Select Committee on Pension Policy

Appendix B

Bill Sectional: Senate Bill 6668 (2016)

When two retirement plans are merged, then assets of both plans can be used across the two plans. Other than that, little about a merger is prescribed. Theoretically, a merger of two retirement plans can involve impacts to governance, funding policy, benefits, and other aspects of each plan.

Thus, it is impossible to outline everything that *could* take place in a successful merger bill. It is also impossible to predict exactly what *would* take place in such a merger bill.

We can instead clarify with a reasonable amount of certainty what Senate Bill 6668 would have done as drafted. Technically this bill is dead because all bills die at the end of the biennial legislative cycle. However, a nearly identical or reasonably similar bill could be introduced at the beginning of the next cycle, and thus a clear understanding of the bill's provisions may prove helpful.

Section 1 -- Intent

This section states the Legislature's intent in merging the two systems. The following text is reproduced verbatim:

The legislature intends to improve the actuarial soundness of the teachers' retirement system plan 1 while also continuing the state commitment to maintain the actuarial soundness of benefits promised to members of the law enforcement officers' and firefighters' retirement system plan 1 by merging the assets, liabilities, and membership of the law enforcement officers' and firefighters' retirement system plan 1 into the teachers' retirement system plan 1. The legislature further intends that this merger of assets, liabilities, and membership, and any administrative changes necessary to implement the merger, be accomplished in a way that does not impact benefits provided to members of either the teachers' retirement system plan 1 or the law enforcement officers' and firefighters' retirement system plan 1.

The legislature further intends that the merger of assets, liabilities, and membership of the teachers' retirement system plan 1 and the law enforcement officers' and firefighters' retirement system plan 1 be administered in a way consistent with plan qualification requirements in the federal internal revenue code.

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Section 2 -- Merger

This section merges the assets, liabilities, and membership of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 1 and Teachers' Retirement System (TRS) Plan 1 systems. It further states that:

- The LEOFF 1 plan will be administered as a separate tier of the TRS 1 plan.
- All assets of TRS 1 and LEOFF 1 are merged.
- All liabilities of TRS 1 remain liabilities of the TRS 1 plan after the merger.
  - All benefits for TRS 1 are paid by the merged TRS 1 plan.
- All liabilities of LEOFF 1 become liabilities of the TRS 1 plan after the merger.
  - All pension benefits for LEOFF 1 are paid by the merged TRS 1 plan.
  - This does not include medical benefits for LEOFF 1. All LEOFF 1 medical/disability liabilities remain liabilities of LEOFF 1 employers.

Section 3 -- No Impact to Pension Benefits

This section states that the merger may not impact the benefits of either TRS 1 or LEOFF 1. It further specifies that members of both plans are entitled to the same benefits immediately after the merger as they were before the merger.

The Department of Retirement Systems (DRS) is explicitly instructed to administer the merger in such a way that ensures member benefits are neither increased nor decreased by the merger.

DRS is further instructed to submit a request for a determination letter from the Internal Revenue Service (IRS).

Section 4 -- No Impact to Medical Benefits

This section explicitly states that the merger does not impact the LEOFF 1 disability/medical boards or any official action of those boards.

Section 5 -- TRS 1 UAAL Rate

The contribution rate intended to fund the Unfunded Actuarial Accrued Liability (UAAL) of TRS 1 is set at 4.24 percent from September 1, 2016, to August 31, 2017.

Section 6 -- Lump Sum Benefit

Prior to merging, this section would have disbursed a portion of the funds in the LEOFF 1 retirement account to LEOFF 1 members only.
Specifically, this section required that on January 3, 2017, or the member's retirement date, the sum of $5,000 would be paid to the following LEOFF 1 beneficiaries:

- ❖ Active members.
- ❖ Term-vested members.
- ❖ Retirees.
- ❖ Eligible survivors.

For active and term-vested members, the lump sum would not be paid until retirement, but interest would accrue on this payment until that time. If the member died prior to retirement, the distribution would be made according to the member's beneficiary designation.

This lump-sum payment would have been subject to the provisions of RCW 41.26.053, which provides that pensions are not generally subject to taxes and judicial processes, except as listed in the statute.

This section also contains a refund clause, meaning that if certain sections of the bill were held invalid then members do not have a right to the lump sum benefit, and it must be repaid if the member had already received it.

Section 7 -- Technical Change

This section clarifies that once the merger goes into effect, references to "retirement fund" in the LEOFF 1 statutes will refer to the TRS 1 retirement fund.

Section 8 -- Funding Policy: Contributions

This section clarifies that after the merger no contributions can be required from the LEOFF 1 *members or employers*, except for the administrative rate charged to employers under RCW 41.50.110.

Section 9 -- Funding Policy: Funding Goal

This section strikes the statutory goal of amortizing any UAAL existing in LEOFF 1 by June 30, 2024.

Section 10 -- Funding Policy: Pension Funding Council and Contribution Rates

This section modifies instructions to the Pension Funding Council (PFC) as follows:

- For LEOFF 1:
  - The PFC no longer adopts a basic contribution rate.[1]
  - The requirement that the basic contribution rate fully amortize any UAAL existing in LEOFF 1 by June 30, 2024, is removed as well.[2]
- For TRS 1:
  - The basic contribution rate adopted by the PFC must be sufficient to fully fund the merged plan.[3]

This section would also revise the way basic employer contribution rates for TRS 1 are calculated.[4] Specifically:

- The calculation must use projected future salary and system growth in TRS 1, but not in LEOFF 1.
- The calculation must include the amount required to amortize the cost of any benefit improvements for LEOFF 1 effective after the merger.
  - Any benefit improvements for LEOFF 1 must be amortized over a fixed ten-year period using projected future salary and system growth in TRS 1, but not in LEOFF 1.
  - This amount is collected in addition to the normal contribution rates, and is not subject to any minimum or maximum rates.

Section 11 -- TRS 1 Funding Policy

Subsection 6 of this section would have reduced the current TRS 1 UAAL rate by establishing a lower fixed rate in the short term, and then a minimum rate in the future. More specifically:

- From September 1, 2016, through August 31, 2021, a fixed UAAL contribution rate of 4.24 percent is established. This rate

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[1] Subsection 2(a).
[2] Subsection 3(a).
[3] Revised subsection 3(b).
[4] Subsection 8.

excludes the cost of any benefit improvements enacted after June 30, 2016.

- ◊ The current rate is 5.75 percent, and excludes the cost of benefit improvements enacted after June 30, 2009.

❖ Beginning September 1, 2021, a minimum UAAL contribution rate of 4.24 percent is established.

Subsection 3 of this section also states that the maximum employer contribution rate cap for TRS 1 UAAL that already ended under current law would exclude the cost of any benefit improvements for either TRS 1 or LEOFF 1 effective after June 30, 2009.

Section 12 -- Clarification

This section clarifies that one statutory reference to the LEOFF system refers to the LEOFF 2 plan only. This is the section that requires the director of the Department of Retirement Systems to prepare, among other things, a financial statement on the condition of the LEOFF system.

Section 13 -- Trust Accounts

Pursuant to a merger of assets, this section closes the LEOFF 1 account, and transfers all funds to the TRS 1 account. In the future, any and all moneys payable to the LEOFF 1 account (such as interest, see Section 14) would be paid to the merged TRS 1 account instead.

This section also states that after a merger the TRS 1 account consists of moneys paid to finance both the TRS 1 benefits and the LEOFF 1 benefits.

Section 14 -- Treasury Accounts

This section strikes the LEOFF 1 trust account from the list of accounts managed by the State Treasurer (OST). Currently, OST determines what portion of the Treasury Income Account each account should receive.[5]

Pursuant to a merger of assets with the TRS 1 account (Section 2) and the closure of the LEOFF 1 account (Section 13), the reference to the LEOFF 1 account is stricken.

[5] This is different from "regular interest" credited to retirement accounts which is determined by the director of DRS. See e.g. RCW 41.50.033 and RCW 41.40.010(31).

Section 15 -- Administration Consistent with IRS Rules; Null and Void Clause

This section states that the bill must be administered consistent with IRS rules. If there are any parts of the bill that are unclear, it must be interpreted in a way that favors IRS compliance.

Also, if the IRS issues a determination letter stating that Section 2 is in conflict with IRS rules and the conflict cannot be addressed through administrative action or statutory change, then Sections 2, and 6-14 are null and void.

Section 16 -- Severability Clause

This section states that if any provision of the bill is held invalid (e.g., is struck down by the court), then the rest of the bill is unaffected. The same applies if the bill is held invalid as it applies to any particular person.

Section 17 -- Effective Date

The act takes effect September 1, 2016.