



Corrections Legislation

**Comprehensive Report
September 25, 2013**

Issue

- Corrections are needed to fix errors and oversights in the statutes.

Background

- 2005 legislation included EMTs in the definition of fire fighter.
- Bill language contained an unintentional expiration date which would make EMTs ineligible for LEOFF membership in 2023.

Policy Options

- 1. Take No Action:** The correction for the definition of fire fighter would expire in 2023.
- 2. Address the EMT Expiration Date:** Change specific language in the statutes to eliminate the 2023 expiration date for EMTs being included in the definition of fire fighter.

Any Questions?

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PRELIMINARY REPORT

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ISSUE

Corrections are needed to fix errors and oversights in the statutes.

MEMBERS IMPACTED

This issue impacts current and future Emergency Medical Technicians in LEOFF Plan 2.

CURRENT SITUATION

The definition of fire fighter is found in RCW 41.26.030 and includes emergency medical technicians. The 2005 legislation which included emergency medical technicians in the definition of fire fighter contained an unintentional expiration date which would make emergency medical technicians ineligible for LEOFF membership in 2023.

Several of the Board's strategic partners have issues that need to be corrected for their programs. Individually, the attempts to fix some of these issues legislatively have been unsuccessful.

This report reviews a potential correction to the definition of fire fighter in LEOFF Plan 2 and identifies three other potential corrections that other organizations may be interested in partnering with the LEOFF Plan 2 Retirement Board for legislative action.

BACKGROUND INFORMATION & POLICY ISSUES

LEOFF Plan 2 Correction

Definition of Fire Fighter / Emergency Medical Technicians – LEOFF Plan 2 Retirement Board

Full-time, fully compensated law enforcement officers and fire fighters are covered by RCW 41.26 (LEOFF retirement system).

Statutory changes to the definition of fire fighter to include emergency medical technicians contain an unintentional expiration date.

Chapter 459, Laws of 2005, sec. 1, added (h) to the definition of fire fighter in RCW 41.26.030(4) to include emergency medical technicians. Section 3 of that same act provides that “This act expires July 1, 2013.” Given that the entire act expires 2013, the inclusion of EMTs within the definition of fire fighter would expire along with the act.

Chapter 304, Laws of 2007, sec. 2 attempted to correct the definition expiration issue by stating “2005 c 459 s 3 (uncodified) is amended to read as follows: Section 2 of this act expires July 1, ((2013)) 2023.” This would have fixed the definition expiration issue. However, section 4 of the legislation states that “This act expires July 1, 2023.”

This results in undoing the “fix” in section 2 and recreates the expiration problem. This means that emergency medical technicians would no longer be eligible for participation in LEOFF after July 1, 2023.

Other Potential Corrections

Reserve Police Officer Survivor Education Benefit - Board for Volunteer Fire Fighters and Reserve Officers

Prior to 2010, state institutions of higher education could optionally waive all or a portion of tuition and fees for eligible students within certain limits. Categories of eligible students included the children of law enforcement officers or fire fighters that died or became disabled in the line of duty. The definition of law enforcement officer for the purpose of the educational waiver included law enforcement officers and fire fighters under RCW 41.26 and reserve law enforcement officers and volunteer fire fighters under RCW 41.24.

Under legislation enacted in 2010, state institutions of higher education were required to waive all tuition, service fees and activity fees for children and spouses of law enforcement officers and fire fighters as defined in RCW 41.26, volunteer fire fighters as defined in RCW 41.24, or Washington State Patrol Officers, who die or become totally disabled in the line of duty.

Reserve law enforcement officers as defined in RCW 41.24 were not included in the eligibility for the required educational waivers. At the same time, the opportunity for an institution to optionally waive tuition and fees for this group was eliminated.

The LEOFF Plan 2 Retirement Board reviewed this issue during the 2012 Interim, but determined it was in the jurisdiction of the Board for Volunteer Fire Fighters and Reserve Officers. Director Nelsen sent the Board for Volunteer Fire Fighters and Reserve Officers a letter dated August 13, 2012 which informed them of this issue.

Health Care Authority

The Health Care Authority (HCA) administers benefits plans for the Public Employees' Benefit Board (PEBB) program serving all state agencies and higher education institutions, some political subdivisions, and some school districts. The Legislature has enacted a number of changes to PEBB affecting eligibility rules and domestic partner rules. A correction is needed to achieve a single statutory provision consistent with the various statutory changes while removing program conflicts. Changes to dependent children coverage is also needed in order to remain compliant with federal law.

The HCA recommended legislation in the 2013 session in an effort to correct the necessary statutes, but the bill (HB 1587) did not pass. The LEOFF Plan 2 Retirement Board endorsed the HCA legislation.

Retiree Return to Work – Select Committee on Pension Policy

The various plans of the Washington State Retirement System each contain rules prescribing the circumstances under which a retired employee may return to employment within a retirement system-covered position and continue to receive retirement benefits.

The 2011 Legislature passed Engrossed Substitute House Bill (ESHB) 1981 (Chapter 47, Laws of 2011, 1st Special Session), which made numerous changes to the rules under which a retired employee may return to employment from the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS).

Prior to the passage of ESHB 1981, retirees from the Plans 2 or 3 of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), the School Employees' Retirement System (SERS), or the Public Safety Employees' Retirement System (PSERS) who have been separated from service for one calendar month after their accrual date may work in a retirement-eligible position for up to 867 hours per calendar year without a reduction in pension benefits.

Engrossed Substitute House Bill 1981 removed the 867-hour option for PERS Plans 2 and 3 members who return to work in other systems (e.g. TRS, SERS, etc.), meaning these retirees will experience an immediate suspension of benefits so long as they continue working. The PERS retirees who return to work in PERS-covered positions may continue to work up to 867 hours per year without a suspension of benefits. Engrossed Substitute House Bill 1981 also applied the 867-hour limit to PERS retirees working in ineligible positions.

The SPCPP recommended legislation (HB 1226) in the 2013 legislative session which would have restored the provisions allowing retirees of the Public Employees' Retirement System (PERS) who return to work in positions covered by other Department of Retirement Systems-administered plans to receive benefits for the first 867 hours of employment per year and also applies the 867-hour return-to-work rules only to PERS retirees hired into eligible positions. The legislation did not pass.

POLICY OPTIONS

Option 1: Take No Action.

Under this option, the Board would take no further action and the correction for the definition of fire fighter would expire in 2023.

Option 2: Introduce Legislation that Addresses the EMT Expiration Date.

Under this option, the Board would change specific language in the statutes that eliminates the 2023 expiration date for EMTs being included in the definition of fire fighter.