

# Catastrophic Disability Final Proposal

Washington State Law Enforcement  
Officers' and Fire Fighters Plan 2  
Retirement Board

December 8, 2005

# Proposal Summary

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Establish catastrophic disability benefit with offsets for:

- Workers' Compensation
- Social Security Disability

# Proposal Summary

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- Combined benefits will be 100% FAS tax-free
- Up to 70% LEOFF Plan 2 benefit tax-free
- Can't be reduced below accrued benefit

# Proposal Summary

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- Offset Workers' Compensation
  - time-loss compensation
  - permanent total disability pension
  
- Offset Social Security Disability Payments
  
- Required to submit necessary financial documents reporting earnings

# Proposal Summary

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- Earnings exceed substantial gainful activity
  - Able to return to duty, benefit ceases
  - Unable to return to duty, benefit converts to occupational disability
- Subject to medical as required by DRS

# Example – L&I Only

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- FAS = \$60,000
- 70% Benefit = \$3500
  
- L&I Salary = \$70,000
- L&I Benefit (60%) = \$3500

# Example – L&I Only

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- Combined Benefits
  - $\$3500 + \$3500 = \$7000$
  
- Combined Benefits Above Max
  - $\$7000 - 5000 = \$2000$
  
- Pension with offset
  - $\$3500 - 2000 = \$1500$

# Example – L&I Only

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- Total Benefit

Pension	\$1,500
L&I	3,500
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TOTAL	\$5,000

# Example – L&I and Soc Security

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- FAS = \$60,000
- 70% Benefit = \$3500
  
- L&I Salary = \$70,000
- L&I Benefit (60%) = \$3500
  
- SS Benefit = \$1000

# Example – L&I and Soc Security

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- Combined Benefits
  - $\$3500 + \$3500 + \$1000 = \$8000$
  
- Combined Benefits Above Max
  - $\$8000 - 5000 = \$3000$
  
- Pension with offset
  - $\$3500 - 3000 = \$500$

# Example – L&I and Soc Security

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## ■ Total Benefit

Pension	\$ 500
L&I	3,500
Soc Security	<u>1,000</u>
TOTAL	\$5,000

# Example – Minimum Comparison

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- 15 Years of Service
- Accrued Benefit (current law) = \$1,500

Pension	\$1,500
L&I	3,500
Soc Security	<u>1,000</u>
TOTAL	\$6,000

# Catastrophic Disability

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Questions?

# LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' PLAN 2 RETIREMENT BOARD

## Catastrophic Disability

### Final Proposal

December 8, 2005

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#### 1. Issue

The total disability provision in the Board's 2005 duty disability bill was removed by the Legislature because of questions about how the benefit would work in conjunction with benefits available to LEOFF Plan 2 members through Worker's Compensation and about certain aspects of eligibility for the total disability benefit. The Board requested that additional information be provided in follow up to the questions raised by the legislature.

#### 2. Proposal Summary

A catastrophic disability benefit is established for a member who is totally disabled in the line of duty. The combined benefits from LEOFF Plan 2, Social Security disability, and Workers' Compensation cannot exceed 100% of the member's final average salary. Any amount that exceeds 100% will be offset from the LEOFF Plan 2 benefit. The LEOFF Plan 2 benefit can not be offset below the member's accrued retirement benefit. LEOFF Plan 2 may pay a benefit up to 70% of final average salary. A member receiving a catastrophic disability benefit will required to submit necessary financial documents reporting any earnings from employment, payments from Social Security disability and payments from Workers' Compensation.

#### 3. Staff

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#### 4. Members Impacted

All of the 14,754 active members of LEOFF Plan 2, as well as future active members would be affected by this issue. For purposes of Senate Bill 5615 in 2005 the Office of the State Actuary estimated that approximately 11 members would have duty-related total disabilities during the first year the benefit is available. Exact historical disability information for LEOFF Plan 2 is not available.

## 5. Current Situation

A LEOFF Plan 2 member who becomes totally incapacitated for continued employment in a LEOFF position is eligible to receive a disability retirement benefit. LEOFF Plan 2 members disabled in the line of duty are entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary tax-free. The member additionally receives a retirement allowance equal to two percent of the member's average final salary for each year of service beyond five years.

Members who are catastrophically disabled and incapable of substantial future employment in any capacity receive the same benefits as members who may be capable of substantial and gainful non-LEOFF employment.

## 6. Background Information

An injury on the job can result in a member's inability to work, creating serious financial problems for the individual and his or her family. The costs of necessary medical treatment can exacerbate these financial problems. Although health insurance plans may help to pay for medical care costs, disability benefits are relied upon to replace a catastrophically disabled worker's lost income. Disability benefits may be available from federal programs, state and local programs, or private sources. Typically, disability programs pay benefits ranging from 60 to 100 percent of a person's pre-disability monthly pay.

### 2005 LEOFF Plan 2 Duty Disability Legislation

The LEOFF Plan 2 Retirement Board recommended a duty disability bill (SB 5615) to the 2005 Legislature. The bill had two components including an occupational disability provision and a total disability provision. While the bill passed, the total disability provision was removed from the bill by the Legislature because of questions about how the benefit would work in conjunction with the benefits available through Worker's Compensation and about certain aspects of eligibility for the total disability benefit.

The 2005 total disability provision would have created a 70 percent benefit in the case of total disability to cover those law enforcement officers and fire fighters who suffer the type of catastrophic injury that leaves them unable to pursue any financially significant employment for the rest of their lives. In order to define "financially significant employment", the disability provision mirrored the stringent "substantial gainful activity" standard set by Social Security for determining total disability eligibility.

#### Total Disability Language in Senate Bill 5615 (2005)

*A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to seventy percent of such member's final average salary. A member shall be considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in*

*death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings of no more than eight hundred ten dollars a month in 2004 adjusted annually for inflation as determined by the director.*

### **Benefit Integration**

During the 2005 Legislative Session, Legislators asked if the LEOFF total disability provision would offset Workers' Compensation, which it did not. The concern expressed was that a person might receive 60 to 75 percent of pre-disability salary from Workers' Compensation and then an additional 70 percent of final average salary in pension.

A benefit integration policy can be developed to determine what constitutes a fair income replacement level when workers receive benefits from multiple sources for the same work-related condition. When considering what benefit levels to provide through a disability program, duplication can be managed by recognizing other sources of disability benefits. One of the most commonly used tools for integrating benefits is offsets.

### ***Offsets***

A benefit offset simply means that one or more of the disability programs will deduct from the payment it would make, some or all of the payment from other disability programs. Another form of offset uses a benefit ceiling or maximum. Some programs set a maximum amount of combined benefits that can be received and paying the difference, if any, between the cumulative benefits and the maximum. The maximum can be established as a percentage of pre-disability earnings or may just be a set amount.

In government programs, offsets have been applied primarily to ensure that an individual does not receive a "windfall" of benefits from multiple government sources for the same injury.

Most disability programs have provisions which coordinate paying benefits through some form of offset for Workers' Compensation, Social Security, other federal programs, or employer provided pension/disability plans. Some programs also take into account any wages or salary earned from working or payments received from private disability insurance.

### ***Workers' Compensation Disability***

A total disability benefit from Workers' Compensation will pay 60 to 75 percent of pre-disability salary. The Workers' Compensation benefits are not offset for pension payments from Washington State or any other state. In Washington State, Workers' Compensation benefits are offset by Social Security, rather than Social Security being offset by Workers' Compensation. The offset used is derived from the federal law and applies the 80 percent of average current earnings (ACE) test to calculate any offset. If the combined Workers' Compensation and Social Security benefits do not exceed the 80% ACE maximum, no offset is applied. See Appendix A for additional information regarding Workers' Compensation disability benefits.

### ***Social Security Disability***

The average monthly disability benefit from Social Security in 2004 was \$968. Unless otherwise provided in state statute (as it is in Washington), Social Security offsets payments from Workers' Compensation and certain payments from federal, state, or local disability programs. Under federal law, the combined total of benefits cannot exceed eighty percent of a person's average current earnings prior to becoming retired.

Public disability payments that are not job related are included in the offset. However, duty related disability payments, such as from state pensions, are not included as part of the offset.

### ***Public Safety Officers' Disability Benefit***

An example of a federal benefit, other than Social Security, that could be considered in an offset is the Public Safety Officers' Benefit (PSOB) for disability. Unlike Social Security, all members of LEOFF Plan 2 could qualify for PSOB benefits from a duty related disability. The PSOB disability benefit provides a lump sum payment of \$283,385 which is only offset by lump sum settlement awards from Workers' Compensation. See Appendix B for additional information regarding PSOB disability benefits.

### ***Fish and Wildlife Officers' Compensation Insurance***

An example of other benefits that may be provided by an employer is the Fish and Wildlife Enforcement Officers disability benefit provided by the Department of Fish and Wildlife. A disability benefit of 50 percent of salary is provided to officers who are injured on the job and unable to work. This benefit is paid by the Department of Fish and Wildlife, independent from state pension and Workers' Compensation payments for LEOFF Plan 2 members. However, for PERS Plan 1 members, the benefit is offset for any PERS Plan 1 duty disability retirement payments and Workers' Compensation payments.

RCW 77.12.264

*The director shall relieve from active duty fish and wildlife officers who are injured in the performance of their official duties to such an extent as to be incapable of active service.*

*While relieved from active duty, the employees shall receive one-half of their salary less any compensation received through the provisions of RCW 41.40.200, 41.40.220, and 77.12.262.*

### **Benefit Eligibility**

The intent of the Board's 2005 total disability proposal was to mirror the standard set by Social Security for qualifying to receive, and continuing to receive disability benefits.

The Social Security definition of disability is considered a rigorous standard which is based on a person's ability, or inability to work. A person is only considered disabled under Social

Security rules if they cannot do work that they did before and if the Social Security Administration (SSA) decides that the person cannot adjust to other work because of their medical condition(s). The SSA defines disability as “the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of no less than twelve months.”

To receive disability benefits under this definition, a person must not be able to engage in any substantial gainful activity (SGA). The issue of defining “substantial gainful activity” for federal Social Security disability benefits is dealt with by an earnings test. If the average monthly earnings for a person working in 2005 exceeded \$830<sup>1</sup> a month, the person can no longer be considered disabled and benefits would cease. The substantial gainful activity level for 2006 will increase to average monthly earnings of \$860. See Appendix C for additional information on Social Security disability benefits.

The definition of disability also contains an expectation that the injury will last for at least twelve months. The expectation requirement has generated questions regarding when a person could receive benefits. The expectation does not mean a person must wait for twelve months before being allowed to receive disability benefits. A person who otherwise meets the disability criteria is entitled to begin receiving benefits up front. However, if a person is found to no longer have a disabling impairment during the twelve month period due either to earnings above the SGA level or medical improvement, the disability benefits would cease. Disability benefits also cease when the person dies, unless they selected a survivor option.

Although there are a variety of standards used for determining disability eligibility, the standard used by SSA is generally considered to be very rigorous for disability benefits compared to other disability standards. See Appendix D for information on other disability standards.

## 7. Policy Options

Each option below would create a higher disability standard and provide a correspondingly higher level of benefits. The primary policy underlying these options is recognition of the fact that some disabled members may be incapable of substantial future employment in any capacity and therefore require a disability benefit that replaces future employment rather than supplements future employment.

### **Policy Option 1: Establish a catastrophic disability benefit with Workers’ Compensation offset.**

This option would establish a catastrophic disability benefit for a member who is totally disabled in the line of duty. The benefit under this option includes an offset for Workers’

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<sup>1</sup> The permissible earnings amount is adjusted annually for inflation. The permissible earnings amount for Social Security and the Board’s proposal was \$810 in 2004.

Compensation time-loss compensation payments or permanent total disability pension payments, subject to the following provisions:

- The combined LEOFF Plan 2 and Workers' Compensation benefits cannot exceed 100% of the member's final average salary at the time of disability retirement. Any amount that exceeds 100% will be offset from the LEOFF Plan 2 benefit.
- LEOFF Plan 2 may pay a benefit up to a maximum of 70% of final average salary.
- The LEOFF Plan 2 benefit would not be offset below the member's accrued retirement benefit.

If a member exceeds the substantial gainful activity level and the member is able to resume employment as a law enforcement officer or fire fighter, the catastrophic disability retirement allowance will be canceled and the member will be restored to duty. If a member exceeds the substantial gainful activity level but is unable to resume employment as a law enforcement officer or fire fighter, the catastrophic disability retirement allowance will be converted, prospectively, to an occupational disability benefit. Any member who receives a catastrophic disability benefit will be subject to comprehensive medical examinations as required by the Department of Retirement Systems.

A member receiving a catastrophic disability benefit will be required to submit necessary financial documents reporting any earnings from employment and payments from Workers' Compensation.

**Policy Option 2: Establish a catastrophic disability benefit with Workers' Compensation and Social Security offset.**

This option would establish a catastrophic disability benefit for a member who is totally disabled in the line of duty. The benefit under this option includes an offset for Workers' Compensation time-loss compensation payments or permanent total disability pension payments and Social Security Disability payments, subject to the following provisions:

- The combined LEOFF Plan 2, Workers' Compensation benefits, and Social Security disability benefits combined cannot exceed 100% of the member's final average salary. Any amount that exceeds 100% will be offset from the LEOFF Plan 2 benefit.
- LEOFF Plan 2 may pay a benefit up to a maximum of 70% of final average salary.
- The LEOFF Plan 2 benefit will not be offset below the member's accrued retirement benefit.

If a member exceeds the substantial gainful activity level and the member is able to resume employment as a law enforcement officer or fire fighter, the catastrophic disability retirement allowance will be canceled and the member will be restored to duty. If a member exceeds the substantial gainful activity level but the member is unable to resume employment as a law enforcement officer or fire fighter, the catastrophic disability retirement allowance will be converted, prospectively, to an occupational disability benefit. Any member who receives a catastrophic disability benefit will be subject to comprehensive medical examinations as required by the Department of Retirement Systems.

A member receiving a catastrophic disability benefit will be required to submit necessary financial documents reporting any earnings from employment, payments from Workers' Compensation, and payments from Social Security.

**Example Calculation:**

The member has a final average salary of \$60,000 per year or \$5000 per month. The benefit maximum is 100% of final average salary, or \$5000 per month. The LEOFF Plan 2 benefit (70% of final average salary) is \$3500 per month. The salary for calculating Workers' Compensation benefits is \$70,000 per year. Assuming the member receives a 60% benefit, the Workers' Compensation benefit is also \$3500 per month. The member is also receiving \$1000 per month for Social Security Disability. Given these assumptions, the benefit would be calculated as follows:

- Calculate Initial Combined Benefits

LEOFF Plan 2 Benefit	\$3,500
Workers' Comp Benefit	3,500
Soc Sec Disability Benefit	+ 1,000
<u>Combined Benefits</u>	<u>\$8,000</u>

- Calculate Combined Benefits Above Maximum

Combined Benefits	\$8,000
Maximum (100% FAS)	- 5,000
<u>Benefits Over Max</u>	<u>\$3,000</u>

- Calculate Pension with Offset

LEOFF Plan 2 Benefit	\$3,500
Benefits Over Max	- 3,000
<u>LEOFF Plan 2 Benefit - Offset</u>	<u>\$ 500</u>

- Calculate Total Benefit

LEOFF Plan 2 Benefit - Offset	\$ 500
Workers' Comp Benefit	3,500
Soc Sec Disability Benefit	+1,000
<u>Total Combined Benefit</u>	<u>\$5,000</u>

**Policy Option 3: Establish a catastrophic disability benefit with offsets for Workers' Compensation, Social Security, out-of-state pensions, and employer paid disability insurance.**

This option would establish a catastrophic disability benefit for a member who is totally disabled in the line of duty. The benefit under this option includes an offset for Workers' Compensation time-loss compensation payments or permanent total disability pension payments, Social Security Disability payments, any service or disability pension for public service from another state or local government, and any benefits from an employer-paid disability insurance program that replace lost earnings, subject to the following provisions:

- The combined LEOFF Plan 2, Workers' Compensation benefits, and Social Security disability benefits, out-of-state pension, and employer-paid disability insurance benefits combined cannot exceed 100% of the member's final average salary. Any amount that exceeds 100% will be offset from the LEOFF Plan 2 benefit.
- The LEOFF Plan 2 benefit would not be offset below the member's accrued retirement benefit.
- The LEOFF Plan 2 benefit will not be offset below the member's accrued retirement benefit.

If a member exceeds the substantial gainful activity level and the member is able to resume employment as a law enforcement officer or fire fighter, the catastrophic disability retirement allowance will be canceled and the member will be restored to duty. If a member exceeds the substantial gainful activity level but the member is unable to resume employment as a law enforcement officer or fire fighter, the catastrophic disability retirement allowance will be converted, prospectively, to an occupational disability benefit. Any member who receives a catastrophic disability benefit will be subject to comprehensive medical examinations as required by the Department of Retirement Systems.

A member receiving a catastrophic disability benefit will be required to submit necessary financial documents reporting any earnings from employment, payments from Workers' Compensation, and payments from Social Security.

## **8. Supporting Information**

- **Appendix A: Workers' Compensation Disability Benefits**
- **Appendix B: Public Safety Officers' Disability**
- **Appendix C: Social Security Disability**
- **Appendix D: Other Disability Standards**

## **Appendix A: Workers' Compensation Disability Benefits**

### **Time-Loss Compensation (Temporary Disability Wage-replacement Benefits)<sup>2</sup>**

If a person is unable to work as a result of injury or disease, the person will be paid a portion of their regular wages. Time-loss compensation payments will not provide a person with the same income being earned when they were working.

The amount of time-loss benefits is 60 to 75 percent of total wages and certain benefits, depending on marital status and number of dependents at the time of injury. These benefits cannot exceed certain limits based on a percentage of the state's average wage, which is established by the Department of Employment Security on July 1 of each year.

These are paid if a person is unable to work for more than the three days immediately following the date of injury. Injured workers are not compensated for those first three days unless they are still unable to work on the 14th day following the injury.

A person will receive time-loss payments approximately twice a month as long as their doctor verifies that their condition prevents returning to any work. The person and the doctor must keep L&I regularly informed of progress. Without this information, time-loss compensation payments could be delayed or stopped.

### **Permanent Partial Disabilities<sup>3</sup>**

If an injury or occupational disease caused permanent loss of bodily function, a person will receive a permanent partial disability award (normally a lump-sum payment). The amount received for any physical loss is established by the Legislature and does not include compensation for pain and suffering. There are two types of permanent partial disabilities:

1. Specified disabilities: Some disabilities have awards that are already set by law. These are easily quantified losses, such as loss vision or hearing, or the loss of an eye, leg, foot, toe, arm or finger by amputation.
2. Unspecified disabilities: These disabilities include every other type of impairment caused by an on-the-job injury or occupational illness, including the partial loss of function to a limb. The degree of a partial loss of function is determined by a disability rating. These ratings are conducted either by the "attending physician", or by one or more independent medical examiners using established medical standards and guidelines. Normally, ratings are performed after all services have been completed, the person is medically stable and no further treatment is appropriate.

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<sup>2</sup> Time Loss Benefits: RCW 51.32.090

<sup>3</sup> Permanent Partial Disability: RCW 51.08.150, RCW 51.32.080

A person will not jeopardize a permanent partial disability award by working. A person should return to their job as soon as the doctor releases them for work. Any permanent partial disability award received is based on the degree of damage suffered, not on whether you can work.

### **Permanent Total Disabilities<sup>4</sup>**

If an accident results in the loss or total paralysis of both legs or arms, one leg and one arm, or a total loss of eyesight, a person is eligible for a pension by law, even if able to return to work.

If vocational and medical evaluations determine that the injury prevents the person from ever becoming gainfully employed, the person may be paid a monthly pension for life. However, this type of "non-statutory" pension may not be payable if the person is able to return to work.

Pension benefits are paid monthly and are based on the amount of time-loss compensation to which the person is entitled (60 to 75 percent of total wages and benefits). The exact amount the person is eligible to receive depends on factors such as wages, marital status, number of dependents, health care benefits, Social Security benefits and the state's average wage at the time of injury.

As with time-loss compensation benefits, These benefits cannot exceed specified limits based on a percentage of the state's average wage. (The state's average wage varies; it is established by the Department of Employment Security on July 1 of each year.) In some cases, the pension benefit amount may be reduced for previously paid partial permanent disability awards.

### **Establishing Gross Income**

The following is taken into account to establish gross income at the time of injury:

- Wages earned before taxes, including income from a second job.
- Medical, dental and vision benefits.
- The reasonable value of room and board, housing, fuel or similar considerations received from an employer as part of income.
- Any bonus received as a part of the contract of hire with the employer at the time of injury.
- Tips reported to the employer for federal income tax purposes.

If a person's work is exclusively seasonal, essentially part-time or intermittent, monthly wage is determined by averaging the total wages earned, including overtime pay and tips, from all employment in any 12 successive calendar months preceding the injury that most fairly represents your employment pattern.

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<sup>4</sup> Permanent Total Disability: RCW 51.08.160, RCW 51.32.060, RCW 51.32.067

If a person has an occupational disease, gross income is based on the date the person was last exposed, first required medical treatment or became disabled, whichever came first.

**Possible effects on Social Security benefits**

A person should report to any Social Security payments received. In some cases, both time-loss compensation and Social Security disability or retirement benefits may be received. However, if the combined benefits total more than the maximum amount allowed under a formula contained in the federal Social Security law, Workers' Compensation benefit payments will be reduced by the amount that exceeds the maximum. In no case will the combined benefit amount be reduced to less than the amount that would be received on disability alone.

## **Appendix B: Public Safety Officers' Disability**

The Public Safety Officers' Benefits (PSOB) Disability Program, enacted on November 29, 1990, provides disability benefits to public safety officers who have been permanently and totally disabled by a catastrophic personal injury sustained in the line of duty if that injury permanently prevents the officer from performing any substantial and gainful work. Medical retirement for a line-of-duty disability does not, in and of itself, establish eligibility for PSOB benefits.

### **Eligibility**

PSOB Disability Program beneficiaries must comply with the PSOB Office's administrative review process by producing sufficient evidence to show that the public safety officer suffered a permanent and total disability as the direct and proximate result of a catastrophic injury sustained in the line of duty.

Most public safety officers (federal, state, and local law enforcement officers, firefighters, and members of public rescue squads and ambulance crews) are covered for catastrophic personal injuries sustained on or after November 29, 1990. All line-of-duty injuries that result in a disability retirement are not necessarily covered under the Public Safety Officers' Disability Program. The injury has to prevent the public safety officer from performing any gainful work.

Gainful work means work activity that is both substantial and gainful.

- Substantial work activity means work activity that involves doing significant physical or mental activities. Work may be substantial even if it is done on a part-time basis or if the public safety officer does less, gets paid less, or has less responsibility than when he or she was a member of the former employing public safety agency.
- Gainful work activity means work activity that is done for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized or pay is received.

### **Applying for PSOB Disability Benefits**

If mentally and physically able, the permanently and totally disabled public safety officer may file a claim directly with the PSOB Program Office. Otherwise, a legally appointed representative or the public agency where the permanently and totally disabled public safety officer was employed may file on the officer's behalf. The public safety officer must be medically retired from his or her employing agency for the line-of-duty injury he or she sustained, and the public safety officer must be receiving the maximum compensation for a permanent and total disability from his or her benefit provider. A benefit provider may be a retirement fund through the department or Workers' Compensation. Social Security does not count as a benefit provider.

The prerequisite disability certification (PDC) is the first process the public safety officer must satisfy before a claim is initiated. When the public safety officer or the officer's representative calls the PSOB Office to request an application, the PDC letter is sent if the officer's line-of-duty injury occurred on or after November 29, 1990. The letter describes exactly what the officer has to submit to meet PDC criteria.

If the public safety officer has met PDC criteria, a claim is initiated and the PSOB Office will request specific documentation to support the claim, including an investigation report and medical records. The public safety officer and his or her former agency also must complete the "Report of Public Safety Officer's Permanent and Total Disability" claim form. This form, in conjunction with the supporting documents, is used to determine the officer's eligibility. When the PSOB Office has received all the claimant's documentation, the medical records will be forwarded to its medical consultant. The consultant will review the claimant's records and submit a written report within 45 days to the PSOB Office identifying whether the claimant is permanently and totally disabled in accordance with the PSOB Act (42 U.S.C. 3796).

The PSOB Office will prepare a determination based on the medical consultant's findings and other requisite information. The determination is then sent to the Office of Justice Programs' Office of General Counsel for review and concurrence and to ensure that all legal requirements have been met.

#### **Payment of Disability Benefits**

The claimant is notified of the decision in writing. If the decision is favorable, a lump sum payment of \$283,385 will be made through the U.S. Department of the Treasury. The disability settlement will be offset for any award settlements from Workers' Compensation, but would not be offset for month pension payments from Workers' Compensation or state pension.

The payment will be made either by direct deposit or by check mailed directly to the claimant's home address (provided on the "Report of Public Safety Officer's Permanent and Total Disability" claim form) within 14 business days after the claimant's receipt of notification. If direct deposit is desired, banking information will be required. If the decision is unfavorable, the claimant will receive the grounds for that finding and have 30 days from receipt of notification to request an appeal of the decision and offer any new evidence or line of reasoning on the issues in controversy.

## **Appendix C: Social Security Disability**

### **Program Description**

The Social Security Administration (SSA) administers two programs that provide benefits based on disability: the Social Security disability insurance program (SSDI) (title II of the Social Security Act) and the supplemental security income (SSI) program (title XVI of the Act).

Title II provides for payment of disability benefits to individuals who are "insured" under the Act by virtue of their contributions to the Social Security trust fund through the Social Security tax on their earnings, as well as to certain disabled dependents of insured individuals. Title XVI provides for SSI payments to individuals (including children under age 18) who are disabled and have limited income and resources.

The Act and SSA's implementing regulations prescribe rules for deciding if an individual is "disabled." SSA's criteria for deciding if someone is disabled are not necessarily the same as the criteria applied in other Government and private disability programs.

### **Definition of Disability**

For all individuals applying for disability benefits under title II, and for adults applying under title XVI, the definition of disability is the same. The law defines disability as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

SSA evaluates the work activity of individuals claiming or receiving disability benefits under SSDI. For the SSI program, only those individuals claiming benefits because of a disability are evaluated. Under both programs, SSA uses earnings guidelines to evaluate whether the work activity is SGA, and whether an individual is considered disabled under the law. While this is only one of the tests used to meet the definition of disability, it is the critical first step in the disability evaluation.

If the impairment is other than blindness, earnings averaging over \$830 a month (for the year 2005)<sup>5</sup> generally demonstrate SGA. If blind, earnings averaging over \$1,380 a month (for the year 2005) generally demonstrate SGA. These amounts are established by law and are adjusted each year based on the national average wage.

### **Medically Determinable Impairment**

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<sup>5</sup> The SGA amount for 2006 has been established as \$860.

A medically determinable physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings-not only by the individual's statement of symptoms.

### **The Disability Determination Process**

Most disability claims are initially processed through a network of local Social Security field offices and State agencies (usually called disability determination services, or DDS). Subsequent appeals of unfavorable determinations may be decided in the DDS or by administrative law judges in SSA's Office of Hearings and Appeals.

### **Social Security Field Offices**

SSA representatives in the field offices usually obtain applications for disability benefits, either in person, by telephone, or by mail. The application and related forms ask for a description of the claimant's impairment(s), names, addresses, and telephone numbers of treatment sources, and other information that relates to the alleged disability. (The "claimant" is the person who is requesting disability benefits.) The field office is responsible for verifying nonmedical eligibility requirements, which may include age, employment, marital status, or Social Security coverage information. The field office sends the case to a DDS for evaluation of disability.

### **State Disability Determination Services (DDS)**

The DDSs, which are fully funded by the Federal Government, are responsible for developing medical evidence and rendering the initial determination on whether the claimant is or is not disabled or blind under the law.

Usually, the DDS tries to obtain evidence from the claimant's own medical sources first. If that evidence is unavailable or insufficient to make a determination, the DDS will arrange for a consultative examination (CE) in order to obtain the additional information needed. The claimant's treating source is the preferred source for the CE; however, the DDS may also obtain the CE from an independent source.

After completing its initial development, the DDS makes the disability determination. The determination is made by a two-person adjudicative team consisting of a medical or psychological consultant (who is a physician or psychologist) and a disability examiner. If the adjudicative team finds that additional evidence is still needed, the consultant or examiner may recontact a medical source(s) and ask for supplemental information.

The DDS also makes a determination whether the claimant is a candidate for vocational rehabilitation (VR). If so, the DDS makes a referral to the State VR agency. After the DDS makes the disability determination, it returns the case to the field office for appropriate action depending on whether the claim is allowed or denied. If the DDS finds the claimant disabled, SSA will complete any outstanding non-disability development, compute the benefit amount, and begin paying benefits. If the claimant is found not disabled, the file is retained in the field office in case the claimant decides to appeal the determination.

If the claimant files an appeal of an initial unfavorable determination, the appeal is usually handled much the same as the initial claim, except that the disability determination is made by a different adjudicative team in the DDS than the one that handled the original case.

As described in the *Social Security 2005 Red Book*, the process used to decide disability involves five steps. They are:

**1. Are you working?**

If you are working and your average monthly earnings, after considering the affect of work incentives, are at the SGA level, we generally cannot consider you disabled. If your monthly earnings average less than the SGA level, we look at your medical condition.

**2. Is your medical condition "severe"?**

For us to consider you disabled, your impairment(s) must significantly limit your ability to do basic work activities, for example walking, sitting, seeing, and remembering. If it does not, we cannot consider you disabled. If it does, we go to the next step.

**3. Is your medical condition in the list of disabling impairments?**

We maintain a list of impairments for each of the major body systems that are so severe we automatically consider you disabled. If your medical condition(s) is not on the list, we have to decide if it is of equal severity to an impairment on the list. If it is, we approve your claim. If it is not, we go to the next step.

**4. Can you do the work you did previously?**

If your medical condition is severe, but not at the same or equal severity as an impairment on the list, then we must decide if you can do your past relevant work. If you can, we will deny your claim. If you cannot, we go to the next step.

**5. Can you do any other type of work?**

If you cannot do your past relevant work, we then see if you can do any other type of work. We consider your age, education, past work experience, and transferable skills. If you cannot do any other kind of work, we will approve your claim. If you can, we will deny your claim.

## **Appendix D – Other Disability Standards**

There are several different sources from which catastrophic disability benefits may be provided including federal sources, state sources, local employer and private sources. Among these varying sources there are several different standards that are applied for determining benefits eligibility.

### **Substantial and Gainful Activity.**

While each disability program typically defines what “substantial” and “gainful” mean, these terms are usually defined by some measure of the disabled person’s ability to be engaged in some level of work activity or achieve a set income level. The disability definition under both the Public Safety Officers’ Benefit (PSOB) program and Social Security use a “substantial and gainful activity” standard. The Social Security use of this standard for qualifying for disability and remaining under disability is considered one of the most stringent standards.

### **Activities of Daily Living.**

To be considered disabled under this standard a person must lose two or more activities of daily living or become cognitively impaired. “Activities of Daily Living” are defined as bathing, dressing, toileting, transferring, continence, and eating.

### **Education, Training and Experience.**

To be considered disabled under this standard a person must not be able to engage in any occupation or employment for which the person is qualified by reason of education, training, or experience. This standard is sometimes tempered with an allowance to be able to work but only if the person is unable to earn more than some set level of pre-disability income. Under some policies, rather than an earning level, continued disability eligibility is measured by the percentage of duties that a person can still perform pertinent to his or her profession or by the percentage a person is deemed by a board to be disabled.

### **Loss of Body Part.**

To be considered disabled under this standard a person must sustain severe physical damage such as irrevocable loss of speech, hearing in both ears, the sight of both eyes or the use of one or both legs or arms, or paralysis.

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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: Z-0901.2/06 2nd draft

ATTY/TYPIST: LL:rmh

BRIEF DESCRIPTION: Establishing a catastrophic disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2.

AN ACT Relating to receiving a catastrophic disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2; amending RCW 41.26.470 and 77.12.264; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

1. **Sec.** RCW 41.26.470 and 2005 c 451 s 1 are each amended to read as follows:

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three, except under subsection (7) of this section.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical

examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.45.060 and 41.45.067.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4) (a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

(6) A member who becomes disabled in the line of duty, and who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent. A person in receipt of this benefit is a retiree.

(7) A member who becomes disabled in the line of duty shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(8) A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to seventy percent of the member's final average salary. The allowance provided under this subsection shall be offset by:

(a) Temporary disability wage-replacement benefits or permanent total disability benefits provided to the member under Title 51 RCW; and

(b) Federal social security disability benefits, if any; so that such an allowance does not result in the member receiving combined benefits that exceed one hundred percent of the member's final average salary. However, the offsets shall not in any case reduce the allowance provided under this subsection below the member's accrued retirement allowance.

A member is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings in excess of eight hundred thirty dollars a month in 2006 adjusted annually as determined by the director based on federal social security disability standards. The department may require a person in receipt of an allowance under this subsection to provide any financial records that are necessary to determine continued eligibility for such an allowance. A person in receipt of an allowance under this subsection whose earnings exceed the threshold for substantial gainful activity shall have their benefit converted to a line-of-duty disability retirement allowance as provided in subsection (7) of this section.

Any person in receipt of an allowance under the provisions of this section is subject to comprehensive medical examinations as may be required by the department under subsection (2) of this section in order to determine continued eligibility for such an allowance.

1. **Sec.** RCW 77.12.264 and 2001 c 253 s 18 are each amended to read as follows:

The director shall relieve from active duty fish and wildlife officers who are injured in the performance of their official duties to such an extent as to be incapable of active service. While relieved from active duty, the employees shall receive one-half of their salary less any compensation received through the provisions of

RCW 41.26.470, 41.40.200, 41.40.220, and 77.12.262.

2. NEW SECTION. **Sec.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

# OLIVER CONSULTING

CONSULTING ACTUARIES

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SAUSALITO, CALIFORNIA 94965  
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415-331-0559, fax

December 7, 2005

Law Enforcement Officers' & Firefighters' Plan 2 Retirement Board  
P.O. Box 40918  
Olympia, Washington 98504-0918

Re: Actuarial Review: Duty-Related Total Disability Benefits

Chairman Fox and Members of the Board:

There follow the results of our actuarial review of the LEOFF 2 contribution rate increases contained in the LEOFF 2 memo of November 30, 2005 of the Office of the State Actuary.

**Background**

Currently, members “disabled in the line of duty” can elect to receive either 150% of their contribution account or an annuity equal to the member’s accrued benefit with a 10% of final average salary minimum. The benefit improvements currently being considered would, for those duty disablements found to be “totally disabled”, increase the annuity to 70% of final average salary with an adjustment for L&I and Social Security Disability Benefits. The offset would limit total benefits from LEOFF 2, L&I, and Social Security to 100% of the members Final Average Pay.

The recommended contribution rate increases contained in the memo of the Office of the State Actuary are shown below.

Employee	0.02%
Employer	0.01%
<u>State</u>	<u>0.01%</u>
Total	0.04%

## **Results of Review**

### ***Assumptions***

Rates of disablement are based on experience of the Colorado Fire and Police Pension Association Death and Disability Fund, which provides benefits that are similar in design and administration to those being contemplated. In addition, it is based on the percentage of duty disablements under LEOFF 1, adjusted to reflect a higher percentage at the younger ages and a lower percentage at the higher ages. In addition, a number of assumptions have been made regarding the magnitude of offsets for those receiving L&I and Social Security Disability benefits. We agree that all of these assumptions are reasonable for pricing this benefit.

An important assumption in the pricing of this benefit is the assumption that all totally disabled duty disabilities will receive L&I benefits and that all totally disabled duty disabilities covered by Social Security will receive Social Security Disability Benefits. The definition of total disablement used for the total disability benefit is patterned after the definition in the Social Security Act and defines total disability as “unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months”, with substantial gainful activity defined similarly to the definition in the Social Security Act. The definition of total disability used by L&I in granting permanent or total disability benefits is (1) “an employee whose injury or illness results in permanent inability to work, based on medical and vocational reports” or (2) loss or paralysis of two limbs or blindness. Based on these definitions, the assumption regarding receipt of L&I and Social Security Disability benefits appears to be reasonable assumption. However, to the degree that in practice members receiving the proposed total disability benefit are not considered totally disabled for L&I purposes or, if covered by Social Security, for Social Security Disability benefit purposes, there will be an increase in costs.

### ***Retroactive Provisions***

As currently outlined, the improvement would not be retroactive. Should a retroactive provision be added, the contribution rate increases shown should be revised accordingly.

### ***Contribution Rates***

We independently calculated the increases in the LEOFF 2 Actuarial Present Value of Projected Benefits and the resulting contribution rate increases. Our results fell within a reasonable range of the State Actuary’s results.

### ***Conclusions***

Contribution rates shown in the fiscal note of the Office of the State Actuary are appropriate for costing the contemplated benefit improvements.

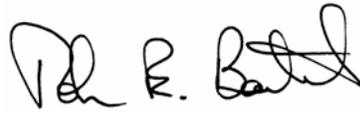
The undersigned are members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

LEOFF 2 Retirement Board  
December 7, 2005  
Page 3

Sincerely,



Marilyn M. Oliver, F.S.A., M.A.A.A.  
Actuary and Principal  
Oliver Consulting  
Contractor



John E. Bartel, A.S.A., M.A.A.A.  
President  
Bartel Associates, LLC  
Peer Review

Cc.  
Steve Nelsen, Executive Director  
Matthew M. Smith, State Actuary



WASHINGTON STATE LEGISLATURE  
**Office of the State Actuary**

December 7, 2005

**TO:** Steve Nelsen, Executive Director  
LEOFF 2 Retirement Board

**FROM:** Marty McCaulay, FSA, EA, MAAA, Senior Pension Actuary *PMM*  
Office of the State Actuary

**CC:** Matt Smith, FCA, EA, MAAA, State Actuary  
Office of the State Actuary

**RE: LEOFF 2 DUTY-DEATH SURVIVOR MEDICAL AND DENTAL  
BENEFITS**

This memo presents the results of pricing the proposed medical and dental benefits for survivors of members following duty-related deaths. The eligibility for this proposed benefit is the same as the eligibility for the existing \$150,000 duty-death benefit. Currently, survivors of members killed in the line of duty have access to medical benefits through the Public Employees Benefits Board (PEBB) at their own expense. This proposal would provide 100 percent of the PEBB medical and dental premiums for duty-death survivors for life and dependents while eligible.

The proposal would increase contribution rates by a total of 0.06 percent (employee 0.03 percent, local employer 0.02 percent, state 0.01 percent) and have a total employer cost of \$0.8 million for 2007-2009.

**Members Impacted**

We expect an average of approximately three duty-related deaths per year. Our current assumed duty-related death rate is 0.0002 for all ages; or two duty-related deaths for every 10,000 active members. We assume that there are approximately 24 current survivors as the result of prior duty-related deaths. A typical survivor impacted by this proposal would receive medical benefits with a current value of \$308 to \$859 per month plus dental benefits with a current value of \$44 to \$87 per month depending on age and family status.

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## Assumptions

We assumed that the eligibility requirement would be the same as the current eligibility requirement for the \$150,000 duty-death benefit. We assumed that 100 percent of active members were married. We used the duty-death assumption of 0.002 at all ages for the pre-retirement mortality assumption. We assumed that survivors would elect the most expensive medical plan under PEBB, which is currently Regence Blue Shield. We assumed survivors would elect the most expensive dental plan, which is currently Regence Blue Shield: Columbia Dental Plan. We assumed that PEBB premiums would decrease at age 65 because survivors would be enrolled in Medicare at age 65. We assumed that future survivors and half of the survivors in pay status would elect coverage for the subscriber and children for the first ten years and the subscriber only thereafter. We assumed that the other half of the survivors in pay status would elect coverage for the subscriber only.

---

<b>2006 PEBB Retiree Monthly Premiums: Regence Blue Shield*</b>			
	<b>Medical</b>		<b>Dental</b>
	<b>Pre-Medicare</b>	<b>Enrolled in Medicare</b>	<b>Before/After Medicare</b>
<b>Subscriber Only</b>	\$493.87 / month	\$308.45 / month	\$43.46 / month
<b>Subscriber and Children</b>	\$858.54 / month	\$673.12 / month	\$86.92 / month

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\* Full dental plan name is Regence Blue Shield: Columbia Dental Plan.

We assumed that the trend rate for medical inflation is 13.5 percent the first year, decreasing by 1.0 percent per year to an ultimate rate of 3.5 percent. The remaining assumptions were the same as those discussed in the 2004 actuarial valuation report for the pension plan.

To approximate the number of current duty-death survivors, we derived an estimated 24 survivors by starting with two methods to develop a best-estimate range of 9-42 survivors, then selected the number 24 near the midpoint of the range as our best single-point estimate. The low end of the range was based on the number of duty-death survivors currently in PEBB. The high end of the range was derived by retroactively applying our duty-death assumption since the inception of the plan. Additionally, our data shows 19 survivors receiving annuities from the pension plan. To calculate the liability for the estimated five unknown current duty-death survivors, we took the ratio of (24/19 -1) times the liabilities for medical benefits in PEBB for the 19 known survivors in the data. We assumed that the medical benefits would be paid for the surviving spouse and dependent children and not for future spouses if surviving spouses remarry.

## Costs

The proposal will impact the actuarial funding of LEOFF 2 by increasing the present value of benefits payable under the plan and the required actuarial contribution rate as shown below:

\$ in Millions	Cost Summary		
	Current	Increase	Total
<b>Increase in Present Value of Fully Projected Benefits</b>	\$4,800	\$8	\$4,808
<b>Increase in Present Value of Unfunded Credited Projected Benefits</b>	(\$426)	\$6	(\$420)

Increase in Contribution Rates: (Effective 9/1/2006)	
<b>Current Members</b>	
Employee	0.03%
Employer	0.02%
State	0.01%
<b>New Entrants*</b>	
Employee	0.02%
Employer/State	0.02%

*\*Rate change applied to future new entrant payroll and used for fiscal budget determinations only. A single supplemental rate increase, equal to the increase for current members, would apply initially for all members or employers.*

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

<b>Duty-Death Medical Benefits</b>	
<b>Costs (in Millions)</b>	
<b>2006-2007</b>	
<b>State:</b>	
General Fund	\$0.1
Non-General Fund	<u>\$0.0</u>
<b>Total State</b>	<b>\$0.1</b>
Local Government	\$0.2
Total Employer	\$0.3
Total Employee	\$0.3
<b>2007-2009</b>	
<b>State:</b>	
General Fund	\$0.2
Non-General Fund	<u>\$0.0</u>
<b>Total State</b>	<b>\$0.2</b>
Local Government	\$0.6
Total Employer	\$0.8
Total Employee	\$0.8
<b>2006-2031</b>	
<b>State:</b>	
General Fund	\$5.9
Non-General Fund	<u>\$0.0</u>
<b>Total State</b>	<b>\$5.9</b>
Local Government	\$10.0
Total Employer	\$15.9
Total Employee	\$15.9

These estimates are based on assumptions regarding the current number of duty-related survivors, the medical plans selected, the number of dependents covered, and health care inflation. The actual costs will be different if these assumptions are not realized.



WASHINGTON STATE LEGISLATURE  
**Office of the State Actuary**

November 30, 2005

**TO:** Steve Nelsen, Executive Director  
LEOFF 2 Retirement Board

**FROM:** Marty McCaulay, FSA, EA, MAAA, Senior Pension Actuary *PMM*  
Office of the State Actuary

**CC:** Matt Smith, FCA, EA, MAAA, State Actuary  
Office of the State Actuary

**RE: LEOFF 2 DUTY-RELATED TOTAL DISABILITY BENEFITS**

This memo presents the results of pricing the proposed total disability benefit. This benefit will be provided to those determined to be totally disabled while in the line of duty. The proposed benefit will provide 70 percent of the member's final average salary (FAS), but will be offset by any disability payments from sources such as the Social Security Administration (SSA) or the Department of Labor and Industries (L&I), including time-loss benefits so that the sum of all of the benefits does not exceed 100 percent of the member's FAS.

**Cost Summary**

Below is a summary of contribution rate increases for this proposal:

<b>Increase in Contribution Rates:</b>	
(Effective 9/1/2006)	
<b>Current Members</b>	
Employee	0.02%
Employer	0.01%
State	0.01%
<b>2007-2009 Costs</b>	
(In Millions)	
Employee	\$0.6
Employer	\$0.4
State	\$0.2

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## Members Impacted

A LEOFF 2 member will be considered totally disabled if his or her disability occurs in the line of duty and he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings of more than \$810 per month in 2004 and indexed to inflation.

Any of the 14,754 active members as of September 30, 2004, could potentially be affected by this proposal. In addition, all future active members could be impacted. As of September 30, 2004, the average active member in LEOFF 2 earns \$69,098 per year and has 11.3 years of membership service. According to current LEOFF 2 plan provisions, a typical member who is disabled in the line of duty is entitled to a benefit that is not actuarially reduced from the normal retirement age of 53 on account of early commencement. For example, if a typical member goes out on a duty-disability, he or she could expect to receive approximately  $\$69,098 \times 2\% \times 11.3 = \$15,616^*$  per year in benefits during the first year.

Under the current proposal, the same member, if totally disabled, could expect an annual benefit of around  $\$69,098 \times 70\% = \$48,369^*$ , without offsets. With offsets, this total disability recipient might receive benefits as follows:

<b>Benefit Source</b>	<b>Annual Benefit*</b>	<b>Percent of Benefit</b>
<b>L&amp;I Offset only</b>	\$40,768	59%
<b>LEOFF 2</b>	\$28,330	41%
<b>Total</b>	<b>\$69,098</b>	<b>100%</b>
<b>L&amp;I and SSA Offsets</b>	\$55,278	80%
<b>LEOFF 2**</b>	\$13,820	20%
<b>Total</b>	<b>\$69,098</b>	<b>100%</b>

*\* Benefit formulas in examples above use salary rather than FAS as the basis for benefit amount. This is for illustrative purposes only.*

*\*\*Twenty percent benefit is tax-free and is more valuable than the taxed 22 percent benefit of \$15,616. See assumptions section.*

Of the 59 duty-related disabilities we expect each year (total and occupational), we assume that 18 percent, or about 11, will be totally disabled under the definition above.

## Costs

The proposal will impact the actuarial funding of LEOFF 2 by increasing the present value of benefits payable under the plan and the required actuarial contribution rate as shown below:

<b>\$ in Millions</b>	<b>Current</b>	<b>Increase*</b>	<b>Total</b>
<b>Increase in Present Value of Fully Projected Benefits</b>	\$4,800	\$5	\$4,805
<b>Increase in Unfunded Present Value of Credited Projected Benefits</b>	(\$426)	\$2	(\$424)

*\*After assumption change.*

**Increase in Contribution Rates:**  
(Effective 9/1/2006)

<b>Current Members</b>	
Employee	0.02%
Employer	0.01%
State	0.01%
<b>New Entrants*</b>	
Employee	0.03%
Employer/State	0.03%

*\*Rate change applied to future new entrant payroll and used for fiscal budget determinations only. A single supplemental rate increase, equal to the increase for current members, would apply initially for all members or employers.*

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

**Total Disability - Projected Costs**

**Costs (in Millions)**

**2006-2007**

**State:**

General Fund	\$0.1
Non-General Fund	<u>\$0.0</u>

**Total State** **\$0.1**

Local Government \$0.1

Total Employer \$0.2

Total Employee \$0.2

**2007-2009**

**State:**

General Fund	\$0.2
Non-General Fund	<u>\$0.0</u>

**Total State** **\$0.2**

Local Government \$0.4

Total Employer \$0.6

Total Employee \$0.6

**2006-2031**

**State:**

General Fund	\$7.8
Non-General Fund	<u>\$0.0</u>

**Total State** **\$7.8**

Local Government \$10.6

Total Employer \$18.4

Total Employee \$18.4

## **Assumptions**

The Department of Labor and Industries (L&I) pays its disability recipients 60 to 75 percent of salary, depending on marital status and number of minor dependents up to an indexed maximum salary of 120 percent of Washington state's average wage. The 2004 state average wage was \$38,794 and 120 percent of this salary is \$46,553. For each active member, we compared 60 percent of their annual salary to this maximum value and chose the lesser of the two. The resulting 60 percent salary figure with cap was \$40,954, which is 59 percent of the average LEOFF 2 annual salary. To adjust for the L&I maximum limit, we assumed members disabled under this proposal would receive 59 percent of FAS based on the 2004 pay for LEOFF 2 active members.

The Social Security Administration also provides disability benefits for those members whose employers participate. We assume that for a typical member who is covered by Social Security, disability benefits paid by SSA would be approximately 30 percent of salary, or for our average LEOFF 2 member, \$20,729 per year. According to the SSA website, most disability claims are processed within about three months. We assume for pricing purposes that the Social Security offset is effective immediately.

In his presentation to the LEOFF 2 Retirement Board on September 28, 2005, Shawn Merchant reported that 58.53 percent of law enforcement officers and 6.48 percent of firefighters in Washington state contribute to Social Security. Using this information, we assumed that as of September 30, 2004, 55 percent of the 8,533 active law enforcement officers are covered by Social Security. Similarly, we used a 5 percent assumption of Social Security coverage for the 6,221 active fire fighters.

According to the Labor and Industries' web site, disability benefits for L&I are offset by Social Security disability benefits in such a way that the sum of L&I benefits and SSA benefits may not exceed 80 percent of the member's salary at disablement. Therefore, we assumed that time-loss and permanent L&I benefits, plus Social Security benefits represent 80 percent of FAS for those members totally disabled in the line of duty who are covered by Social Security. With a maximum of 100 percent of FAS, this would provide a maximum benefit of 20 percent of FAS from LEOFF 2 for these members.

Members who receive permanent L&I total disability benefits do not necessarily receive these benefits immediately. In some cases, it can take years for L&I to make a final determination about eligibility. However, employees injured on the job are entitled to time-loss benefits that begin after the employee has missed three days of work. These time-loss benefits are structured in the same way as the permanent total disability benefits, paying 60-75 percent of salary, subject to the same maximum amount and linked to the number of dependents. Therefore, we assume that for members not covered by Social Security, all offsets combined, namely temporary and permanent L&I benefits, equal 59 percent of FAS as described above, with no waiting period. With a maximum of 100 percent of FAS, this would provide a maximum benefit of 41 percent of FAS from LEOFF 2.

We also assume that the member will elect the better of the taxed unreduced duty-disability benefit and this proposed tax-free total disability benefit with offsets. We used a 15 percent tax rate in making this comparison, regardless of the size of the taxed benefit. We assume that, on average, members with only an L&I offset would receive a 59 percent total offset, or a 41 percent tax-free benefit. Therefore, members with 41 percent/85 percent/2 percent = 24 or more years of service would benefit more from the unreduced occupational disability benefit than from a tax-free total disability benefit with offsets.. In other words, a member would choose a taxable benefit of 48 percent over a tax-free benefit of 41 percent and would choose a tax-free benefit of 41 percent over a taxable benefit of less than 48 percent. This assumption slightly reduced the cost.

We assume that 18 percent of all duty-related disabilities will be total disabilities. For the total disability benefit, we changed our disability assumption to use rates based on the disability rates used by the Colorado Fire and Police Pension Association Death and Disability Fund for their January 1, 2004, valuation prepared by Mellon. We assume that the probability that a disability is duty related decreases with age.

<b>Age</b>	<b>Disability Rate</b>	<b>Duty Related Probability</b>	<b>Totally Disabled</b>
20	0.001011	0.9500	0.18
25	0.001138	0.9247	0.18
30	0.001280	0.9000	0.18
35	0.001780	0.8746	0.18
40	0.002473	0.8500	0.18
45	0.003366	0.8000	0.18
50	0.011830	0.7500	0.18

For example, a 40-year-old member has a 0.2473 percent chance of becoming disabled in a year (about one out of 400). Furthermore, there is an 85 percent chance the disability would be duty related and an 18 percent chance it would be a total disability.

We considered but did not include any assumptions about the possibility of a member recovering from total disability status and returning to active duty. While the proposal allows for this possibility, any reduction in liabilities resulting from this inclusion would not be material.

We also considered but did not include an assumption about liability increases that might occur if these totally disabled members choose a joint and survivor option. The factors used to reduce benefits for the selection of these options are considered actuarially equivalent to a single life benefit if the member making the selection is healthy. Mortality rates are slightly higher for disabled members. Therefore this possibility could increase costs, but as with recovery, the change would not be material.

All other assumptions are consistent with the assumptions disclosed in the 2004 LEOFF 2 Actuarial Valuation Report.