The Select Committee on Pension Policy is due to meet on Dec. 13. On the meeting agenda is the merger proposal of LEOFF 1 and TRS-1. I’m not certain whether the merger proposal with LEOFF 2 will be a part of that final report or not. The LEOFF 2 Board met last week and their proposal was on the agenda for inclusion in the final SCPP report to the legislature but the board did not have a quorum so no action could be taken. Whether they will be a part of the final SCPP report or not is anyone’s guess at this point.

 At the last SCPP meeting there were representatives from Leoff 2, Attorneys from Ice Miller advising on the legal implications of the merger proposals and Assistant Attorney general Annie Hall.

 Each of these organizations representatives poke on the merger issue and each reiterated the legality of mergers. Each also suggested that there would need to be a letter of approval from The Internal Revenue Service before the merger could be completed. They each also related that the “Exclusive Use” of surplus funds would have to be recognized and met.

That requirement states that any funds in the pension system must be used only for the exclusive use of members of the pension system. When questioned by Leoff 1 member representatives about that requirement the attorneys from Ice Miiller had to speak quietly between themselves before stating that their interpretation of that requirement speaks to the “members of the merged plan” rather than the members of LEOFF 1.

 We (LEOFF 1) believe that interpretation to be wildly in error. We will assert that the original LEOFF laws specifically detailed who could be a member of LEOFF and we firmly believe that our interpretation means that the “exclusive Use” rule applies only to members of the original LEOFF system and trying to stretch the meaning to relate only to the MERGED members is an inaccurate interpretation that attempts to convince IRS and the State Attorney General’s office that the current merger proposals are legal and meet IRS restrictions.

 There are other issues with the merger proposals as well. The LEOFF 1 member representatives are in agreement that SB6668 is not acceptable and we are also in agreement that we cannot accept the merger proposals as meeting either OUR needs or the legal requirements of Bakenhus protections, IRS regulations or Washington State Attorney General requirements.

We have tried to negotiate other resolutions that do not require merging LEOFF 1 with anyone else and which would allow access to some of the purported surplus but only if the surplus can be authenticated by the State Investment Board, the Office of State Actuaries. We offered that proposal on the grounds that tying up any large actual surplus until the last of our members or their beneficiaries passed away could make it more difficult for the state to balance state budgets than would otherwise be fair or necessary.

We ARE aware how quickly surpluses can wax and wane. There are few guarantees in financial investments today. Markets go up and markets go down. We’ve had two financial catastrophes in the past 15 years that attest to that fact. The American and the world economy today is still in a state of flux with few certainties and with lingering concern about possible financial downturns that may cause significant investment losses. Members of the financial industries are pulling back from expected rates of returns in the 7 to 8% range and are beginning to accept the possibility of investment returns closer to 6% as being the likely rates of return for at least the next decade. If those concerns prove to be accurate, there will be far less surpluses than now expected.

With those concerns well in mind, we feel it appropriate to be prudent in our expectations and our determination to avoid ANY mergers that would place us in other pension systems with potential negative impacts from long-term investment losses while still allowing annual review of surplus funds that can be actuarially determined and defended.

 We look forward to the SCPP report on Dec. 13th. We hope that the SCPP’s report twill agree with our views. If that proves not to be the case we will look to our brother LEOFF organizations for a collective response that serves the interests of our LEOFF 1 brothers, sisters and beneficiairies.

 We urge our members to attend that meeting and lend their support.

 Respectfully,

 David L. Peery

LEOFF 1 Coalition Secretary