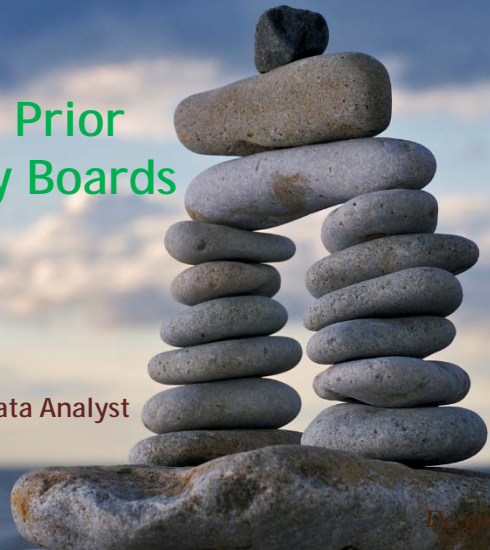


Select Committee on Pension Policy

LEOFF 1 and Prior Act Disability Boards


Corban Nemeth  
Associate Policy and Data Analyst

December 11, 2018

A photograph of a stack of smooth, grey stones balanced on a larger, flat rock on a beach. The background shows a blue sky with light clouds and a calm sea.

**Today's Presentation**

- Work session with public testimony and possible executive action
  - What is the issue?
  - Background
  - What is the proposal?
  - Considerations
  - Bill analysis
  - Next steps
- Bill drafts and issue paper in packets

A magnifying glass with a black handle and a silver frame, resting on a white surface. The lens is focused on a small area, creating a bright spot.

Select Committee on Pension Policy

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

1

### Issue

- Stakeholder group indicated difficulty in finding active or retired firefighters and law enforcement officers to serve on certain pension or disability boards
- The language around who can serve on Prior Act pension and LEOFF 1 disability boards is not consistent

### How did this Come Before the Committee?

- This was brought to the attention of the Executive Committee by the Retired Firefighters Of Washington (RFFOW) at the November Executive Committee meeting
- Staff was requested to bring bill language for this proposal



## What is the Committee Being Asked?

- Expand eligibility to be elected to a Prior Act pension board and LEOFF 1 disability board to any employed or retired firefighter or law enforcement officer residing within the jurisdiction the board serves
- Create consistent language for Prior Act pension boards and LEOFF 1 disability boards

## Background

- Pension boards
  - Prior Act firefighter and law enforcement boards acted as independent retirement systems for local government police and firefighters before the creation of LEOFF 1 in 1970
  - These boards administer benefits for Prior Act retirees
- Disability boards
  - LEOFF 1 was implemented in 1970 and created a unified retirement system for firefighters and law enforcement officers statewide
  - LEOFF 1 disability benefits are paid for by local governments
- There are certain cases where pension boards and disability boards overlap



### **Background: Who Serves on Pension and Disability Boards?**

- Firefighter pension boards
  - Five members, two of which are elected firefighters
- Police pension boards
  - Seven members, three of which are elected law enforcement officers
- Disability boards
  - Five members, in most cases one of which is a firefighter and one of which is a law enforcement officer
- Any active or retired law enforcement officer or firefighter employed by or retired from the local government may be elected to the board
  - Must be elected by those under the jurisdiction of the board
- A majority of members constitutes a quorum and can conduct business

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

### **What is the Issue?**

- RFFOW correspondence communicated that boards are having difficulty in finding eligible members willing or able to be elected to board
- The proposal brought to the Committee by RFFOW requests that the eligibility to be elected to the law enforcement or firefighter positions on pension and disability boards be expanded



O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

**Proposal:  
Expand Eligibility for Who can be Elected**

- Currently, any active or retired law enforcement officer or firefighter may be elected to the board
- Proposal part 1:
  - Proposal expands eligibility to all law enforcement officers/firefighters who reside within the area served by the board
- Proposal part 2:
  - Create consistent language in statute around who can serve on boards

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

Select Committee on Pension Policy  
8

**The SCPP has Recommended  
Pension Board Legislation in the Past**

- Prior Act pension boards are essentially their own pension plan, administering body, and government entity.
  - However, the SCPP/JCPP have recommended legislation dealing with these boards in the past
- LEOFF 1 disability boards are part of the LEOFF 1 system
- SCPP statute (41.04.281)
  - The Select Committee on Pension Policy has the following powers and duties:
    - (1) Study pension issues, develop pension policies for public employees in state retirement systems, and make recommendations to the Legislature
    - (2) Study the financial condition of the state pension systems, develop funding policies, and make recommendations to the Legislature

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

Select Committee on Pension Policy  
9

### What Else Could this Impact?

- Parts one and two of the proposal could impact ongoing litigation
  - Correspondence mentioned City of Edmonds lawsuit
  - Impacts, if any, of law change on lawsuit is unknown
- Part two of the proposal could impact municipal government rules or ordinances
  - Pension boards are a local government entity
  - Staff was not able to determine what, if any, impacts may result from amending language in statute for consistency
    - Each statute governing eligibility is written slightly different
    - Could not confirm whether differences have a substantive impact on local government board administration

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

### Policy Analysis Considerations

- Expanding the eligibility pool may make it easier for boards to find firefighters and law enforcement officers to serve on the board
- What happens if there are still no members able to be elected?
  - Under some circumstances, there may still be no members willing or able to serve on a pension or disability board
    - Jurisdiction with no active or retired from department willing to serve
    - And also has no firefighters/police who live in the jurisdiction
  - Pension and disability boards have continually expanded eligibility for election since 1988
- The intent of the statute is to provide representation for law enforcement officers and firefighters
  - According to statute, pension and disability boards can still conduct business and achieve a quorum without elected firefighters/law enforcement officers

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

## Other Considerations

- The distributed governance structure leads to many plan administrators
  - Typically, staff would reach out to DRS to confirm administration
  - Staff has been able to speak with some stakeholders and a city board
  - Additional research could be conducted upon committee request
- Unclear at this point whether elected member shortages is a systematic issue



O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

## Bill Analysis

- Draft bill language has been distributed
- Option 1 addresses part one of the proposal
  - If local governments cannot find anyone that meets eligibility, then they can expand the pool within their jurisdiction
  - Does not amend current law eligibility criteria
- Option 2 addresses part one and two of the proposal
  - Redefines eligibility to be elected to the board to include those who reside within the jurisdiction the board serves
  - Replaces current language defining eligibility for consistency across all types of boards
  - May impact the way local government boards currently determine eligibility

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

### Next Steps

- Recommend proposal brought to the Committee
  - Endorse draft bill language
    - Option 1: Expand eligibility if no eligible members are willing or able to serve
    - Option 2: Expand eligibility and create consistent language
  - Request changes to bill draft
- Study issue further next interim
- SCPP could send letter to local government committees
- No action required



### Appendix





## Board Details

- Prior Act pension boards are the administering body for police and fire pension programs that were established before the creation of LEOFF 1
  - RCW 41.16 creates firefighter pension boards for cities and towns
  - RCW 41.18 creates firefighter pension boards for fire protection districts
  - RCW 41.20 creates a police board of trustees for first-class cities
- LEOFF 1 disability boards approve disability benefits for LEOFF 1 members
  - RCW 41.26 creates several types of disability boards
    - First-class cities are authorized to use their Prior Act boards as their disability board
    - Other cities with population over 20,000 have two disability boards separate from their pension boards, one for police and one for fire
    - Counties have one board for both police and fire

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

16

Select Committee on Pension Policy

## Who Serves on Prior Act Boards?

- 41.16
  - Mayor or designated representative
  - City comptroller or clerk
  - Chairperson of finance of city council/treasurer
  - Two elected firefighters
- 41.18
  - Chairperson of fire commissioners for district
  - County auditor
  - County treasurer
  - Two elected firefighters
- 41.20
  - Mayor or designated representative
  - Clerk
  - Treasurer
  - President of the city council/mayor pro tem/commissioner supervising police
  - Three elected police officers

O:\SCPP\2018\12.11-Full\4.LEOFF1.Prior.Act.Disability.Boards.pptx

17

Select Committee on Pension Policy

## Who Serves on LEOFF 1 Disability Boards?

- First Class cities
  - 41.16 / 41.20 board has the duties of the disability board
- Large cities
  - Two members of city legislative body
  - One active or retired firefighter
  - One active or retired law enforcement officer
  - One member of the public at large
- Counties
  - One member of the legislative body of the county
  - From those cities or towns in the county that do not have their own board
    - One member of a city or town legislative body
    - One active or retired firefighter
    - One active or retired law enforcement officer
    - One member of the public at large

O:\SCPP\2018\12.11-Full\4. LEOFF1. Prior. Act. Disability. Boards. pptx

## City of Edmonds

- Correspondence from the Retired Firefighters of Washington indicated that the City of Edmonds cannot find eligible members willing or able to serve on the city's 41.16 board
  - The City of Edmonds has contracted its fire service to Snohomish County, so there are no eligible active members to serve on the board.
  - Retired City of Edmonds firefighters may not be willing or able to serve
  - However, under the statute, a majority of members constitutes a quorum and can conduct business with three members.
- The Retired Firefighters of Washington also indicated that this has resulted in a lawsuit by a retired firefighter against the City of Edmonds.

O:\SCPP\2018\12.11-Full\4. LEOFF1. Prior. Act. Disability. Boards. pptx