

from that requirement are those police officers employed prior to the officer's department's participation in the LEFP

SB 90 GA increases the annual LEFP fund supplement amount from \$3,000 to \$4,000 starting July 1, 2018 for each qualifying officer, and shall include an amount to cover any additional employer contributions to any retirement system as a result of the supplemental pay. Additionally, and only if funds are available, the local government shall receive reimbursement equaling 7.65 percent of the total annual supplement for amounts greater than \$3,100 for each qualifying officer; the total amount distributed not exceeding \$525,000 for each fiscal year. If there are insufficient funds to provide for full reimbursement, the amount shall be distributed equally among the governmental units.

In addition to the above payments, the local government shall also receive any fringe benefit amounts associated with the \$4,000 supplement, but only to the extent of retirement plan contributions and the federal insurance contributions act tax.

The LEFP payment to the qualified officer is in addition to the police officer's regular salary.

SB 90 GA forbids:

- the Department of Criminal Justice Training, the Justice and Public Safety Cabinet, or the council to investigate, judge, or exercise any control or jurisdiction regarding disciplinary procedures of a local government regarding its officers.
- the creation of a private right of action for any police officer regarding the agency's participation in the LEFPF
- termination of an agency's participation in the LEFPF due to any cause of action brought by a police officer against a local government,
- prevention of the adoption, amendment, or repeal of any laws related to disciplinary procedures of a local government's police officers.

SB 90 GA also provides an increase in supplemental payments to firefighters from the Professional Firefighters Foundation Program (PFFP) fund. Beginning July 1, 2018, these payments will increase from \$3,000 to \$4,000. Likewise, and only if funds are available, the local government shall receive reimbursement equaling 7.65 percent of the total annual supplement for amounts greater than \$3,100 for each qualifying firefighter; the total amount distributed not exceeding \$250,000 for each fiscal year. If there are insufficient funds to provide for full reimbursement, the amount shall be distributed equally among the governmental units.

In addition to the above PFFP supplemental payments, SB 90 GA also increases the amount allotted to each qualifying volunteer fire departments, from the Commission on Fire Protection Personnel Standards and Education from \$8,250 to \$11,000. The qualifying requirements are provided in KRS 95A.262 (2).

Regarding law enforcement and firefighter supplemental pay, **the fiscal impact of SB 90 GA on local governments could be minimal to moderate.** It would depend on the size

of the local police and fire departments, the number of police officers and firefighters employed, and the size of their respective operating budgets.

Supplemental pay is not included when calculating hourly wage rates for scheduled overtime and thus would not affect overtime pay rates.

However, supplemental pay **must be included when calculating hourly wage rates for unscheduled overtime**, thus increasing the hourly wage rate for overtime pay resulting in minimal to moderate increases in expenditures for local governments. Overtime is calculated at 150 percent of base pay. With the supplemental pay entering the equation, the basic pay rate per hour increases, and thus overtime liability to the local government would increase proportionately. Additionally, the employer is required to pay 6.2 percent Social Security Tax and 1.45 percent Medicare tax on the additional pay. There may be a minor increase on state and federal unemployment taxes that are also required to be paid by the employer.

Conversely, there is a positive impact to the individual police officer and firefighter due to increased base pay and increased overtime pay. The allotment to individual volunteer departments provides an opportunity to fund additional training.

The **Fraternal Order of Police** and the **Kentucky Firefighters Association** expect this bill to have a positive impact for their respective constituencies. In each instance, the organizations cited improved recruitment and retention efforts.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The local mandate statement for SB 90 GA is the same as the local mandate statement for SB 90 SCS 1.

SB 90 SCS 1 made the following changes to the bill as introduced:

- Defined “police department” and “retirement plan.”
- Removed the requirement that the employer’s contribution on the supplement to the defined pension plan include a proportionate amount for any supplemental contributions employers are required to make to any retirement system.
- Limits the fringe benefits reimbursement received by local governments to amounts associated with retirement plan contributions and federal insurance contributions act tax.

Data Source(s): LRC Staff, Fraternal Order of Police, Kentucky Firefighters Association

Preparer: Wendell Butler **Reviewer:** KHC **Date:** 2/27/18