

News Release

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Olympia Lawmakers Illegally Raided Pension Plan of Firefighters and Police Officers, Suit Claims

Dependents say their pension plan was easy political target

OLYMPIA, Wash (June 19, 2001)—The Washington State Senate's passage of a bill providing funding for the proposed budget for the 2001-03 biennium brought swift action today in the form of a class-action lawsuit filed by a group of retired police officers and firefighters. The suit claims the lawmakers balanced the budget by illegally raiding a police officers' and firefighters' pension plan.

Senate Bill 6166 was approved earlier this month by the state Senate and awaits House action, expected this week. If approved as anticipated, the funding mechanism will be included in the proposed state budget to be sent to the governor for his signature.

Filed in Superior Court of Washington in Thurston County, the suit asks the court to stop the legislature from terminating the Law Enforcement Officers' and Fire Fighters' pension plan (LEOFF 1) fund and creating a new fund after bleeding off the majority of the fund's surplus for other uses.

The suit charges that state action terminating the first LEOFF 1 and moving 76 percent of an approximate \$500 million surplus into a state general reserve fund violates state law. The action also moves 12 percent of the LEOFF 1 fund surplus to bail out counties and cities that have failed to fund medical benefits for their employees.

The lawmakers singled out the LEOFF 1 fund surplus, although the State of Washington Department of Retirement Systems administers a dozen plans, most holding surpluses.

"The state legislature selected the LEOFF 1 fund for raiding for political reasons. The lawmakers could have moved funds from any of the state's pension plans, including their own, but they didn't," Berman added. "They assumed that since the firefighters and police retirees' have a modest political base in Olympia, they would be an easy target. They guessed wrong"

The class action suit was filed on behalf of named plaintiffs Alfred K. Fridell, a 27-year veteran of the Seattle Police Department now living in Mill Creek, and Seattle resident Clarence Williams, a 30-year veteran of the Seattle Fire Department. If approved by the court, the suit would represent all participating Washington state police and fire fighters.

Created in 1969, the LEOFF 1 has long been designated as a fund for the exclusive benefit of police officers and firefighters. Washington Attorney General Opinions declare the LEOFF fund cannot be used for any purpose other than paying participants' benefits.

Other laws also state that benefit increases in recognition of devoted service to the public should be given to beneficiaries when feasible. Several times in the past, legislature ordered interest earnings on the LEOFF 1 fund paid to beneficiaries.

"This legislative action is simply against the law," said Steve Berman, attorney for the plaintiffs. "Washington state law states very clearly that all monies contained in the LEOFF 1 plan – including the surplus – are held in trust for the benefit of the plan participants, and the participants alone."

Berman noted that if the legislature had tried to dip into teachers' retirement fund, or the state employees' fund, both political heavyweights, they would have been handed their political scalps. "It is a simple matter of politics – whose pocket can they pick with the least political risk."

Under the plan, the state effectively strips away 88 percent of the fund's surplus to help balance the budget and returns 12 percent of the surplus to a new fund for the retired firefighters and police.

Estimates of the fund's value and surplus amount fluctuate dramatically depending on market conditions. "In April, the state actuary declared, in snap of a finger, that the fund shrunk by a half a billion dollars," Berman noted. "We think it is wildly imprudent to raid the fund of its surplus while the economy can exert such a whip-saw effect."

The suit asks the court to grant an injunction, preventing the legislature from raiding the fund while the suit is heard, as well as a complete accounting of contributions into the fund by the plan's participants.

The fund currently provides benefits to more than 7,600, with an additional 1,800 contributing to the fund but not yet drawing benefits.

The suit names as defendants the state of Washington, the Washington Department of Retirement Systems (DRS) and John Charles, director of DRS.

About Hagens Berman

Steve Berman is managing partner of Hagens Berman in Seattle. Recently cited as one of the nation's top 100 attorneys by The National Law Journal, Berman is a nationally recognized expert in class action litigation. Berman represented Washington State, 12 other states and Puerto Rico in lawsuits against the tobacco industry that resulted in the largest settlement in the history of litigation. Berman also served as counsel in several other high-profile cases including the Washington Public Power Supply litigation, which resulted in a settlement exceeding \$850 million. Other cases include litigation involving the Exxon Valdez oil spill; Louisiana Pacific Siding; The Boeing Company; Morrison Knudsen; Piper Jaffray; Nordstrom; Boston Chicken; and Noah's Bagels.

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