



Pension Treatment of Domestic Partners Initial Consideration

LEOFF Plan 2 Retirement Board

June 18, 2008

Issue

- Domestic partners are not treated the same as spouses for all pension benefits

Overview

- Five main areas where domestic partners and spouses are treated differently
 - Survivor health care
 - Survivor retirements
 - Member contributions
 - \$150,000 death benefit
 - Service and disability retirements

Survivor Health Care

- If a member dies in the course of employment
 - Spouse and the member's eligible minor children are entitled to free PEBB medical insurance
 - Domestic partner has no medical insurance benefit

Survivor Retirements

- Member dies prior to retirement with 10 or more years of service
 - Spouse eligible for retirement allowance
 - If no spouse, eligible minor children eligible for retirement allowance
 - Domestic partner not eligible for retirement allowance

Member Contributions

- 10 or more years of service
 - Beneficiary named
 - If spouse or eligible minor children, 150% of accumulated contributions
 - If other than spouse or eligible minor children, 100% of accumulated contributions

Member Contributions

- 10 or more years of service
 - No beneficiary named
 - Spouse or if no spouse then eligible minor children are entitled to 150% of accumulated contributions
 - If no spouse, or eligible minor children then estate receives 100% of accumulated contributions

Member Contributions

- Less than 10 years of service
 - Beneficiary named
 - Beneficiary is entitled to accumulated contributions
 - No beneficiary named
 - Spouse, or if no spouse then eligible minor children are entitled to accumulated contributions
 - If no spouse, or eligible minor children, then estate receives accumulated contributions
 - Domestic partner may receive as part of the “estate” but not as “spouse”

\$150,000 Death Benefit

- Beneficiary named
 - Beneficiary is entitled to death benefit
- No beneficiary named
 - Spouse
 - If no spouse, then estate
 - Domestic partner may receive as part of the “estate” but not as “spouse”

Service and Disability Retirement

- No survivor option chosen
 - Member dies before total retirement allowance equals accumulated contributions at retirement, the balance is paid to:
 - Named beneficiary
 - If no named beneficiary, then spouse
 - If no named beneficiary or spouse, then estate
 - Domestic partner may receive as part of the “estate” but not as “spouse”
- Survivor option can be chosen naming any person, including domestic partner

Summary

- Spouses and domestic partners treated differently
 - Domestic partners are not eligible for the free PEBB medical, a survivor retirement allowance or the 150% of accumulated contributions for 10 or more years of service
 - Domestic partners can be entitled to payments of the member's contributions, the \$150,000 death benefit or as a survivor or beneficiary of a service or disability retirement

Pension Treatment of Domestic Partners

QUESTIONS?

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

Pension Treatment of Domestic Partners Initial Consideration

June 18, 2008

1. Issue

Domestic partners are not treated the same as spouses for all pension benefits.

2. Staff

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3. Members Impacted

As of September 30, 2006 there were 15,718 active members and 779 retirees as reported in the Office of the State Actuary's *2006 Actuarial Valuation Report*. The number of members and retirees with domestic partners is unknown.

4. Current Situation

Under current law there are five distinct areas in which spouses and domestic partners are treated differently under pension law:

- Survivor health care – line-of-duty deaths
- Survivor retirements – member dies prior to retirement with 10 or more years of service
- Member contributions – member dies without naming a beneficiary
- \$150,000 Death Benefit – member dies without naming a beneficiary
- Service and disability retirements – no survivor option chosen

5. Background Information and Policy Issues

Background

In order for a domestic partner to be recognized in the State of Washington, the couple, if same sex, must be at least 18 years of age, share a common residence, neither is married to someone else or registered as a domestic partner with someone else, capable of consenting to a domestic partnership, and they are not nearer to kin of each other than second cousins and neither is a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person.

For different sex couples, the same set of conditions must be met as those of same sex couples. However, different sex couples have the further requirement that one partner must be at least 62 years of age.

Survivor Health Care

If a member is killed in the course of employment, then their spouse and dependent children are entitled to reimbursement for any payments of premium rates to the Washington State Health Care Authority for ongoing health insurance.

The domestic partner of a member killed in the course of employment is not entitled to the same reimbursement.

Survivor Retirements

If a member dies prior to retirement and have ten or more years of service credit, their spouse or if no spouse, their eligible minor children, have the option of withdrawing 150% of the member's accumulated contributions or receiving a retirement allowance.

If the member has named a domestic partner as their beneficiary then the domestic partner is entitled only to the member's accumulated contributions. They are not entitled to a retirement allowance or the 150% of accumulated contributions provision.

Member Contributions

If a member dies prior to retirement with less than ten years of service, the member's accumulated contributions shall be paid to the member's estate, or such person or persons,, trust, or organization, as designated by the member. If the person or persons they designated are no longer living then the accumulated contributions shall be paid to the surviving spouse, and if there is no surviving spouse, then to the member's legal representatives.

If the member has not specifically named their domestic partner, then the accumulated contributions would go to the member's estate.

\$150,000 Death Benefit

If a member dies in-the-line of duty and there is no beneficiary designated, the \$150,000 death benefit shall be paid to the member's estate, or such person or persons, trust, or organization, as designated by the member. If the person or persons they designated are no

longer living then the \$150,000 lump-sum death benefit shall be paid to the surviving spouse, and if there is no surviving spouse, then to the member's legal representatives.

If a member has not specifically named their domestic partner, then the \$150,000 lump-sum death benefit would go to the member's estate.

Service and Disability Retirements

If a member retires under service or disability but does not choose a survivor option, the benefit ceases upon the member's death. However, if the retiree dies before the total retirement allowance paid equals the retiree's accumulated contributions at the time of retirement, there is a balance due. That balance shall be paid to the member's estate, or such person or persons, trust, or organization, as designated by the retiree. If the person or persons they designated are no longer living then the balance would be paid to the surviving spouse; or if there is no surviving spouse, then to the retiree's legal representative.

If a member has not specifically named their domestic partner, then the balance shall be to the member's estate.

Policy Issues

There is difference in the treatment of spouses versus domestic partners in some areas of pension benefits. The Board will need to determine if these inequities should be addressed and if so what the cost would be, if any.

6. Supporting Information

Appendix A – Relevant Laws

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Survivor Health Care

RCW 41.26.510(5) The retirement allowance paid to the spouse and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(14), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

Survivor Retirements

41.26.510(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

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

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

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

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

(a) To an estate, a person or persons, trust, or organization as the member shall have

nominated by written designation duly executed and filed with the department; or

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

Member Contributions

Less than 10 years: RCW 41.26.510 (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

10 or more years: RCW 41.26510(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

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

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

\$150,000 Death Benefit

RCW 41.26.048(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

Service and Disability Retirement

RCW 41.26.460(1)(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

Domestic Partner Registration

RCW 26.60.030 Requirements

To enter into a state registered domestic partnership the two persons involved must meet the following requirements:

- (1) Both persons share a common residence;
- (2) Both persons are at least eighteen years of age;
- (3) Neither person is married to someone other than the party to the domestic partnership and neither person is in a state registered domestic partnership with another person;
- (4) Both persons are capable of consenting to the domestic partnership;
- (5) Both of the following are true:
 - (a) The persons are not nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law; and
 - (b) Neither person is a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other person; and
- (6) Either (a) both persons are members of the same sex; or (b) at least one of the persons is sixty-two years of age or older.