

**From:** [Michael Duchemin](#)  
**To:** [Office State Actuary, WA](#)  
**Subject:** RE: Submitting materials and correspondence to the Select Committee on Pension Policy  
**Date:** Monday, June 2, 2025 3:04:33 PM  
**Attachments:** [image001.png](#)  
[Letter to SCPP In Re IRS PLR.pdf](#)  
[Letter In Re SSB 5085 & SHB 2034 Bills.pdf](#)

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**CAUTION:** External email.

Please provide the attached correspondence with attachments to the Select Committee on Pension Policy.

Thank you,

Michael

**Michael Duchemin**  
RFFOW President  
637 N. E. Haugen Street  
Poulsbo, WA 98370  
(360) 710-9375  
[mike@rffow.org](mailto:mike@rffow.org)

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**From:** Office State Actuary, WA <[State.Actuary@leg.wa.gov](mailto:State.Actuary@leg.wa.gov)>  
**Sent:** Monday, June 2, 2025 8:12 AM  
**To:** Michael Duchemin <[mike@rffow.org](mailto:mike@rffow.org)>  
**Subject:** RE: Submitting materials and correspondence to the Select Committee on Pension Policy

Good morning,

Thank you for reaching out to the Office of the State Actuary. Please feel free to submit any correspondence addressed to the Select Committee on Pension Policy to this email address. It will be posted to the [SCPP website](#) within a week. Any correspondence received up to a week before the meeting will be included in meeting materials. Please let us know of any questions or concerns!

Thank you,

**Office of the State Actuary**

P.O. Box 40914  
Olympia, Washington 98504-0914  
[OSA Website](#)  
Phone 360.786.6140  
Fax 360.586.8135

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*This e-mail, related attachments, and any response may be subject to public disclosure under state law (Chapter 42.56 RCW).*

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**From:** Michael Duchemin <[mike@rffow.org](mailto:mike@rffow.org)>

**Sent:** Friday, May 30, 2025 4:22 PM

**To:** Office State Actuary, WA <[State.Actuary@leg.wa.gov](mailto:State.Actuary@leg.wa.gov)>

**Subject:** Submitting materials and correspondence to the Select Committee on Pension Policy

**CAUTION:** External email.

Hello,

I am wanting to submit some materials and correspondence to the Select Committee on Pension Policy and its members. On their page they have this email address as the contact email address.

Is [state.actuary@leg.wa.gov](mailto:state.actuary@leg.wa.gov) the correct email address for these purposes?

If not, can you give me the correct email address to use.

Thank you,

Michael

**Michael Duchemin**

RFFOW President

637 N. E. Haugen Street

Poulsbo, WA 98370

(360) 710-9375

[mike@rffow.org](mailto:mike@rffow.org)

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**RETIRED FIREFIGHTERS OF  
WASHINGTON**

**MICHAEL DUCHEMIN**

President

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June 2, 2025

**[BY E-MAIL “PDF”]**

Select Committee on Pension Policy  
PO Box 40914  
Olympia, WA 98504-0914

**RE: IRS Ruling and the Legal Risks of Merging Multiple Pension Funds (like  
Merging LEOFF 1 with TRS 1/PERS 1)**

Dear SCPP Committee Members,

My name is Michael Duchemin, and I am the President of the Retired Firefighters of Washington, a non-profit organization that represents the interests of thousands of retired firefighters across the State of Washington (we even have law enforcement officers as members).

Even though you may receive this letter personally, I am submitting it independently to the entire Select Committee on Pension Policy (the “Committee”) so it will become part of the public record and made available to staff from other agencies that will be advising or providing input to the Committee on pension fund issues relevant to this topic.

As you know, the Legislature has tasked the Committee with studying both SSB 5085 and SHB 2034 and to provide a report to the Legislature about such study by January 2026. This letter, and attached IRS Private Letter Ruling, are intended to address pension fund merger issues as they relate to SSB 5085. Or, if you eventually contemplate some type of merger in conjunction with SHB 2034, these principles will apply to that concept as well (i.e. to any pension fund mergers).

Below is a plain-language explanation of **IRS Private Letter Ruling 200216034 (PLR)** as it relates, by analogy, to Washington’s proposed pension fund consolidations. As described below, any bill like SSB 5085 would be unlawful under the IRS “exclusive benefit rule.”

**The Bottom Line:**

If Washington proceeds with a merger like the one envisioned in SSB 5085—by transferring surplus funds from the LEOFF 1 pension plan into the underfunded TRS 1 and PERS 1 plans—it

could violate federal tax law and potentially jeopardize the qualified tax status of those pension plans.

### Understanding the IRS Ruling:

This IRS ruling concerned a retirement system in another state that, like Washington, pooled investments from multiple pension plans under one central investment authority. In that case:

- **Three accounts (C, D, and E)** existed under a single investment structure. C was overfunded, and D and E were underfunded.
- Even though the investments were pooled, the IRS emphasized that each account was a **separate pension plan** under federal law because the money in each account could only be used to pay the benefits of the employees who earned it.
- When the municipality proposed to transfer money from the overfunded C account into the underfunded D and E accounts, the IRS said **no**—such a transfer would violate the “exclusive benefit rule” of **IRC § 401(a)(2)**.

This rule says you cannot use pension funds for any purpose other than the exclusive benefit of the employees and retirees who earned them.

### Applying the Ruling to Washington

Under the analogy:

- The **Washington State Investment Board (WSIB)** acts like the pooled investment board in the IRS case.
- **LEOFF 1** is analogous to the overfunded “C Account.”
- **TRS 1 and PERS 1** are analogous to the underfunded “D and E Accounts.”

So even though WSIB pools investment assets, the IRS would still view LEOFF 1, TRS 1, and PERS 1 as **legally separate pension plans**. That means moving surplus funds from LEOFF 1 into TRS 1 or PERS 1—just as proposed in SSB 5085—would violate federal tax law.

### Why This Matters

If such a transfer were carried out:

- The LEOFF 1 plan could **lose its IRS-qualified tax status**, making benefits taxable or disqualifying the plan altogether.
- The WSIB’s group trust exemption under **IRC § 501(a)** could also be compromised—endangering the tax treatment of other state pension plans.

- The State could find itself subject to **significant legal and financial liability**, including retroactive taxes or loss of federal protections.

### **Final Thoughts**

I have attached a copy of the PLR for your review. While this PLR is not binding on third parties, it is offered as valuable information. And, it clearly illustrates the federal legal framework that governs government pension plans.

A similar ruling applied to Washington would almost certainly lead to the same conclusion: that asset transfers from LEOFF 1 into other plans like TRS 1 or PERS 1 would be unlawful under the federal tax code.

Thank you for your thoughtful attention to this critical issue. Please don't hesitate to reach out if I can provide additional information or support.

Respectfully,

Michael Duchemin  
President, Retired Firefighters of Washington  
[mike@rffow.org](mailto:mike@rffow.org)  
(360) 710-9375

## 2002 PLR LEXIS 74

US Internal Revenue Service

January 24, 2002

PLR 200216034

### Reporter

2002 PLR LEXIS 74 \*; PLR 200216034

## Private Letter Ruling 200216034

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## Subject Matter

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Section 401 -- Pension Plans

[\*1]

**Reference:** Refer Reply To: T:EP:RA:T:A1

## Core Terms

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Municipality, Retirement, employees, benefits, Accumulation, purposes

## Text

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In Re: \* \* \*

LEGEND:

State A = \* \* \*

Municipal System = \* \* \*

City of B = \* \* \*

Certain Municipal System Accounts:

C Account = \* \* \*

D Account = \* \* \*

E Account = \* \* \*

Dear \* \* \*

[1] This is in response to the request from your representative for a ruling that transfers of assets from the C Account to the D and E Accounts will not affect the qualified status of the Municipal System.

[2] State A has established a retirement board (the "Retirement Board") to manage certain retirement systems for government employees. One of the State A retirement systems is the Municipal System. The Municipal System is a contributory plan, intended to qualify under [section 401 of the Internal Revenue Code](#) . The Municipal System is

maintained by State A and 63 municipalities, housing authorities and water and sewer districts (collectively, the "Municipalities") within State A. The Municipal System is a governmental plan within the meaning of [section 414\(d\)](#).

[3] All assets of the Municipal System are held within accounts ("Municipality Accounts") maintained for the Municipalities. A particular Municipality may have one or more Municipality Accounts. Assets **[\*2]** may be transferred from one Municipality Account to another Municipality Account under the laws of State A only upon receipt of a favorable private letter ruling from the Internal Revenue Service. All assets within the individual Municipality Accounts are pooled together for investment purposes.

[4] Each Municipality Account has three separate reserves: a Members' Contribution Reserve, an Employee's Accumulation Reserve, and a Retirement Reserve. For each Municipality Account, employee contributions are credited to individual sub-accounts within that account's Members' Contribution Reserve and Municipality contributions are credited to that account's Employer's Accumulation Reserve.

[5] All retirement benefits from a Municipality Account are paid from the Retirement Reserve of that Municipality Account. Amounts are credited to the Retirement Reserve upon the granting of a retirement allowance to an employee, at which time the accumulated value of that employee's Members' Contribution Reserve sub-account is transferred to the Retirement Reserve along with a transfer from the Employer's Accumulation Reserve of that Municipality Account of an amount equal to the excess of the actuarial **[\*3]** value of the retirement allowance less the value of the employee's Members' Contribution Reserve sub-account. Thus, the assets of any particular Municipality Account are, in effect, only available to pay the benefits of employees covered under that Municipality Account.

[6] All income from investments, on any of the three reserves within a Municipality Account, including gains and losses from investment transactions are credited (or charged) to that Municipality Account's Retirement Reserve. Annually, the value of the assets of the Retirement Reserve within a Municipality Account is compared to the actuarial liabilities of that Retirement Reserve. If the value of the assets exceeds the actuarial liabilities, the excess is transferred from the Retirement Reserve of that Municipality Account to the Employer's Accumulation Reserve of that Municipality Account. If the value of the actuarial liabilities exceeds the assets, an amount equal to the deficiency is transferred from the Employer's Accumulation Reserve of that Municipality Account to the Retirement Reserve of that Municipality Account.

[7] Three accounts are maintained for the City of B within the Municipal System: the C Account, **[\*4]** the D Account, and the E Account. The C Account is overfunded. The D and E Accounts have unfunded liabilities.

#### Law

[8] [Section 401\(a\)\(2\) of the Internal Revenue Code](#) (the "Code") provides that a trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this section if under the trust instrument it is impossible, at any time, prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries.

[9] Section 1.414(l)-1(b)(1) of the Income Tax Regulations provides that a plan is a "single plan" if and only if, on an ongoing basis, all of the plan assets are available to pay benefits to employees who are covered by the plan and their beneficiaries. Furthermore, that section provides that more than one plan will exist if a portion of the plan assets is not available to pay some of **[\*5]** the of the benefits. This will be so even if each plan has the same benefit structure or plan document, or if all or part of the assets are invested with separate accounting with respect to each plan.

[10] [Revenue Ruling 81-100, 1981-1 C.B. 326](#) provides, in part, that a group trust, formed by pooling the assets of individual trusts, is exempt from taxation under [section 501\(a\) of the Code](#) with respect to its funds which equitably belong to participating trusts described in [section 401\(a\)](#) only if the group trust instrument expressly limits

participation to employers pension trusts which are exempt under [section 501\(a\) of the Code](#) by qualifying under [section 401\(a\)](#).

[11] [Revenue Ruling 81-137, 1981-1 C.B. 232](#) provides that if the assets of a subdivision of a trust are only available to provide benefits for employees of that subdivision, each subdivision constitutes a single plan, and furthermore the minimum funding standards of *section 412 of the Code* and section 302 of ERISA are separately determined for each of the single plans.

#### Analysis

[12] The total assets of the Municipal System consist of the sum of the assets within each of the Municipal Accounts within the Municipal System. Under **[\*6]** the laws of State A, the assets of any particular Municipal Account are only available to pay the benefits of the employees covered under that Municipal Account. Thus, because all of the assets of the Municipal System are not available to pay benefits for all covered employees the Municipal System is not a single plan. Moreover, because the assets of any particular Municipal Account are only available to pay the benefits for that Municipal Account, each Municipal Account constitutes a single plan. Therefore the C, D, and E Accounts each constitute a separate plan.

[13] Because the C, D, and E Accounts are separate plans, in order to satisfy [section 401\(a\)\(2\) of the Code](#) no part of the corpus or income of any one of these Municipality Accounts may be used for purposes other than for the exclusive benefit of the employees or their beneficiaries whose retirement benefits are provided through that Municipality Account. The proposed transfer of assets from the C Account to the D or E Account would be a use of such assets for purposes other than for the exclusive benefit of the employees or beneficiaries whose retirement benefits are provided through the C Account.

[14] Furthermore, because **[\*7]** the assets of the individual Municipality Accounts within the Municipal System are pooled together for investment purposes, the Municipal System is, in effect, a group trust within the meaning of [Rev. Rule 81-100](#). Thus, the Municipal System is exempt from taxation under [section 501\(a\) of the Code](#) only if all of the Municipality Accounts qualify under [section 401\(a\)](#).

[15] Therefore we hold that:

The transfer of assets from the C Account to the D or the E

Account would not satisfy the requirements of [section 401\(a\)](#) of the Code and therefore would adversely affect the qualified

status of the C account under [section 401](#) and the tax exempt

status of the Municipal System under [section 501\(a\)](#).

This ruling is directed only to the taxpayer that requested it. *Section 6110(k)(3) of the Internal Revenue Code* provides that it may not be used or cited by others as precedent.

[16] A copy of this letter is being furnished to your authorized representative pursuant to a power of attorney (Form 2848) on file.

[17] If you have any questions concerning this matter, please contact \* \* \* (not a toll free number).

Sincerely,

James E. Holland, Jr.,  
Acting Manager



Employee Plans Technical

**Load Date:** 2006-01-27

This document may not be used or cited as precedent. Section 6110(j)(3) of the Internal Revenue Code.

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End of Document



**RETIRED FIREFIGHTERS OF  
WASHINGTON**

**MICHAEL DUCHEMIN**

President

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June 2, 2025

Select Committee on Pension Policy  
P.O. Box 40914  
Olympia, WA 98504-0914

RE: Opposition to Proposals Like SSB 5085 and SHB 2034—A Call for Sound  
Pension Policy

Dear Members of the Committee,

As President of the Retired Firefighters of Washington, representing the interests of thousands of LEOFF 1 retirees and their families, I am writing to strongly urge this Committee to oppose any current or future legislation modeled on SSB 5085 or SHB 2034. While these two bills failed in the 2025 session, their referral to your Committee for further study signals a troubling potential return of similar proposals—hybrids or otherwise—that would raid pension funds to meet general budgetary obligations.

At their core, these bills reflect bad public policy. They propose, either overtly (as in SHB 2034) or indirectly (as in SSB 5085), to repurpose dedicated pension funds to plug gaps in the State's general fund or reduce future State obligations. This is a dangerous precedent. Pension funds are held in trust for retirees—not as a fiscal backstop for the State. Using them as such erodes trust, undermines actuarial soundness, and opens the door to long-term legal, ethical, and financial instability in our pension system.

Notably, during public hearings, Senate Ways & Means Committee staff acknowledged that no other state in the country has ever undertaken a pension fund merger of this nature. That fact alone should give pause to any proposal that would set Washington down an untested and unprecedented path.

SSB 5085, in particular, was framed as a benevolent move to fund COLAs for TRS 1 and PERS 1 retirees. But beneath that surface was a deeply troubling fiscal maneuver: the bill's primary effect was to relieve the State of over \$512 million in contributions during the first two years, another \$289.5 million in the next biennium, and ultimately over \$1 billion in long-term savings to the State budget—not the pensioners (see attached Budget Impacts Table from page 8 of 16 from the Fiscal Note for SSB 5085 which shows that in the future for all but two years there will

**not be any** contributions made to TRS 1 and PERS 1). That's not pension reform; that's budget relief dressed as retirement compassion.

SHB 2034 was even more direct, proposing to sweep LEOFF 1 surplus assets into a "Pension Fund Stabilization Account" (for future transfer to the State Treasury), thereby giving future legislatures control over funds contractually obligated to LEOFF 1 members. That amounts to a taking, disguised as reform.

The Committee's deliberations must consider not only these two bills but also any derivative legislation that seeks to raid or repurpose pension trust funds. Such proposals violate the fundamental principle that pension assets are not public piggy banks—they are earned, protected, and legally encumbered obligations.

We urge you to set a strong precedent by firmly rejecting any such legislation, including hybrid versions under review. Let Washington State stand as a model for integrity in pension management—not a cautionary tale of short-sighted fiscal cannibalism.

Sincerely,

Michael Duchemin, President  
Retired Firefighters of Washington



# Office of the State Actuary's Fiscal Note

| Projected UAAL Rates for Each FY |             |       |         |     |            |       |         |       |
|----------------------------------|-------------|-------|---------|-----|------------|-------|---------|-------|
| FY                               | Current Law |       |         |     | Under Bill |       |         |       |
|                                  | PERS 1      | TRS 1 | LEOFF 1 | LRS | PERS 1     | TRS 1 | LEOFF 1 | LRS   |
| 2026                             | 2.05%       | 1.10% | 0.00%   | N/A | 0.00%      | 0.00% | 0.00%   | N/A   |
| 2027                             | 1.05%       | 1.10% | 0.00%   | N/A | 0.00%      | 0.00% | 0.00%   | N/A   |
| 2028                             | 0.55%       | 1.10% | 0.00%   | N/A | N/A        | N/A   | N/A     | 0.00% |
| 2029                             | 0.45%       | 0.89% | 0.00%   | N/A | N/A        | N/A   | N/A     | 0.00% |
| 2030                             | 0.45%       | 0.89% | 0.00%   | N/A | N/A        | N/A   | N/A     | 0.50% |
| 2031                             | 0.34%       | 0.66% | 0.00%   | N/A | N/A        | N/A   | N/A     | 0.50% |
| 2032                             | 0.34%       | 0.66% | 0.00%   | N/A | N/A        | N/A   | N/A     | 0.00% |
| 2033                             | 0.20%       | 0.39% | 0.00%   | N/A | N/A        | N/A   | N/A     | 0.00% |
| 2034                             | 0.08%       | 0.16% | 0.00%   | N/A | N/A        | N/A   | N/A     | 0.00% |
| 2035+                            | 0.00%       | 0.00% | 0.00%   | N/A | N/A        | N/A   | N/A     | 0.00% |

This bill prescribes 0.00% Base UAAL and benefit improvement rates for the 2025-27 Biennium and we assume the intent is for the 2027-29 Biennium to also have 0.00% rates, and for the first rate-setting AVR to be based on our June 30, 2027, AVR. Given this, any Base UAAL resulting from this bill, not related to future benefit improvements, will first be amortized beginning with the 2029-31 Biennium.

## How This Impacts Budgets and Employees

| Budget Impacts        |                  |                  |                  |                 |              |                    |
|-----------------------|------------------|------------------|------------------|-----------------|--------------|--------------------|
| (Dollars in Millions) | PERS             | TRS              | SERS             | PSERS           | LEOFF        | Total              |
| 2025-2027             |                  |                  |                  |                 |              |                    |
| General Fund          | (\$99.5)         | (\$181.4)        | (\$61.3)         | (\$18.8)        | \$0.0        | (\$361.0)          |
| Non-General Fund      | (149.2)          | 0.0              | 0.0              | (2.4)           | 0.0          | (151.7)            |
| <b>Total State</b>    | <b>(\$248.7)</b> | <b>(\$181.4)</b> | <b>(\$61.3)</b>  | <b>(\$21.2)</b> | <b>\$0.0</b> | <b>(\$512.7)</b>   |
| Local Government      | (248.7)          | (32.0)           | (50.2)           | (9.1)           | 0.0          | (340.0)            |
| <b>Total Employer</b> | <b>(\$497.5)</b> | <b>(\$213.4)</b> | <b>(\$111.5)</b> | <b>(\$30.3)</b> | <b>\$0.0</b> | <b>(\$852.7)</b>   |
| <b>Total Employee</b> | <b>\$0.0</b>     | <b>\$0.0</b>     | <b>\$0.0</b>     | <b>\$0.0</b>    | <b>\$0.0</b> | <b>\$0.0</b>       |
| 2027-2029             |                  |                  |                  |                 |              |                    |
| General Fund          | (\$34.1)         | (\$175.4)        | (\$21.0)         | (\$6.9)         | \$0.0        | (\$237.4)          |
| Non-General Fund      | (51.2)           | 0.0              | 0.0              | (0.9)           | 0.0          | (52.1)             |
| <b>Total State</b>    | <b>(\$85.3)</b>  | <b>(\$175.4)</b> | <b>(\$21.0)</b>  | <b>(\$7.8)</b>  | <b>\$0.0</b> | <b>(\$289.5)</b>   |
| Local Government      | (85.3)           | (31.0)           | (17.2)           | (3.3)           | 0.0          | (136.8)            |
| <b>Total Employer</b> | <b>(\$170.5)</b> | <b>(\$206.3)</b> | <b>(\$38.2)</b>  | <b>(\$11.1)</b> | <b>\$0.0</b> | <b>(\$426.3)</b>   |
| <b>Total Employee</b> | <b>\$0.0</b>     | <b>\$0.0</b>     | <b>\$0.0</b>     | <b>\$0.0</b>    | <b>\$0.0</b> | <b>\$0.0</b>       |
| 2025-2050             |                  |                  |                  |                 |              |                    |
| General Fund          | (\$149.9)        | (\$531.1)        | (\$92.4)         | (\$29.5)        | \$0.0        | (\$803.0)          |
| Non-General Fund      | (224.9)          | 0.0              | 0.0              | (3.8)           | 0.0          | (228.7)            |
| <b>Total State</b>    | <b>(\$374.8)</b> | <b>(\$531.1)</b> | <b>(\$92.4)</b>  | <b>(\$33.4)</b> | <b>\$0.0</b> | <b>(\$1,031.7)</b> |
| Local Government      | (374.8)          | (93.7)           | (75.6)           | (14.3)          | 0.0          | (558.5)            |
| <b>Total Employer</b> | <b>(\$749.7)</b> | <b>(\$624.8)</b> | <b>(\$168.1)</b> | <b>(\$47.6)</b> | <b>\$0.0</b> | <b>(\$1,590.2)</b> |
| <b>Total Employee</b> | <b>\$0.0</b>     | <b>\$0.0</b>     | <b>\$0.0</b>     | <b>\$0.0</b>    | <b>\$0.0</b> | <b>\$0.0</b>       |

Note: Totals may not agree due to rounding. We use long-term assumptions to produce our short-term budget impacts. Therefore, our short-term budget impacts will likely vary from estimates produced from other short-term budget models.

**Please note:** The analysis of this bill does not consider any other proposed changes to the systems. The combined effect of several changes to the systems could exceed the sum of each proposed change considered individually.