



LEOFF I COALITION

Representing Active and
Retired Members of the
LEOFF I Retirement System



LEOFF I Coalition Annual Report

August 2000 – December 2001



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Welcome to the LEOFF I Coalition's first Annual Report. The long and the short of it is that in 16 months, we have gone from a beginning collection of \$80 in Yakima in order to protect the LEOFF I law to having weathered a major attempt to "terminate" our pension statute in 2001 through Senate Bill 6166. What a time it's been! We invite you to read this report to see where the Coalition has been and, more importantly, where we are headed.

Mark W. Curtis

Mark Curtis
Chairman,
LEOFF I Coalition

The good, the bad, and the ugly

A supposed pension surplus of as much as \$1.2 billion was discovered and the fireworks started immediately. LEOFF I members hoped for an enhanced benefit. Cities, counties and the state saw an opportunity to bail themselves out of their own pension funding short-sightedness. Yet, our fund was on a roller coaster ride that could be called “the good, the bad, and the ugly.” In eighteen months, we lost \$500 million, largely regained it, then saw the loss tumble down again to only \$200 million, i.e.; we lost a billion dollars we are to believe, but we saved the LEOFF I law! That \$200 million figure is not even enough to protect us from another sudden downturn, nor does it represent the IRS-mandated absolute minimum of 125% of the amount needed to fully fund LEOFF I.

In Yakima, we unanimously agreed to protect the LEOFF I law as a first priority, and to try and “negotiate,” and protect excess funds, and also to fight against losing the disability boards.

We put together seven groups to work toward those goals, and three dropped out along the way. Several groups were pressed hard to abandon us, and did. We were to learn that we had absolutely zero to give away to get anything. To “negotiate” would have been against our own interests. We cannot negotiate the abolition of our law.

State Senate Bill 6166

State Senate Bill (SSB) 6166 would have been terrible, “terminating” our pension law, and opening our law to turning us into a defined benefit/defined contribution system when it never was. It was to “guarantee” soundness, but we already had that benefit established in 1969. If state and local politicians are permitted to divert public pension funds to other uses, taxpayers of this state will be faced with future tax increases to play catch-up. This is something for both sides to think about.

This had a lot to do with our concern that the state has designs to grab all

SSB 6166 set up three funds:

- One fund was to give retirees 12% for a defined investment lump fund;
- A second fund to form a medical risk pool, using our money, to bail out the employers from living up to their 1969 mandate to pay for those liabilities; and,
- the third fund grabbed the rest of the surplus for a budget reserve to benefit the state’s problem with unfunded liabilities of “state retirement systems.”

the pension fund and expect us to trust them to keep 1969 promises. First our pension fund, then who else's? This was a pretty face on an ugly political maneuver.

Our rights to all those funds are vested in that trust until a court says not. As to promises, we learned (or re-learned) that the state created LEOFF I to bail out cities' and counties' woes in 1969. The state then failed to fund it for six years, realized it was more than \$624 million behind funding the trust, and bailed itself out by closing the system. That created LEOFF 2, whose major representative groups trust the legislature to this day.

The LEOFF I law was a promise and a contract. The legislature may well renege on a promise, for that is sometimes the way of legislatures, but not a contract. The integrity of the trust was damaged in 1976 when the legislature dismissed the trustees. This was probably an unlawful act, but the state represented to the workers and retirees that it was doing the right thing and was believed. (So, three years without a court challenge, and it is then a lawfully done deal.)

The state was able to take earnings off the top of the 5.5% that we retain in trust. For three recent years of good economy, the state took 13.4% off the top of that. Yet, we still ended up with a surplus and no benefit increases or enhancements. So, the state made its profit and could have permitted an enhanced benefit for members, as suggested in the Bachenus decision, involving "fair and equitable distribution." The state and employers then wanted all their contributions back.

Those employer contributions were mandatory, compulsory, and non-refundable. That went for them, and for us. The contributions were not loaned to us, but given. The state does not own the pension system. It does own the problem of failing to fund it.

Constituent letters, especially the brief handwritten type, had a major impact on causing the House not to take a vote on SSB 6166. The result was nothing happened to anyone. LEOFF 2 did not get the \$100 million it was seeking from Plan I. We could have lost the whole surplus, laying open the retirees and soon-to-be retirees for insolvency.

As it happened, we lost it to economic downturn. The state would have been in serious trouble had they taken the funds. Retirees consenting to accept the 12% would have had it pulled away. A real mess would have resulted. The

Treasurer's Report

by Mike Matson,
Executive Vice President
Washington State Law Enforcement
Association

Total Contributions	\$194,399.17
Earned Interest	\$2,141.28
Total Receipts	\$196,540.45
Total Disbursements	\$25,649.29
Assets as of 12/31/01	\$170,891.16

state had a lot of paydays from moneys received off the top of our investments that should have been used to pay unfunded liabilities. The state chose to pay those liabilities with trust fund money. Workers' retirement funds should NOT be used to plug the gaps in the state budget, but rather be used for increased benefits when, and if, we recover the lost surplus beyond what is needed for fund stability.

Class action

What helped the LEOFF I Coalition to overcome SB 6166 was the filing of a class action civil suit by Fridell and Williams as plaintiffs. The Coalition screened very qualified attorneys' firms, recommending the law firm of Hagens-Berman, Seattle, Washington, to represent LEOFF I retirement members, Alfred Fridell and Clarence Williams, on behalf of the Class. That stopped the big vote in the House of Representatives dead cold, we are told. Thus, the attorneys represent those two individuals as a class. The connection to the Coalition is now different. We will continue to gather data and do things to create a climate for fact finding that may educate all concerned in any dispute. We continue to keep the two plaintiffs advised of our work. We have solid faith in Hagens-Berman, specializing in major class action lawsuits. The Coalition's role is to educate, communicate while being ever vigilant, while doing whatever we can legally do to protect the LEOFF I law.

LEOFF I and the IRS

The IRS has officially determined that the LEOFF I Coalition is a 501(c) (5) tax exempt, non-profit labor organization. Contributions are not tax deductible, however, the Coalition funds will be exempt from taxation. As a non-profit in this category, we must not now litigate, but can ask for legal advice, and fund essential matters that will help our position. We have committees now working on goals through committee work, i.e., Public Relations, Legal Committee, Legislative Committee, and a Finance Committee.

Many have tried to convince LEOFF I Retirement System members that they are in a "defined benefit" retirement system. There is no such reference found in the 1969 law. Contributions are mandatory, compulsory, and nonrefundable. The State makes a profit of earnings on our investments. Statute requires that

We will continue to be vigilant in monitoring any attempt to attack our:

- Benefits of medical and long term care
- Total funding of unfunded liabilities to the workers
- COLAs tied to the CPI
- Spousal death benefits
- Non-taxable status for duty-related disability retirements
- Disability boards
- Actuarial reserve fund to assure system stability

costs of the actuary, the reserve system, and Department of Retirement systems be paid by the pension system. The law was defined and redefined in 1969, 1974 and 1976-77. Our pension is deferred compensation.

The IRS requires 125% in reserve for a pension system. We have been told that we would not qualify as a pension system if we fall below that percentage. These types of pensions are exempt until removed and taxed from retirees at that point. Clearly, we must fight to protect the LEOFF I law and take whatever steps necessary to protect the fund.

Protection for the future

Several key legislators have hinted that our fund is still on the table. The City of Yakima counts on using \$150,000 projected spent, hoping the State will pick up those costs from the state retirement fund. Other cities and counties still hope for a legislative bail out, also. At the very least, they oppose a restart of contributions to the system. At this point, we have time to discuss what is needed to protect the fund. Our fund is recovering, however, it remains a possible target for a revenue grab.

More than ever, we need to protect the law, and we need to cause the state to fund the still unfunded known liabilities. That especially means your later medical and long-term care needs, i.e. RCW 41.26.080.

Several studies have been done for the Investment

Board. Moneys thought to be available in the foreseeable future, range from a minus \$0.53 percent to \$144 billion in 2039, depending on study. Thus, the state has a lot to ponder. We need to be concerned that non-educated, polluted thinking could lead to damage to our system.

To educate LEOFF I members, we hit the road for regional meetings at Spokane, Yakima, Vancouver, Ferndale, Olympia, Kennewick, Toppenish, Sumner, Edmonds – Lake Forrest Park, Kelso, Bellevue and Port Angeles.

There are three lawsuits currently filed. The first was filed by the law firm of Hagens-Berman of Seattle on behalf of Fridell and Williams. Another class seeking similar remedy is Tribuzia and Henderson of Edmonds, attorneys Keller-Rohrbach of Seattle. The third is the City of Port Orchard. The city wants the surplus to fund its LEOFF I liabilities.

Mailers identifying the Coalition's positions were sent to all identified LEOFF I members and beneficiaries. All 147 legislators received the same material. The Coalition has heard that legislators have only 11 minutes per day to

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read during session, therefore they were mailed early enough to give them more time to digest our positions. We expect to spend money for public relations via a top-notch media firm, and hope to find professionals to research the moneys received, where transferred, and how. It all costs.

We earlier passed and dispersed two Coalition resolutions, also shared with Legislators. We have been firm, fair and accurate on our position and testimony. No one has been able to defeat the intent to protect the LEOFF I law as a main goal.

Our recent mailer was also a fundraiser, especially intended to reach those who have not yet helped with a share of the solution. You are also asked to join a major group in the Coalition, as a means to perpetuate standing groups and avoid duplication in communication costs.

Firefighters do have a concern, not getting representation, except through registering with this writer for email and postal mail communications. This is unfortunate, but not unexpected. As we age, a few of our groups have become representative of Plan 2 people at the expense of Plan 1 people who fight for all pension systems.

Last but not least, the subject of “pension system governance.” The LEOFF I Coalition believes that the time has come for public pension system reform. The Joint Committee on Pension Policy’s governance proposal has no policy authority built into it. The only way public pension systems in the State of Washington are going to work for the good of the pension system members and their beneficiaries is when total reform occurs.

Help us. There is nothing to justify waiting for “them” to fix things. You are “them.”

Please join one of the Coalition organizations listed below, if you qualify:

Mr. Andy Wilson

Washington State Retired Deputy Sheriffs
and Police Officers Association
(WSRDS&POA)
P O Box 672
Veradale, WA 99037-0672
1-800-826-1974

Mr. Mike Matson

Washington State Law Enforcement
Association (WSLEA)
P O Box 7369
Olympia, WA 98507-7369
1-800-227-9753
FAX 360-956-9306

Mr. Dave Grayson

Retired Seattle Police Officer’s Association
15313 66th Avenue NW
Stanwood, WA 98292
360-652-7335

Mr. Bruce Amer

Seattle Fire Department, Local #27
23210 60th Street East
Buckley, WA 98321
253-891-0303