

State Law Considerations Regarding SB 6668

DRAFT Report to the SCPP
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Study Ordered by the Legislature

▶ SCPP to study the implications of SB 6668

1. Merges the assets & liabilities of LEOFF Plan 1 and TRS Plan 1
2. Designates LEOFF Plan 1 as a tier of TRS Plan 1
3. Provides a one time payment of \$5000 to “active members, term-vested members, retirees, and survivors eligible for benefits” under LEOFF 1

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Senate Bill 6668

- ▶ Appears to merge only the assets and liabilities of the two plans. SB 6668 does not merge the provisions of the two plans.

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The *Bakenhus* Right

- ▶ LEOFF 1 and TRS 1 members who meet vesting requirements have a contractual right to a monthly service or disability retirement allowance.
- ▶ Limited circumstances under which that benefit may be modified

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SB 6668 protects LEOFF 1 and TRS 1 monthly retirement allowances

- ▶ “The merger of the assets, liabilities, and membership” of LEOFF 1 and TRS 1 “may not impact benefits for members of these plans.”
Section 3, SB 6668
- ▶ DRS is to administer the SB 6668 “in a way that neither reduces, nor grants additional benefits, for members of those plans.” *Section 3, SB 6668*

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Right to an Actuarially Sound Pension Plan

- ▶ LEOFF 1 and TRS 1 members’ right to the systematic funding of their retirement plans to maintain the plans’ actuarial soundness is not violated by the merger.

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Merger Of Two Different Plans & Payment of LEOFF 1 Benefits by TRS 1 Employers

- ▶ State law does not forbid the merger of two different pension plans
- ▶ No scenario under which TRS 1 employers pay for LEOFF 1 benefits

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Distribution of Surplus & Ownership of Contributions

- ▶ Federal law provides guidance on the distribution of surplus assets of a pension plan.
- ▶ State law provides guidance on the ownership of LEOFF 1 and TRS 1 member contributions.

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GASB Requirements

- ▶ Under the merger, counties and cities will no longer book their proportionate share of LEOFF 1 assets
- ▶ No apparent cause of action against the state

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Lump Sum Defined Benefit to LEOFF 1 Retirees and to Future LEOFF 1 Retirees

- ▶ \$5000 defined benefit
- ▶ Not prohibited under state law

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Unlikely Washington Courts Will Rely on *Anchorage v Gallion* (Alaska 1997)

- ▶ Contrary to *RPEC v. Charles*
- ▶ No precedent for *Gallion* holding in Washington
- ▶ *Gallion* used different analysis than cases in Washington
- ▶ Washington courts tend to rely primarily on their own caselaw

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THANK YOU and
QUESTIONS?