

March 19, 2026

The Honorable Bob Ferguson
Governor of the State of Washington
Office of the Governor
Olympia, Washington

Re: Request for Veto of E2SHB 2034

Dear Governor Ferguson:

We write on behalf of retired members and beneficiaries of the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 ("LEOFF Plan 1") to respectfully urge that you veto E2SHB 2034.

LEOFF Plan 1 is not a discretionary public benefit program. It is a lifetime defined-benefit retirement system established for law enforcement officers and firefighters hired before October 1, 1977. These public servants entered dangerous and demanding careers in reliance on the retirement and medical protections promised to them by the State of Washington. The trust established for LEOFF Plan 1 was created for a specific and limited purpose: to provide retirement security and medical protection for the members and beneficiaries of that system. It was not created to serve as a reserve for unrelated governmental spending.

E2SHB 2034 raises grave legal concerns because it authorizes the redirection of billions of dollars from the LEOFF Plan 1 pension trust for purposes unrelated to the exclusive benefit of LEOFF Plan 1 members and beneficiaries. In our view, and in the view of counsel who have examined this matter, the legislation is vulnerable to substantial challenge on multiple legal grounds.

First, the bill implicates the exclusive-benefit rule applicable to qualified governmental retirement trusts under Internal Revenue Code § 401(a). Assets held in the LEOFF Plan 1 trust were accumulated, maintained, and invested for the exclusive benefit of the members and beneficiaries of that system. Diverting those assets to unrelated state purposes is fundamentally inconsistent with the legal character of a qualified pension trust and raises serious federal tax and trust-law concerns.

Second, E2SHB 2034 raises serious issues under Washington law protecting vested public pension rights. Washington courts have long recognized that public pension benefits are contractual in nature and that the State may not impair those rights once earned except under narrow and carefully limited circumstances. The promise made to these police officers and firefighters was not merely that a monthly benefit check would continue so long as actuarial projections remained favorable. The promise included the legal integrity of the system established for their protection, including the trust structure and statutory safeguards governing its assets.

Third, the legislation raises substantial fiduciary concerns. Pension trust assets must be administered solely in the interests of the members and beneficiaries for whom the trust exists. Redirecting dedicated trust assets to collateral governmental objectives is difficult to reconcile with that duty. At a minimum, the bill invites years of avoidable litigation over whether the State has exceeded constitutional, statutory, and fiduciary limits by treating dedicated retirement trust assets as available for repurposing.

The human consequences are also profound. Many LEOFF Plan 1 retirees are now in their seventies, eighties, and nineties. Many live with significant health conditions associated with decades of hazardous public service. For these retirees, survivors, and beneficiaries, the security of the LEOFF Plan 1 system is not theoretical. It is personal, immediate, and inseparable from the State's long-standing promise that the retirement and medical protections earned through service would be honored and preserved.

There is also the matter of precedent. If the State may redirect so-called surplus assets from one pension trust for unrelated public purposes, the same rationale may later be asserted against other public retirement systems. Such a precedent would undermine confidence in the stability and integrity of Washington's public pension structure as a whole. Once the principle is established that dedicated retirement trust funds may be repurposed, the legal and moral security of other pension systems is placed at risk.

We recognize and respect the difficult policy choices that come before your office. This matter, however, is not merely budgetary or political. It presents a fundamental question of law, fiduciary duty, and public trust: whether the State will honor the structure and protections of a retirement trust created for those who spent their careers protecting the people of Washington, often at great personal risk. A promise made to these public servants should remain a promise kept.

For these reasons, we respectfully request that you veto E2SHB 2034.

Respectfully submitted,

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