

Duty Death Benefits

Preliminary Report

LEOFF Plan 2 Retirement Board

October 27, 2010

Issue Description

- The Surviving spouses of a member killed in course of employment who are receiving Workers' Compensation death benefits cannot continue to receive the monthly benefit after remarriage.

Policy Approaches

1. Modified Eligibility

- Domestic Partnership

2. Coordinated Benefit

- Benefit Transfer
- Benefit Transfer with 100% Cap
- 60% Pension with Workers' Comp Offset

Option 1 – Domestic Partnership

- Allow survivor to register on State Domestic Partnership registry
- Continue to receive Workers' Compensation benefits
- Allows surviving spouse to receive domestic partner benefits

Option 1 – Domestic Partnership

- Health care facility visitation rights
- Ability to grant informed consent for health care for a patient who is not competent
- Inheritance rights when the domestic partner dies without a will
- Property of domestic partners are subject to community property laws
- A domestic partner is a "family or household member" for purposes of the domestic violence laws

Option 2A - Benefit Transfer

- Establish a coordinated L2 duty death pension benefit with Workers' Compensation Survivor Pension
 - LNI Pays survivor benefit until remarriage
 - LEOFF Plan 2 pays for equivalent monthly survivor benefit starting after remarriage

Option 2A - Benefit Transfer

■ Benefit Before Remarriage

Pension	\$3,000
<u>L&I</u>	<u>3,900</u>
TOTAL	\$6,900

YOS: 25

FAS: \$6000

$$\bullet 2\% \times 25 \times \$6000 = \$3000$$

■ Benefit After Remarriage

Pension	\$6,900
<u>L&I</u>	<u>0</u>
TOTAL	\$6,900

LNI Wage: \$6500

$$\bullet \$6500 \times 60\% = \$3900$$

Option 2B - Benefit Transfer/100% Cap

- Establish a coordinated L2 duty death pension benefit with Workers' Compensation Survivor Pension
 - LNI pays full survivor benefit up to remarriage
 - LEOFF Plan 2 pays benefit increased up to 100% starting after remarriage

Option 2B - Benefit Transfer/100% Cap

■ Benefit Before Remarriage

Pension	\$3,000
<u>L&I</u>	<u>\$3,900</u>
TOTAL	\$6,900

YOS: 25

FAS: \$6000

• $2\% \times 25 \times \$6000 = \3000

• $100\% \times \$6000 = \6000

■ Benefit After Remarriage

Pension	\$6,000
<u>L&I</u>	<u>\$ 0</u>
TOTAL	\$6,000

LNI Wage: \$6500

• $\$6500 \times 60\% = \3900

Option 2B - Benefit Transfer/100% Cap

■ Benefit Before Remarriage

Pension	\$ 500
<u>L&I</u>	<u>\$3,300</u>
TOTAL	\$3,800

YOS: 5

FAS: \$5000

• $2\% \times 5 \times \$5000 = \500

• $100\% \times \$5000 = \5000

■ Benefit After Remarriage

Pension	\$3,800
<u>L&I</u>	<u>\$ 0</u>
TOTAL	\$3,800

LNI Wage: \$5500

• $\$5500 \times 60\% = \3300

Option 2C – 60% Benefit & Offset

- Establish a coordinated L2 duty death pension benefit with Workers' Compensation Survivor Pension
 - LNI pays full survivor benefit up to remarriage
 - LEOFF Plan 2 benefit increased to 60%
 - LNI benefit reduced by difference between original L2 benefit amount and 60% benefit after remarriage

Option 2C – 60% Benefit & Offset

■ Benefit Before Remarriage

Pension	\$3,000
<u>L&I</u>	<u>\$3,900</u>
TOTAL	\$6,900

YOS: 25

FAS: \$6000

• $2\% \times 25 \times \$6000 = \3000

• $60\% \times \$6000 = \3600

• $\$3600 - \$3000 = \$600$

■ Benefit After Remarriage

Pension	\$3,600
<u>L&I</u>	<u>\$3,300</u>
TOTAL	\$6,900

LNI Wage: \$6500

• $\$6500 \times 60\% = \3900

• $\$3900 - \$600 = \$3300$

Prohibition on Remarriage

Questions?

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

Duty Related Death Benefits Preliminary Report

October 27, 2010

1. Issue

The Surviving spouses of a member killed in course of employment who are receiving Workers' Compensation death benefits cannot continue to receive the benefit after remarriage.

2. Staff

Tim Valencia, MBA, GBA
Senior Research and Policy Manager
(360) 586-2326
tim.valencia@leoff.wa.gov

3. Members Impacted

This issue impacts survivors of LEOFF Plan 2 members who are killed in the line of duty. As of June 30, 2007 there were 16,099 active members in LEOFF Plan 2.

Although the number of current survivors of line of duty deaths is not known, the Office of the State Actuary estimated for the 2006 Survivor Health Care there would be approximately three duty-related deaths per year and assumed that there were approximately 24 current survivors as the result of prior duty-related deaths.

4. Current Situation

Workers injured in the course of employment receive various industrial insurance benefits. If death results from the injury, the surviving spouse receives a monthly benefit ranging from 60 to 70 percent of the wages of the deceased worker. If a surviving spouse remarries, benefits are discontinued at the end of the month of remarriage. A surviving spouse who remarries may choose to receive a lump sum of 36 times the monthly rate. If the surviving spouse does not choose to receive the lump sum and the remarriage ends, monthly benefits may be reinstated. (Elgee, 2009) Legislation to repeal the remarriage/benefit discontinuation policy has failed during the last four legislation sessions. (Appendix A)

None of the current Washington state administered retirement plans contain benefit provisions that are affected when a survivor remarries.

5. Background Information and Policy Issues

A policy inconsistency exists between Workers' Compensation benefits and retirement benefits regarding the continuation of survivor benefits when the survivor of a member killed in the line of duty remarries. A survivor who remarries will continue to receive retirement benefits but may lose Workers' Compensation benefits.

Unlike retirement benefits, surviving spouses who are receiving Workers' Compensation death benefits cannot continue to receive the benefit after remarriage. The LEOFF Plan 2 Retirement Board has been contacted by survivors of members killed in the line duty regarding this policy.

Retirement Benefits for Survivors

If a member dies in the line of duty, the surviving spouse may choose between the following two benefits:

1. Payment of 150 percent of the member's accumulated contributions, or
2. A monthly benefit based on the member's accrued service

If a survivor elects the continuing benefit, the survivor will continue to receive the benefit for their lifetime. If a survivor remarries, it has no impact on the survivor's receipt of retirement benefits. Since inception, LEOFF Plan 2 has not contained any provisions that reduce benefits upon remarriage of a survivor.

Although LEOFF Plan 1 at one point contained such a provision, it removed from the plan by the Legislature in 1977. In 2002, a provision was added to LEOFF Plan 1 to make the 1977 legislation retroactive, allowing pre-1977 survivors to remarry and continue receiving survivor retirement benefits.

None of the other State administered pension plans have prohibition of remarriage provisions. However, the pre-LEOFF Plan, administered at the local government level, does contain a remarriage prohibition.

Workers' Compensation Benefits for Survivors

If a worker dies from a work-related injury or occupational disease, a surviving spouse receives a monthly benefit from Workers' Compensation. The amount the survivor receives is 60% of the worker's wages at the time of death. There are no actuarial reductions applied to this survivor benefit. Additional benefits are payable if there are surviving minor child/ren.

If a worker becomes disabled due to an injury, the worker may be paid a monthly pension for life. The amount the worker receives is based on the formula used for setting time-loss compensation payments. If the disabled worker dies and the death is not related to their disabling work-related injury or occupational disease, a surviving spouse is entitled to benefits if a pension survivor option was selected. The amount the survivor will receive is based on the survivor option chosen, which provides from 50 percent to 100 percent of the *actuarially reduced* monthly pension the disabled worker was receiving.

If the disabled worker dies and the death is related to their disabling work-related injury or occupational disease, the amount the survivor receives is 60% of the worker's wages at the time of disablement. There are no actuarial reductions applied to this survivor benefit.

If a surviving spouse of someone who died from a work-related injury or occupational disease remarries, monthly benefit payments stop. This occurs whether a duty-related death or death following retirement from disability. The survivor will receive benefits through the end of the month in which they remarry. The survivor then has the option to receive a final settlement, or to leave the settlement in trust with Workers' Compensation.

If the survivor accepts the settlement, no further benefits are paid under the claim. If the survivor leaves the settlement in trust and the new marriage ends in death, annulment or divorce, the survivor can apply to reinstate the pension as of the date of death or date the divorce becomes final. Should the survivor die while the settlement is in trust, the survivor's estate is paid 50 percent of the remaining pension reserve or the settlement amount, whichever is less.

If a surviving spouse of someone whose death is not related to their disabling work-related injury or occupational disease remarries, monthly benefit payments do not stop if a survivor option was selected. Similar to survivor retirement benefits, the worker's benefit was actuarially reduced to reflect the cost of continuing the benefit over the survivor's lifetime.

A surviving spouse will also receive an immediate cash payment amounting to 100 percent of the state's average monthly wage¹. Also, L&I will pay burial/cremation expenses up to 200 percent of the state's average monthly wage.

Social Security Benefits for Survivors

Additional federal death benefits are available to survivors of state retirement system members covered by Social Security. The survivors of covered members may be eligible for a death benefit if they meet age, income, or other restrictions. The age eligibility for the Social Security death benefit is based on age 65 eligibility for full benefits, and reduced benefits are available beginning at age 60. The size of the Social Security death benefit is dependent on the contributions the deceased made to Social Security during the member's career. The majority of LEOFF members do not participate in Social Security. (Pringle, 2010)

¹ A calculation made by the Department of Employment Security and adjusted each year.

Administrative Issues

The requirement to determine eligibility for continuing benefits has created administrative challenges for the Department of Labor and Industries. In fact, the Department of Labor and Industries received an audit finding from the State Auditor's Office in 2006 for paying benefits to survivors who were no longer eligible due to remarriage. (WA State Auditor's Office, 2006) Eliminating this requirement may help the Department of Labor and Industries.

Policy Treatment in Other States

Preliminary research by the LEOFF Plan 2 Retirement Board has identified at least four states that do not stop survivor benefits upon remarriage (See Appendix B). Those states include: Kansas, Minnesota, Nevada, and North Dakota. In the case of Nevada, the continuation of benefits after remarriage is an exception for surviving spouses of police officers or firefighters.

Treatment of Domestic Partnerships

Under the intent of the current domestic partnership law, state registered domestic partners must be treated the same as married spouses. Accordingly, Labor and Industries will stop the benefits of a LEOFF Plan 2 survivor who registers on the State domestic partnership registry. The following describes the recent history and development of the domestic partnership law in Washington State.

In 2007 the Legislature created a domestic partnership registry in the Office of the Secretary of State (OSOS). The legislation² allows individuals to enter into a state registered domestic partnership so long as the individuals meet certain criteria, such as sharing a common residence; being at least 18 years of age; being members of the same sex; or one person being at least 62 years of age.

The 2007 legislation extended certain powers and rights available to spouses to domestic partners, such as health care facility visitation rights; ability to grant informed consent for health care for a patient who is not competent; title and rights to cemetery plots; and automatic termination of power of attorney upon termination of the partnership. See Appendix C for additional details.

Same-sex domestic partners of public employees are eligible to participate in Public Employees Benefits Board (PEBB) insurance coverage. A certificate of domestic partnership issued to a same sex couple by the OSOS fulfills eligibility requirements for the same sex partner of the public employee to receive benefits.

In 2008 the Legislature expanded the rights and responsibilities of domestic partners. The legislation³ amended statutes related to dissolutions; community property; estate planning; taxes; court process; service to indigent veterans and other public assistance; conflicts of interest for public officials; and guardianships. See Appendix C for additional details.

² SSB 5336 (2007)

³ 2SHB 3104 (2008)

In 2009 the Legislature enacted additional legislation with the intent that for all purposes under state law, state registered domestic partners must be treated the same as married spouses.⁴ Agencies were required to amend their rules to reflect the intent of the Legislature to ensure that all privileges, immunities, rights, benefits, or responsibilities granted or imposed by statute to an individual because that individual is or was a spouse in a marital relationship are granted or imposed on equivalent terms to an individual because that individual is or was in a state registered domestic partnership.

The terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family are interpreted as applying equally to state-registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage apply equally to state-registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Gender specific terms such as husband and wife used in any statute, rule, or other law are construed to be gender neutral, and applicable to individuals in state-registered domestic partnerships.

Other legislation⁵ passed in the 2009 session allowed qualified domestic partners to be eligible for survivor and death benefits under the same circumstances as spouses in WSPRS and LEOFF Plan 2, respectively. Additionally, domestic partners of a LEOFF Plan 2 member killed in the course of employment are eligible for the same pension and PEBB access and reimbursement benefits provided to spouses of members of LEOFF Plan 2.

6. Policy Options

At the June 16, 2010 Meeting of the LEOFF Plan 2 Retirement Board, the Board requested staff to further develop options to continue Workers' Compensation benefits to LEOFF Plan 2 survivors. Additional direction will be required from the Board regarding the coordinated benefit option alternatives before pricing information can be provided.

Option 1 –Domestic Partnership

This option allows the surviving spouse of a member who is killed in the line of duty to register on the state domestic partnership registry and continue receiving Workers' Compensation survivor benefits. This option would require a change in the domestic partnership laws to make the survivors eligible and to the Workers' Compensation laws to ensure continuation of benefits. The preliminary pricing provided by the Office of the State Actuary (OSA) indicates that they do not believe this option would have any material impact on the retirement system. (See attached; Won, Lisa (Office of the State Actuary). Letter to: Steve Nelsen (LEOFF Plan 2 Retirement Board). 2010 Oct 15)

⁴ E2SSB 5688 (2009)

⁵ ESHB 1445 (2009) and EHB 1616 (2009)

Option 2 – Coordinated Benefit

This option would establish some form of coordinated benefit for the surviving spouse of a member who is killed in the line of duty between Workers' Compensation and LEOFF Plan 2 would both.

Below are three different methods for creating a coordinated benefit:

[2A] Benefit transfer at remarriage

[2B] Benefit transfer at remarriage with 100% cap

[2C] Benefit transfer at remarriage with 60% cap and offset

Each of these provides a mechanism for a survivor to continue to receive most or all of the benefits they were receiving prior to remarriage. Each process results in varying degrees to LEOFF Plan 2 paying more benefits after remarriage and Workers' Compensation paying less.

[2A] Benefit transfer at remarriage

Workers' Compensation and LEOFF Plan 2 would both pay a survivor pension, up until the survivor remarries. After remarriage, LEOFF Plan 2 pays a benefit equivalent to the LEOFF Pension and the Workers' Compensation pension, combined. Workers' Compensation would cease paying any benefits. The survivor continues to receive the same amount of benefits upon remarriage, but the benefits are paid entirely out of LEOFF Plan 2.

[2B] Benefit transfer at remarriage with 100% cap

Workers' Compensation and LEOFF Plan 2 would both pay a survivor pension, up until the survivor remarries. After remarriage, LEOFF Plan 2 pays a benefit equivalent to the LEOFF Pension and the Workers' Compensation pension, combined but is capped at 100% of final average salary. Workers' Compensation would cease paying any benefits. The benefit cap could result in lower total benefits when calculated on higher years of service. A benefit calculated on lower years of service would provide the same level of benefit as before marriage.

[2C] Benefit transfer at remarriage with 60% cap and offset

Workers' Compensation and LEOFF Plan 2 would both pay a survivor pension, up until the survivor remarries. After remarriage, LEOFF Plan 2 pays a benefit equivalent to 60% of final average salary. Workers' Compensation continues to pay a survivor benefit, but the benefit would be offset (reduced) by the difference between the original LEOFF Pension benefit amount and the 60% benefit. The survivor continues to receive the same total benefits upon remarriage, but receives a higher amount from LEOFF Plan 2 and a lower amount from Workers' Compensation.

Appendix A: Legislative History

The Legislature has considered the policy issue of terminating worker's compensation death benefits when the surviving spouse of certain public safety employees remarries during each of the last four Legislative Sessions (HB 1545/2007 & 2008, HB 1212/2009, HB 2519/2010).

2007 - 2008 Legislative Sessions. Legislation first introduced to the 2007 Legislature by Representative Steve Kirby (HB 1545) would have allowed surviving spouses of LEOFF Plan 2 members, who are receiving Workers' Compensation death benefits, to continue to receive the benefit after remarriage.

A Fiscal Note from the Department of Labor and Industries estimated the cost of the bill at \$201,662 in the 2007-09 biennium and \$21,536 in each of the 2009-11 and 2011-13 biennia. The Fiscal Note did not identify specific costs attributable to self-insurers.

The 2007 bill did not receive a hearing. During the 2008 session, the bill was passed unanimously by the House of Representatives, but the bill did not move past the Senate Rules Committee.

2009 Legislative Session. New legislation (HB 1212) was introduced in the 2009 session allowing the continuation of workers' compensation benefits after remarriage for surviving spouses of LEOFF Plan 2 members and Washington State Patrol Retirement System members who died in the course of employment or whose death is due to an occupational disease.

A Fiscal Note from the Department of Labor and Industries estimated the cost of the bill at \$637,000 in the 2007-09 biennium and \$56,000 in each of the 2009-11 and 2011-13 biennia. The 2007-09 cost *includes* \$223,429 self-insurers will have to pay as their portion of the on-time reserve increase to the Pension Reserve Fund. Self-Insured plans would also incur costs of \$19,000 per future biennium for new claims.

The bill passed the House of Representatives, but was amended in the Senate before being passed. The amendment requires the Workers' Compensation Advisory Committee to study issues relating to allowing a surviving spouse to continue to receive industrial insurance death benefits after remarriage. The amended bill was sent to Conference Committee, but did not proceed any further. The bill was returned to the House of Representatives for consideration during the 2010 session.

Following the 2009 Legislative Session, Representative Steve Conway, Chair of the House Commerce and Labor Committee and Senator Jeanne Kohl-Welles, Chair of the Senate Labor, Commerce, and Consumer Protection Committee, sent a joint letter to Judy Schurke, Director of Labor and Industries requesting a study on the policy of terminating survivors' benefits upon remarriage. The letter requested the following information:

1. The history of and reasons for the policy.
2. The cost of changing the policy and likely impact on rates.
3. Alternatives to offset potential costs.

4. The number of spouses currently receiving monthly benefits.
5. The number of remarriages that have occurred.
6. Assumptions regarding the expected number of new surviving spouses and likelihood of future remarriages.
7. Savings that may result from no longer needing to ensure that remarried spouse stop receiving benefits.
8. Whether other states allow continuation of benefits.
9. Whether other states treat public safety employees different from other employees.

2010 Legislative Session. A comprehensive death benefits bill (HB2519) recommended to the Legislature included a provision which would have eliminated the remarriage prohibition for workers' compensation benefits on surviving spouses of LEOFF and State Patrol members killed in the course of employment. The provision also provided that surviving spouses whose benefits had been suspended due to remarriage would have their benefits resume.

A Fiscal Note from the Department of Labor and Industries estimated the cost of the bill at \$1,080,500 in the 2009-11 biennium and \$72,000 in each of the 2011-13 and 2013-15 biennia. The 2009-11 cost *does not* include \$1,089,858 self-insurers will have to pay as their portion of the one-time reserve increase to the Pension Reserve Fund. Self-Insured plans would also incur costs of \$44,800 per future biennium for new claims.

The House of Representatives overwhelmingly passed the legislation. However, in the Senate an amendment removed the remarriage prohibition provision and increased the lump-sum cash out option from 24 months of salary to 36 months of salary. The Senate passed the bill as amended. The House of Representatives concurred and passed the amended bill.

Appendix B: States Allowing Continuation of Benefits After Survivor Remarriage

Kansas	<p><u>44-510b. Compensation where death results from injury; compensation upon remarriage; apportionment; burial expenses; limitations on compensation; annual statement by surviving spouse.</u></p> <p>(1) If the employee leaves a surviving legal spouse or a wholly dependent child or children, or both, who are eligible for benefits under this section, then all death benefits shall be paid to such surviving spouse or children, or both, and no benefits shall be paid to any other wholly or partially dependent persons.</p> <p>(2) A surviving legal spouse shall be paid compensation benefits for life, except as otherwise provided in this section.</p> <p>(4) If the employee leaves no legal spouse or dependent children eligible for benefits under this section but leaves other dependents wholly dependent upon the employee's earnings, such other dependents shall receive weekly compensation benefits as provided in this subsection until death, remarriage or so long as such other dependents do not receive more than 50% of their support from any other earnings or income or from any other source, except that the maximum benefits payable to all such other dependents, regardless of the number of such other dependents, shall not exceed a maximum amount of \$18,500.</p> <p>(g) The marriage or death of any dependent shall terminate all compensation, under this section, to such dependent except the marriage of the surviving legal spouse shall not terminate benefits to such spouse. Upon the death of the surviving legal spouse or the marriage or death of a dependent child, the compensation payable to such spouse or child shall be reapportioned to those, among the surviving legal spouse and dependent children, who remain eligible to receive compensation under this section.</p>
--------	---

<p>Minnesota</p> <p>Per MN worker's comp staff, benefits do not cease or suspend due to remarriage after 10/1/83, per Ott v. Krans</p>	<p><u>176.111 Dependents, allowances.</u></p> <p>Subdivision 1. Persons wholly dependent, presumption. For the purposes of this chapter the following persons are conclusively presumed to be wholly dependent: (a) spouse, unless it be shown that the spouse and decedent were voluntarily living apart at the time of the injury or death;</p> <p>Subd. 6. Spouse, no dependent child. If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at 50 percent of the weekly wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.</p> <p>Subd. 9a. Remarriage of spouse. A surviving spouse who remarries and is receiving benefits under subdivision 6, 7, or 8 shall continue to be eligible to receive weekly benefits for the remaining period that the spouse is entitled to receive benefits pursuant to this section.</p> <p>-----</p> <p><i>Winter, deceased by Winter Ott v. D.J. Kranz, 3/31/04*</i> DOD: 11/24/97</p> <p>Dependency Benefits – Remarriage of Spouse Minnesota Statutes §176.111, subd. 8 Minnesota Statutes §176.111, subd. 9a Minnesota Statutes §176.111, subd. 16</p> <p>The purpose of Minnesota Statutes §176.111 is to provide wage replacement benefits to a surviving spouse and dependent children. We cannot conclude the phrase “continue to be eligible to receive” requires that benefits to the surviving spouse be suspended upon remarriage. Rather, the dependency statute, as amended effective Jan. 1, 1984, continues to provide for the continuation of benefits to a surviving spouse upon remarriage. Affirmed.</p>
<p>Nevada</p>	<p><u>NRS 616C.505 Amount and duration of compensation.</u> If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit and is payable as follows:</p> <p>2. Except as otherwise provided in subsection 3 and NRS 616C.507, to the surviving spouse of the deceased employee, 66 2/3 percent of the average monthly wage is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage.</p> <p><u>NRS 616C.507 Duration of compensation for surviving spouse of police officer or firefighter.</u></p> <p>1. Except as otherwise provided in this section, if the surviving spouse of a deceased police officer or firefighter who died while actively employed as a police officer or firefighter is entitled to be paid compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487, the surviving spouse:</p> <p>(a) Must be paid that compensation until the death of the surviving spouse, whether or not the surviving spouse remarries; and</p> <p>(b) Must not be paid any compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 in one lump sum upon remarriage.</p> <p>(Added to NRS by 2007, 678)</p>

North Dakota	<p><u>65-05-21. Marriage settlement to spouse.</u></p> <p>If a spouse who receives compensation under the provisions of subsection 1 of section 65-05-17 remarries, there shall be paid to such spouse a lump sum equal to one hundred four weeks' compensation. If, prior to such marriage, such spouse has received a partial lump sum settlement which covers all or any portion of the said one hundred four weeks following such spouse's marriage, the amount of such partial lump sum settlement which covers all or any part of the said one hundred four weeks following such spouse's marriage shall be deducted from such marriage settlement, and the spouse shall receive only the remainder, if any, over and above such deduction. Any judgment annulling such marriage shall not reinstate the right of such spouse to compensation if the action for annulment is instituted more than six months after the marriage. The provisions of this section apply only to remarriages that occur before August 1, 2003, regardless of the date of injury or date of death of the decedent.</p>
--------------	---

Appendix C: Legislative Summary of Domestic Partnership Benefits

2007 Legislation

Final Bill Report SSB 5336/C 156 L 2007

Extension of Rights to Domestic Partners: Certain powers and rights granted to spouses are granted to domestic partners as follows:

- health care facility visitation rights;
- ability to grant informed consent for health care for a patient who is not competent;
- authority of health care providers to disclose information about a patient without the patient's authorization to the patient's state registered domestic partner;
- automatic revocation of the designation of a domestic partner as the beneficiary for non probate assets upon termination of the partnership;
- automatic revocation of power of attorney granted to domestic partner upon termination of the partnership;
- title and rights to cemetery plots and rights of interment;
- ability to authorize autopsies and request copies of autopsy reports and records;
- right to control the disposition of the remains of a deceased person;
- ability to consent to removal of human remains from a cemetery plot;
- ability to make anatomical gifts;
- inheritance rights when the domestic partner dies without a will;
- administration of an estate if the domestic partner died without a will or if the representative named in the will declined or was unable to serve;
- beneficiary rights in wrongful death actions; and
- ability to designate a partner's physician as the attorney-in-fact.

2008 Legislation

Final Bill Report 2SHB 3104/C 6 L 2008

Rights and Responsibilities.

Rights and responsibilities provided to spouses in various areas of law are extended to state registered domestic partners. The amended statutes generally involve: dissolutions; community property; estate planning; taxes; court process; services to indigent veterans and other public assistance; conflicts of interest for public officials; and guardianships. The following is a list of the broad categories and a short description of some of the changes made in each category.

Dissolution, Parenting Plans, and Child Support.

- Procedures for dissolution apply to domestic partners.
- Child support, maintenance, and parenting plan obligations, and procedures for enforcing such orders, apply to domestic partners.

Community Property and Other Property Rights.

- Property of domestic partners are subject to community property laws.
- A domestic partner's property is obligated to family expenses and education of the children.
- The slayer statute prohibits inheritance by a domestic partner perpetrator.

- A homestead may consist of property owned by domestic partners.

Judicial Process and Victim's Rights.

- A domestic partner may sue on behalf of the community.
- Testimonial privilege for spouses applies to domestic partners.
- A domestic partner is a "family or household member" for purposes of the domestic violence laws.

Taxes.

- Property assigned from one domestic partner to another under a dissolution decree is exempt from real estate excise tax.
- Property tax deferrals for eligible persons, such as senior citizens meeting certain criteria, extend to the person's surviving domestic partner.

Public Officials.

- Appointed and elected officials must disclose financial affairs of their domestic partners.
- Gifts received by an elected official's domestic partner are subject to public disclosure reporting requirements.
- A domestic partner of an elected official may not be a member of the State Commission on Salaries.

Public Assistance.

- The Department of Social and Health Services must consider hardship to a person's domestic partner, to the same extent hardship is considered for spouses, when filing a lien against a person's property as reimbursement for receiving medical assistance.
- Domestic partners who are residents in long-term care facilities or nursing homes may share the same room under certain circumstances.
- An abused same-sex domestic partner is considered a "victim" for purposes of services provided by domestic violence shelters.

Veterans.

- State colleges and universities must waive tuition for domestic partners of deceased or disabled veterans if certain conditions are met.
- Services for honorably discharged indigent veterans, such as residency in a veteran's home, are available to veterans' domestic partners.

Guardianship and Powers of Attorney.

- Procedures under guardianship laws, such as who is entitled to notice, apply to domestic partners of incapacitated persons.
- Domestic partners may file a petition to determine the effectiveness of a power of attorney, receive an accounting, and request other information regarding the power of attorney.

Probate and Trust Law.

- A domestic partner not named in a will that was created before registration of the domestic partnership is an omitted domestic partner for purposes of intestate distribution.
- Letters testamentary go to the surviving domestic partner to administer community property.

- Procedures under probate involving transfer of community property apply to domestic partners.
- The court may award a certain amount from the estate to the decedent's domestic partner for purposes of family support.

Bibliography

Elgee, J. (2009). *Bill Analysis - House Bill 1212*. Olympia: WA House of Representative Office of Program Research.

Pringle, D. (2010). *House Bill Analysis - House Bill 2519*. Olympia: Office of Program Research, WA House of Representatives.

WA State Auditor's Office. (2006). *Audit Report 6541*. Olympia: WA State Auditor's Office.



Office of the State Actuary

"Securing tomorrow's pensions today."

October 15, 2010

Mr. Steve Nelsen
Executive Director
LEOFF Plan 2 Retirement Board
P.O. Box 40918
Olympia, Washington 98504-0918

SUBJECT: PRELIMINARY PRICING OF CHANGE IN DOMESTIC PARTNER DEFINITION

Dear Steve:

We have completed our preliminary pricing of the following proposal for the Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board (LEOFF 2 Board). As we understand it, the proposal would expand the definition of domestic partner for all qualified survivors of line-of-duty deaths from the following systems.

- ❖ Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF).
- ❖ Washington State Patrol Retirement System (WSPRS).

The new definition of domestic partner would include such survivors as eligible registered domestic partners as long as both partners are over the age of 18, whether in a same-gender or opposite-gender partnership. Current law requires at least one member of an opposite-gender domestic partnership to be age 62 or older.

The proposal would further require the Department of Labor and Industries (L&I) to continue survivor benefits to these survivors if they register as domestic partners. Currently, L&I suspends or discontinues benefits for all beneficiaries who re-marry or enter into new registered domestic partnerships.

Summary of Results

We believe the expanded definition of registered domestic partners could have a slight impact on any or all of Washington's public retirement systems by increasing the potential pool of survivors of pre-retirement deaths. For example, an eligible survivor under this proposal could enter into a domestic partnership with a member of a public retirement system and the retirement system member could designate his/her domestic partner as the beneficiary of any pre-retirement survivor benefits. Since this proposal expands the number of potential domestic partners, we expect to see a slight increase in



the assumed number of pre-retirement survivor payments from the retirement systems. However, our preliminary analysis shows that this impact would not be material for any system.

We do not believe the provision requiring L&I to continue survivor benefits for newly registered domestic partners would have any impact on the public retirement systems.

Things the Reader Should Know

This preliminary actuarial communication does not represent a fiscal note on this proposal. The preliminary results provide the reader with a general sense of the proposal's impact to the state's public pension systems. The preliminary results could change if we prepare a fiscal note on a final proposal or bill.

We intend this preliminary communication to be used by the Board during the 2010 Interim only. If the Board or a legislator introduces this proposal as a bill during the 2011 Legislative Session, we will prepare a fiscal note based on that bill language. The preliminary results shown in this communication may change and the bill language may differ from the provisions documented above.

We advise readers of this preliminary communication to seek professional guidance as to its content and interpretation, and not to rely upon this communication without such guidance. Please read the analysis shown in this communication as a whole. Distribution of, or reliance on, only parts of this communication could result in its misuse, and may mislead others.

Sincerely,

Lisa A. Won, ASA, MAAA
Actuary

cc: Matt Smith, FCA, EA, MAAA
State Actuary

O:\LEOFF 2 Board\2010\10-27-10\Domestic_Partner_Pricing.docx