

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

Duty-Related Death Benefits

Final Proposal

December 16, 2009

1. Issue

Members need a comprehensive and complete package of duty-related death benefits to fill the gap in the current benefit structure.

2. Proposal Summary

This bill provides a comprehensive package of benefits to augment the existing duty-related death benefits.

3. Staff

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4. Members Impacted

Improvements in the duty-related death benefits could affect any active LEOFF Plan 2 member. As of June 30, 2008 there were 16,626 active members and 1,134 retirees as reported in the Office of the State Actuary's *2008 Actuarial Valuation Report*.

5. Current Situation

Under current law, there are many areas in which the duty-related death benefits for LEOFF Plan 2 members need improvement. Most of the changes in this bill have been looked at by the Board at previous meetings.

6. Background Information

This bill combines many of the previous proposals into one, comprehensive set of enhancements. The bill provides several changes.

1. Provides all survivors of duty-related deaths with the same choice currently provided to members with ten or more years of service (an ongoing pension or a 150% withdrawal of the member's accumulated contributions). **Sec. 1.**
2. Eliminates the actuarial joint and 100% survivor benefit for duty-related deaths. **Sec. 1.** (See Appendix B – Survivor Reduction Factors for complete report).
3. Increases the \$150,000 lump-sum duty-related death benefit to reflect inflation since the original effective date of March 28, 1996 and adds an inflationary adjustment for the future. **Sec. 2.** (See Appendix C - \$150,000 Duty-Related Death Benefit for complete report).
4. LEOFF Plan 2 changes are retroactive to January 1, 2009 (the other sections do not need to be made retroactive). **Sec. 3.**
5. Eliminates the remarriage prohibition for worker's compensation benefits on surviving spouses of public safety employees killed in the course of employment. **Sec. 4. and Sec. 5.** (See Appendix D – Prohibition of Remarriage for complete report).
6. Requires state universities and community colleges to waive tuition fees and services and activities fees for children and surviving spouses of any law enforcement officer or firefighter who is killed or totally disabled in the line of duty. **Sec. 6. and Sec. 7.** (See Appendix E – Educational Benefits for complete report).

7. Policy Option

Policy Option: Duty-Related Death Benefits

Members who are killed in the line-of-duty do not have a comprehensive package of duty-related death benefits. There have significant strides taken over the past five years to improve disability benefits, but the events of the last couple of months have exposed areas where existing duty-related death benefits fall short. The proposed duty-related death benefit bill addresses many of the shortcomings in the current benefit structure.

8. Supporting Information

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Appendix B – Survivor Reduction Factors, Preliminary Follow-up Report, 7-22-2009

Appendix C – \$150,000 Duty-Related Death Benefit, Preliminary Report, 6-23-2009

Appendix D – Prohibition on Remarriage, Preliminary Report, 11-18-2009

Appendix E – Educational Benefits, Preliminary Report, 9-26-2007

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**Appendix B – Survivor Reduction Factors, Preliminary Follow-up Report,
7-22-2009**

Appendix C – \$150,000 Lump-sum Duty-related Death Benefit, Preliminary Report, 6-23-2009

Appendix D – Prohibition on Remarriage, Preliminary Report, 11-18-2009

Appendix E – Education Benefits, Preliminary Report, 9-26-2007

An act related to duty-related death benefits for public safety employees.

Sec. 1. RCW 41.26.510 is amended to read as follows:

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) ((#)) Except as provided in (4), if a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse, domestic partner, or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse, domestic partner, or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, or the retirement allowance of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430 or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 41.26.460. The member's retirement allowance is computed under RCW 41.26.420.

(5) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is

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killed in the course of employment, as set forth in RCW 41.05.011(14), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

Sec. 2. RCW 41.26.048 is amended to read as follows:

(1) A ~~two hundred fourteen~~ (~~(one hundred fifty)~~) thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) The benefit under this section shall be paid only when death occurs: (a) As a result of injuries sustained in the course of employment; or (b) as a result of an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A";

(ii) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen thousand dollars;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index - Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

Sec. 3.

Sections 1 and 2 of this act shall apply to the benefits of all members killed in the course of employment since January 1, 2009.

Sec. 4. RCW 51.32.050 is amended to read as follows:

(1) Where death results from the injury the expenses of burial not to exceed two hundred percent of the average monthly wage in the state as defined in RCW 51.08.018 shall be paid.

(2)(a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker;

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker;

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker;

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker;

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker; or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker.

(b) A surviving spouse of a member of the law enforcement officers' and firefighters' retirement system under chapter 41.26 RCW or the state patrol retirement system under chapter 43.43 RCW who is entitled to benefits under this section must continue to receive benefits under this section monthly for life.

(c) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or

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children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

~~((e))~~ (d) Except as provided in (b) of this subsection, payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That a monthly payment shall be made to the child or children of the deceased worker for the month following such remarriage in a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if after the death of the worker, legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children.

~~((d))~~ (e) In no event shall the monthly payments provided in subsection (2) of this section: (i) Exceed the applicable percentage of the average monthly wage in 16 the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(ii) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month for a surviving spouse and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection ~~((d))~~ (e)(ii) is greater than one hundred percent of the wages of the deceased worker as determined under RCW 51.08.178, the monthly payment due to the surviving spouse shall be equal to the greater of the monthly wages of the deceased worker or the minimum benefit set forth in this section on June 30, 2008.

~~((e))~~ (f) In addition to the monthly payments provided for in subsection (2)(a) through ~~((e))~~ (d) of this section, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid a sum equal to one hundred percent of the average monthly wage in the state as defined in RCW 51.08.018, any such children, or parents to share and share alike in said sum.

~~((f))~~ (g) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i) Receiving, once and for all, a lump sum of twenty-four times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and subject to any modifications specified under subsection ~~((d))~~ (e) of this section and RCW 51.32.075(3) or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in subsection ~~((f))~~ (g)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in subsection ~~((f))~~ (g)(i) of this section during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

~~((g))~~ (h) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in subsection ~~((f))~~ (g)(i) of this section, his or her estate shall be entitled to receive the sum specified under subsection ~~((f))~~ (g)(i) of this section or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

~~((h))~~ (i) The effective date of resumption of payments under subsection ~~((f))~~ (g)(ii) of this section to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

~~((i))~~ (j) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each

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additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) of this section shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to July 1, 1986, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067.

NEW SECTION. Sec. 5. Section 4 of this act applies to remarriages entered into on or after the effective date of this act.

Sec. 6. RCW 28B.15.380 is amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College shall ~~((may))~~ exempt the following students from the payment of all ~~((or a portion))~~ of tuition fees and services and activities fees:

(1) Children of any law enforcement officer or firefighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state-supported college or university within ten years of their graduation from high school; and

(2) Surviving spouses of any law enforcement officer or firefighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state.

Sec. 7. RCW 28B.15.520 is amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may:

(1) Waive all or a portion of tuition fees and services and activities fees for:

(a) Students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015, who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate, but who are not eligible students as defined by RCW

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28A.600.405; and shall waive all of tuition fees and services and activities fees for:

(b) Children of any law enforcement officer or firefighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the waiver only if they begin their course of study at a community college within ten years of their graduation from high school; and

(c) Surviving spouses of any law enforcement officer or firefighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state:

(2) Waive all or a portion of the nonresident tuition fees differential for:

(a) Nonresident students enrolled in a community college course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate but who are not eligible students as defined by RCW 28A.600.405. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate; and

(b) Up to forty percent of the students enrolled in the regional education program for deaf students, subject to federal funding of such program.

DRAFT

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

Survivor Reduction Factors Preliminary Follow-up Report

July 22, 2009

1. Issue

The current practice of using joint and survivor factors to calculate a survivor retirement results in a greater reduction for the surviving spouse, than may be necessary.

2. Staff

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3. Members Impacted

Based on the actuarial data as of June 30, 2007, there were 16,099 active LEOFF Plan 2 members. Changes to the survivor benefit calculation could impact all active members if it causes an increase in the contribution rate.

4. Current Situation

If a member dies prior to retirement and they have ten or more years of service credit or are eligible to retire and their eligible spouse or registered domestic partner chooses a monthly benefit, the benefit is actuarially reduced using the same joint and 100 percent reduction factors, as those used for a service or disability retirement.

5. Background Information

Under the current statutes, if a member dies and has ten or more years of service credit, or is eligible to retire, their surviving spouse is eligible for a survivor benefit. The benefit calculation differs if the death was line of duty versus non-duty. In either case, the benefit is actuarially reduced as if the member had chosen a joint and 100 percent survivor option. If the death was non-duty, and the member was not otherwise eligible to retire, there is an additional actuarial reduction for early retirement (reduced from age 53).

The purpose of a survivor option is to ensure a member's spouse will have a continuing benefit after they die. The value of the benefit the member has earned is based on years of service, final average salary and the number of payments expected to be paid over a lifetime, including cost of living increases. When a survivor option is added to the benefit, experience shows that the number of payments paid out over two lifetimes, is greater than that paid over a single life-time.

In order to ensure that an equivalent benefit is paid if a joint survivor option is chosen, the benefit is reduced. The amount of the reduction is based on the interrelationship of many different factors, including experience studies, projections of life expectancies, and several economic and demographic assumptions. The calculations to create reduction factors for survivor options, as well as early retirements, are performed by the Office of the State Actuary (OSA).

Comparable Plans

In reviewing other peer retirement plans, survivor benefits fall into two main categories: a specified payment amount or the earned benefit (see Appendix A). The majority of peer retirement plans use a specified payment amount. Those that use the earned benefit tend to also apply a joint survivor reduction factor.

Policy Issues

Currently, the application of early retirement factors (retirements prior to the member attaining age 50) are treated differently for duty and non-duty deaths for survivor benefits. If the death is duty related, the actuarial reductions are not applied. If the death is non-duty related, the actuarial reductions are applied. However, the joint and survivor factors are applied equally to both duty and non-duty deaths.

The first issue raised is if the application of the current joint and survivor factors under a survivor retirement are appropriate, since the benefit payments are not made over two lifetimes but only over the survivor's life? Second, if a separate survivor factor table were to be created, should those factors be applied equally to duty and non-duty deaths?

6. Policy Options

Policy Option 1: Create New Actuarial Reduction Factor Table

Under this option a new and separate table would be created for surviving spouses in lieu of the current joint and 100% survivor tables. Spouses who choose the ongoing monthly benefit would have this new table used.

Policy Option 2: Eliminate the Reduction Factor - Prospectively

Under this option no survivor reduction factor would be used for either duty or non-duty survivor retirements from the effective day of the legislation forward. Any survivor retirements prior to the effective day of the legislation would not be recalculated.

Policy Option 3: Eliminate the Reduction Factor – Retroactively

Under this option no survivor reduction factor would be used for either duty or non-duty survivor retirements from the effective day of the legislation forward. In addition, any existing survivor retirements would have the benefit recalculated without the survivor reduction factor. This would only be applied to benefit payments due on or after the effective date of the legislation.

7. Supporting Information

Appendix A: Survivor Benefits Peer Comparison Table

Appendix B: RCW 41.26.510 – Death Benefits

Appendix A

Survivor Benefits Comparison

Plan	Less than minimum number of years	Minimum or more years of service	
		Duty	Non-Duty
Washington State Law Enforcement Officers' & Fire Fighters' Plan 2	1) Refund of accumulated contributions (less than ten years of service)	1) Refund of 150% of accumulated contributions or 2) Earned benefit reduced by joint 100% survivor option (ten or more years of service required)	1) Refund of 150% of accumulated contributions or 2) Earned benefit reduced by joint and 100% survivor option factor and an early retirement factor (if not eligible for normal or early retirement) (ten or more years of service required)
Arizona Public Safety Personnel Retirement System	NA	1) Earned benefit is 100% of deceased member's average monthly benefit compensation, less any amount payable for an eligible child.	1) 80% of either 50% of average monthly compensation or 80% of normal pension amount, whichever is greater.
Arkansas Local Police & Fire Retirement System	1) Refund of accumulated contributions (less than five years)	1) 50% of a benefit calculated as if the member had accrued 25 years of service, reduced by survivor option factor. (five or more years required)	1) 50% of earned benefit, reduced survivor option factor. (five or more years required)
Colorado Fire and Police Pension Association	NA	1) 70% of annual salary.	1) 40% of annual salary.
Delaware County & Municipal Police/Fire Pension	1) Refund of accumulated contribution (less than one year non-duty death).	1) 50% of final average compensation.	1) 50% of final average compensation.
Kansas Police and Firemen's Retirement Systems	NA	1) 50 % of final average salary. For each eligible child also receive an annual benefit of ten percent of final average salary. The maximum total benefit is 75 percent of your final average salary.	1) Lump-sum payment of ten0% of final average salary, plus an annual benefit of final average salary x 2.5% x years of service. The maximum annual benefit is 50% of final average salary
Maryland Pension System for Local Fire Fighters and Police Officers	1) Refund of accumulated contributions (less than one year of service non-duty)	1) Lump-sum equal to ten0% of annual salary at time of death plus accumulated contributions (begins day one of service) or 2) If retirement eligible, earned benefit reduced by the joint ten0% survivor option factor (begins day one of service).	1) Lump-sum equal to ten0% of annual salary at time of death plus accumulated contributions (begins after one year of service) or 2) If retirement eligible, earned benefit reduced by the joint ten0% survivor option factor (begins after one year of service).
New Hampshire Retirement System (Group II – Police & Fire)	1) Lump-sum payment equal to member's annual earnable compensation plus accumulated contributions (less than ten years of service)	1) Lump-sum payment of the member's accumulated contributions plus 50% of the member's annual rate of earnable compensation at the date of the member's death. (ten or more years of service)	1) Lump-sum payment equal to member's annual earnable compensation plus accumulated contributions or 2) 50% of the member's earned pension (ten or more years of service)
Ohio Police and Fire Pension Fund	NA	1) 100% of base pay, provided member is not eligible for an age and service retirement (no service credit requirement). 2) 50% of base pay at the time the member would have been eligible for an age and service retirement, plus \$410 per month plus, COLAs.	1) \$661 per month plus COLAs

Appendix B: RCW 41.26.510 - Death benefits.

*** CHANGE IN 2009 *** (SEE [1551.SL](#)) ***

*** CHANGE IN 2009 *** (SEE [1616.SL](#)) ***

(1) Except as provided in RCW [11.07.010](#), if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW [41.50.670](#), shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW [41.50.670](#), shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW [41.26.430](#), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW [41.50.670](#) and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW [41.26.460](#) and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW [41.26.430](#); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW [41.50.670](#); or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW [41.50.670](#). Any accumulated contributions attributable to restorations made under RCW [41.50.165](#)(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW [41.50.670](#), shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

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(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, is not subject to an actuarial reduction. The member's retirement allowance is computed under RCW [41.26.420](#).

(5) The retirement allowance paid to the spouse and dependent children of a member who is killed in the course of employment, as set forth in RCW [41.05.011](#)(14), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW [41.05.080](#).

[2006 c 345 § 1; 2004 c 5 § 1; 2000 c 247 § 1001. Prior: 1995 c 245 § 1; 1995 c 144 § 19; 1993 c 236 § 3; 1991 c 365 § 31; 1990 c 249 § 14; 1977 ex.s. c 294 § 12.]

Notes:

Contractual right not granted -- 2006 c 345: "The legislature reserves the right to amend or repeal this act in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time." [2006 c 345 § 3.]

Effective dates -- Subchapter headings not law -- 2000 c 247: See RCW [41.40.931](#) and [41.40.932](#).

Effective date -- 1995 c 245: "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 shall take effect immediately [May 5, 1995]." [1995 c 245 § 3.]

Severability -- 1991 c 365: See note following RCW [41.50.500](#).

Findings -- 1990 c 249: See note following RCW [2.10.146](#).

Legislative direction and placement -- Section headings -- 1977 ex.s. c 294: See notes following RCW [41.26.410](#).

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

\$150,000 Duty-Related Death Benefit Preliminary Report

June 23, 2009

1. Issue

The \$150,000 lump-sum death benefit paid to survivors of public employees who die in the line of duty is not adjusted for inflation and has not been increased since it was established in 1996.

2. Staff

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3. Members Impacted

Any member who dies in the line of duty would be impacted. According to the Office of the State Actuary, as of June 30, 2007 there were 16,099 active LEOFF Plan 2 members.

4. Current Situation

If a member dies in the line of duty as a result of an injury or occupational illness sustained in the course of employment, a \$150,000 death benefit is paid to the designated beneficiary. The benefit amount is fixed at \$150,000 and has been the same since 1996.

5. Background Information

Background Information

During the 2006 Legislative Session, the Board sponsored legislation to amend the \$150,000 Death Benefit. The original bill included two amendments to existing statutes. The first added death due to an occupational illness, as a qualified reason to receive the \$150,000 lump-sum death benefit. The second amendment added an annual inflation adjustment to increase the \$150,000 amount over time.

The Board looked at three different inflation options:

1. **Fully indexed to the Consumer Price Index for urban wage earners and clerical workers for the Seattle/Tacoma/Bremerton (CPI-W STB).** Under this option, the value of the benefit would be preserved. However, in times of high inflation funding can become an issue.
2. **Index to changes in the CPI-W STB with a 3 percent per year maximum** (similar to the COLA on pensions). Under this option, the value of the benefit is preserved as long as the long-term rate of inflation is at 3 percent or less. Having a ceiling on the index helps to control costs and promote stable funding.
3. **Increase the benefit by 3 percent per year.** This option is the most simple to administer and in years where inflation is less than 3 percent, would actually increase the value of the benefit.

The proposed inflation adjustment chosen was the same method as the cost of living adjustments (COLA) members receive on their pensions (Option 2). During the original cost analysis done by the Office of the State Actuary (OSA), the addition of the inflation adjustment did not create an increase in contribution rates for LEOFF Plan 2. The Legislature passed the bill but removed the annual inflation adjustment portion of the bill.

The reason given for the removal of the inflation adjustment clause was that all of the other plans also have the same \$150,000 lump-sum death benefit and the Legislature wanted to understand how the other plans might be affected by an annual inflation adjustment before setting a precedent by adopting one for LEOFF Plan 2. The Select Committee on Pension Policy (SCPP) agreed to study this matter during the 2006 Interim and work cooperatively with the LEOFF 2 Board on joint legislation. This time, the OSA reported the addition of the inflation adjustment would not create an increase in contribution rates for any of the systems or plans, except the Law Enforcement Officers' and Firefighters' (LEOFF) Plan 2. The increase in LEOFF Plan 2 contribution rates for the inflation adjustment for member and employer would be one basis point each, zero increase to the state.

A bill developed jointly with the SCPP and introduced in the 2007 Legislative Session expanded the eligibility for the \$150,000 death benefit to include death from duty-related illness in all plans where it is not already provided, and added an annual inflation adjustment

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for all plans. The legislature passed the bill, but again amended out the annual inflation adjustment.

The SCPP introduced a bill in both the House and Senate for the 2008 Legislative Session that added an annual inflation adjustment for the \$150,000 death benefit for all plans. The Board formally endorsed the legislation. Neither bill was passed. The bill did not receive a hearing in the House, but did in the Senate Ways and Means; however, was not passed out of committee.

The proposed inflation adjustment in all three previous proposals was the same adjustment the Board approved for the 2006 initial legislation, similar to the cost of living adjustment (COLA) on the LEOFF Plan 2 benefit.

Lastly, during the 2009 legislative session, the Board jointly with the Select Committee on Pension Policy (SCPP) introduced a bill that would change the lump-sum amount to \$175,000. This amount was chosen because there would be no increase in any system's contribution rates as a result of the increase in the lump-sum death benefit amount.

Comparison to Other Lump-Sum Death Benefits

Of the eight states that provide a lump-sum death benefit of \$100,000 or more, three have an inflation adjustment. In addition to state provided lump-sum death benefits, there is a federal death benefit, the Public Safety Officers' Benefits (PSOB) Act. This legislation was enacted in 1976 to assist in the recruitment and retention of law enforcement officers and fire fighters by providing a lump-sum death benefit. Beginning October 15, 1988, an annual inflation adjustment was added and the benefit has been adjusted each year on October 1 to reflect the percentage of change in the Consumer Price Index. As of October 1, 2008, the amount is \$315,746.

Policy Issues:

There has been a loss of purchasing power in the duty-related death benefit since its establishment in 1996. Based on the consumer price index for urban wage earners and clerical workers for Seattle/Tacoma/Bremerton (CPI-W STB) the duty-related death benefit would have to be approximately \$214,000 today to have the same purchasing power as \$150,000 did in 1996. Put another way, \$150,000 today would be worth about \$110,000 in 1996 dollars.

6. Options

Option 1: Add an annual inflation adjustment

Under this option the Board would add an annual inflation adjustment to the \$150,000 Death Benefit similar to the cost of living adjustment (COLA) paid on retirement benefits. The Office of the State Actuary would need to provide updated costs to the Board.

This option addresses the loss of purchasing power from the date of passage forward, but does not address the loss of purchasing power from 1996 to today.

Option 2: Increase the lump-sum amount to an equivalent amount

Under this option the Board would introduce a bill that would change the lump-sum amount to \$214,000. This would be the equivalent value today of the \$150,000. The Office of the State Actuary would need to provide updated costs to the Board.

This option addresses the loss of purchasing power from 1996 to today, but does not address the loss of purchasing power from the date of passage forward.

Option 3: Increase the lump-sum amount to an amount with no impact to contribution rates

Under this option the Board would introduce a bill that would change the lump-sum amount to the maximum amount that would not incur any increase in the contribution rates. The Office of the State Actuary will be providing this amount to the Board.

This option partially addresses the loss of purchasing power from 1996 to today, but does not address the loss of purchasing power from the date of passage forward. This option does not impact contribution rates.

Option 4: Use a combination of an increase in the lump-sum amount and an inflation adjustment

Under this option the Board would introduce a bill that would change the lump-sum amount to \$214,000 that would also contain an annual COLA similar to the COLA paid on retirement benefits. The Office of the State Actuary will be providing costs to the Board.

This option would address both the loss of purchasing power from 1996 to today and the loss of purchasing power from the date of passage forward. However, it would have the highest cost of all of the options.

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

Prohibition on Remarriage Preliminary Report

November 18, 2009

1. Issue

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.

2. Staff

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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

None of the current Washington state administered retirement plans contain a prohibition on remarriage for a survivor receiving pension benefits. If a survivor remarries, their survivor pension benefits continue. Workers' Compensation benefits provided to a survivor of a line of duty death can cease if the survivor remarries.

5. Background Information and Policy Issues

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 and has 10 or more years of service credit or is eligible to retire, 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 calculated as if the member had elected the Joint and 100% Survivor Option.

If the survivor elects the continuing benefit, the survivor will continue to receive the benefit for their lifetime; the benefit is actuarially reduced to reflect the cost of providing the benefit over the survivor's 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 with a prohibition on remarriage for survivors. Although LEOFF Plan 1 at one point contained a prohibition on remarriage, that provision was 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. Legislation introduced in the 2007 – 08 and 2009 Legislative Sessions to repeal the prohibition did not pass.

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.

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.

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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.

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 2006¹ for paying benefits to survivors who were no longer eligible due to remarriage. 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. 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.

Legislative History

The Legislature has twice considered bills (HB 1545 – 2007-08, HB 1212 – 2009) addressing the policy of terminating worker's compensation death benefits when the surviving spouse of certain public safety employees remarries.

2007-08 Legislative Session. Legislation first introduced during the 2007 Legislative Session by Representative Steve Kirby 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. 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. A Fiscal Note from the Department of Labor

¹ WA State Auditor's Office, Audit Report 6541, Released May 5, 2006

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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.

2009 Legislative Session. New legislation 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.

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.

2009 Interim. 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.

The results of the study was requested by November 13, 2009.

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Appendix A: States Allowing Continuation of Benefits After Survivor Remarriage

<p>Kansas</p>	<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. Krantz, 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>

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<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>
<p>North Dakota</p>	<p><u>65-05-21. Marriage settlement to spouse.</u> 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>

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

Educational Benefits

Preliminary Report

September 26, 2007

1. Issue

Should the current state tuition waiver program be modified for LEOFF Plan 2 members who die or become totally disabled?

2. Staff

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3. Members Impacted

A change to the existing statutes for LEOFF Plan 2 could impact any active member with a spouse or children. As of the most recent actuarial valuation, there were 15,168 active LEOFF Plan 2 members.

4. Current Situation

There are three distinct levels of educational benefits for survivors of public safety officers killed or totally disabled in the line of duty. They are federal, state, and organizations related to fire fighters and law enforcement officers. The state currently covers minor eligible children who must apply within ten years of graduation from high school.

5. Background Information and Policy Issues

Federal Educational Benefits

On September 29, 1976 the President of the United States signed into law, legislation that is commonly referred to as the Public Safety Officers' Benefit Act (PSOB). The Act was amended in October 1998 to provide financial assistance for higher education to the dependants of federal, state, and local public safety officers who are killed or permanently and totally disabled as a result of traumatic injury sustained in the line of duty. Called the Public Safety Officers' Educational Assistance (PSOEA) Program, it is a federally funded program that provides educational benefits for the spouse and children of public safety officers killed in the line of duty.

The educational assistance may be used to defray relevant expenses, including tuition and fees, room and board, books, supplies, and other education-related costs. As of October 1, 2006, the maximum award for a full-time student is \$860.00 per month of class attendance. (All award amounts are proportionately less for part-time students.) All PSOEA awards must, by law, be reduced by the amount of other governmental assistance that a student is eligible to receive.

The U.S. Department of Justice's Bureau of Justice Assistance - Office of Special Programs, the same office that administers the PSOB Program, administers the PSOEA Program. Assistance is only available after the PSOB death or disability claim process has been completed and benefits have been awarded. Further, the PSOEA applicant must have received at least a portion of the PSOB benefits and be defined as the officer's spouse or child under the PSOB Act and regulations. In January 2000, the law further extended the retroactive eligibility date for financial assistance. Accordingly, the law is retroactive and will apply to the spouses or children of public safety officers whose deaths or permanent and total disabilities are covered by the PSOB Program on or after January 1, 1978. Public safety officers' children are not eligible after their 27th birthday, absent a finding by the Attorney General of extraordinary circumstances.

The PSOEA Program will provide an educational assistance allowance, which may be used solely to defray educational expenses, including tuition, room and board, books, supplies, and education-related fees and costs. All PSOEA awards must, by law, be reduced by the amount of other governmental assistance that a student is eligible to receive.

State Educational Benefits

For children of any law enforcement officer or fire fighter, who lost his or her life or became totally disabled in the line of duty, while employed by any public law enforcement agency or full-time or volunteer fire department in this state, the governing boards of the state universities, regional universities, The Evergreen State College and the governing boards of the community colleges may exempt them from the payment of all or a portion of tuition fees

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and services and activities fees. However, such persons may receive the exemption only if they begin their course of study at a state-supported college, university or community college within ten years of their graduation from high school.

The laws allowing the waiver of tuition fees, service and activities fees apply only to the eligible children and do not include spouses. The amount of tuition, services and activity fees that a state university, regional university, The Evergreen State College and community college may waive is limited in total by statute to a percentage of the institution's gross authorized operating fees revenue. For example, the University of Washington is limited to 21% of their gross authorized operating fees revenue and the community colleges are all limited to 35% of their gross authorized operating fees revenue. While 21% of the University of Washington's gross operating fees revenue would seem to be a large sum of money, two things should be kept in mind. First, there are several other categories of students vying for those same dollars and second, the waiver is permissive, not mandatory.

Each university, college and community college sets the amount to be waived for their program. The percentage waived ranges from ten to one-hundred percent of tuition. For example, Western Washington University's program waives one-hundred percent of tuition and the University of Washington waives fifty percent. Our research shows that no eligible child of a LEOFF Plan 2 member killed in the line of duty has ever been denied. There have been instances where a child was denied in the case of a disability because the member was not considered to have been "totally" disabled.

There are some exceptions granted to the gross operating fee revenue limitation. These include: long-term unemployed and underemployed individuals, Washington residents who are age sixty or older, state employees, teachers and other instructional staff and certain military or naval veterans. For these groups, the waiver is also permissive.

The last group granted exceptions to the waiver limitation are the children and spouses of eligible veterans and national guard members, who became totally disabled or lost their life while engaged in active federal military or naval service. For this group, the waiver is mandatory.

COPS, National Fallen Firefighters Foundation and Other Organizations

Concerns of Police Survivors (COPS) offers scholarships that provide financial assistance to surviving children and to surviving spouses of law enforcement officers killed in the line of duty who wish to pursue a course of study beyond high school. Scholarships are not awarded for post-graduate study. Scholarships are not awarded to survivors who are entitled to a tuition-free education as a state death benefit.

Applicants seeking financial assistance for education purposes are limited to the receipt of not more than \$1,500 per semester, and total scholarship awards shall not exceed a \$12,000 lifetime maximum. COPS scholarships are awarded three times annually: Fall/Winter semester (begins late August or early September), Winter/Spring semester (begins late

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December or early January), and Summer semester (begins May or June). A completed application is required for consideration each semester, and the awarding of a scholarship for any one semester does not guarantee a scholarship for any future semesters.

Scholarship recipients are determined by an independent Scholarship Committee drawn from the outside community and comprised of persons knowledgeable about education and the law enforcement profession. The National Board of COPS determines the amount of funding that will be set aside for educational scholarships each year.

Scholarships are paid directly to the institution of higher learning on behalf of the scholarship recipient and may be expended only for tuition, required texts, and associated fees (not room and board charges). Any unused amount is returned to COPS.

COPS has partnered with a university accredited by the Higher Learning Commission of North Central Association of Colleges and Schools (NCACS) to receive a special reduced tuition rate. They offer 100% online distance learning degree programs for adult learners to obtain a college education. One can earn a Bachelor's degree, Master's degree or Doctorate degree in Psychology, Business and Technology Management or Education.

The National Fallen Firefighters Foundation offers financial assistance for post-secondary education and training to spouses, children and stepchildren of fire fighters. Children and stepchildren must be under age 30 and have been under age 22 at the time of the fire fighter's death.

Additionally, surviving spouses may also receive assistance through the Steve Young Memorial Scholarship Program administered by the Fraternal Order of Police (FOP). The line-of-duty death must have occurred between January 1, 2001 and December 31, 2006, and meet other criteria and stipulations.

Educational Benefits in Other States

Like Washington, almost every state has some form of tuition waiver for eligible children of law enforcement officers or fire fighters killed in the line of duty. They vary on age, number of semester or quarters covered and whether or not stepchildren qualify. Over half of the states also cover spouses, although many have the benefit terminate upon remarriage. Some states include textbooks and other fees. There are several states that include room and board in their waiver laws. Some states allow for post-graduate work.

Policy Issues

There are several policy issues the Board can examine. One issue is whether or not to include spouses under the current waiver laws. A second issue is whether or not to move them to the list of exceptions to the waiver limitations. Finally, the Board may want to consider whether or not the waiver should be mandatory.

6. Options

1. Add Spouse to Existing Waiver Program

Under the current Washington state program only eligible minor children qualify for the tuition waiver program. This option would change the statutes to include spouses under the current tuition waiver program.

2. Prescribe Mandatory Coverage for Existing Waiver Program

The current Washington state program is permissive not mandatory. The decision of whether or not a child will receive a tuition waiver is based on the individual school's policy and budget.

3. Match "Total Disability" Definition to LEOFF Plan 2

Change the definition of "total disability" in the higher education statute to match the definition in LEOFF Plan 2 under RCW 41.26.470.

7. Supporting Information

PSOEA – http://www.ojp.usdoj.gov/BJA/grant/psob/psob_education.html

COPS – <http://www.nationalcops.org/serv05.htm>

National Fallen Firefighter Foundation – <http://www.firehero.org/>

Other States – http://www.nvfc.org/benefits/state-by-state.php?Type=Death_Educ_Child
http://www.nvfc.org/benefits/state-by-state.php?Type=Death_Educ_Spouse



Office of the State Actuary

"Securing tomorrow's pensions today."

December 15, 2009

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

RE: PRELIMINARY PRICING OF DUTY-RELATED DEATH BENEFITS

Dear Steve,

We have completed our preliminary pricing of the following proposed changes to LEOFF 2.

- ❖ Allow all survivors of duty-related deaths to choose between (1) an on-going survivor annuity or (2) a 150 percent withdrawal of the member's savings fund.
- ❖ Remove the actuarial reduction for the joint and 100 percent survivor (J&S) payment form on all survivor annuities for duty-related deaths.
- ❖ Increase the \$150,000 lump sum duty related death benefit to \$214,000 and add an inflationary adjustment for the future. (Retroactively applied to survivors of members killed in the course of employment since January 1, 2009).

Summary of Results

Impact on Pension Liability			
(Dollars in Millions)	Current	Increase	Total
Today's Value of All Future Pensions	\$70,618	\$12.5	\$70,630
Earned Pensions Not Covered by Today's Assets	\$5,410	\$0.0	\$5,410

Impact on Contribution Rates: (Effective 9/1/2010)	
2010-2011 State Budget	LEOFF
Employee (Plan 2)	0.04%
Employer:	0.02%
State	0.02%



Budget Impacts			
<i>(Dollars in Millions)</i>	2010-2011	2011-2013	25-Year
General Fund-State	\$0.3	\$0.6	\$16.1
Total Employer	\$0.5	\$1.4	\$40.2

The proposed change to the lump sum duty-related death benefit comprises about 74 percent of the total cost of the proposed changes. The removal of the actuarial reduction for the J&S payment form comprises about 22 percent of the total cost. The balance, about 4 percent, represents the cost of removing the ten years of service requirement to have the choice between survivor annuity payments or a withdrawal of accumulated member contributions.

Special Data Needed

We relied on data provided by the Department of Retirement Systems (DRS) to identify members killed in the course of employment since January 1, 2009. Otherwise, we developed these costs using the same assets and data as disclosed in the 2008 Actuarial Valuation Report (AVR).

Assumptions We Made

We assumed an effective date of 90 days after session. We further assumed a 3 percent annual increase in the lump sum death benefit following the initial adjustment to \$214,000. Otherwise, we developed these costs using the same assumptions as disclosed in the AVR.

How We Applied These Assumptions

We updated our valuation model for the proposed benefit changes. First, we removed the ten years of service requirement for survivor benefits of duty-related deaths. Then, we removed the actuarial reduction for the J&S payment form on all survivor annuity benefits of duty-related deaths. Lastly, we increased the current \$150,000 lump sum death benefit to \$214,000 and applied a 3 percent increase each year thereafter. We compared the cost of the benefits with these changes to the cost before these changes to identify the cost of this proposal.

Using the special data provided by DRS, we estimated the increase of providing the \$214,000 lump sum death benefit, instead of the current \$150,000 benefit, for the seven members killed in the course of employment since January 1, 2009. To determine this estimate, we multiplied \$64,000 by seven and then discounted the resulting amount with 8 percent annual interest from the assumed date of payment, June 11, 2010 (90 days after session), to June 30, 2008.



Otherwise, we developed these costs using the same methods as disclosed in the AVR.

Other Items the Reader Should Know

This preliminary actuarial communication does not represent a fiscal note on this proposal. We intend this preliminary communication to be used by the LEOFF Plan 2 Retirement Board during the 2009 Interim only. If a Legislator introduces this proposal as a bill during the next 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.

Please let me know if you have any questions.

Sincerely,

Matthew M. Smith, FCA, EA, MAAA
State Actuary

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