Merger Study

Preliminary Survey Responses

The following responses were compiled from responses to the SCPP Merger Study Survey up to the time the survey closed on August 31, 2016. Where possible, staff has consolidated questions, and converted concerns/comments into questions. At the request of stakeholders, all responses will be made available on the SCPP webpage.

Goals

1. What is the purpose of a merger?
2. Why merge two different entities?
3. Why not merge other plans instead? For example:
    a. All state plans into one with the same benefits?
    b. Legislator's pension plan with the Teachers' Retirement System (TRS) Plan 1?
    c. Public Employees' Retirement System (PERS) Plan 1, TRS 1, and the Law Enforcement Officers' and Fire Fighters' (LEOFF) Plan 1 into one big plan?
    d. Washington State Patrol Retirement System with TRS 1?
    e. Public Safety Employees' Retirement System with LEOFF 2?
    f. LEOFF 2 with TRS 1?
    g. TRS 1 with TRS 2?
4. How would a merger benefit:
    a. LEOFF 1 members?
    b. Employers?
5. Why not wait until all benefits are paid out?
    a. What would happen to the surplus after all remaining members have died?
6. Will the merger be temporary?
    a. I.e., once TRS 1 is fully funded, will they be unmerged?
    b. Would it be like a loan of funds, with interest?
7. Benefit improvements.
    a. Can LEOFF 1 and LEOFF 2 be merged to allow enhanced LEOFF 2 benefits like medical benefits, a higher multiplier, or earlier retirement?
    b. Can any excess funding in LEOFF 1 be used to increase benefits for LEOFF 1 members instead?

Legal/Administrative

8. Is a merger legal?
    a. What legal entities control (e.g., Internal Revenue Service [IRS], State Supreme Court)?
        i. What are their respective roles and jurisdictions?
    b. What case law is relevant, and what does it tell us?
        i. Does it prevent/prohibit a merger?
        ii. Will the *Bakenhus* case apply to the new plan?
    c. What are the terms of the contract that exists between LEOFF 1 members and the state?
        i. I.e., what do members have a right to?
        ii. Benefits?
        iii. Funding plan?
        iv. Cash in the trust fund?
            1. Are LEOFF 1 members vested in the money itself?
            2. I.e., is the money being “stolen” from the trust fund?
    d. What laws need to be changed to complete a merger?
    e. What protections exist for vested rights and financial interests of plan participants?
9. Who are the fiduciaries for each plan?
    a. Is the Legislature a fiduciary to both the plan and the general state?
10. Who owns the surplus?
    a. Does case law from Alaska on excess funding show that any surplus belongs to the members?
11. Will there be any direct tax impact on the members?
    a. E.g., will a medically disabled member lose their individual tax exempt status?
12. Are there any other IRS issues?
    a. What would be the impact of an unfavorable opinion by the IRS?
        i. What are the range of outcomes?
        ii. Would the plan members be made whole/held harmless under those scenarios?
            1. If so, how?
        iii. Would the merger be undone?
            1. If so, how?
    b. Does each plan’s funded status impact the ability to merge?
13. How will the state pay if it needs to defend a merger in court?
14. Can you charge separate rates for the different tiers of benefits within a merged plan?

15. Is there a process for appealing or opposing a merger?
16. Would employers receive refunds for contributions used for members of another system?
17. Are plan members trustees or fiduciaries of their plans?
18. How does McCleary impact the merger analysis and funding obligations?
19. What is the impact on local levies?
    a. Can local governments use levies to pay for pension contributions for teachers and police/fire retirees?

Fiscal/Actuarial

20. Historical.
    a. How did gainsharing impact TRS 1?
        i. Is that partly why LEOFF 1 is in such good shape and TRS 1 is not?
    b. What is the funding history for each plan?
        i. Who paid what?
    c. Is LEOFF 1 cost sharing the same as other plans?
        i. I.e., did the state only put in 20 percent of contributions?
    d. What would have happened if there had been no general fund contributions to LEOFF 1?
        i. Or the Prior Act systems (e.g., City of Seattle)?
    e. What is the year-by-year funded status and Unfunded Actuarial Accrued Liabiltiy (UAAL) rate for TRS 1 since 2000?
    f. What other bills (proposed or enacted) have "utilized the device of pension premium reduction at reduced or would have reduced the obligation of the state to make pension contributions"?
21. Related to a merger.
    a. What is the financial situation before and after?
        i. What does the "surplus" represent?
            1. Is it the excess of funds needed to pay benefits this month? This year?
        ii. Is the surplus "real" or just projected?
            1. How reasonable is the investment return assumption?
            2. What would it look like under alternate scenarios (e.g., 7 percent or 6 percent)?
        iii. If the surplus disappears, would it be too late to insure the LEOFF 1 benefits?
            1. E.g., ensuring payment under a pay-go scenario versus insuring through plan immunization.
        iv. Would a merger be revenue neutral?

b. How might the funds be used?
    i. Clarify: Usable across the merged plan vs. usable outside either of the retirement plans (other obligations).
    ii. Should it be treated like a reserve for LEOFF 1 only?
    iii. Can money be "skimmed out" of the fund during transfer from LEOFF 1 to TRS 1?
c. What happens in the event of a deficit?
    i. If the funded status were 87 percent, would that mean I only get 87 percent of my current check amount?
    ii. Before merger?
    iii. After?
    iv. Who pays what?
    v. Who will be paid first? (Overlap with legal/admin analysis)
    vi. Could the state default on the pensions?
d. Would there be other costs (e.g., admin)?
e. How would a merger impact accounting and reporting?
    i. How would a merger impact financial reporting (GASB) for state and local governments?
f. Who is constitutionally liable for future benefit payments?
g. Are there other options to address TRS 1 underfunding?
    i. What would the impact be if the TRS 1 UAAL rate was reduced without a merger?
h. Can the legislature raise taxes to meet pension obligations (pension or general)?
i. What is the position of professional actuarial associations about moving a retirement plan from surplus to unfunded?

Benefits

22. Will benefits be impacted?
    a. I.e., can they be reduced?
    b. Will benefits be increased in exchange for the merger?
        i. Would LEOFF 1 benefits be given to teachers?
            1. E.g., will TRS 1 members receive health benefits similar to LEOFF 1?
    c. Would LEOFF 1 be paying for TRS 1 benefits?
    d. Will it impact rights for Prior Act City of Seattle or Seattle Police Pension Board (which "interprets the rights" for members)?
    e. Will this include survivor benefits?
    f. Will benefits be interrupted (e.g., are there any administrative issues that might delay issuing checks)?

23. Will Cost of Living Adjustments (COLA) be impacted?
    a. Can TRS 1 COLA be reinstated without negative impact to LEOFF 1?
    b. Can LEOFF 1 COLAs be modified so as to not be dependent on date of retirement?
24. Will medical coverage be impacted?
    a. LEOFF 1
        i. Source of medical benefit payments?
        ii. Disability boards.
        iii. Can it be provided to spouses?
    b. TRS 1 Public Employees Benefits Board subsidy?
25. Will survivor benefits be impacted?
    a. Are reductions for survivor benefits considered contributions to the plan?
26. Will LEOFF 1 have priority in benefit payments over TRS 1?
27. Will I still be considered a "retired police officer" as opposed to a general state retiree?
    a. Does this definition have legal implications (e.g., qualifying for certain benefits) or just personal ones?
28. Under SB 6668, could members individually refuse the $5,000 lump sum?

Governance

29. Will governance be impacted?
    a. Will there be equal representation on the LEOFF 2 Board?
    b. Will LEOFF 1 oversee TRS 1 benefits?
    c. Will LEOFF 2 Board control LEOFF 1 benefits?

Questions for the Bill Sponsors

30. Why was SB 6668 introduced?
31. When did development of that bill begin?
32. Why weren't stakeholders consulted about the bill prior to introduction?
33. Why was the $5,000 lump sum included?
    a. How was the amount determined?
    b. What would be the impact of a higher bonus?

Other General Questions

34. Is this a redistribution of the member's income?
35. Would a LEOFF 1/TRS 1 merger impact LEOFF 2?
36. Would a LEOFF 3 be created for new hires?

37. Can LEOFF 1 members opt out and "take their money out" entirely?
38. Is lump sum still on the table? If so:
    a. Some feel it should be higher than $5,000.
    b. Why not pay it now, regardless of a merger?
    c. Employers would like a share.
39. Can any excess be distributed every few years: one-third state, one-third employer, one-third member?
40. Even if the overall idea is sound, could a mistake in administration jeopardize benefits?
41. Why not just increase the contribution rates for new members of these plans?
42. Will the state be able to make further changes after a merger (i.e., slippery slope)?
43. Could recruitment be impacted by a merger?
44. How does a merger benefit taxpayers or plan members?
45. Will plan members retain their voting rights in plan governance?
46. Are pension plans governed by local oversight boards, and will those boards be allowed to vote on a proposal?
47. Can LEOFF 1 members cash out of the retirement system entirely?
48. Can future legislatures be prevented from making further changes?
49. Why are there different pension plans for different employment types?
    a. Does it make sense to combine dissimilar jobs and demographics?

Concerns

50. Benefits should be fully funded.
51. Funds should be kept separate – TRS with TRS, etc. – and never go back to the general fund.
52. A plan should not be merged with a "lesser" plan.
53. LEOFF 1 should be administered locally, and not by "some unknown voice in Olympia".
54. LEOFF 1 funding was frozen in 2000 without consent of members.
    a. Some members feel employer contributions should have continued up until now.
    b. Some members feel the remaining active members should have been paying over the last 16 years.
55. LEOFF 1 system was forced on city and county plan members.
56. LEOFF 2 benefits are already substantially higher than LEOFF 1.
57. The LEOFF 1 funded status should never drop below 125 percent.

58. Transparency in process.
    a. All stakeholders need sufficient notification of any potential changes or discussions.
    b. Members of the plan should be able to vote since it is their plan and not the Legislature's.
59. Dual member provisions for members who leave LEOFF 2 should be reviewed.
60. There is no guarantee the state will make required contributions.
61. Employers have expressed concerns about medical benefits being expanded.
62. Local governments are facing high costs for LEOFF 1 medical.
63. Any payout must be conditional on IRS approval.

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