose of this chapter is to provide a supplemental retirement benefit to judges who are elected or appointed under chapter 2.04, 2.06, or 2.08 RCW and who are not members of the judicial retirement system act authorized by chapter 2.10 RCW. ~~members of the public employees' retirement system for their service as a judge.~~

(2) This chapter may be known and cited as the judicial retirement account act.

NOTES: *Eliminate the restriction of being a PERS member.*

RCW 2.14.020 -Definitions.

The definitions in this section apply throughout this chapter.

(1) "Plan" means the judicial retirement account plan.

(2) "Principal account" means the judicial retirement principal account.

(3) "Member" means a judge participating in the judicial retirement account plan.

(4) "Administrative account" means the judicial retirement administrative account.

(5) "Accumulated contributions" means the total amount

contributed to a member's account under RCW 2.14.090 (1) and (2), together with any interest and earnings that have been credited to the member's account.

RCW 2.14.030 - Judicial retirement account plan established.

The judicial retirement account plan is established for judges appointed or elected under chapter 2.04, 2.06, or 2.08 RCW and who are not members of the judicial retirement system act authorized by chapter 2.10 RCW. ~~members of the public employees' retirement system for their service as a judge.~~

NOTES: *Eliminate the restriction of being a PERS member.*

RCW 2.14.040 - Administration of plan.

The administrator for the courts, under the direction of the board for judicial administration, shall administer the plan. The administrator shall:

(1) Deposit or invest contributions to the plan consistent with RCW 2.14.080;

(2) Credit investment earnings or interest to individual judicial retirement accounts consistent with RCW ~~2.14.070~~ 2.14.060;

(3) Keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any judicial retirement accounts created under this chapter; and

(4) Adopt rules necessary to carry out this chapter.

NOTES: *Change reference to the correct section.*

RCW 2.14.050 - Administrator -- Discharge of duties.

The administrator for the courts shall be deemed to stand in a fiduciary relationship to the members participating in the plan and shall discharge his or her duties in good faith and with

that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

RCW 2.14.060 - Judicial retirement principal account -- Creation -- Transfer of deficiencies -- Contributions -- Use.

The judicial retirement principal account is created in the state treasury. Any deficiency in the judicial retirement administrative account caused by an excess of administrative expenses disbursed from that account over earnings of investments of balances credited to that account shall be transferred to that account from the principal account.

The contributions under ~~*section 19 of this act~~ RCW 2.14.090 shall be paid into the principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the administrator for the courts. The principal account shall be used to carry out the purposes of this chapter.

RCW 2.14.070 - Judicial retirement administrative account -- Creation -- Use -- Excess balance -- Deficiencies.

The judicial retirement administrative account is created in the state treasury. All expenses of the administrator for the courts under this chapter, including staffing and administrative expenses, shall be paid out of the administrative account. Any excess balance of this account over administrative expenses disbursed from this account shall be transferred to the principal account. Any deficiency in the administrative account caused by an excess of administrative expenses disbursed from this account over the excess balance of this account shall be transferred to this account from the principal account.

RCW 2.14.080 - Duties of administrator -- Investments and earnings.

~~(1) The administrator for the courts shall:~~

~~(a) Deposit or invest the contributions under RCW 2.14.090 in a credit union, savings and loan association, bank, or mutual savings bank;~~

~~(b) Purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or investment company licensed to contract business in this state; or~~

~~(c) Invest in any of the class of investments described in RCW 43.84.150.~~

~~(2)~~ The state investment board or the department of retirement systems, at the request of the administrator for the courts, may invest moneys in the principal account. Moneys invested by the investment board shall be invested in accordance with RCW 43.33A.140 ~~43.84.150~~. Moneys invested by the department of retirement systems shall be invested in accordance with applicable law. Except as provided in RCW 43.33A.160 or as necessary to pay a pro rata share of expenses incurred by the department of retirement systems, one hundred percent of all earnings from these investments, exclusive of investment income pursuant to RCW 43.84.080, shall accrue directly to the principal account.

NOTES: *The strikethroughs are to delete anachronisms. The court administrator doesn't make the investments. The referenced investment options aren't reflective of current reality either. The administrator, pursuant to current subsection 2, contracts with DRS and the SIB for the investment of the funds. The strikethrough in current subsection 2 is to correct in error in reference. RCW 43.84.150 doesn't actually set out how moneys are to be invested by SIB; RCW 43.33A.140 which has been added, does.*

RCW 2.14.090 - Funding of plan -- Contributions.

The plan shall be funded as provided in this section.

(1) Two and one-half percent shall be deducted from each member's salary.

(2) The state, as employer, shall contribute an equal

amount on a monthly basis.

(3) The contributions shall be collected by the administrator for the courts and deposited in the member's account within the principal account.

RCW 2.14.100 - Contributions -- Distribution upon member's separation -- Exemptions from state and local tax -- Exempt from execution.

(1) A member who separates from judicial service for any reason is entitled to receive a lump sum distribution of the member's accumulated contributions. The administrator for the courts may adopt rules establishing other payment options, in addition to lump sum distributions, if the other payment options conform to the requirements of the federal internal revenue code.

(2) The right of a person to receive a payment under this chapter and the moneys in the accounts created under this chapter are exempt from any state, county, municipal, or other local tax and are not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and is not assignable, except as is otherwise specifically provided herein.

(3) If a judgment, decree or other order, including a court-approved property settlement agreement, that relates to the provision of child support, spousal maintenance, or the marital property rights of a spouse or former spouse, child or other dependent of a member is made pursuant to the domestic relations law of the state of Washington or such order issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state, then the amount of the member's accumulated contributions shall be paid in the manner and to the person or persons so directed in the domestic relations order. However, this subsection does not permit or require a benefit to be paid or to be provided that is not otherwise available under the terms of this chapter

or any rules adopted hereunder. The administrator for the courts shall establish reasonable procedures for determining the status or any such decree or order and for effectuating distribution pursuant to the domestic relations order.

(4) The administrator for the courts may pay from a member's accumulated contributions the amount that the administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that member or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the member.

NOTES: *Currently DRS does not honor qualified domestic relations orders. These changes are to enable qualified domestic relations orders to be honored by AOC and DRS. Suggested subsection (4) simply codifies a reality. Assets in a member's account are subject to IRS levy or from an unpaid tax judgment.*

RCW 2.14.110 - Payment of contributions upon member's death.

If a member dies, the amount of the accumulated contributions standing to the member's credit at the time of the member's death, subject to the provisions of Chapter 26.16 RCW, shall be paid to the member's estate, or such person or persons, trust, or organization as the member has nominated by written designation duly executed and filed with the office of the administrator for the courts. If there is no such designated person or persons still living at the time of the member's death, the member's accumulated contributions shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation or, if there is no such surviving spouse, then to the member's legal representatives.

NOTES: *Since a member can designate someone other than a spouse, the added language clarifies that should a member choose to do so, that such a designation is subject to the community property laws of this state.*

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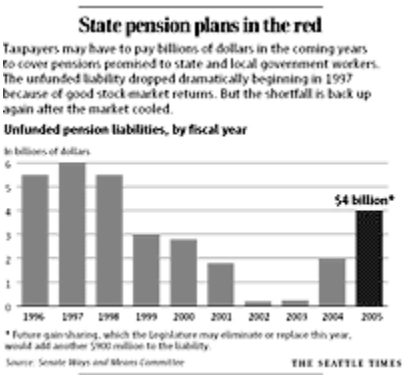
Pension perk may cost state billions

By Andrew Garber
Seattle Times Olympia bureau



OLYMPIA — A state pension perk passed by the Legislature nearly eight years ago, with the expectation that it would cost nothing, could sock taxpayers for billions of dollars.

The cost has become too big for lawmakers to ignore, and a push is expected this coming legislative session to either eliminate the benefit, which rewards pension members after a hot streak in the stock market, or replace it with something cheaper.

The state actuary estimates that Washington has about a $4.9 billion hole in its pension system. State and local governments are on the hook to make up the shortfall. Nearly half of what's owed can be tied directly to the benefit in question, called gain-sharing.

The Legislature, which reconvenes in January, may set aside several hundred million dollars to help deal with the overall pension shortfall. It's one of the biggest expenses lawmakers face and represents money that could instead go to education, health care and other programs.

The cost of the gain-sharing benefit irks legislators because they thought it would be free.

Gain-sharing "seemed like a good idea at the time. For some reason, we did not understand it was going to cost us," said House Appropriations Chairwoman Helen Sommers, D-Seattle.

Pension system at a glance

Total assets: $40 billion, invested in the stock market and other investments.

Who's covered: Teachers, state employees and city and county workers.

Total beneficiaries: About 114,000 retirees. More than 300,000 others covered by the plan are still working.

"Given my background and experience, I must say I don't know how I could have ever believed that it wouldn't cost something. ... It's expensive," said Sommers, one of the sponsors of the law creating gain-sharing and an expert on the state pension system.

State worker and teacher unions are lining up to defend the benefit, which beefs up retirement checks when pension-fund investments do better than expected. The pension system has paid out more than $1 billion since 1998 because of gain-sharing.

Union leaders say that if the Legislature gets rid of gain-sharing, it needs to come up with a good replacement or lawmakers will have

Source: state of Washington

a fight ahead. "It's not appropriate to be looking at ways to diminish those benefits," said Charles Hasse, president of the Washington Education Association.

Gain-sharing was approved by lawmakers in March 1998 near the peak of the stock-market boom, when double-digit returns from pension-fund investments seemed commonplace.

So the Legislature OK'd a proposal that increased public-pension benefits when investment returns exceeded expectations. Basically, the law says that when the average rate of returns exceeds 10 percent over four years, half of any excess over 10 percent goes to state workers through the pension system.

For some workers, that means a bump in their pay if they're already retired, or an increase in their future pay if they're still working. For example, some retirees with 30 years of service received a $137 annual boost after the last gain-sharing benefit in 2000. And that extra benefit goes up each year.

The other half of the excess cash gets plowed back into the pension fund to help protect against future downturns in the market. At the time the bill became law, proponents thought the stock market was performing so well the state would never be on the hook to cover gain-sharing benefits.

A bunch of things happened that proved them wrong, including the dot-com bust in 2000 and the economic turmoil that followed the Sept. 11, 2001, terrorist attacks.

Investment returns plummeted far below what the state expected. That created a shortfall in the amount of money needed to fully fund the pension system.

The way the gain-sharing law was written also created problems. Instead of making any excess cash a one-time distribution, lawmakers essentially allowed it to become part of the base pension benefit for certain public employees.

In other words, for thousands of workers, the money wasn't sent out as a one-time bonus. It became a permanent part of their retirement check. Even small increases can add up to big costs because of the number of public employees involved and the number of years they collect a pension.

So, gain-sharing creates a double whammy for the pension system. When the stock market is hot, gain-sharing skims off cash that could otherwise be used later when the market turns cold. In addition, it increases the amount of money needed to keep the pension system fully funded.

The state pension system has more than $40 billion in assets. It covers around 114,000 retirees and more than 300,000 people still working, including teachers, state employees and city and county workers.

State and local workers contribute part of their regular paychecks into the pension fund. The state and local governments are responsible for contributing money into the system as well, at least in theory.

The Legislature hasn't always contributed enough to keep the pensions fully funded. That also led to the current shortfall.

Lawmakers have struggled for years about what to do with the multibillion-dollar hole in the pension

fund.

Gov. Christine Gregoire wants the Legislature to put $176 million this coming year into the fund to help close the gap. Some lawmakers are talking about setting aside even more money.

Getting rid of gain-sharing would make a much bigger dent, by eliminating a projected $900 million in costs between now and 2024. Taking that step would reduce the hole in the pension system to $4 billion.

But axing it would also invite a lawsuit from public employees, said Rep. Bill Fromhold, D-Vancouver, chairman of the state Select Committee on Pension Policy.

"If the Legislature were simply to eliminate gain-sharing with no quid pro quo, then quite frankly I expect the state can expect legal action," he said.

Fromhold said his committee will discuss a compromise proposal today that would replace gain-sharing with a less-expensive benefit.

Regardless of what happens next, taxpayers still face paying millions because of past gain-sharing costs.

There's no easy fix, short of a long boom in the stock market. The state assumes its investments will return 8 percent on average every year between now and 2024. If the investments do better, that could reduce or eliminate the hole in the pension system.

Andrew Garber: 360-943-9882 or agarber@seattletimes.com

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