



Retroactive Duty Related Death & Disability Benefits

Initial Consideration



LEOFF Plan 2 Retirement Board

May 28, 2008

Issue Description

Some of the duty related death and disability pension benefits were not made retroactive when they were established so not all disabled/deceased members have received equivalent benefits.

Duty Related Death & Disability Benefits

- Pension/Annuity
- \$150,000 Death Benefit
- Survivor Health Care
- Minimum Disability
- Occupational Disability
- Catastrophic Disability

Duty Related Death Benefits

- Pension/Annuity Benefit
 - 10+ years of service
 - Killed in course of employment
 - Unreduced survivor benefit or 150% of accumulated contributions

- Effective Date
 - June 10, 2004
 - Not retroactive

Duty Related Death Benefits

- \$150,000 Death Benefit
 - Death due to injury or occupational illness sustained in the course of employment
 - Not subject to income tax
- Effective Date
 - Original legislation - March 28, 1996
 - Occupational illness inclusion - June 7, 2006
 - Not retroactive

Duty Related Death Benefits

- Survivor Health Care

- Members who were killed in the line of duty
- Survivors allowed to purchase health insurance from the State
- LEOFF Plan 2 reimburses survivors for cost

- Effective Date

- June 7, 2006
- Retroactive access for pre-1998 deaths
- Reimbursement prospective only

Duty Related Disability Benefits

- Minimum Disability (June 10, 2004)
 - Applied to disability retirements on or after January 1, 2001
- Occupational Disability (May 13, 2005)
- Catastrophic Disability (March 14, 2006)

Next Steps

- Define Scope
- Direction to Staff

Duty Related Death & Disability Benefits

QUESTIONS?

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

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1. Issue

Some of the duty related death and disability pension benefits were not made retroactive when they were established so not all disabled/deceased members have received equivalent benefits.

2. Staff

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3. Members Impacted

As of September 30, 2006 there were 15,718 active members and 779 retirees and beneficiaries. Data regarding the number of duty related deaths and disability retirements are not available.

The Office of the State Actuary projected for previous legislation (2004-2006) that duty-related deaths would occur at a rate of approximately 2-3 per year and that duty-related disabilities would occur at a rate of approximately 11-12 per year. These projections however, should only be relied upon for the previous legislation to which they were related.

4. Current Situation

All members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2 are eligible for normal retirement at age 53, and early retirement beginning at age 50.

Several death benefits are payable to the survivors of members who are killed in the course of employment including a pension (annuity) benefit, a \$150,000 death benefit, and health care coverage for survivors.

There are three levels of duty related disability benefits in LEOFF Plan 2 including a minimum disability benefit, an occupational disability benefit, and a catastrophic disability benefit. Some of the duty related disability benefits qualify for favorable tax treatment.

The duty related death and disability benefits that have been enacted for LEOFF Plan 2 have mostly been prospective. Only the Survivor Health Care benefit and the favorable tax treatment for the Minimum Disability benefit have retroactive elements.

5. Background Information

Duty Related Death Benefits

All members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2 are eligible for normal retirement at age 53, and early retirement beginning at age 50. Several death benefits are payable to the survivors of members who are killed in the course of employment including a survivor pension benefit, a \$150,000 death benefit, and health care coverage for survivors.

Survivor Pension/Annuity Benefit

Prior to 2004, there was no distinction between the benefits provided for a member who was killed in the course of employment and a member whose death was not duty related.

The survivor of a member who died, duty related or not, with less than 10 years of service credit was eligible to receive a cash refund of the member's contributions plus interest. The survivor of an active member who died with 10 or more years of service credit was eligible to receive either a cash refund of 150% of the member's contributions plus interest, or a monthly benefit. The monthly benefit reflected an actuarial reduction for a joint and 100% survivor payment option, and a further actuarial reduction for the difference in the member's age at death and the age of full retirement eligibility.

Legislation enacted in 2004 removed the actuarial reduction for the difference in the member's age at death and the age of full retirement eligibility applied to the monthly benefit of members who are killed in the course of employment.

The 2004 legislation was prospective from its effective date of June 10, 2004.

\$150,000 Death Benefit

Legislation enacted in 1996 created a \$150,000 special death benefit for the LEOFF and Washington State Patrol Retirement System (WSPRS). This legislation was prospective from its effective date of March 28, 1996. In 2006, the coverage for the \$150,000 death benefit was extended to members who die from a duty-related illness from a job-related exposure. This legislation was prospective from its effective date of June 7, 2006.

If an active member or disability retiree dies as a result of injuries sustained in the course of employment or occupational illness as determined by the Department of Labor and Industries, the Department of Retirement Systems (DRS) will pay a \$150,000 death benefit

to “the member’s estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department.” If there is no designated beneficiary at the time of the member’s death, the benefit is paid to the member’s surviving spouse as if they had been designated as the beneficiary. If there is no surviving spouse, the benefit is paid to the member’s legal representatives.

This benefit qualifies favorable tax treatment and is not subject to federal income tax.

Survivor Health Care

The surviving spouses of LEOFF Plan 2 members who were killed in the line of duty since January 1998 had the option to purchase health insurance for themselves and any dependent children from the State. The surviving spouse paid the full cost of the insurance.

In 2006 the Legislature passed a bill which extended the option for spouses of LEOFF Plan 2 members who were killed in the line of duty to purchase health insurance from the State to the surviving spouses of members who were killed in the line of duty prior to 1998.

The bill also provided that the LEOFF Plan 2 retirement fund would reimburse (prospectively) the survivors for the cost of purchasing health insurance from the State.

Duty Related Disability Benefits

Prior to 2004, there were no specific duty related disability retirement benefits for a member who was injured in the course of employment. Members who were disabled in the course of employment received the same benefits as members whose disability was not duty related.

A disabled member with 10 or more years of service was eligible to receive an actuarially reduced¹ retirement benefit or could request a refund of 150 percent of the member's accumulated contributions. A member with less than 10 years of service could request 100 percent of the member's contributions and interest.

Legislation enacted since 2004 created three levels of duty related disability benefits in LEOFF Plan 2. The disability program now includes a minimum disability benefit, an occupational disability benefit, and a catastrophic disability benefit.

Minimum Duty Disability Benefit

Legislation enacted in 2004 created the minimum duty related disability benefit in 2004. This legislation created a minimum level of benefits provided to a member disabled in the course of employment which qualifies for favorable tax treatment.

A LEOFF Plan 2 member who leaves service as a result of a line of duty disability could instead receive a retirement allowance of at least 10 percent of final average salary. If the 2 percent per year of service disability benefit, actuarially reduced for the difference between age 53 and age at retirement, results in a greater benefit than the minimum 10 percent, the

¹ The actuarial reduction was based on the difference between the member’s age and age 53

member receives the greater benefit. In either case, the first 10 percent of the line of duty disability benefit is not subject to federal income tax.

A member of LEOFF 2 who is disabled in the line of duty may request a refund of 150 percent of his or her accumulated contributions in lieu of the disability retirement allowance. This withdrawal benefit is not subject to federal income tax.

The line of duty disability minimum benefit was effective June 10, 2004 and applied to all LEOFF Plan 2 members disabled in the line of duty on or after January 1, 2001 so that affected members could take advantage of the favorable tax treatment.

Occupational Duty Disability Benefit

Legislation enacted in 2005 created the Occupational Duty Disability Benefit. This legislation removed the actuarial reduction from the monthly retirement benefit for members with 10 or more years of service and whose duty-related disability prevents them from engaging in any future employment as a law enforcement officer or fire fighter.

The Occupational Duty Disability Benefit did not provided any additional favorable tax treatment beyond that provided by the Minimum Duty Disability Benefit where the first 10 percent of the benefit is not subject to federal income tax.

The Occupational Duty Disability was prospective from its effective date of May 13, 2005.

Catastrophic Duty Disability Benefit

Legislation enacted in 2006 created the Catastrophic Duty Disability Benefit. This legislation created a disability allowance equal to 70 percent of final average salary, which is not subject to income taxes or to actuarial reduction for early retirement, for a LEOFF Plan 2 member who is catastrophically disabled in the course of employment.

The total disability benefit is reduced to the extent that in combination with certain workers' compensation payments and Social Security disability benefits, the disabled member would not receive more that 100 percent of final average salary.

A catastrophic disability is defined as a member's inability to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or last for at least 12 months. Substantial gainful activity is defined as average earnings of more than \$940 per month (2008), adjusted annually based on Federal Social Security standards.

The Catastrophic Duty Disability was prospective from its effective date of March 14, 2006.