Pension Spiking

Background

Pension spiking refers to the practice of inflating average final compensation for purposes of increasing the pension amount. While allowable under plan rules, pension spiking can be controversial because it can create unexpected costs for the pension system and may be perceived as abuse. Stories of pension spiking will occasionally make headlines and may weaken public trust in the state retirement systems.

The Legislature has studied pension spiking numerous times in the past and made policy changes designed to curb the practice and mitigate impacts on the pension systems.

Next Steps

Staff will provide an educational briefing on pension spiking at the December meeting. The briefing will cover:

- What pension spiking is and how it occurs.
- How often it can occur.
- Policies in place to manage it.
- Why it can be hard to prevent.

There is no specific issue before the Committee at this time, and no action is required.

Materials

- Executive summary of agenda item.
- Handout: Excess Compensation Provisions.
- Additional handouts on reportable compensation and AFC increases will be provided at the meeting.

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Pension Spiking
Excess Compensation Provisions

Statute defines certain types of employee compensation as "excess compensation." Employers paying excess compensation are generally billed for the present value of the excess compensation's increase to the member's pension benefit. These provisions are designed to mitigate the financial impact of certain pay practices on the retirement systems.

Excess compensation is defined in RCW 41.50.150 as including:

- A cash out of annual leave in excess of two hundred forty hours.
- A cash out of any other form of leave.
- A payment for any personal expense that is reportable compensation.
- The portion of any payment, including overtime or bonuses, that exceeds twice the regular rate of pay.
- Any termination or severance payment.

Statute further requires public disclosure before an employer enters into an employment contract that includes excess compensation. Employers must disclose, at a public meeting, the nature of the compensation and provide an estimate of the excess compensation billings it will generate. See RCW 41.50.152.

Below is a history of key developments in the excess compensation statute.

- **1984 c 184 s 1 (SHB 843)** The excess compensation statute was created in section 1 of the act. It established the requirement that the employer pay the present value of retirement benefits based on excess compensation at the time of the employee's retirement. Excess compensation included, but was not limited to, lump sum payments for any form of leave, personal expenses, or severance pay.
- **1995 c 244 s 1 (SSB 5118)** Calculation of excess compensation was amended to specifically include any compensation that exceeded twice the regular rate of pay. Prior to passage, the Joint Committee on Pension Policy found that certain employers appeared to avoid excess compensation charges by disguising certain types of payments as additional regular salary or overtime.
- **1995 c 387 s 1 (SB 5990)** Created RCW 41.50.152, including the requirement that employers fully disclose the excess compensation impact of a proposed compensation provision at a public meeting.

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