

BOARD MEETING AGENDA

April 25, 2018 - 1:00 AM



LOCATION

STATE INVESTMENT BOARD
Large Conference Room, STE 100
2100 Evergreen Park Drive S.W.
Olympia, WA 98502
Phone: 360.586.2320
Fax: 360.586.2329
recep@leoff.wa.gov

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|--|----------|
| 1. Approval of Minutes | 9:35 AM |
| Dennis Lawson, Chair | |
| 2. Definition of Child | 9:40 AM |
| Ryan Frost, Research and Policy Manager | |
| 3. Out of Jurisdiction Duty | 9:50 AM |
| Ryan Frost, Research and Policy Manager | |
| 4. Disabled Members Return to Work | 10:10 AM |
| Ryan Frost, Research and Policy Manager | |
| 5. PEBB Coverage for Catastrophic Retirees | 10:30 AM |
| Ryan Frost, Research & Policy Manager | |
| 6. Standby Pay as Basic Salary | 10:50 AM |
| Ryan Frost, Research & Policy Manager | |
| 7. PTSD Benefits | 11:10 AM |
| Steve Nelsen, Executive Director | |
| 8. Administrative Update | |
| • Outreach Activities | 11:30 AM |
| • Budget Update | |
| 9. 2018 Agenda Items Calendar for Future Meetings | 12:00 PM |
| Steve Nelsen, Executive Director | |

Lunch is served as an integral part of the meeting.

In accordance with RCW 42.30.110, the Board may call an Executive Session for the purpose of deliberating such matters as provided by law. Final actions contemplated by the Board in Executive Session will be taken in open session. The Board may elect to take action on any item appearing on this agenda.



Definition of Child

Date Presented:

4/25/2018

Presenter Name and Title:

Ryan Frost, Research and Policy Manager

Summary:

The LEOFF definition of “child” excludes children adopted after retirement from eligibility for benefits.

LEOFF provides benefits to children of active and retired members. LEOFF Plan 1 and Plan 2 provide different benefits, though both use the same definition of child. While the definition includes children adopted before retirement, it excludes children adopted after retirement. This report provides an overview of the current state of the law and options for potential modification.

ATTACHMENTS:

Description		Type
▢	Definition of Child	Report
▢	Definition of Child	Presentation



April 25, 2018
Definition of Child

INITIAL CONSIDERATION

By Ryan Frost
Research & Policy Manager
360-586-2325
ryan.frost@leoff.wa.gov

ISSUE STATEMENT

The LEOFF definition of “child” excludes children adopted after retirement from eligibility for benefits.

OVERVIEW

LEOFF provides benefits to children of active and retired members. LEOFF Plan 1 and Plan 2 provide different benefits, though both use the same definition of child. While the definition includes children adopted before retirement, it excludes children adopted after retirement.

This report provides an overview of the current state of the law and options for potential modification.

BACKGROUND AND POLICY ISSUES

This issue has been discussed by the LEOFF Plan 2 Retirement Board twice.

Member correspondence was presented on this topic during the Board’s Administrative Update at the November 15, 2017. The Board directed staff to present a Comprehensive Report at the next meeting. At the December 20, 2017 meeting, a motion was passed to not take any action on the issue.

The Select Committee on Pension Policy heard testimony and conducted a work session on this issue at their December 12, 2017 meeting. While some members expressed interest in the issue, no action was taken.

Adopted Family Members as Children

The LEOFF definition of “child” includes children adopted before retirement:

"Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

- (i) A natural born child;
- (ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;
- (iii) A posthumous child;

- (iv) **A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or**
- (v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

RCW 41.26.030(6)(a) (*emphasis added*). Worker's compensation law has a similar provision:

"Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury,...

RCW 51.08.030.

These definitions create two categories of children:

1. Biological children who qualify by the circumstances of their birth; and
2. Stepchildren, adopted children, or illegitimate children, who do not qualify unless they satisfy a statutory condition, for instance adoption, before the member retires.

While there is no specific statutory history, this provision may have been enacted out of concern that a beneficiary might adopt a child after retirement to enhance benefits. This same policy is found in the LEOFF Plan 1 surviving spouse benefit, RCW 41.26.160(2), which only allows benefits to a spouse married to the member for at least one year prior to retirement.

Benefits Denied Children Adopted After Retirement

Both LEOFF Plan 1 and Plan 2 provide benefits to qualifying children.

LEOFF Plan 2 Child Benefits

- Death in service benefit, with a choice between:
 - Retirement allowance:
 - Direct to child if no surviving spouse; or
 - Derived from surviving spouse if he or she dies after member but while child still under age of majority; *RCW 41.26.510(2)(a)*
 - or
 - 150% contribution refund if no surviving spouse; *RCW 41.26.510(2)(b)*
- Duty death benefit¹:
 - Unreduced survivor allowance if no surviving spouse; *RCW 41.26.510(4)*
 - Reimbursement of health insurance premiums; *RCW 41.26.510(5)*

¹ Children not eligible for lump sum death benefit; RCW 41.26.048

- Tuition Waiver; *RCW 28B.15.380*
- Catastrophic disability benefit:
 - Reimbursement of health insurance premiums; *RCW 41.26.510(5)*
 - Tuition waiver; *RCW 28B.15.380*
- Establishing service credit for interruptive military service credit where member dies before establishing leave; *RCW 41.26.520(7)(d)*.

LEOFF Plan 1 Child Benefits

LEOFF 1 increases the benefits of retirees and surviving spouses with qualifying children:

- Duty disability - Additional 5% of final average salary (FAS) for each child up to a maximum of 10%; *RCW 41.26.130*;
- Death benefit¹ –
 - Surviving spouse receives an additional 5% of FAS for each child up to a maximum of 10%.
 - If no surviving spouse or surviving spouse dies with qualifying children, the children receive 30% of FAS for one child, 10% for each additional up to 60%, share and share alike. *RCW 41.26.160, 41.26.161*²

The widow of a LEOFF Plan 1 disability retiree who adopted children after retirement, argues the exclusion of the children is discriminatory and seeks legislation to include children adopted after the date of retirement within the LEOFF definition of “child.”

APPENDICES

Appendix A – Member Correspondence

² *RCW 41.26.160* applies to duty related death while *RCW 41.26.161* applies to non-duty death. Both statute provide the same benefit.

From: Kate Boreen <boreenpk@tctwest.net>
Sent: Thursday, October 26, 2017 10:01 AM
To: Kate Boreen
Cc: To: Aaron Gutierrez; McDonald, Joyce; Hayes, Dave; Holy, Jeff; Rivers, Ann; Manweller, Matt; Pedersen, Jamie; Angel, Jan; Bailey, Barbara; Schoesler, Mark; Conway, Steve; Fitzgibbon, Joe; Ormsby, Timm; Hobbs, Steve; Volz, Mike; governor.inslee@gov.wa.gov; Owen, Brad; pres@wscff.org; Nelsen, Steve (LEOFF); votejeffholy@gmail.com; Joyce Willms; Dave Peery; Tyson DePoe; joanna@iaff27.org; Andy; Valencia, Tim (LEOFF); Neal, Paul (LEOFF); Frost, Ryan (LEOFF); Harman, Tammy (LEOFF); Bergquist, Steve; Warnick, Judy
Subject: Correction
Attachments: Boreen DRS Petition Decision_Redacted.pdf; Boreen DRS Petition Decision_Redacted.pdf; RCW 41.26.030 Eligibility Discrimination language.pdf; Ltr. to Select Legislators re- Discrimination 22017.pdf; RCW Titles 11 & 26 AdoptiveHeirs.pdf

The e-packet of information sent yesterday did not contain the redacted version of the DRS opinion on Title 41 Eligibility definition affecting adopted children of disability-retired LEOFF 1 and LEOFF 2 Plan members.

Below is the redacted version of the opinion meant to be included in yesterday's 11 a.m./noon mailing, as a protection of minor children's privacy.

Please delete yesterday's communication and use this version instead.

Thank you.

Katharine S. Boreen

Per our conversation, Aaron, what follows in this email packet is the version that should be published on the Pension Policy Committee website. I would like the Committee on Pension Policy to know that all of this information is also in the hands of: The Washington State Council of Fire Fighters, the LEOFF 2 Retirement Board, Seattle Fire Fighters Union/IAFF Local 27 Board, along with more than several interested Washington State Legislators. Because it also involves law enforcement professionals in both LEOFF 1 and LEOFF 2 plans, I would hope it would be an issue for those law enforcement affiliated organizations and boards as well.

The discriminatory statute in question affects disability fire and law of any age from BOTH LEOFF 2 and LEOFF 1 systems. According to the LEOFF Plan 2 Retirement Board website.... as of June 30, 2014, 8.9% of retirees have retired from a LEOFF 2 position due to a duty-related disability. 12.2% of duty-related disabilities have been classified catastrophic.

It is hoped that the Committee on Pension Policy will be able to perhaps address a policy change or steer a bill to change this language for the good of our LEOFF 2 and LEOFF 1 disability-retired members and their families. If you can find a way to support such a policy change or a bill, it would be appreciated by more than just the Boreen family. Thank you, Kate

October 17, 2017

Dear Governor, Lt. Governor, Select Committee on Pension Policy, and Seattle Firefighters Local 27 Board Members:

My husband was a retired Seattle fireman who died late last summer, leaving me to raise our minor children alone. Lt. Phillip Neill Boreen was born and raised in Lewis County and fought fires for the City of Seattle for 28 years. His entire family was from Cowlitz and Lewis Counties. Many of them still reside there, and in Tacoma. At the time of his passing I was made painfully aware of a **blatantly discriminatory statute** in Washington law that prevents his minor children from receiving benefits because they are adopted.

The purpose of this communication is to inform you of language in RCW 41.26.030 that pertains to both LEOFF 2 and LEOFF 1 members and their families, disability-retired OF ANY AGE, singling out and **discriminating** against adopted children of both firefighters and law enforcement. This law as it currently exists can affect disability retired members and their children that are not “naturally” born i.e., if you choose to conceive a child naturally after your disability retirement date... your children will receive benefits If you adopt your children, your children will not receive benefits. I am hoping that once educated, people will do what they can to change this statute. This is a blemish on two very honorable professions.

Included with this email you will find:

- (1) a copy of the **discriminatory portion** of the statute (re: contained in the definitions section, “eligibility” of children to receive benefits upon the death of a disability-retired LEOFF 2 or LEOFF 1 member),
- (2) legal opinion concerning this matter rendered earlier this year by Washington Department of Retirement Systems attorney,
- (3) copy of my letter sent February 2017 to select members of the WA legislature explaining the situation, and
- (4) language from other RCW statutes that directly conflict with RCW 41.26.030.

Further, I would emphasize the following:

- The language in RCW 41.26 directly applies to **BOTH** LEOFF 2 and LEOFF 1 plans. (Page 3 of Ms. Buddeke’s decision specifically addresses this fact. Don’t be lulled into thinking that only one plan or the other is involved here.
- There is currently a limitation (cap) of two children “naturally born” per disability-retired members’ family.
- LEOFF 1, and perhaps LEOFF 2, members need to understand that there are more benefits being denied than a nominal monthly death benefit until they turn of age. “Natural children” born after the disability retirement date are entitled to the lifetime survivor benefit (should the surviving spouse also die before the LEOFF children come of age) to be received until the child or children come of age. As it currently stands, this statute makes sure that the fire or law enforcement pension check is denied to adopted children should both their parents die before they come of age.
- It is unclear whether this issue also affects the ability of the deceased members’ adopted children to receive health insurance coverage through either LEOFF plans.
- Please note that the DRS opinion was very well written, so that a bill can be sponsored or action can be taken with comparatively little effort to rectify the issue.
- I have been asked how this very subtle and almost hidden language affects other portions of the LEOFF 2 or LEOFF 1 plans. I do not know.

In including the February DRS decision for review, I ask everyone to please, please try to keep our children’s names out of this. They do not know that the entire State of Washington considers them a lesser form of human being when it comes to their existence and the legitimacy of firefighter Boreen as their father. My concern is that if one of them does an internet search (or one of their friends do) of our last name and they see all of this, they will be crushed. They don’t deserve it. They were little when we became a family, and the youngest was 9 when his father was diagnosed with cancer. We were his hospice. He is the only father they will ever have.

The list of legislators who have contacted me by phone or email regarding this statute following last February’s letter is found below. I hope that you will choose to take action against the **discrimination of adopted children** of disability-retired firefighters and law enforcement personnel. It is the right thing to do.

Senator Jan Angel, District 26 (Kitsap and Pierce Counties)

Senator Barbara Bailey, District 10 (Island, Skagit, Snohomish)

Senator Jamie Pedersen, District 43 (King County)

Ann Rivers, District 18 (Clark & Cowlitz Counties)

Rep. Dave Hayes. District 10 (Island, Skagit, Snohomish)

Representative Joyce McDonald – District 25 (Tacoma)

Thank you,

Katharine S. Boreen

Wife of deceased SFD FF, Lt. Phillip Neill Boreen

Phone: (307) 272-4208 or (307) 272-6640.

**WASHINGTON STATE
DEPARTMENT OF RETIREMENT SYSTEMS
PETITION DECISION**

DATE: February 1, 2017
PETITIONER: Katharine Boreen
MEMBER: Phillip Boreen
SYSTEM: LEOFF Plan 1 (LEOFF1)
ISSUE: Minor children eligibility for LEOFF1 death and survivor benefits

BACKGROUND

1. Phillip Boreen, who is now deceased, was a member of the Law Enforcement Officers' and Firefighters' Retirement System, Plan 1 (LEOFF1). At the time of his death,¹ he was a LEOFF1 disability retiree who regularly received a disability retirement benefit.²

Katherine Boreen, the Petitioner, is Mr. Boreen's widow.

2. Mr. and Mrs. Boreen had four children, who they adopted on July 18, 2008: [REDACTED] (born [REDACTED]); [REDACTED] (born [REDACTED]); [REDACTED] (born [REDACTED]); and [REDACTED] (born [REDACTED]).³
3. The question here is whether [REDACTED] [REDACTED] [REDACTED] and [REDACTED] are eligible for LEOFF1 death and/or disability benefits. However, we should make one thing clear at the outset: those "child benefits" are not benefits paid to children.
 - o In LEOFF1, as with public pensions generally, a child *disability benefit* is actually a percentage increase in a disabled parent's benefit. It is the parent (the LEOFF member) who receives the disability benefit. That benefit is calculated by

¹ Mr. Boreen died on August 6, 2016.

² Mr. Boreen's local disability board determined that his disability was duty-related.

³ In this decision, we refer to [REDACTED] [REDACTED] and [REDACTED] by their first names, or as the "Boreen children." Mr. Boreen had a fifth child ([REDACTED] born [REDACTED]). Because of her age, [REDACTED] was not eligible for an eligible child for purposes of calculating a disability retirement or death benefit under Mr. Boreen's retirement account. Consequently, her interests are not at issue here.

reference to his final average salary,⁴ and may be increased by an additional percentage for each eligible child (up to a maximum amount).

- A child *death benefit* is actually a percentage increase in a surviving spouse's benefit (also up to a maximum amount). It is the surviving spouse (of the deceased LEOFF member) who receives the death benefit—usually for the survivor's life.

4. In this decision, we frequently refer to Mr. Boreen's disability benefit and Mrs. Boreen's survivor benefit as "child benefits." For the sake of simplicity and readability:
 - When we refer to the Boreen children's eligibility for a disability benefit, that eligibility would have the practical effect of retroactively increasing Mr. Boreen's disability benefit.
 - When we refer to the Boreen children's eligibility for a death benefit, that eligibility would have the practical effect of retroactively increasing Mrs. Boreen's survivor benefit.

LEOFF, GENERALLY

5. The Legislature created the LEOFF system to provide death, disability, and retirement benefits to LEOFF members and their beneficiaries.⁵ LEOFF benefits are limited to those who meet the requirements of the LEOFF Act.⁶ The disability and death benefits at the heart of this petition are two examples of frequently-administered LEOFF benefits.
6. DRS is responsible for LEOFF administration. As the statutory LEOFF administrator, we manage the LEOFF trust fund for the benefit of its intended beneficiaries.⁷ In fulfilling that responsibility, our primary point of reference is the LEOFF Act—the most direct indicator of the intent of the Washington Legislature.

LEOFF BENEFITS, GENERALLY

7. There are two LEOFF plans: LEOFF1 and LEOFF2.⁸

⁴ "Final average salary," like dozens of other terms applied in LEOFF administration, is defined by statute. See RCW 41.26.030(15)(a). Mr. Boreen's final average salary is not at issue in this petition.

⁵ RCW 41.26.020. See also *Auto Drivers v. Retirement System*, 92 Wn.2d 415, 422-23 (1979).

⁶ The LEOFF Act is codified at Ch. 41.26 RCW.

⁷ RCW 41.26.020. See *Fire Fighters v. DRS*, 97 Wn. App. 715, 718 (1999).

⁸ LEOFF1 covers those who established LEOFF membership before October 1, 1977. LEOFF2 covers those who established LEOFF membership on and after that date. See RCW 41.26.030(21) and (22).

8. In many respects, there are critical differences in the benefits payable under LEOFF1 and LEOFF2. Disability and death benefits are good examples of those differences. The disability and death benefit statutes discussed in this decision are specific to LEOFF1.
9. In other important respects, however, LEOFF1 and LEOFF2 are the same: they derive generally from the same public pension policy, and they share many common definitional terms. This decision hinges on one such definition: "child." That word carries the same meaning in both LEOFF1 and LEOFF2.

LEOFF 1 DISABILITY BENEFITS

10. A LEOFF1 member who retires for disability is entitled to receive a correctly calculated disability benefit, payable until his death or recovery from the disability. That benefit is calculated by reference to two factors: (a) his final average salary; and (b) the number of children he had at the time of his disability retirement. The relevant LEOFF1 disability benefit statute is RCW 41.26.130:

Allowance on retirement for disability.

(1) Upon retirement for disability a member shall be entitled to receive a monthly retirement allowance computed as follows:

- (a) A basic amount of 50% of final average salary at time of disability retirement, and
- (b) An additional 5% of final average salary for each child as defined in [RCW 41.26.030(6)]....
- (c) The combined total of (a) and (b) of this subsection shall not exceed a maximum of 60% of final average salary....⁹

LEOFF 1 DEATH BENEFITS

11. When a LEOFF1 disability retiree dies, that member's surviving spouse is entitled to receive a lifetime survivor benefit equal to the benefit the member received while he was alive.¹⁰ The relevant LEOFF1 death benefit statute is RCW 41.26.161(1):

⁹ Both the disability retirement benefit and the death benefit grant a 5% benefit increase per eligible child. Because both benefits are capped at a total of 60%, however, the practical result for a 4-child increase would be a total benefit increase of only 10%. See RCW 41.26.130(1)(c)(the disability benefit cap) and RCW 41.26.161(1)(the death benefit cap).

¹⁰ Under some circumstances, a surviving spouse may not be eligible for a survivor benefit—but none of those circumstances apply here. Mrs. Boreen receives a lifetime survivor benefit; it became payable on the day after Mr. Boreen's death.

Death benefits—Nonduty connected death

(1) In the event of the nonduty connected death of any member who is...retired, [whether for disability or service], the surviving spouse shall become entitled...to receive a monthly allowance equal to...the amount of the retirement allowance such retired member was receiving at the time of death....

The amount of this allowance will be increased 5% of final average salary for each child as defined in [RCW 41.26.030(6)], subject to a maximum combined allowance of 60% of final average salary....¹¹

THE LEOFF DEFINITION OF "CHILD"

12. This petition concerns the 5% additional benefit per eligible child. As applied to Mr. Boreen's retirement account, those "child benefits" would add 10% to the benefit Mr. Boreen received while he was alive, as well as to the survivor benefit Mrs. Boreen has received since his death.

13. In LEOFF, the Legislature defined "child" by reference to five categories of children, as follows:

"Child or children" means an unmarried person who is under [age 18] who is:

- (i) A natural born child;¹²
- (ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;
- (iii) A posthumous child;
- (iv) *A child legally adopted...prior to the date benefits are payable under this chapter*; or
- (v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter....¹³

14. The "child" categories, in turn, are organized into two groups: those children who must meet a condition precedent in order to be eligible for LEOFF beneficiary status, and those who need not meet that condition precedent. That is:

¹¹ RCW 41.26.030(6)(a). This is the benefit that applies to a LEOFF1 member who retired for duty-related disability, but whose death was not connected to his LEOFF duty. For the law that applies to a LEOFF1 member who was retired for duty-related disability, and whose death was connected to his LEOFF duty, *see* RCW 41.26.160. Both statutes apply the same disability benefit calculation formula.

¹² The statutory LEOFF "child" definition uses the term "natural born" child. Because we think it more properly descriptive, for the remainder of this decision we will use the term "biological child." For the same reason, we refer to a "legitimized child" as an "extramarital child."

¹³ RCW 41.26.030(6)(a)(emphasis added). These are the provisions of the LEOFF "child" definition that apply to this petition. The full LEOFF definition of "child," for benefit eligibility purposes, is broader than the language we have selectively quoted above. The issue here is whether the Boreen children are eligible LEOFF beneficiaries, and our analysis limited accordingly.

CONDITION PRECEDENT:

- Adopted child
- Stepchild
- Extramarital child

NO CONDITION PRECEDENT:

- Biological child
- Posthumous child

The condition precedent requires a child to have met the “child” definition on or before the date when the LEOFF member’s benefit became payable.¹⁴

15. Mrs. Boreen reasons that the LEOFF “child” definition is unfair to [REDACTED] and [REDACTED] because it treats adopted children less favorably than biological (including posthumous) children. That is: a biological (including posthumous) child can receive a LEOFF benefit at any time, without meeting any condition precedent, but an adopted child can only receive a that benefit if he/she was adopted when his/her parent began receiving a LEOFF benefit. The biological child need not meet any condition precedent, but the adopted child must.

PAYMENT OF LEOFF BENEFITS TO CHILD BENEFICIARIES

16. Mr. Boreen's disability benefit became payable on March 31, 2000, when he retired for disability and began receiving LEOFF benefits. Any (otherwise eligible) child¹⁵ he had at that time would have been benefit-eligible, whether that child was biological, posthumous, adopted, stepchild, or (acknowledged) non-marital.¹⁶

Because Mr. Boreen had no benefit-eligible children when he retired, no child was eligible for a disability benefit.

17. When Mr. Boreen died on August 6, 2016, he had been receiving LEOFF benefits since 2000. His death benefit (that is, Mrs. Boreen’s survivor benefit) was also determined as of the date of his retirement, because that was the point at which he first began receiving LEOFF benefits.

¹⁴ For the sake of readability, we use the phrases “when the member’s benefit becomes payable” and “when the member receives his benefit” interchangeably.

¹⁵ As mentioned above, Mr. Boreen's daughter [REDACTED] was his biological child, but she was not “otherwise eligible” because she was older than 18 when he retired.

¹⁶ In particular, a posthumous child would have been Mr. Boreen's beneficiary because that child would have already been conceived when he retired for disability. A posthumous child is not simply any biological child—it is a child who was conceived while a parent was alive, but born after that parent died.¹⁶ See Black’s Law Dictionary 1167 (7th ed. 1999)(A posthumous child is a child “born after the death of his or her father.”) In the administration of LEOFF benefits, a posthumous child can only be a child who was *in utero* when LEOFF benefits first became payable.

Because [REDACTED] [REDACTED] [REDACTED] and [REDACTED] were not Mr. Boreen's children when he retired, they were not eligible for a death benefit. But that was not because they are adopted.

18. Without question, [REDACTED] [REDACTED] [REDACTED] and [REDACTED] were Mr. Boreen's children when he died—actually, practically, and legally. They became his children when they were adopted on July 18, 2008. Under Washington State probate law, they are his lawful issue and lineal descendants.¹⁷ Under Washington State adoption law, they are in all respects his children.¹⁸ But under Washington State LEOFF pension law, they are not his beneficiaries.

THE CONSTITUTIONAL CLAIM

19. Finally, we understand Mrs. Boreen's concern that the LEOFF Act appears to unconstitutionally treat biological children more favorably than adopted children. This appears to be, at heart, a claim that the LEOFF Act sanctions the unconstitutionally disparate treatment of adopted children. We do not address that claim here.
20. DRS is an administrative agency. It has no authority to determine the constitutionality of the LEOFF Act; only the courts have the authority to adjudicate that question.¹⁹ As we are obliged to do, we presume that RCW 41.26.030(6) is constitutional.²⁰

THE SCOPE OF DRS' AUTHORITY

21. As the statutory LEOFF administrator, DRS is required to correctly administer the LEOFF Act—including the definition of "child" codified at RCW 41.26.030(6)(a). We have no authority to pay a child benefit increase to any minor who does not meet the

¹⁷ See RCW 11.02.005(8): "Issue" means all the lineal descendants of an individual. An adopted individual is a lineal descendant of each of his or her adoptive parents....A child conceived prior to the death of a parent but born after the death of the deceased parent is considered to be the surviving issue of the deceased parent...."

¹⁸ RCW 26.33.260(1): "The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent."

¹⁹ *Bare v. Gorton*, 84 Wn.2d 380, 383 (1974), citing *U.S. v. Kissinger*, 250 F.2d 940 (3d Cir. 1958) and 3 K. DAVIS, ADMINISTRATIVE LAW TREATISE § 20.04 at 74 (1958).

²⁰ See *Auto Drivers v. Retirement System*, *supra* at 422 ("The wisdom of a legislative classification is not subject to our review. [A] statute is presumed to be constitutionally valid and the burden is on the challenger to prove that a classification does not rest on a reasonable basis.")(citation omitted).

Legislature's definition of "child." We cannot disregard the wording of that definition, or read into it a meaning that was not intended by the Legislature.²¹ We have no authority to grant LEOFF1 disability or death benefits to the Boreen children.

CONCLUSION

22. We would like to conclude that [REDACTED] [REDACTED] [REDACTED] and [REDACTED] are beneficiaries under Mr. Boreen's LEOFF account. But we cannot.

23. In the calculation and payment of statutory disability/death/injury benefits for children, the Legislature has in some other respects used the same language that is so problematic in this case (that is, determining a child's beneficiary status by reference to a specific point in time).²² But it has not done so in the LEOFF Act.

24. We can discern no ambiguity in RCW 41.26.030(6), and we do not have the authority to creatively interpret an unambiguous statute.²³ We are required to administer the LEOFF Act as the Legislature has written it, not as we might prefer it to have been written.²⁴

25. Mr. Boreen's LEOFF benefits—including "child" benefits—are established by the Legislature. They exist only in LEOFF statute, and are defined solely by the LEOFF Act.

²¹ See *Water Power v. Human Rights Commission*, 91 Wn.2d 62, 65 (1978) ("An administrative agency is limited in its powers and authority to those which have been specifically granted by the legislature."), citing *Cole v. Transportation Commission*, 79 Wn.2d 302, 306 (1971) ("An administrative agency must be strictly limited in its operations to those powers granted by the legislature.") (additional citations omitted).

²² For example, worker's compensation benefits are determined by the worker's circumstances (and number of children) on the date of his industrial injury. They are payable to an adopted, step, or non-marital child, but only if that child held that status at the time of the parent's injury. They are payable to a posthumous child, but only if that child had been conceived before the injury. See RCW 51.08.030. See also, for example, *Foster v. L&I*, 161 Wash. 54, 57 (1931) (denying beneficiary status for both a biological child and a stepchild of an injured worker who had neither at the time of his industrial injury) ("The [law] is clear and unambiguous. It denies to an injured workman the right to recover for an illegitimate child, unless legitimated prior to injury, and for a child not legally adopted. Respondent cannot recover on behalf of his stepchild, for the reason that its status, as such, did not become established until February 27, 1929, the date of the marriage, which was two years subsequent to the date of injury....").

The Legislature embraced the same approach in the payment of crime victim compensation benefits. Those benefit amounts are also determined by the victim's circumstances (and number of children) on the date of his injury. See RCW 7.68.020(4).

²³ See *Roza Irrigation Dist. v. State*, 80 Wn.2d 633, 635 (1972) ("Of course the basic rule [of statutory construction] is that, where the language of a statute is clear and unambiguous, there is no room for judicial interpretation.") (citation omitted).

²⁴ See *Auto Drivers v. Retirement System*, *supra* at 421 ("This court cannot read into a statute that which it may believe the legislature has omitted, be it an intentional or inadvertent omission.") (citation omitted).

They are payable only because the Legislature has allowed them to be paid. They are payable only when, and in the amount, allowed under the LEOFF Act.

The LEOFF Act requires DRS to determine Mr. Boreen's death and disability benefits as of his disability retirement date: March 31, 2000. Because [REDACTED] [REDACTED] [REDACTED] and [REDACTED] were not his children at that point in time, they are not eligible for those benefits.

26. In the end, we are obliged to deny Mrs. Boreen's petition because of the language the Legislature chose to use when it enacted the "child" definition in RCW 41.26.030(6)(a). Her concerns are perhaps best directed to the Legislature's attention.

DECISION

DRS correctly determined that [REDACTED] [REDACTED] [REDACTED] and [REDACTED] Boreen are not eligible for LEOFF1 disability or death benefits.



Ceil Buddeke
Petition Examiner
Department of Retirement Systems

YOU HAVE A RIGHT TO APPEAL THIS PETITION DECISION: You may appeal by filing a written appeal notice within **60 days** of the date of this decision. File any appeal notice TO THE ATTENTION OF THE DRS APPEALS UNIT, using one of the following methods:

- By mail: **Department of Retirement Systems / P.O. Box 48380 / Olympia, WA 98504-8380**
- By delivery: **Department of Retirement Systems / 6835 Capitol Blvd / Tumwater, WA 98504.**
- By FAX: **Department of Retirement Systems / 360.586.4225.** (Follow with a hard copy by U.S. Mail or delivery).

You can find the appeal rules at **Ch. 415-08 WAC**. If you have any questions about the appeal process, you may contact the DRS Appeals Unit at rebekahc@drs.wa.gov or 360.664.7294.

Existing language from Washington Code in LEOFF PLANS 2 and 1 Definitions.

Re: eligibility RCW 41.26.030 (6)(a)

Very discriminatory language in reference to "legally adopted children" in RCW 41.26.030 (6)(a) STIPULATING AGAINST any child adopted after the disability retirement date

While "naturally born" children born after the disability retirement date DO receive benefits.

Further, it is very upsetting that because of this wrongful and discriminatory language, Lt. Boreen's minor children are not eligible for even survivor benefits that I now receive, should I die before they reach the age of 18 . Where as other children that are biologically born after the disability retirement date would receive benefits until their 18th birthday. What can be more discriminatory than that?

EXCERPT – RCW 41.26.030. Definitions Section

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

- (i) A natural born child;
- (ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;
- (iii) A posthumous child;
- (iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or
- (v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(6)(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

Subject: Discrimination of Adopted Children

Honorable (select Legislators last spring).

I am writing to you concerning what would be considered by most people to be a deplorable situation, in which minor children of disabled Seattle fireman, and LEOFF 1 member Phillip Neill Boreen are denied benefits simply because they are adopted, versus “naturally” born. It is hard to believe. But it is true. Having gone through all the channels necessary, I find myself at your doorstep. Not only on behalf of our own minor children, but on behalf of children throughout the State of Washington who may be subjected to discrimination under any situation because of antiquated laws or ignorance.

I beg forgiveness in approaching you at this late date. In 2016, I began working diligently with the WA Dept. of Retirement Systems (DRS) regarding benefits for my children following the death of their father. I finally received a definitive decision the appeal process from DRS on February 1. Unfortunately, my children, or any adopted child, cannot receive benefit unless the language in the statute is changed. This discrimination of adopted children is inconsistent with other parts of Washington Code, but non-the-less, still rears its’ ugly head in this particular section of state law.

As progressive and sensitive to human rights as Washington seeks to be recognized for, I fervently hope that you will see this situation as something that can and should be remedied as quickly as possible. It appears that it is possible to remedy the discriminatory and unjust language in the existing statute, given the efforts and language provided by the Dept. of Retirement Systems recent decision. I’ve included in here for you to read.

I am asking for your intervention to change the language in RCW 41.26.030 (6)(a) and prevent discrimination against children by nature of the advent of their birth. Children, that through no fault of their own, are being considered lesser human beings by statute in the State of Washington, because of the language in RCW 41.26.030 (6)(a) I respectfully submit my plea as an advocate for our own and the future of other very loved children and their families in the State of Washington, and seek your help to correct this wrong. These children should not be separated out.

Sincerely,

Mrs. Katharine S. Boreen
Wife of Lt. P.N. Boreen, Seattle Fire Dept., deceased
(307) 272-4208 or (307) 272-6640

Title 11 - Probate and Trust Law

RCW 11.02.005

(3) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse or surviving domestic partner, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(8) "Issue" means all the lineal descendants of an individual. **An adopted individual is a lineal descendant of each of his or her adoptive parents and of all individuals with regard to which each adoptive parent is a lineal descendant.** A child conceived prior to the death of a parent but born after the death of the deceased parent is considered to be the surviving issue of the deceased parent for purposes of this title.

Title 26 - Domestic Relations

RCW 26.33.260

Decree of adoption—Effect—Accelerated appeal—Limited grounds to challenge—Intent.

(1) The entry of a decree of adoption divests any parent or alleged father who is not married to the adoptive parent or who has not joined in the petition for adoption of all legal rights and obligations in respect to the adoptee, except past-due child support obligations. **The adoptee shall be free from all legal obligations of obedience and maintenance in respect to the parent. The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent.**

(2) Any appeal of an adoption decree shall be decided on an accelerated review basis.

(3) Except as otherwise provided in RCW [26.33.160](#) (3) and (4)(h), no person may challenge an adoption decree on the grounds of:

(a) A person claiming or alleging paternity subsequently appears and alleges lack of prior notice of the proceeding; or

(b) The adoption proceedings were in any other manner defective.

(4) It is the intent of the legislature that this section provide finality for adoptive placements and stable homes for children.



STATE OF WASHINGTON

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

P.O. Box 40918 • Olympia, Washington 98504-0918 • (360) 586-2320 • FAX (360) 586-2329

October 19, 2017

TO: Steve Nelsen, Executive Director

FROM: Paul Neal, Senior Research and Policy Manager

SUBJECT: Survivor rights of adopted children of LEOFF Plan 2 members.

Question

Does the LEOFF definition of “child”, which excludes children adopted after retirement, apply to LEOFF Plan 2? If so, what benefits exclude such children?

Answer

Yes. RCW 41.26.030(6)(a)’s definition of child applies to both LEOFF Plan 1 and LEOFF Plan 2. It includes adopted children only if the adoption occurred “prior to the date benefits are payable under this chapter” thus excluding children adopted after retirement. Children adopted after the member’s retirement do not qualify for the following LEOFF Plan 2 benefits:

- Death in service benefit, including
 - Retirement allowance either:
 - Selected by child if no surviving spouse or domestic partner; or
 - Survivor benefit if surviving spouse or domestic partner dies while child under age of majority; *RCW 41.26.510(2)(a)*or
 - 150% contribution refund; *RCW 41.26.510(2)(b)* or
 - Duty death benefit:
 - Unreduced survivor allowance; *RCW 41.26.510(4)*
 - Reimbursement of premiums; *RCW 41.26.510(5)*
 - Tuition Waiver; *RCW 28B.15.380*
 - *Note: children not eligible for lump sum death benefit; RCW 41.26.048*
- Establishing service credit for interruptive military service credit where member dies before establishing leave, *RCW 41.26.520(7)(d)*.



Definition of Child

Initial Consideration - April 25, 2018

Issue

- The LEOFF definition of “child” excludes children adopted after retirement from eligibility for benefits.

History

- Member Correspondence
- LEOFF Plan 2 Board
 - Member correspondence discussed at November 15, 2017 meeting
 - Comprehensive Report at December 19, 2017 meeting
 - Motion passed to not take any action at that time
- SCPP
 - Work session at December 12, 2017 SCPP meeting
 - Interest expressed, no action taken

Two Categories of Qualifying Children

- Biological Children who qualify by birth
- Children must meet statutory condition before member retires
 - Adopted children must be adopted prior to retirement
 - Stepchild relationship must have been in existence prior to retirement
 - Illegitimate child legitimized, i.e. paternity established prior to retirement
- Avoid perceived incentive to adopt a child in order to enhance LEOFF benefits

LEOFF Plan 2 Benefits for Qualifying Children

If no surviving spouse or surviving spouse dies while children under 18:

- Death in service benefit, choice between:
 - Retirement allowance or
 - 150% contribution refund - *RCW 41.26.510(2)(b)*
- Duty death benefit:
 - Unreduced survivor allowance - *RCW 41.26.510(4)*
 - Reimbursement of health insurance premiums - *RCW 41.26.510(5)*
 - Tuition Waiver - *RCW 28B.15.380*
- Establishing service credit for interruptive military service credit where member dies before establishing leave - *RCW 41.26.520(7)(d)*

LEOFF Plan 1 Benefits for Qualifying Children

LEOFF 1 increases benefits of retirees & surviving spouses with qualifying children:

- **Duty disability:** Additional 5% of final average salary (FAS) for each child up to a maximum of 10% - *RCW 41.26.130*
- **Death benefit:**
 - Surviving spouse receives an additional 5% of FAS for each child up to a maximum of 10%
 - If no surviving spouse or surviving spouse dies with qualifying children, the children receive 30% of FAS for one child, 10% for each additional up to 60%, share and share alike - *RCW 41.26.160, 41.26.161*



Thank You

Ryan Frost

Research and Policy Manager

ryan.frost@leoff.wa.gov

(360) 586-2325



Out of Jurisdiction Duty

Report Type:

Initial Consideration

Date Presented:

4/25/2018

Presenter Name and Title:

Ryan Frost, Research and Policy Manager

Summary:

Members who are injured while responding to an emergency out of their jurisdiction are not entitled to LEOFF 2 duty disability or duty death benefits.

This report will discuss the issues that have arisen from public safety officers responding to the domestic terrorist attacks in Las Vegas, provide information on what LEOFF Plan 2 benefits are currently available to members who are injured or killed while responding to incidents out of jurisdiction, and review how federal benefits apply. This report will also identify several questions that policymakers may want to consider.

ATTACHMENTS:

Description	Type
▣ Out of Jurisdiction Duty	Report
▣ Out of Jurisdiction Duty	Presentation



April 25, 2018

Out of Jurisdiction Duty

INITIAL CONSIDERATION

By Ryan Frost

Research and Policy Manager

360-586-2325

ryan.frost@leoff.wa.gov

ISSUE STATEMENT

Members who are injured while responding to an emergency out of their jurisdiction are not entitled to LEOFF 2 duty disability or duty death benefits.

OVERVIEW

This report will discuss the issues that have arisen from public safety officers responding to the domestic terrorist attacks in Las Vegas, provide information on what LEOFF Plan 2 benefits are currently available to members who are injured or killed while responding to incidents out of jurisdiction, and review how federal benefits apply. This report will also identify several questions that policymakers may want to consider.

BACKGROUND AND POLICY ISSUES

An off-duty member who becomes disabled or is killed while responding to a mass casualty incident has the same level of benefits as a member who becomes disabled or is killed from any other type of non-duty occurrence.

There has been a recent push across the west coast (in response to last year's Las Vegas terrorist attack) to ensure first responders receive duty related benefits when responding to an incident no matter where it takes place.

A number of California law enforcement officers were shot and injured while providing lifesaving care at the Las Vegas terrorist attack, but when they went to file workers compensation claims, they were denied. Had those off-duty officers been shot and injured while responding to a mass-killing in California, they likely would have received benefits without dispute. But because they were injured in Nevada, their life-saving efforts cost them.

Legislation has been introduced in California to address this issue. See Appendix A.

Current LEOFF Benefits

Current statute limits duty disability retirement and duty related death benefits to members who become injured while “on the clock” with their employer.

Any member who becomes disabled during their off time is limited to a non-duty disability benefit. The calculation for a non-duty disability benefit is as follows:

- $2\% \times \text{FAS} \times \text{service credit years}$

The monthly benefit is actuarially reduced to reflect the difference between the members’ age at the time of their disability retirement, and age 53. Suffering a disability at a younger age will lead to a larger reduction.

The survivors of any member who is killed during their off time are limited to either a withdrawal of member contributions (less than 10 years of service) or a non-duty death benefit. The calculation for a non-duty death benefit is actuarially reduced in the same manner as a non-duty disability benefit.

Federal Benefits - Public Safety Officers Benefits Program

Opponents of granting more benefits to these members argue that the coverage for these types of events should be done at the federal level. The most common federal benefit for public safety officers who are killed or become catastrophically disabled is the Public Safety Officers Benefits (PSOB) Program.

The PSOB provides a \$343,589 lump sum death and total-disability benefits for eligible public safety officers. The PSOB definition of eligibility states that a public safety officer's death or total and permanent disability must result from injuries sustained in the line of duty. "Line of duty" means any action that the public safety officer is authorized or obligated to perform by law, rule, regulation or condition of employment or service.

If law enforcement, fire suppression, rescue or ambulance service is not a person's primary function, then, to be covered by the Act, that person must be engaged in his or her authorized law enforcement, fire suppression, rescue or ambulance duties when the fatal or disabling injury is sustained.

Therefore, the federal PSOB benefits do not apply to out of jurisdiction deaths or disabilities

What Level of Benefits is Appropriate?

The primary policy question is whether the Board wants to expand disability coverage for these types of events. The current benefit for these members' only provides the normal retirement formula, actuarially reduced by the difference between the members' age and age 53.

- Should the level of benefits rise to the level of a line of duty disability/death providing full earned benefits?
- If a member becomes catastrophically disabled, should the level of benefits rise to the catastrophic duty disability benefit, where a member would receive 70% of their FAS as well as medical premium reimbursements?
- If a member dies while performing this type of service, should his survivor be entitled to the lump sum payment of 150% of their contributions plus interest or a monthly benefit?
- If a member dies while performing this type of service, should his survivor be entitled to the lump sum line of duty death benefit¹?
- If a member dies while performing this type of service, should the level of benefits include medical premium reimbursements provided to survivor of a member killed in the course of employment?

This issue of compensation is certain to remain in the forefront as communities across the country face a threat from mass-casualty events, including terrorist attacks and wildfires.

SUPPORTING INFORMATION

APPENDIX A: California Assembly Bill 1749

¹ \$244,032 as of 7/1/17

APPENDIX A

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

Assembly Bill No. 1749

Introduced by Assembly Member Daly
(Principal coauthor: Assembly Member Quirk-Silva)
(Principal coauthor: Senator Bates)
(Coauthors: Assembly Members Grayson, Mayes, and Rodriguez Rodriguez, Caballero, Chen,
Gipson, and Harper)
(Coauthor: Senator Wilk)

January 03, 2018

An act to amend Section 3600.2 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1749, as introduced, Daly. Workers' compensation: off-duty peace officer.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law provides that whenever any peace officer, as defined, is injured, dies, or is disabled from performing his duties as a peace officer by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace anywhere in this state, including the local jurisdiction in which he is employed, but is not at the time acting under the immediate direction of his employer, he or his dependents, as the case may be, shall be accorded by his employer all of the same benefits, including the benefits of this division, which he or they would have received had that peace officer been acting under the immediate direction of his employer. Existing law provides that any injury, disability, or death incurred under the circumstances described in this section shall be deemed to have arisen out of and been sustained in the course of employment for purposes of workers' compensation and all other benefits.

This bill would provide that whenever any peace officer is injured, dies, or is disabled from performing his duties as a peace officer by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators within or out of the state, or protection or preservation of life or property within or out of the state, or the preservation of the peace anywhere in this state, but is not at the time acting under the immediate direction of his employer, he or his dependents shall be accorded by his employer all of the same benefits the peace officer or his dependants would have received had that peace officer been acting under the immediate direction of his employer. The bill would provide that this provision is declaratory of existing law.

Digest Key

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

Bill Text

The people of the State of California do enact as follows:

SECTION 1. Section 3600.2 of the Labor Code is amended to read:

3600.2. (a) Whenever any peace officer, as defined in Section 50920 of the Government Code, is injured, dies, or is disabled from performing his duties as a peace officer by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators *within or out of the state*, or protection or preservation of life or property *within or out of the state*, or the preservation of the peace anywhere in this state, including the local jurisdiction in which he is employed, but is not at the time acting under the immediate direction of his employer, he or his dependents, as the case may be, shall be accorded by his employer all of the same benefits, including the benefits of this division, which he or they would have received had that peace officer been acting under the immediate direction of his employer. Any injury, disability, or death incurred under the circumstances described in this section shall be deemed to have arisen out of and been sustained in the course of employment for purposes of workers' compensation and all other benefits.

(b) Nothing in this section shall be deemed to:

(1) Require the extension of any benefits to a peace officer who at the time of his injury, death, or disability is acting for compensation from one other than the city, county, city and county, judicial district, or town of his primary employment.

(2) Require the extension of any benefits to a peace officer employed by a city, county, city and county, judicial district, or town which by charter, ordinance, or departmental regulation, whether now in force or hereafter enacted or promulgated, expressly prohibits the activity giving rise to the injury, disability, or death.

(3) Enlarge or extend the authority of any peace officer to make an arrest; provided, however, that illegality of the arrest shall not affect the extension of benefits by reason of this act if the peace officer reasonably believed that the arrest was not illegal.

SEC. 2.

The amendments to Section 3600.2 of the Labor Code made by this act do not constitute a change in, but are declaratory of, existing law.



Out of Jurisdiction Duty

Initial Consideration – April 25, 2018

Issue

- **Members who are injured while responding to an emergency out of their jurisdiction are not entitled to LEOFF 2 duty disability or duty death benefits**

Background

- An off-duty member disabled or killed responding to a mass casualty incident out of jurisdiction only has same benefits as a member disabled from any other type of non-duty injury
- Recent push across the west coast (in response to the Las Vegas terrorist attack) to ensure that officers and other first responders can get benefits no matter where an incident takes place

Background

- California law enforcement officers shot and injured while providing lifesaving care at the Las Vegas terrorist attack
 - Issues with approval of Workers' Compensation Claim
- Had those off-duty officers been shot and injured while responding to a mass-killing in California, they likely would be taken care of without dispute

LEOFF Benefits

- Limits duty disability and duty death benefits to members who become injured while “on the clock” with their employer
- Any member who becomes disabled in their off time is limited to a non-duty disability benefit
 - $2\% \times \text{FAS} \times \text{service credit years}$ (Actuarially Reduced)
 - Suffering a disability at a younger age will lead to a larger reduction
 - <10 YOS– withdrawal of members contributions plus interest

Federal Benefits - PSOB

- Opponents argue that coverage should be done at the federal level
- Public Safety Officers Benefits Program (PSOB) provides benefits for public safety officers killed or disabled in line of duty
- Public safety officer's death or total and permanent disability must result from injuries sustained in the “line of duty”
- \$343,589 lump sum payment for line of duty death and total-disability
- PSOB benefits do not apply to out of jurisdiction (off-duty) situations

Policy Considerations

- Does the Board want to expand duty disability coverage for out of jurisdiction events?
- Should benefits rise line of duty disability & death providing full earned benefits?
- If catastrophically disabled, should benefits rise to the catastrophic duty disability benefit?
- If a member dies while performing this type of service, should his survivor be entitled to full survivor benefits?

Questions?

- Ryan Frost
- Research and Policy Manager
- ryan.frost@leoff.wa.gov
- 360-586-2325



Disabled Members Return to Work

Report Type:

Initial Consideration

Date Presented:

4/25/2018

Presenter Name and Title:

Ryan Frost, Research and Policy Manager

Summary:

The disability benefits for members who recover from their disabilities are ambiguous if their previous employer refuses to hire them back.

This report will review the issues that can occur when a LEOFF Plan 2 member recovers from their disability and return to service, how the member benefits are impacted by the disability/recovery determination, and the employers' statutory obligation to rehire recovered members. This report will also identify several questions that policy makers may want to consider.

ATTACHMENTS:

Description	Type
▣ Disabled Members Return to Work	Report
▣ Disabled Members Return to Work	Presentation



April 25, 2018

Disabled Members Return to Work

INITIAL CONSIDERATION

By Ryan Frost

Research and Policy Manager

360-586-2325

ryan.frost@leoff.wa.gov

ISSUE STATEMENT

The disability benefits for members who recover from their disabilities are ambiguous if their previous employer refuses to hire them back.

OVERVIEW

This report will review the issues that can occur when a LEOFF Plan 2 member recovers from their disability and return to service, how the member benefits are impacted by the disability/recovery determination, and the employers' statutory obligation to rehire recovered members. This report will also identify several questions that policymakers may want to consider.

BACKGROUND

This issue arose from working with the Department of Retirement Systems (DRS) on the duty disability rule making project.

Current disability statute for LEOFF Plan 2 provides that when a member is determined to have recovered from a disability and no longer entitled to workers' compensation benefits, the members' previous employer is required to hire them back at their previous rank and/or pay. Once back in service, a member begins earning service credit again and becomes eligible for an active member benefit.

Issues arise when the employer disagrees with Department of Retirement Systems' (DRS) decision that the member has fully recovered from their disability. This leaves the member in an ambiguous circumstance pending the appeals decision because:

- Disability payments have been stopped
- They are not earning a salary, because their previous employer refuses to hire them back

Disability Payments Stopped

Any member who receives a disability allowance is subject to independent medical examinations as required by DRS. If a medical examination reveal that the member has recovered from their incapacitating disability, and no longer entitled to workers' compensation benefits. The members' retirement allowance is therefore canceled and the member shall be restored to duty.

Previous Employer

Once the determination has been made that the member has recovered from their disability, the member's previous employer is required to hire them back at the same civil service rank they held at the time of their disability retirement¹. The employer may appeal if they disagree with the DRS determination.

Following cancellation of the members disability benefit, and upon their return to a LEOFF-eligible position, they will begin earning service credit again and become eligible for an active member benefit.

Who determines that the member is no longer disabled?

All pension statutes are written giving DRS the determination authority. As soon as DRS determines the member is no longer disabled, all of the pension statutes are written to terminate the member's disability benefit. In the current, there were two parties trying to decide whether the member is disabled: DRS and the previous employer.

These parties have a differing opinion about whether the member is actually recovered from their disability. Therefore, the member is caught in limbo. It could be a good faith disagreement between the two parties on the member's level of recovery. Or, it could be that the employer does not want to follow the statute, so they use the appeal process to delay their rehiring as long as possible.

Current Case

DRS is aware of one current case where they have made the determination that the member has recovered from their disability, but the previous employer has refused to hire them back. DRS continued paying the members disability benefit while the appeal works its way through the process. The case was settled out of court and the individual remained as a disability Retiree.

¹RCW 41.26.470 (2)

Policy Considerations

For the current case, the benefits were paid for by the fund, which means all the other members, employers, and state pay for those extra disability payments that were made during the appeals process.

This leads to the following policy questions:

- If DRS determines the member has recovered, what do they do in the situation where the employer disagrees?
- Should DRS continue to pay a disability benefit to members who are no longer disabled?
- If the determination is upheld during the appeal process, who pays for those extra disability payments?
- Should DRS be able to bill the employer for the disability payments they made to the member while they were stuck in limbo?

SUPPORTING INFORMATION

Appendix A: Different types of disabilities

APPENDIX A: DIFFERENT TYPES OF DISABILITIES²

Temporary Duty Disability

If you do not earn full service credit because of leave associated with a duty disability, you have the option to purchase up to 24 months of service credit for each covered duty disability. To establish service credit, you must meet the following criteria:

- Your disability must have occurred in the line of duty.
- You must have received your injury on or after July 1, 2002, and be eligible to receive workers' compensation benefits.
- You and your employer must make employer and member contributions on the compensation you would have earned had you been working. If the payments are made for a retroactive period, interest is charged. If your employer offers a disability leave supplement or similar benefit, your first six months of service credit are interest free.

If your duty disability occurred between July 23, 1989, and June 30, 2002, the amount of service credit you can purchase is limited to six months and requires that you be receiving a disability leave supplement or similar benefit from your employer.

Duty Disability

If your disability occurred in the line of duty, you may choose between a nontaxable:

- One-time payment equal to 150% of your eligible retirement contributions
- Minimum monthly benefit of at least 10% of your FAS

If you have fewer than 60 service credit months when you become disabled, the average will be based on your actual total of service credit months. If the normal retirement benefit calculation rule yields a monthly benefit greater than 10% of your FAS, you will receive the higher benefit amount. However, only the amount equal to 10% of your FAS is nontaxable. Contributions made to restore service credit after the deadline are refunded at 100% only.

Disaster Response Disability

There are certain circumstances, on or after March 22, 2014, when you might qualify for disaster response benefits and service credit. In the two situations listed below, your disability must have occurred while you were in eligible federal service providing eligible emergency management services.

Working for a LEOFF Plan 2 employer: You might qualify for a disability benefit if you leave the employment of your LEOFF Plan 2 employer to provide a disaster response, and you become

² <http://www.drs.wa.gov/publications/member/leoff/leoff2disability.htm>

disabled on or after March 22, 2014. Your benefit won't be reduced if you retire early. The benefit will be a minimum 10% of your Final Average Salary.

Working in eligible federal service: You might qualify for service credit for a leave of absence if you become disabled when you leave the employment of your LEOFF Plan 2 employer to provide a disaster response, on or after March 22, 2014.

Non-duty Disability

If your disability didn't occur in the line of duty, you might receive a monthly benefit calculated as follows: $2\% \times \text{FAS} \times \text{service credit years}$

Final Average Salary (FAS) is the monthly average of your 60 consecutive, highest-paid service credit months. Your monthly benefit will be reduced to reflect the difference between your age at the time of your disability retirement and age 53. If you are age 50 and have 20 years of service credit, the reduction is 3% per year (prorated monthly) from age 53.

Catastrophic Duty Disability

If your disability occurred in the line of duty and is so severe it prevents you from performing substantial gainful activity or substantial gainful employment in any capacity in the future, you might be entitled to receive a catastrophic duty disability benefit.

The Social Security Administration defines "substantial gainful employment" as working in a position whose average earnings are more than a set dollar amount each month, a figure it updates annually.

The catastrophic duty disability benefit can be calculated in three ways:

- 70% of your FAS
- 100% of your FAS, offset by Social Security disability and workers' compensation disability payments
- $<2\% \times \text{FAS} \times \text{service credit years}$

In addition to your monthly benefit, you will be reimbursed for premiums you pay for employer-provided health insurance, COBRA, and Medicare Parts A and B.

If you are entitled to Medicare, you must enroll and maintain enrollment in both Medicare Parts A and B to remain eligible for the reimbursement. These premium reimbursements are not taxable. Medical insurance reimbursements are available for current, past and eligible COBRA enrollees. Reimbursement for these members is never greater than the COBRA coverage they are eligible for.



Disabled Members Return to Work

Initial Consideration – April 25, 2018

Issue

- The disability benefits for members who recover from their disabilities are ambiguous if their previous employer refuses to hire them back.

Overview

- **Current Disability Statute**

- When a member is determined to have recovered from their disability, the members' previous employer is required to hire them back at their previous rank

- **Issues**

- Employer may disagree with DRS' decision that the member has fully recovered from their disability and not rehire
- This leaves the member's benefits in an ambiguous circumstance pending any appeal

Benefit Status Ambiguous

- **Disability Payments Stopped**
 - Any member who receives a disability allowance is subject to comprehensive medical examinations as required by DRS
 - If those medical examinations reveal that the member has recovered from their incapacitating disability, they are no longer entitled to benefits under Title 51 RCW
 - The members' disability retirement allowance is canceled
 - Member expected to be rehired by employer

Benefit Status Ambiguous (cont.)

- Previous Employer May Disagree
 - Once determined recovered from disability, the employer is required to rehire at the same civil service rank held at the time of disability (41.26.470 (2))
 - Employer may disagree with recovery determination and not rehire member
 - Member not receiving disability retirement and not receiving wages from the employer
 - Not accruing pension credit

Current Case

- **One Current Case**
 - DRS has chosen to continue paying the members disability benefit while the appeal works its way through the process
- **Resolution**
 - Settled out of court
 - Member remained retired

Policy Considerations

- Should DRS continue to pay a disability benefit to members who are no longer disabled?
- Should DRS be able to bill the employer for the disability payments they made to the member while they were stuck in ambiguity?



Thank You

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PEBB Coverage for Catastrophic Retirees

Date Presented:

4/25/2018

Presenter Name and Title:

Ryan Frost, Research & Policy Manager

Summary:

LEOFF Plan 2 catastrophic disability retirees and their survivors have different medical insurance access than survivors of members killed in the line of duty.

This report will provide information on what health insurance benefits/reimbursements are available to survivors of members who are killed in the line of duty and to members who are retired for catastrophic disability. This report will also the history of the health insurance premium reimbursement benefit.

ATTACHMENTS:

Description	Type
▣ PEBB Coverage for Catastrophic Retirees	Report
▣ PEBB Coverage for Catastrophic Retirees	Presentation



April 25, 2018

PEBB Coverage for Catastrophic Retirees

INITIAL CONSIDERATION

By Ryan Frost

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ISSUE STATEMENT

LEOFF Plan 2 catastrophic disability retirees and their survivors have different medical insurance access than survivors of members killed in the line of duty.

OVERVIEW

This report will provide information on what health insurance benefits/reimbursements are available to survivors of members who are killed in the line of duty and to members who are retired for catastrophic disability. This report will also the history of the health insurance premium reimbursement benefit.

BACKGROUND AND POLICY ISSUES

Survivor Premium Reimbursement

Legislation enacted in 2001¹ enabled surviving spouses of emergency service personnel killed in the line of duty on or after January 1, 1998, to purchase health care benefits from the PEBB. "Emergency service personnel" for this purpose included fire fighter and law enforcement members of the Law Enforcement Officers' and Fire Fighters' Retirement System and the Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System. Under the 2001 legislation, the cost of the insurance was paid by the surviving spouses and dependent children.

Under legislation enacted in 2006², the retirement allowance paid to survivors of all LEOFF 2 members killed in the course of employment includes reimbursement for the cost of participating in a PEBB health insurance plan. The survivors of members killed in the line of duty prior to January 1, 1998, as well as on or after January 1, 1998, are eligible to participate in the PEBB health insurance plans under the 2006 bill. This benefit (right to reimbursement for the health care insurance costs) is not considered a contractual right, and the Legislature reserved the right to amend or repeal the 2006 act for future reimbursements.

¹ Engrossed Substitute House Bill 1371 (2001)

² Senate Bill 6723 (2006)

Catastrophic Disability Premium Reimbursement

LEOFF Plan 2 does not provide access to any health care insurance for any disability retirees. A disability retiree may have access to health care insurance through employer or employee associations or the open market. Catastrophic disability retirees/survivors do not have access to benefits through PEBB unless they were already receiving PEBB benefits through their employer. This means these members are receiving benefits through COBA coverage (while available), through coverage offered to retirees through their employer (no common), or individual coverage from the open market. Shopping for private coverage can be challenging and expensive. Tracking and paying a diverse and shifting field of individual providers creates administrative challenges for DRS. The cost for coverage can be much greater under private coverage³.

Since 2010, LEOFF Plan 2 has provided a reimbursement to the disability allowance of a LEOFF Plan 2 member that is totally disabled in the line of duty that includes reimbursement for any payments made for employer-provided medical insurance. This includes medical insurance offered under the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and Medicare Parts A and B. The reimbursement is capped at the former employer's current COBRA amount or other employer provided retiree medical insurance premium amount⁴. The actual amount reimbursed depends on the health insurance plan selected by the retiree or surviving spouse.

History of Catastrophic Health Insurance Premium Reimbursement

During the 2008 interim, the Board studied options for extending the health care premium assistance to catastrophic retirees and their survivors. At the Board's request, the Legislature introduced HB 1679 in 2009. The 2009 bill proposed including catastrophically disabled LEOFF Plan 2 members, their spouses and dependent children in the PEBB risk pool, with the individuals paying their own PEBB premium until Medicare eligible.

The Health Care Authority fiscal note estimated a total cost of \$1.5 million the first biennium, ramping up to 4.7 million by the 2013-15 biennium. The fiscal note assumed, among other things, 14 new catastrophic retirees added on January 1 of each year. The 2009 version of HB 1679 failed.

In 2010, the Legislature substituted a new bill containing the provisions now found in law. SHB 1679:

- Did not expand PEBB participation
- Authorized the LEOFF trust fund to reimburse catastrophic retirees and their survivors for health insurance premiums up to authorized COBRA levels

The Actuary's fiscal note estimated a cost of about \$1.8 million per biennium, increasing contribution rates by .26% total. However, when the actuary presented supplemental rate increase options to the Board in June of 2010, it did not include a rate increase from SHB 1679.

³ In 2017, retiree medical premiums for an individual and spouse in PEBB (Uniform Medical) were \$1,243; Private coverage through the state's benefit exchange on average cost \$1,584.

⁴ RCW 41.26.470(10).

Experience May Lower Cost of Board's Original PEBB Proposal

Writing a fiscal note requires predicting the future. Sometimes actual experience does not track those predictions. The estimates of future costs for including catastrophic retirees and their families in PEBB may have been overstated, due primarily to an overestimate of the number of catastrophic retirees.

Both the actuarial and health care authority fiscal notes assumed a higher rate of catastrophic retirements than current experience demonstrates. The Actuary's office has completed two experience studies since that time showing a significantly lower catastrophic retirement rate.

Catastrophic Retirement Rates: Original vs. Revised	
2009 HCA Assumed Rate	14/year
Current Experience Study rate	4.5/year

The Actuary's sensitivity analysis in the original SHB 1679 fiscal note found that cutting the estimated number of retirees in half reduces the estimated cost of the bill nearly by half. Given that analysis, the lower rate of actual catastrophic retirements indicates a significantly lower cost than estimated in the original fiscal notes.

SUPPORTING INFORMATION

Appendix A: Health Insurance Premiums for Recent Retirees

APPENDIX A: HEALTH INSURANCE PREMIUMS FOR NEW RETIREES - 2017

The following table compares the cost of insurance purchased through the Washington Health Exchange with PEBB retiree rates. Because of the many variables in health plan design, the comparison is not exact. It is intended to give an idea of what an individual retiree might pay for health insurance.

We calculated the estimated based on the following “average” new LEOFF 2 retiree:

- 56 years old
- \$60,000 annual pension
- Non-smoker

The Health Exchange provides bronze, silver, or gold coverage levels. To get as close as possible to the level of coverage available through employer provided health plans, the comparison looks only at “gold” plans and compares that to the Uniform Medical Classic plan. The costs, deductibles, and out-of-pocket maximums are for an individual and spouse.

Plan Provider	Individual Deductible	Individual Out of Pocket Max	Emergency Room Copay/ Coinsurance	Primary Care Copay	Premium (rounded)
Uniform Medical Retiree (State)	\$250	\$2000	\$75/ 15%	15%	\$1243 ⁱ
Plans Available From Washington Health Exchange (Gold level)					
Ambetter	\$1000	\$6350	\$250	20% coinsurance	\$1170
Bridgespan	\$1200	\$7,150	\$0/10%	\$30/10% coinsurance	\$1653
Community Health Plan	\$650	\$4800	\$250	\$0	\$1895
Kaiser Permanent	\$850	\$5000	\$200/ 20%	\$10	\$1402
LifeWise	\$1000	\$4500	\$200 / 30%	\$30	\$1560
Premiera Blue Cross	\$1000	\$4500	\$200/30%	\$10	\$1823
Average Private Market Premium				\$1584	

The 2017 premiums for different levels of COBRA coverage calculated for the Northwest Fire Benefits Trust are provided below:

Northwest Fire Fighters Benefits Trust

2017 Benefit Options & Rates (WA COBRA Rates)

Plan Design	Plan \$50	Plan \$100	Plan \$200	Plan \$200A	Plan \$500	Plan \$750	Plan \$1,000	Plan \$1,500	Plan \$2,000	HSA \$1,500
Deductible	\$50	\$100	\$200	\$200	\$500	\$750	\$1,000	\$1,500	\$2,000	\$1,500
Coinsurance (In-Network/Out-of-Network)	100%/70%	90%/70%	80%/60%	80%/60%	80%/60%	80%/60%	80%/60%	80%/60%	80%/60%	80%/60%
Out-Pocket-Maximum	\$1,050	\$1,100	\$1,700	\$500	\$2,500	\$2,750	\$2,000	\$2,000	\$2,500	\$4,500
Office Visit Copay (Primary Care/Specialist)	\$0	\$10	\$10	\$10	\$15	\$15	\$20	\$20	\$25	Ded/Coins
Rx Copay	\$5 Generic / \$25 Formulary / \$50 Non-Formulary									Ded/Coins
Vision Coverage	Exam Every Year, No Copay, 100% / \$200 Hardware Every Year									
Plan Design	Plan \$50	Plan \$100	Plan \$200	Plan \$200A	Plan \$500	Plan \$750	Plan \$1,000	Plan \$1,500	Plan \$2,000	HSA \$1,500
Employee Only	\$829.85	\$681.23	\$647.78	\$805.09	\$609.39	\$584.61	\$579.66	\$530.12	\$511.55	\$453.32
Employee & Spouse	\$1,812.06	\$1,488.79	\$1,414.47	\$1,758.82	\$1,331.49	\$1,277.00	\$1,264.60	\$1,158.10	\$1,117.21	\$989.63
Employee & Child	\$1,355.02	\$1,112.26	\$1,057.76	\$1,314.15	\$994.58	\$953.72	\$945.04	\$864.54	\$833.56	\$739.43
Employee & Children	\$1,629.99	\$1,338.91	\$1,272.02	\$1,581.69	\$1,195.24	\$1,146.93	\$1,137.02	\$1,040.42	\$1,003.26	\$889.32
Employee & Spouse & Child	\$2,337.22	\$1,919.82	\$1,824.44	\$2,267.88	\$1,716.68	\$1,646.10	\$1,629.99	\$1,492.52	\$1,439.24	\$1,275.73
Employee & Spouse & Children	\$2,612.20	\$2,146.48	\$2,038.71	\$2,535.42	\$1,917.32	\$1,839.32	\$1,821.98	\$1,668.38	\$1,608.93	\$1,425.62

DiMartino Associates
EMPLOYEE BENEFITS CONSULTING

ⁱ Subsidized rate available through Public Employees' Benefits Board (PEBB) for state retirees.



PEBB Coverage for Catastrophic Retirees

Initial Consideration – April 25, 2018

Issue

- **LEOFF Plan 2 catastrophic disability retirees and their survivors have different medical insurance access than survivors of members killed in the line of duty**

Survivor Premium Reimbursement

- Line-of-duty death benefit:
 - Survivors of LEOFF 2 members killed in the line of duty allowed to participate in PEBB (2001)
 - PEBB Premiums reimbursed by LEOFF (2006)
- Participation in the PEBB benefit system has two advantages:
 - Implicit Subsidy: Pay same rate as entire PEBB pool
 - Explicit Subsidy: PEBB pays Medicare part B premiums for Medicare covered retirees

Catastrophic Disability Premium Reimbursement

- Coverage through COBRA, employer provided, or open market/exchange
- Premiums reimbursed by LEOFF (2006)
 - Before Medicare eligibility:
 - Reimbursement of health insurance premiums
 - Up to former employer's COBRA limit
 - At 65, Reimbursement of Medicare Premiums:
 - Part A (if any)
 - Part B
 - Not eligible for reimbursement of part C and D premiums

Cost Considerations

- Previous cost estimates (2009 Legislation)
 - \$1.5 million cost 2011-13 biennium
 - \$4.7 million 2013-15 biennium

- Mortality and experience impact cost

Catastrophic Retirement Rates: Original vs. Revised	
2009 HCA Assumed Rate	14/year
Current Experience Study rate	4.5/year

Policy Considerations

- Should PEBB coverage be extended to catastrophic retirees and survivors?
- Should covered benefits include reimbursement for Medicare C and D premiums?



Thank You

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Standby Pay as Basic Salary

Date Presented:

4/25/2018

Presenter Name and Title:

Ryan Frost, Research & Policy Manager

Summary:

Standby pay is not part of basic salary (reportable compensation) used in computing LEOFF Plan 2 contributions and pensions.

This report will provide information about the rules regarding standby pay and reportable compensation.

ATTACHMENTS:

Description	Type
▢ Standby Pay as Basic Salary	Report
▢ Standby Pay as Basic Salary	Presentation



April 25, 2018

Standby Pay as Basic Salary

INITIAL CONSIDERATION

By Ryan Frost
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ISSUE STATEMENT

Standby pay is not part of basic salary (reportable compensation) used in computing LEOFF Plan 2 contributions and pensions.

OVERVIEW

This report will provide information about the rules regarding standby pay and reportable compensation.

BACKGROUND AND POLICY ISSUES

A majority of law enforcement officers and fire fighters do not receive standby pay. Instead, they are generally subject to call-up if an emergency requires more resources than available from on-duty staff.

However, some LEOFF Plan 2 members receive standby pay while off-duty in exchange for being prepared to report to work on short notice. This payment is not considered compensation for services rendered and generally is not reportable compensation for LEOFF Plan 2.

The Board considered this issue during the 2016 Interim. An Initial Consideration report was provided to the Board at their September 21, 2016 meeting. The Board did not take action on the issue at that time.

Standby pay is reportable compensation for pension purposes in two state retirement systems: the Public Employees Retirement System (PERS) and the Public Safety Employees Retirement system (PSERS).

In 1994, legislation was enacted¹ that allowed the inclusion of standby pay in compensation earnable for the Public Employees' Retirement System (PERS) when: (1) the member is required to be present at, or in the immediate vicinity of, a specified location; and (2) the employer requires the member to be prepared to report immediately for work if the need arises. In 1995, the requirement that the member must be present at or in the immediate vicinity of a specified location was dropped.²

¹ C 177 L94 (ESHB 2644)

² C 244 L 95 (SSB 5118)

Standby pay was included as compensation earnable for the Public Safety Employees Retirement System when it was created in 2003³.

Reportable Compensation

"Reportable compensation" is used in determining a state retirement system member's pension. The Department of Retirement Systems (DRS) uses this term universally for all plans, regardless of terminology in RCW. It is generally defined as salaries and wages payable for services rendered to the employer. DRS determines reportable compensation based upon the nature of the payment made to an employee, not the name given to it.

In order for a LEOFF member's salary or wages to be subject to retirement system contributions and included in the calculation of his or her retirement benefit, they must meet the definition of "basic salary" in LEOFF retirement law⁴.

Definition of Basic Salary for LEOFF Plan 2

In LEOFF Plan 2 "reportable compensation" is termed "basic salary". In order for compensation to be reportable to DRS for LEOFF, it must be basic salary. Basic salary for LEOFF Plan 2 is a payment that is a salary or wage earned during a calendar month for personal services rendered by a member to an employer.

Certain payments that are not for personal services rendered by a member also qualify if there are specific provisions in the laws identifying them as basic salary. Payments not specifically identified in the rules qualify as basic salary only if the payments are for services rendered.⁵

Standby pay is one such payment that does not qualify as basic salary for LEOFF as is not considered pay for services rendered and is not included by law as basic salary.

Standby Pay is Not Basic Salary in LEOFF

Standby pay is a nominal rate of pay provided in exchange for the employee being available to come to work quickly if called, though he or she might not be called. While on standby an employee is usually confined to a specified geographic area and prohibited from consuming alcohol or other intoxicants. If the employee is called in, he or she usually earns overtime for periods actually worked.

DRS excludes standby pay from LEOFF basic salary because it does not consider standby pay compensation for services rendered⁶. While ready to work if called, an employee on standby is engaged in personal activities, not performing work for their employer.

Standby Pay Earned by LEOFF Members

An informal survey identified the following examples of standby pay. Arrangements vary depending upon the local collective bargaining agreement.

Fire Fighters Earning Standby Pay

Some Washington fire fighters can earn standby pay in the following situations:

- Positions assigned to work 8 hour shifts may be required to muster after hours, including:
 - Fire investigators, Fire Marshals, or Public Information Officers
 - Battalion Chiefs and/or Deputy Chiefs

³ PSERS was removed as a membership subset from PERS in 2003 when it was created.

⁴ see RCW 41.26.030 and WAC 415-104-298

⁵ WAC 415-104-299 Basic Salary Table

⁶ see RCW 41.26.030(4)(b) and WAC 415-104-393

- A station that combines career and volunteer fire fighters may have a career fire fighter on standby to respond to a fire call to aid volunteers.
- A lieutenant may be designated to respond to an incident in place of a Chief's and earn standby as the Chief would.
- At least one jurisdiction pays standby pay to crews in fire camps while working on state mobilizations.

Law Enforcement Officers Earning Standby Pay

Law enforcement officers on special squads such as detectives may earn pay for being on standby.

Compensation for Standby Pay

The rate of standby pay varies, but is usually in a form of reduced rate of compensation:

- Fire fighters examples:
 - Reduced rate of pay – some jurisdictions pay an hourly standby wage at a reduced rate of pay such as 10% of regular pay.
 - Reduced hours – some jurisdictions pay a full overtime wage for a reduced number of hours. For instance, one employer pays one hour of overtime for a 12 hour standby shift.
- Law enforcement examples:
 - 4 hours pay for being on standby, additional pay if called in for more than 4 hours.
 - No standby pay but guaranteed 4 hour pay minimum if called in.

Standby Pay Reported in Specific Circumstance

Whether an employee's standby pay is reportable can depend on the employer's payroll and personnel classifications:

- Standby pay paid as overtime or regular pay. If a jurisdiction tracks standby pay as a separate type of pay, it is not reported to LEOFF. If, however, the pay is paid as overtime or straight time for a reduced number of hours, the amount would be coded as reportable pay and reported to DRS.

SUPPORTING INFORMATION

Appendix A: Standby pay WACs for LEOFF Plan 2 and PERS

WAC 415-104-299 - LEOFF Basic salary table.

The following table will help you determine whether certain types of payments are basic salary under LEOFF Plan 1 or 2. Be sure to read the referenced rule to ensure that you have correctly identified the payment in question. The department determines basic salary based upon the nature of the payment, not the name applied to it. See WAC [415-104-311](#) (Plan 1) and WAC [415-104-360](#) (Plan 2).

Type of Payment	LEOFF 1 Basic Salary?	LEOFF 2 Basic Salary?
Additional Duty Pay	Yes - WAC 415-104-3205	Yes - WAC 415-104-360
Allowances (i.e. uniform)	No - WAC 415-104-3404	No - WAC 415-104-390
Basic Monthly Rate	Yes - WAC 415-104-3200	Yes - WAC 415-104-360
Cafeteria Plans	No - WAC 415-104-3303	Yes - WAC 415-104-367
Deferred Wages Attached to Position	Yes - WAC 415-104-3201 (1)	Yes - WAC 415-104-363 (1)
Deferred Wages not attached to a Position	No - WAC 415-104-3306	No - WAC 415-104-363 (2)
Disability Payments	No - WAC 415-104-340	No - WAC 415-104-380
Education Attainment Pay	No - WAC 415-104-3301	Yes - WAC 415-104-375
Employer taxes/contributions	No - WAC 415-104-3401	No - WAC 415-104-383
Fringe Benefits, including insurance	No - WAC 415-104-3402	No - WAC 415-104-385
Illegal Payments	No - WAC 415-104-3403	No - WAC 415-104-387
Leave Cash Outs/Severance	No - WAC 415-104-3304	No - WAC 415-104-401
Longevity	Yes - WAC 415-104-311	Yes - WAC 415-104-375
Overtime	No - WAC 415-104-3305	Yes - WAC 415-104-370
Paid Leave	Yes - WAC 415-104-3203	Yes - WAC 415-104-373
Payments in Lieu of Excluded Items	No - WAC 415-104-350	No - WAC 415-104-405
Performance Bonuses	No - WAC 415-104-3302	Yes - WAC 415-104-377
Retroactive Salary Increase	Yes - WAC 415-104-3202	Yes - WAC 415-104-365
Reimbursements	No - WAC 415-104-3404	No - WAC 415-104-390
Retirement or Termination Bonuses	No - WAC 415-104-3406	No - WAC 415-104-395
Shift Differential	Yes - WAC 415-104-3204	Yes - WAC 415-104-379
Special Salary or Wages	No - WAC 415-104-330	Yes - WAC 415-104-375
Standby Pay	No - WAC 415-104-3405	No - WAC 415-104-393
Tuition/Fee Reimbursement	No - WAC 415-104-3404	No - WAC 415-104-390
Workers' Compensation	Not Applicable	No - WAC 415-104-380

WAC 415-104-393 - Standby pay is not LEOFF Plan II basic salary.

Payments to a member for time not actually worked when the member must be available to work if the need arises, are not a salary or wage for services rendered. Any such payment does not qualify as basic salary for LEOFF Plan II.

Example: Some employers provide payments to a member at less than the member's regular hourly rate in exchange for the member being available to come into work after his or her shift if called, although the member may not be called. Such payments, often referred to as "standby pay," are not basic salary for LEOFF Plan II.

WAC 415-104-360 - How is basic salary for LEOFF Plan II determined?

(1) **What payments are included in LEOFF Plan II basic salary?** Other than the specific exclusions listed in WAC [415-104-397](#) and [415-104-401](#), a payment that is a salary or wage earned during a calendar month for personal services rendered by a member to an employer qualifies as LEOFF Plan II basic salary.

(a) Certain payments that are not for personal services rendered also qualify if there is a specific statutory provision identifying those payments as LEOFF Plan II basic salary. See WAC [415-104-373](#).

(b) Specific types of payments that qualify as LEOFF Plan II basic salary include, but are not limited to, the payments described in WAC [415-104-363](#)(1) and [415-104-365](#) through [415-104-379](#).

(c) Other payments not specifically listed qualify as basic salary for LEOFF Plan II only if those payments are a salary or wage for services rendered.

(2) **Basic salary is earned when the service is rendered, rather than when payment is made.**

(3) **Salary characterizations are based upon the nature of the payment.** Whether a payment is basic salary depends upon whether the payment is earned as a salary or wage for services rendered. The name given to the payment is not controlling. The department determines whether a payment is basic salary by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of basic salary.

WAC 415-108-443 - PERS reportable compensation table.

The following table indicates whether certain types of payments are reportable compensation under PERS Plan 1, 2, or 3 and provides a cross-reference to the specific WAC.

Type of Payment	PERS 1 Reportable Compensation?	PERS 2 or 3 Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-108-456	No - WAC 415-108-456
Assault Pay (State Emp.)	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Base Rate	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Car Allowances	No - WAC 415-108-4851	No - WAC 415-108-4851
Cafeteria Plans	Yes - WAC 415-108-455	Yes - WAC 415-108-455
Deferred Wages	Yes - WAC 415-108-459	Yes - WAC 415-108-459
Disability Payments	No - WAC 415-108-477	No - WAC 415-108-477
Disability: Salary lost while on disability leave	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Employer Provided Vehicle	No - WAC 415-108-4802	No - WAC 415-108-480
Employer taxes/contributions	No - WAC 415-108-459	No - WAC 415-108-459
Fringe Benefits, including insurance	No - WAC 415-108-475	No - WAC 415-108-475
Illegal Payments	No - WAC 415-108-482	No - WAC 415-108-482
Legislative Leave	Yes - WAC 415-108-464	Yes - WAC 415-108-464
Longevity/Education Attainment Pay	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Nonmoney Maintenance	Yes - WAC 415-108-4703	No - WAC 415-108-470
Optional Payments	No - WAC 415-108-483	No - WAC 415-108-483
Payments in Lieu of Excluded Items	No - WAC 415-108-463	No - WAC 415-108-463
Performance Bonuses	Yes - WAC 415-108-453	Yes - WAC 415-108-453
Retroactive Salary Increase	Yes - WAC 415-108-457	Yes - WAC 415-108-457
Reimbursements	No - WAC 415-108-484	No - WAC 415-108-484
Reinstatement Payments	Yes - WAC 415-108-467	Yes - WAC 415-108-467
Retirement or Termination Bonuses	No - WAC 415-108-487	No - WAC 415-108-487
Severance Pay - Earned Over Time	Yes - WAC 415-108-458	No - WAC 415-108-458
Severance Pay - Not Earned Over Time	No - WAC 415-108-488	No - WAC 415-108-488
Shared Leave - State Emp.	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Shared Leave - Local Government Employees	No - WAC 415-108-468	No - WAC 415-108-468
Sick Leave Cash Outs - State Employees	No - WAC 415-108-456	No - WAC 415-108-456
Sick Leave Cash Out - Local Government Employees	Yes - WAC 415-108-456	No - WAC 415-108-456
Standby Pay	Yes - WAC 415-108-469	Yes - WAC 415-108-469
Time Off with Pay	Yes - WAC 415-108-456	Yes - WAC 415-108-456
Union Leave ⁴	Yes - WAC 415-108-466	Yes - WAC 415-108-466
Workers' Compensation	No - WAC 415-108-479	No - WAC 415-108-479

WAC 415-108-469 - PERS Standby pay.

Some employers pay employees for being on "standby." A member is on standby when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work if the need arises, although the need may not arise. Because the member is not actually working, the member is not rendering service. However, RCW [41.40.010](#)(8) specifically identifies standby pay that meets the above requirements as reportable compensation. Although included in the definition of compensation earnable, time spent on standby is excluded from the definition of "service," see RCW [41.40.010](#)(9).

[Statutory Authority: RCW [41.50.050](#). WSR 98-09-059, § 415-108-469, filed 4/17/98, effective 5/18/98.]



Standby Pay as Basic Salary

Initial Consideration - April 25, 2018

Issue

- Standby pay is not part of basic salary used in computing LEOFF Plan 2 contributions and pensions

Background

- **1994 – Standby pay included for PERS**
 - Vicinity requirement
 - Prepared to report if needed
- **1995 – Vicinity requirement dropped**
- **2003 – Standby pay included for PSERS (created in 2003)**
- **2016 – LEOFF 2 Board Public Hearing**

“Basic Salary” – Reportable Compensation

- Used in determining a state retirement system member’s pension
- Generally defined as salaries and wages payable for services rendered based
- Based upon nature of payment made to an employee, not name given to it
- Certain payments not for personal services rendered may qualify if specifically identified in law

Standby Pay is NOT Basic Salary

- Not reportable basic salary in LEOFF
- Not considered pay for services rendered
- Not identified as basic salary in law
- Not used in calculating:
 - Service Credit
 - Contributions
 - Pensions (FAS)

Standby Pay Conditions

- **Typical Standby Pay Conditions**
 - Present at a specified location/timeframe or is immediately available to be contacted
 - Prepared to report immediately for work if the need arises, although the need might not arise
 - Must not be impaired
 - Standby status not concurrent with work time
 - Less than full pay

Who Earns Standby Pay?

- **Fire Fighters:**
 - Employees working 8 hour shifts required to muster for fire such as:
 - Fire investigators, Fire Marshals, or Public Information Officers
 - Battalion Chiefs and/or Deputy Chiefs
 - Career fire fighters called in to supervise volunteers
 - Lieutenant backfilling for absent chief
 - Employees mobilized for fire camps
- **Law Enforcement Officers: Special squad members, such as detectives**

How is Standby Pay Paid?

- **Reduced rate of pay –**
 - Example: 10% of regular pay
- **Full overtime rate for reduced number of hours**
 - Example: 1 hour overtime pay for 12 hours of standby
- **Regular rate for reduced number of hours**
 - Example: 4 hours regular pay for 16 hours standby



Thank You

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PTSD Benefits

Date Presented:

4/25/2018

Presenter Name and Title:

Steve Nelsen, Executive Director

Summary:

Legislation enacted in 2018 changed eligibility for workers' compensation and LEOFF Plan 2 benefits related to Posttraumatic Stress Disorder (PTSD).

This report will provide information on what LEOFF Plan 2 benefits are available to members suffering from PTSD, how eligibility for those benefits has changed due to the new legislation and the processes for establishing eligibility. This report will also identify questions that have arisen since the legislation was enacted.

ATTACHMENTS:

Description	Type
▣ PTSD Benefits	Appendix
▣ PTSD Benefits	Presentation



April 25, 2018

Posttraumatic Stress Disorder

EDUCATIONAL BRIEFING

By Steve Nelsen

Executive Director

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ISSUE STATEMENT

Legislation enacted in 2018 changed eligibility for workers' compensation and LEOFF Plan 2 benefits related to Posttraumatic Stress Disorder (PTSD).

OVERVIEW

This report will provide information on what LEOFF Plan 2 benefits are available to members suffering from PTSD, how eligibility for those benefits has changed due to the new legislation and the processes for establishing eligibility. This report will also identify questions that have arisen since the legislation was enacted.

BACKGROUND AND POLICY ISSUES

What is PTSD?

Posttraumatic Stress Disorder is a trauma and stressor-related mental disorder resulting from exposure to one or more traumatic events involving death or serious injury¹. The exposure may occur from:

1. Directly experiencing the traumatic event (e.g. suffering a gunshot wound);
2. Witnessing, in person, the event as it occurs to others;
3. Learning that the traumatic event occurred to a close friend or family member; or,
4. Experiencing repeated or extreme exposure to aversive details of the traumatic event (e.g. first responders collecting human remains).

PTSD is characterized by:

1. Recurrent, involuntary and distressing memories or dreams of the traumatic event, flashbacks, intense or prolonged psychological distress or marked psychological reactions to cues that resemble an aspect of the traumatic event;
2. Persistent avoidance of stimuli associated with the traumatic event;

¹ *Diagnostic and Statistics Manual of Mental Disorders, 5th Edition (DSM-5)*

3. Negative alterations in thoughts or mood associated with the traumatic event;
4. Marked alterations in reactivity associated with the traumatic event beginning or worsening after the traumatic event occurred (e.g. irritable behavior, unprovoked angry outbursts, reckless or self-destructive behavior, hypervigilance, exaggerated startle response, problems with concentration, and sleep disturbance).
5. Duration of symptoms 1-4 for more than one month;
6. The symptoms cause clinically significant distress or impairment in social, occupational or other important areas of functioning;
7. The symptoms are not attributable to the psychological effects of drugs, alcohol, medication or another medical condition.

How are PTSD claims covered by workers' compensation?

Under the state's industrial insurance laws, a worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to certain benefits. Claims based on mental conditions or mental disabilities caused by stress are specifically excluded in statute from the definition of an occupational disease. Examples of stress-related conditions that are not covered by workers' compensation include:

- Change of employment duties;
- Conflicts with a supervisor;
- Actual or perceived threat of loss of a job, demotion, or disciplinary action;
- Relationships with supervisors, coworkers, or the public;
- Specific or general job dissatisfaction,
- Work load pressures;
- Subjective perceptions of employment conditions or environment;
- Loss of job or demotion for whatever reason;
- Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
- Objective or subjective stresses of employment;
- Personnel decisions; and,
- Actual, perceived, or anticipated financial reversals or difficulties occurring to the businesses of self-employed individuals or corporate officers.

How did 2018 legislation affect PTSD claims?

PTSD resulting from exposure to a single traumatic event, or a single traumatic event within a series of exposures, has always been considered an occupational disease.

SSB 6214 changes the eligibility criteria for workers' compensation benefits for certain law enforcement officers, fire fighters, and emergency medical technicians (EMTS) to match the

DSM-5 definition of PTSD. Specifically, this change means that a series of exposures to traumatic events can now be the basis for a workers' compensation claim.

A rebuttable presumption exists that PTSD resulting from repeated exposures is an occupational disease for these law enforcement officers, fire fighters and EMTs if:

1. The member has had a prior psychological exam ruling out PTSD and the disorder develops after the person has served at least ten years; or,
2. The employer has not provided a psychological exam.

How are PTSD claims covered by LEOFF Plan 2?

The Law Enforcement Officers' and Fire Fighters' (LEOFF) Plan 2 retirement system provides payment of certain benefits when a member suffers a duty-related death or disability. Eligibility for these payments is determined by the Department of Retirement Systems (DRS).

Is the PTSD duty-related?

The terms "duty-related" in LEOFF Plan 2 and "in the course of employment" in workers' compensation are considered by courts to mean the same thing. So, if a workers' compensation claim for PTSD is approved by the Department of Labor & Industries (LNI), then DRS will consider applications for LEOFF 2 benefits from the same event as duty-related unless there is additional information. If there was no prior workers' compensation claim, DRS will determine if PTSD is duty-related by applying the same criteria that LNI would use to evaluate a claim.

What duty-related benefits are provided by LEOFF 2?

LEOFF Plan 2 provides:

1. Temporary Disability Service Credit – A member who does not receive LEOFF 2 service credit while they are off work due to a duty-related injury can apply to receive credit for that time. A member whose PTSD is so severe that they need to take a leave of absence to receive treatment would be eligible for this benefit.
2. Disability Retirement – A member who is injured in the line of duty such that they can no longer return to LEOFF covered employment is eligible to receive the pension they have earned without a reduction for early retirement. A member whose PTSD is so severe that they must change careers can be eligible for duty-related disability retirement.
3. Catastrophic Disability Retirement – A member who is injured in the line of duty so severely that they are incapable of any substantial gainful employment is eligible for a benefit equal to 70% of their final average salary off-set by any workers' compensation benefits or social security disability benefits that the member is receiving for the same injury up to a total of 100% of the member's final average salary. If a members' PTSD completely disables them, they may be eligible for a catastrophic duty-related retirement.

4. Death Benefits – A lump sum benefit, the **member's earned pension**, reimbursement for some medical insurance premiums and eligibility for in-state tuition waivers is provided to surviving spouses and **children** of a member who is killed in the line of duty. The death of a member who commits suicide due to PTSD can be considered in the course of employment for workers' compensation and duty-related benefits for LEOFF Plan 2.

How many PTSD-related claims are expected for LEOFF Plan 2?

The current edition of the Diagnostic and Statistics Manual of Mental Disorders predicts that 8.7% of all people in the U.S. who live until age 75 will experience PTSD to some extent. Rates of PTSD are higher among veterans and others whose vocation increases the risk of traumatic exposure including law enforcement officers, firefighters and emergency medical technicians. PTSD is a treatable condition and the severity of the condition varies among individuals. The fact that a person experiences PTSD does not mean that they will miss work or become disabled.

The Office of the State Actuary (OSA) researched the prevalence of PTSD among law enforcement officers, fire fighters and emergency medical technicians as part of their fiscal note for SSB 6214 in 2018. They found the prevalence of PTSD for firefighters varied among data sources from 3.9% to 22%.

DRS has tracked whether PTSD is the underlying basis for disability requests since 2013. DRS has approved 19 duty-related PTSD claims through 2017. 6 claims were denied. 5 Non-duty PTSD claims were approved over this same time period and 2 of those were denied.

OSA assumed 2 additional PTSD-related disabilities per year as a result of SSB 6214 and that all non-duty PTSD disability claims would now be considered duty-related for an additional 1 disability per year.

OSA assumed 2 additional duty-related suicide fatalities per year. These deaths would previously have been considered non-duty related.

Expected Annual Disability Retirements		
	Current Law	Estimated Cost
Duty	34	37
Catastrophic	4	4
Occupational	30	33
Non-Duty	5	4
Total	39	41

Expected Annual Deaths		
	Current Law	Estimated Cost
Duty	6	8
Non-Duty	21	19
Total	27	27



Posttraumatic Stress Disorder

Educational Briefing – April 25, 2018

What is PTSD?

- Definition
- Causes
- Symptoms

PTSD – Worker's Compensation

- Allowable claims
- Changes from the 2018 legislation

PTSD – LEOFF Plan 2

- “Duty-related” death and disability benefits
- How prevalent is PTSD?
- Estimated effect of 2018 legislation on claims and cost of the plan



Thank You

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Executive Director

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LEOFF Plan 2 Retirement Board Agency Summary BITD as of March 2018

<u>Category</u>	<u>BI Allotment</u>	<u>BITD Allotment</u>	<u>BITD Expenditures</u>	<u>BITD Variance</u>	<u>BI Variance</u>
Salaries and Wages	1,294,512	476,229	473,385	2,844	821,127
Employee Benefits	427,853	156,991	155,636	1,355	272,217
Professional Service Contracts	41,000	18,000	5,610	12,390	35,390
Travel	84,000	31,500	34,453	(2,953)	49,547
Capital Outlays	5,197	0	0	0	5,197
Goods and Services	594,438	234,283	265,657	(31,374)	328,781
Sum:	2,447,000	917,003	934,740	(17,737)	1,512,260

<u>Category</u>		<u>FM Allotment</u>	<u>FM Expenditure</u>	<u>FM Variance</u>	<u>BITD Allotment</u>	<u>BITD Expenditures</u>	<u>BITD Variance</u>
Salaries and Wages		53,093	48,748	4,345	476,229	473,385	2,844
A	AA State Classified	36,096	31,569	4,527	323,610	318,665	4,945
	AC State Exempt	16,997	17,179	(182)	152,619	153,165	(546)
	AS Sick Leave Buy-Out	0	0	0	0	1,555	(1,555)
Employee Benefits		17,608	16,614	994	156,991	155,636	1,355
B	BA Old Age and Survivors Insurance	3,292	2,976	316	29,205	28,722	483
	BB Retirement and Pensions	6,743	6,191	552	60,483	59,922	561
	BC Medical Aid & Industrial Insurance	282	237	45	2,538	2,441	97
	BD Health, Life & Disability Insurance	6,391	6,391	0	57,519	57,522	(3)
	BE Allowances	105	98	7	315	278	37
	BH Hospital Insurance (Medicare)	770	696	74	6,906	6,726	180
	BZ Other Employee Benefits	25	25	0	25	25	0
Professional Service Contracts		0	0	0	18,000	5,610	12,390
C	C Professional Service Contracts	0	0	0	18,000	0	18,000
	CC Financial Services	0	0	0	0	5,610	(5,610)
Goods and Services		22,839	22,263	576	234,283	265,657	(31,374)
E	EA Supplies and Materials	25	475	(450)	225	5,046	(4,821)
	EB Communications/Telecommunications	670	918	(248)	17,080	18,063	(983)
	EC Utilities	470	514	(44)	4,230	4,383	(153)
	ED Rentals and Leases - Land & Buildings	3,830	3,830	1	34,470	34,466	5
	EF Printing and Reproduction	50	43	7	6,500	6,643	(143)
	EG Employee Prof Dev & Training	1,500	2,325	(825)	24,380	49,459	(25,079)
	EH Rental & Leases - Furn & Equipment	310	303	7	3,290	4,262	(972)
	EJ Subscriptions	100	137	(37)	900	1,279	(379)
	EK Facilities and Services	3,203	3,166	37	29,387	29,798	(411)
	EL Data Processing Services (Interagency)	646	586	60	5,274	5,430	(156)
	EM Attorney General Services	1,857	(287)	2,144	16,713	11,974	4,739
	EN Personnel Services	469	469	(0)	4,221	4,844	(623)
	EP Insurance	0	0	0	115	25	90
	ER Other Contractual Services	8,762	9,138	(376)	78,858	82,667	(3,809)
	EW Archives & Records Management Svcs	0	0	0	117	120	(3)
	EY Software Licenses and Maintenance	932	1,172	(240)	8,388	9,425	(1,037)
	EZ Other Goods and Services	15	(526)	541	135	(2,227)	2,362
Travel		3,500	2,574	926	31,500	34,453	(2,953)
G	GA In-State Subsistence & Lodging	656	272	384	5,904	2,945	2,959
	GB In-State Air Transportation	132	0	132	1,188	550	638
	GC Private Automobile Mileage	437	652	(215)	3,933	7,123	(3,190)
	GD Other Travel Expenses	350	22	328	3,150	2,072	1,078
	GF Out-of-State Subsistence & Lodging	1,312	732	580	11,808	14,821	(3,013)
	GG Out-of-State Air Transportation	613	896	(283)	5,517	6,942	(1,425)
Capital Outlays		0	0	0	0	0	0
J	JA Noncapitalized Assets	0	0	0	0	0	0
Total Dollars		97,040	90,199	6,841	917,003	934,740	(17,737)



2018 Agenda Items Calendar for Future Meetings

Date Presented:

4/25/2018

Presenter Name and Title:

Steve Nelsen, Executive Director

Summary:

A look ahead at upcoming agenda items for the Board's 2018 interim.

ATTACHMENTS:

Description	Type
▢ 2018 Agenda Items Calendar	Report

2018 AGENDA ITEMS CALENDAR



MEETING DATE	AGENDA ITEMS
Jan 17	Legislative Update Administrative Update
Feb 28	Legislative Update Administrative Update
March 28	Approval of Minutes 2018 Legislative Update Interim Planning Administrative Update Executive Session
April 25	Approval of Minutes Definition of Child Out of Jurisdiction Duty Disabled Members Return to Work PEBB Coverage for Catastrophic Retirees Standby Pay as Basic Salary PTSD Benefits Budget Update
May 23	Approval of Minutes Occupational Disease Benefits Benefit Improvement Account Funding Method and Contribution Rate Setting Introduction Supplemental Rate Introduction LAVR Preview
June 20	Approval of Minutes Career Change Alternatives Funding Method and Contribution Rate Setting Options Supplemental Rate Options Valuation Audit Preview - Milliman
July 25	Approval of Minutes <i>Decision on Preliminary Reports</i> Funding Method and Contribution Rate Adoption Supplemental Rate Adoption Budget Update Valuation Audit Results – Milliman DRS Year in Review – Tracy Guerin, DRS
August 22	Historically Cancelled
Sept 26	Approval of Minutes Independent Audit Survivor Benefit Improvement Pricing Administrative Factors Introduction CEM Benchmarking – Mark Feldhausen, DRS WSIB Annual Update – Theresa Whitmarsh, WSIB
Oct 24	Offsite, Strategic Planning
Nov 28	Approval of Minutes Budget Update Final Average Salary Benefit Improvement Pricing
Dec 19	Approval of Minutes Administrative Factors Adoption Demographic Experience Study Preview