BOARD MEETING AGENDA

JULY 24, 2019 • 9:30AM

LEOFF Plan 2 Retirement Board

LOCATION

STATE INVESTMENT BOARD
Large Conference Room, STE 100
2100 Evergreen Park Drive S.W.
Olympia, WA 98502

THEY KEEP US SAFE,
WE KEEP THEM SECURE.

1.	**Approval of June 26, 2019 Minutes**	**9:30 AM**
2.	**New Actuarial Risk Measures** Matt Smith, FCA, EA, MAAA	**9:35 AM**
3.	**Supplemental Rate Adoption** Tim Valencia, Deputy Director	**10:00 AM**
4.	**Pension Funding Part 1** Mitch DeCamp, Actuarial Analyst Lisa Won, Deputy State Actuary	**10:30 AM**
5.	**Month of Death Payment** – *Initial* Jacob White, Senior Research and Policy Manager	**11:00 AM**
6.	**Survivor Option Reelection** – *Initial* Jacob White, Senior Research and Policy Manager	**11:30 AM**
7.	**Administrative Update** • Budget Update • Outreach Activities	**12:00 PM**
8.	**Tribal Law Enforcement Study** – *Initial* Jacob White, Senior Research and Policy Manager	**12:30 PM**
9.	**Benefit Improvement Account** Steve Nelsen, Executive Director	**1:30 PM**
10.	**2019-2021 Budget Adoption** Steve Nelsen, Executive Director Tim Valencia, Deputy Director	**2:00 PM**
11.	**Agenda Items for Future Meetings**	**2:30 PM**

**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.

New Risk Measures (ASOP 51)

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

Presentation to: LEOFF Plan 2 Retirement Board

July 24, 2019

What's The Bottom Line Here?

- Does this mean that LEOFF 2 has new risks?
  - No
- New Actuarial Standard of Practice (ASOP) now effective on the assessment and disclosure of risk for pension plans
  - The "risk ASOP"
- Does not represent a significant change in reporting for Washington State because we have been assessing and reporting on risk since 2010
- For today's presentation, I will explain some key risk measures for LEOFF 2, OSA's plans for reporting on risk, and provide some key risk management strategies

What's The New Risk ASOP?

- ASOP 51: "*Assessment and Disclosure of Risk Associated with Measuring Pension Obligations and Determining Pension Plan Contributions*"
- Provides guidance to pension actuaries when performing certain actuarial measurements with regard to "the assessment and disclosure of the risk that actual future measurements may differ significantly from expected future measurements"
- Examples of future measurements include
  - Pension obligations
  - Actuarially determined contributions; and
  - Funded status

What's The Need For This New Risk ASOP?

- According to the Pension Committee of the Actuarial Standards Board, "the additional disclosures required by [ASOP 51] will help the intended users of the actuarial findings gain a better understanding of risks inherent in the measurements of pension obligations and actuarially determined pension plan contributions"
- What are some of those risks and how might ASOP 51 apply to LEOFF 2 and our state pension plans?

Examples Of Risks For Our State Pension Plans

- Investment Risk
- Contribution Risk
- Plan Maturity
- Plan Size Relative to Plan Sponsor

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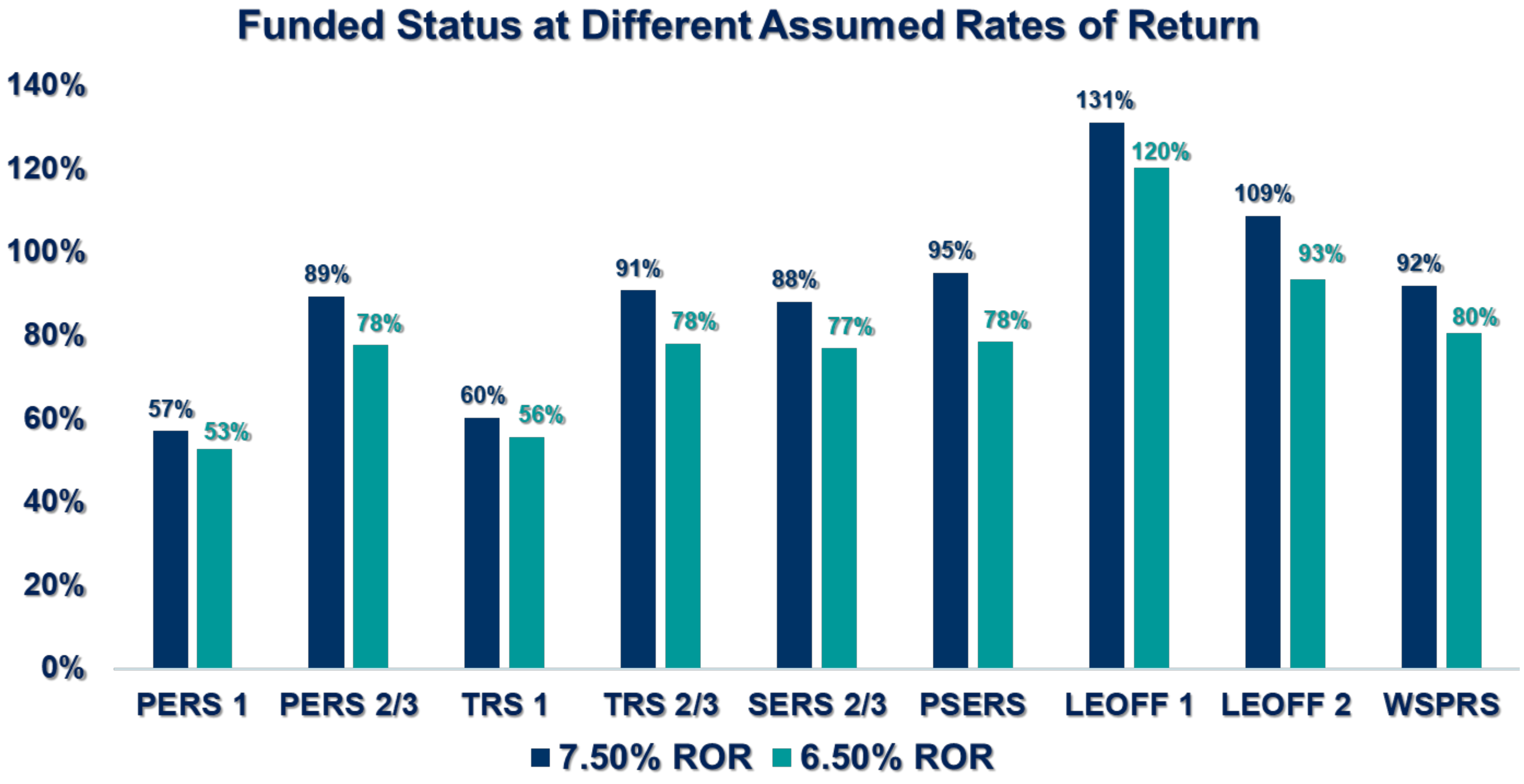
Investment Risk

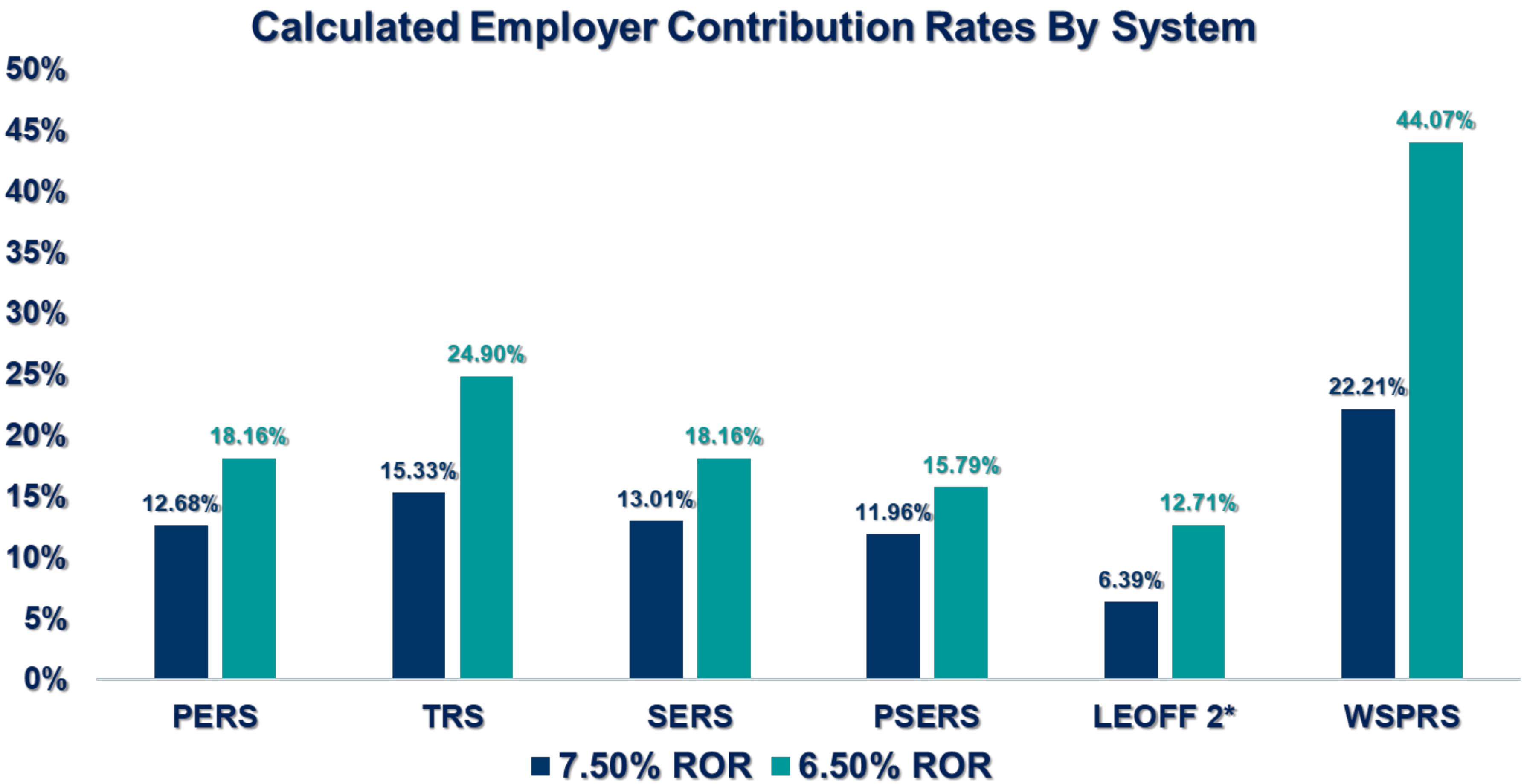
- The potential that investment returns will be different than expected
- Why does this matter?
  - Under current funding policy, we reduce today's pension costs based on anticipated future investment returns
  - Over the past 20 years, actual investment returns have covered about 70% of our state's pension costs
- What happens if the future is different than the past?
- How would contribution rates and funded status change?
- We measure this risk through our interactive reports

Investment Risk Measurements



Note: Measured at June 30, 2017. 7.40% ROR and 6.40% ROR for LEOFF 2.

Investment Risk Measurements



Note: Based on June 30, 2017, Actuarial Valuation Report. 7.40% ROR and 6.40% ROR for LEOFF 2.
**Represents the sum of the Local Employer and State contribution rates under the Aggregate actuarial cost method.*

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Contribution Risk

- The potential of actual future contributions deviating from expected future contributions
- Examples include
  - Actual contributions made below the plan's funding policy or actuarially determined contributions
  - Material changes occur in the anticipated number of covered employees, covered payroll, or other relevant contribution base
- Why does this matter?
  - When contribution risk materializes, it leads to funding shortfalls and the potential to create a vicious cycle

Vicious Cycle Of Funding Shortfalls

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Contribution Risk Measurements

- OSA measures certain contribution risk in the annual risk assessment
- Includes simulations where economic outcomes, including state revenue growth, vary from our expectations
  - A very robust, but complicated form of risk analysis
  - Represents one of many ways to measure and report risk
- Contribution risk very low for LEOFF 2 under most recent OSA risk measurements

Contribution Risk For LEOFF 2

- How can this risk materialize for LEOFF 2?
  - Adopt contribution rates below required levels
  - Legislative revision to funding policy leading to funding shortfalls
  - Below expected payroll growth
- Funding policy within Board's control
  - Proven track record of adopting stable and adequate contribution rates
- Legislative action and payroll growth largely outside Board's control

Plan Maturity Risk

- As a plan matures, its risks can change
- Consider the analogy of saving for your personal retirement through a deferred compensation program
- As you get older and closer to retirement, investment risk can have a larger impact on your retirement savings and your ability to recover is constrained
  - For example, what's the impact of losing 25% of your retirement savings when you're 25 years old versus 55?
  - How much would you lose, how much time do you have to recover, and how much additional money would you need to set aside to recover?
- Similar concepts apply to a maturing pension plan especially a closed plan

Plan Maturity Risk

- Consider a plan closed to new members, 100% funded with no active members in 2008, and with assets invested like LEOFF 2
- What happened to that plan after the Great Recession?
- It's most likely no longer fully funded because it lost 25% to 30% of its assets at the bottom of the market
- It has no payroll remaining for contributions
- How does this plan recover and who pays the contributions?
  - Does the state step in?
  - Do employers make contributions in addition to making contributions for current employees covered under a different retirement program? If so, what's the impact to the current program?

Plan Maturity Risk

- An open plan like LEOFF 2 faces much lower plan maturity risk than a plan closed to new members
- However, an open plan can mature and move in the direction of a closed plan
- Plan maturity risk measures allow you to monitor how your plan is maturing and whether these risks are materializing (or expected to materialize)
- With this information, you're in a better to position to manage or mitigate these risks

Plan Maturity Risk Measurements

Two Common Examples

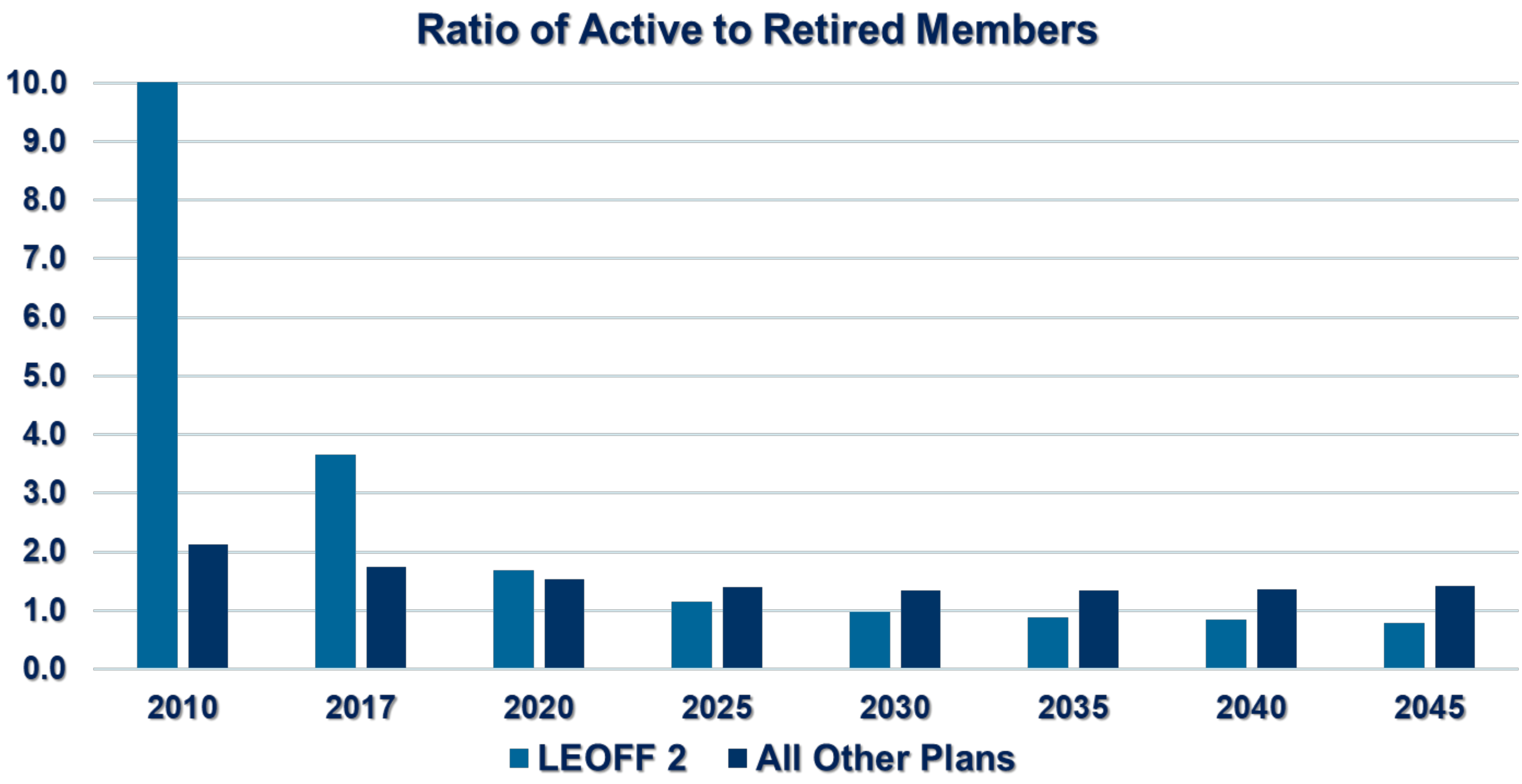
Ratio of Active to Retired Members

- A maturing plan exhibits a declining ratio of active to retired members
- Risk: Less payroll available to levy future contributions if necessary
- More of an issue for our closed Plans 1

Ratio of Assets to Payroll

- A maturing plan exhibits an increasing ratio of assets to payroll
- Risk: Face larger contribution/budget shocks when short-term investment returns vary from the long-term assumption
- This risk can materialize in an open plan
- Our longer asset smoothing periods mitigate this risk, but don't eliminate this risk entirely

Plan Maturity Measurements



Note: Historical values from OSA AVRs. All other values based on OSA projections.

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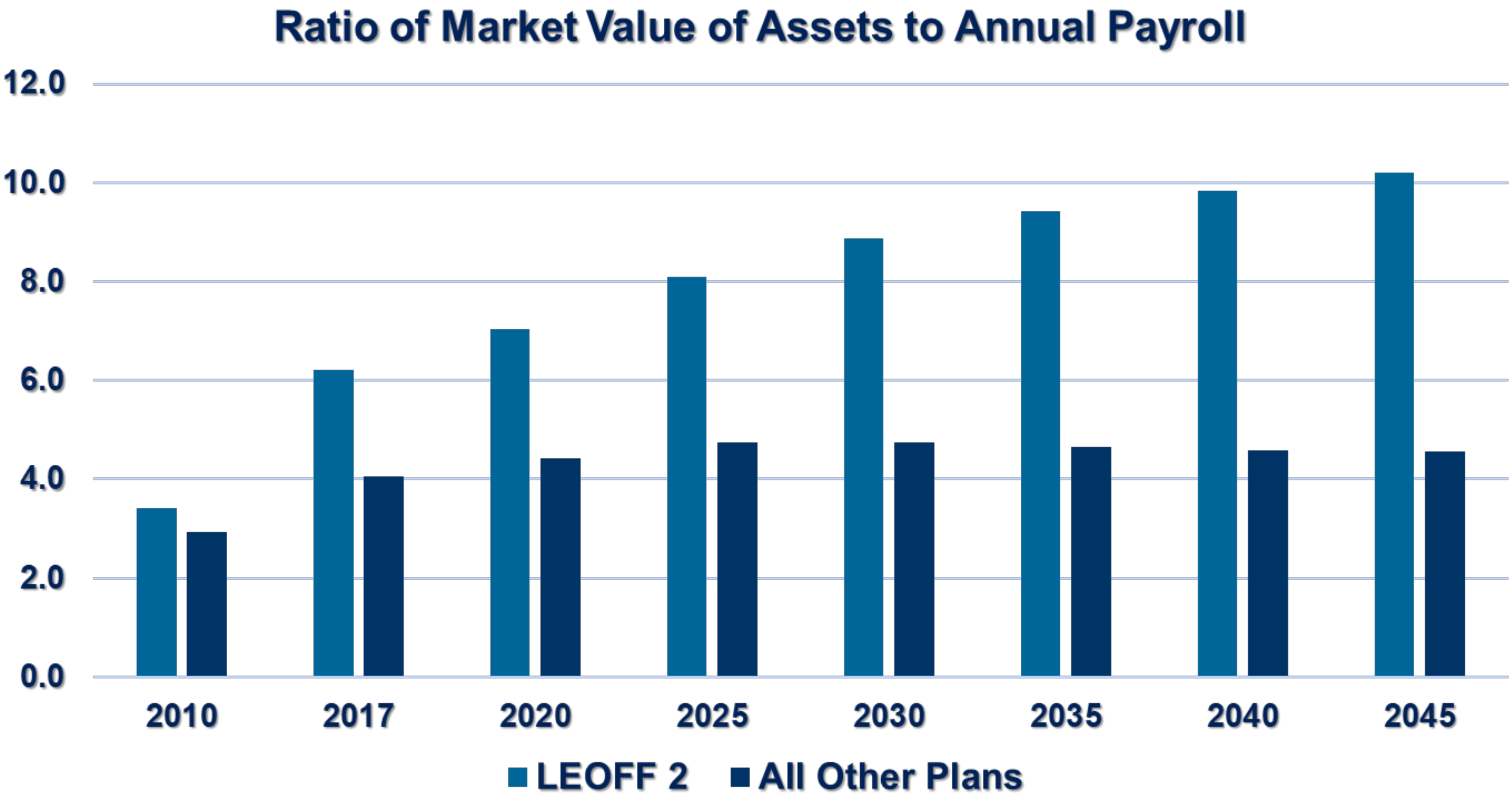
Plan Maturity Measurements



Note: Historical values from OSA AVRs. All other values based on OSA projections.

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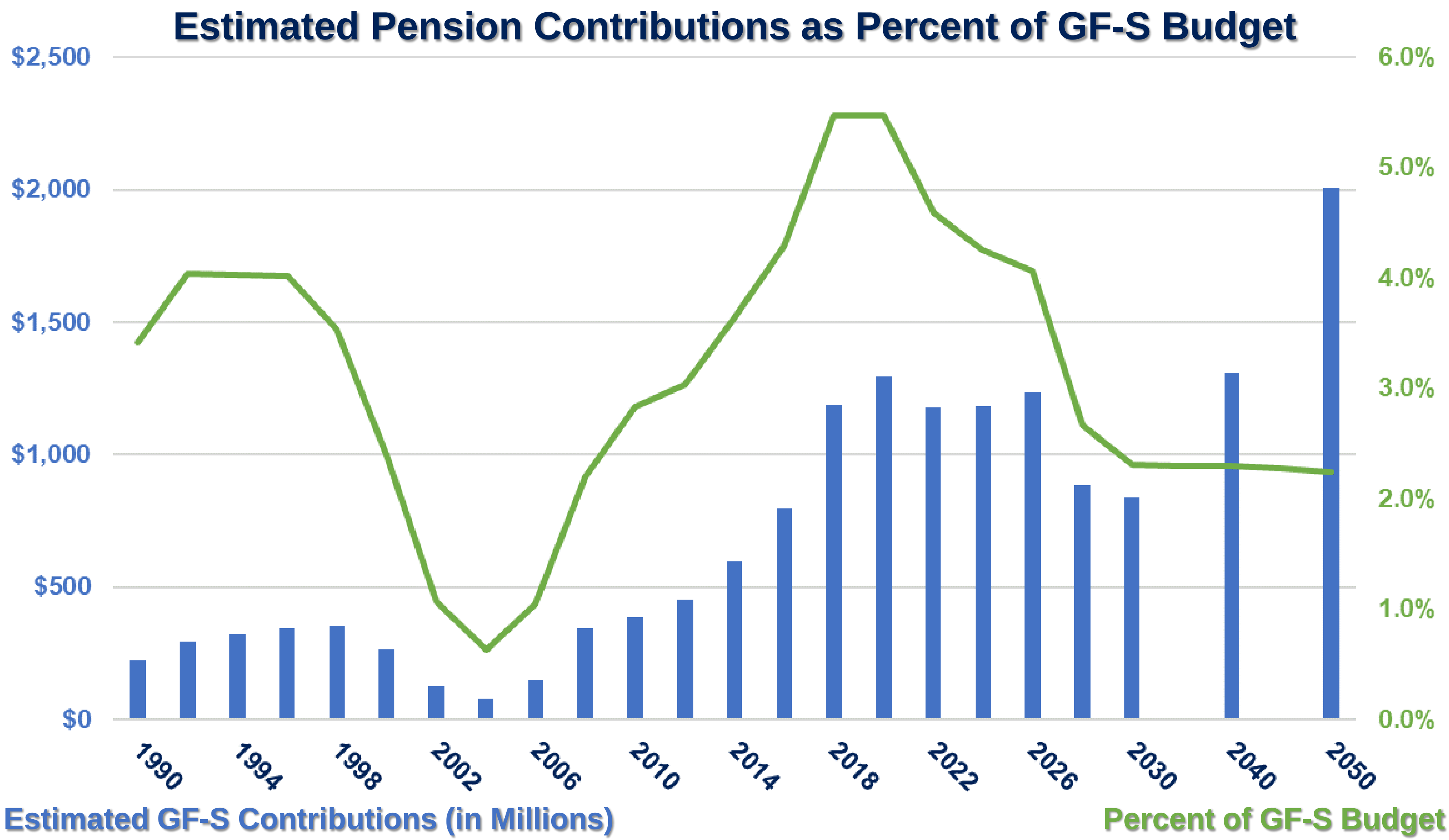
Plan Size Relative To Plan Sponsor

- As our plans grow, they can become a larger share of the entire state enterprise
- If something goes wrong, a large pension plan relative to the plan sponsor can become an "enterprise risk" and negatively impact core services
  - We're starting to hear about this risk in Illinois, New Jersey, and Kentucky, and for some local governments across the country
- Helpful quote for context
  - "GM became an unfunded pension plan that also sold cars"

Plan Size Measurements – All Plans Combined



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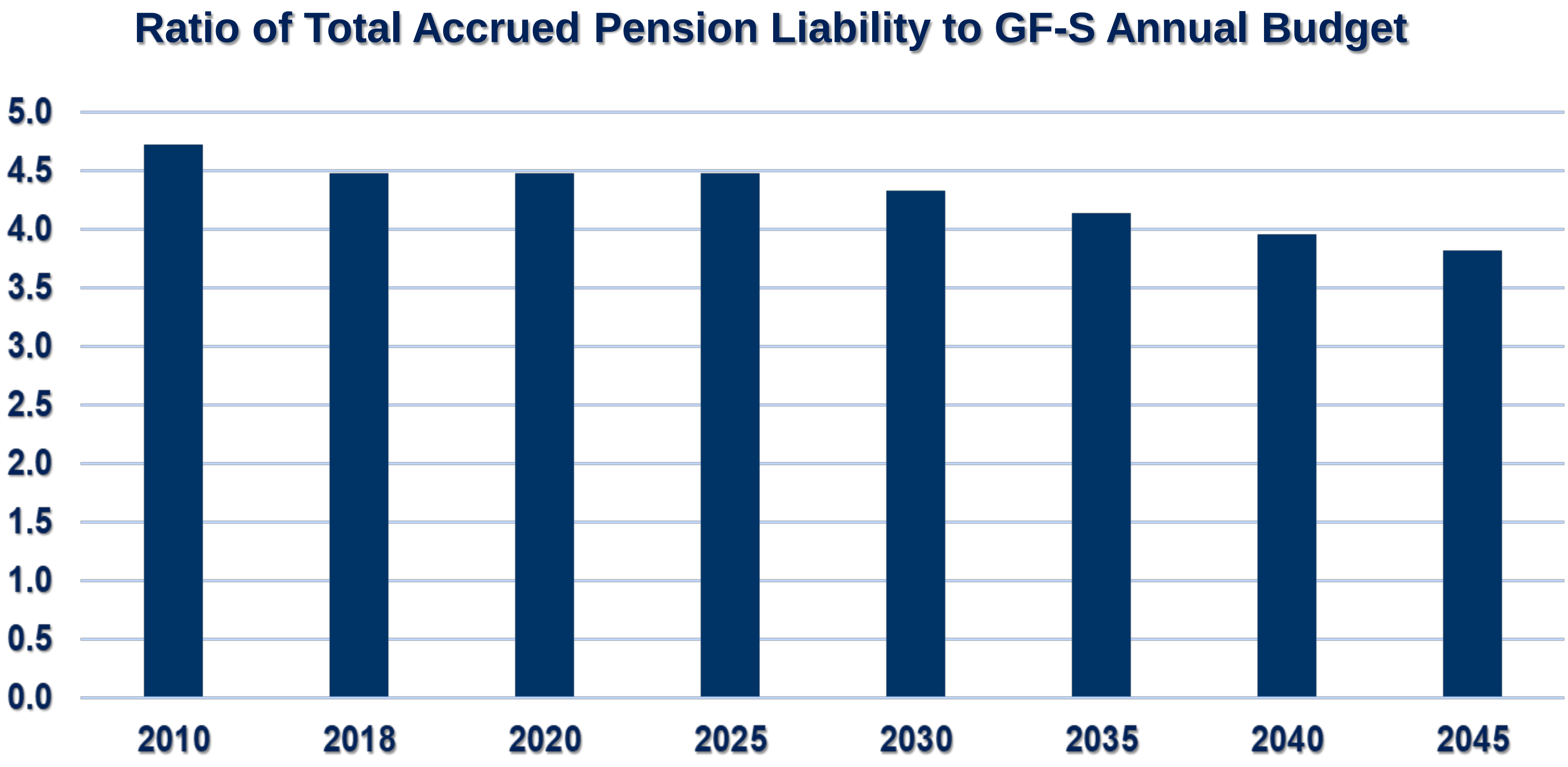
Plan Size Measurements – All Plans Combined



Note: 2010 value estimated by OSA. All other values based on OSA projections.

OSA Risk Measures/Reporting

- We update select risk measures annually
- Every 5-6 years, we perform a risk assessment assumptions study
- This fall, we will publish a new risk webpage that will consolidate and explain our combined plan risk measures
  - Actuarial valuation report will reference this new webpage
- Later upgrades to the risk webpage will include information on plan-specific risk measurements

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Some Closing Thoughts On Risk Management

- The continuation of our current risk assessment work and the addition of ASOP 51 will help keep these risks in front of us
  - "What gets measured, gets managed"

Key Risk Management Strategies

- Fully fund our pension plans
- Adopt reasonable and accurate assumptions
  - With long-term assumptions, we won't know we're right or wrong for many years
- Adopt future benefit enhancements with prudence and care
  - Benefit enhancements can increase plan risks

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Questions?

LEOFF Plan 2 Retirement Board

July 24, 2019

Supplemental Rate Adoption

By Tim Valencia
Deputy Director
360-586-2326
tim.valencia@leoff.wa.gov

ISSUE STATEMENT

A supplemental rate may be necessary due to the passage of House Bill 1913 which adds medical conditions to the presumption, extending the presumption to certain publicly employed firefighters and investigators and law enforcement, addressing the qualifying medical examination, and creating an advisory committee.

OVERVIEW

A key statutory duty of the Law Enforcement Officers' and Fire Fighters (LEOFF) Plan 2 Retirement Board is to adopt contribution rates. This may include the adoption of a supplemental contribution rate to prefund benefit improvements passed by the legislature.

This report provides information about supplemental contribution rates including the purpose of the supplemental rate, supplemental rate development, supplemental rate history, and the occupational disease presumption legislation from the 2019 session.

SUPPLEMENTAL RATE FOR BENEFIT IMPROVEMENTS

One of the main goals of the Board is to maintain the financial integrity of the plan. In order to maintain that goal, it may be necessary for the Board to pay for new benefit improvements through the adoption of a supplemental contribution rate. The Board is required to use an accredited actuary using approved actuarial methods to determine the cost of the plan and the cost of any benefit improvements.

The cost of the existing benefits in the plan are paid by the "basic" contribution rate which is established by the Board every two years in even number years. The cost of any benefit improvement is paid by a "supplemental" contribution rate. Supplemental rates generally are adopted by the Board at the July Board meeting following the passage of the legislation. The supplemental rate is typically effective the following September 1. The statutes covering adoption of supplemental contribution rates for LEOFF Plan 2 include RCW 41.26.720, 41.45.0604 and 41.45.070.

PURPOSE OF SUPPLEMENTAL RATE

A supplemental rate is intended to begin prefunding the cost of a benefit improvement rather than waiting until the next actuarial valuation when the benefit liability will be rolled into the basic contribution rate. The risk of delaying the adoption of a supplemental rate is the loss of earnings on the contributions that would be made. A delay in the adoption of a supplemental rate may not create a significant risk of underfunding though depending on the level of cost associated with the benefit improvement.

SUPPLEMENTAL RATE DEVELOPMENT

In accordance with RCW 41.45.070 the cost of any additional benefits granted by the Legislature require a supplemental rate increase to pay for the increased costs. The Department of Retirement Systems (DRS) in turn is required under RCW 41.45.067(2) to give affected employers a 30-day notice prior to the effective date of any rate change.

A supplemental contribution rate calculation is performed by the Office of the State Actuary (OSA) for all pension legislation and the result of that calculation is reported in the fiscal note published by OSA. Any supplemental contribution rate for LEOFF 2 is adopted by the Law Enforcement Officers' and Fire Fighters' (LEOFF) Plan 2 Retirement Board. The Board has all supplemental rate recommendations audited by an outside actuary.

OSA calculates a supplemental rate by evaluating proposed legislation, developing assumptions for how the legislation will affect future benefit payments and future plan experience, calculating the expected increase in plan liabilities, and determining what increase in contributions, if any, is sufficient to off-set the increase in liabilities. The development of assumptions for fiscal notes may differ from the assumptions used in actuarial valuations.

Not all benefit improvements will have costs sufficient to increase contribution rates, but if they do, the Board has the task of evaluating the feasibility of adopting a supplemental rate increase, usually effective September 1 following the effective date of the legislation.

CURRENT CONTRIBUTION RATES

During the 2016 Interim, the Board adopted contribution rates for the 2017-19 and 2019-21 Biennia based on 100 percent of the normal cost under the Entry Age Normal (EAN) funding method. The Board's rate adoption for 2017-21 represents a continuation of their temporary funding policy that produces stable contribution rate. Measured at June 30, 2016, that rate adoption exceeds the requirements under the plan's actuarial cost method and long-term funding policy.[1] The current *total* contribution rate for LEOFF Plan 2 is 17.50%[2]; the total contribution rate is split 50-30-20% between members, employers, and the state as follows:

- 8.75% Members, 5.25% Employers, 3.50% State

During the 2018 Interim, the Board adopted different (lower) rates for 2019-2021 which would continue through 2021-2023. The rates adopted were based on 100% of the Entry Age Normal Cost (EANC) based on the 2017 Actuarial Valuation, which includes the recommended supplemental rate increase for the PTSD legislation (SSB 6214 (2018)). The total rate adopted for 2019-2023 is 17.18%, split out at 8.59% members, 5.15% employers, 3.44% state.

SUPPLEMENTAL RATE HISTORY

The Board has considered a supplemental rate increase for 15 benefit improvements. The Board adopted the supplemental rate recommended by OSA for 10 of those benefit improvements. The Board has not acted to adopt the supplemental rate on a multiple occasions. The justifications for these cases included that it was determined that existing adopted rates were sufficient to cover the funding requirement or in other cases the existing rates were left unchanged and the cost of the benefit change would be allowed to emerge in plan experience.

MEETING DATE	LEGISLATION	SUPPLEMENTAL RECOMMENDATION (Member, Employer, State)	ACTION	RATE EFFECTIVE
12/17/2003	HB 1205 (2003) - Fish & Wildlife Enforcement Officer LEOFF Membership	0.02%, 0.01%, 0.01%	**Adopted**	2/1/2004
7/28/2004	HB 2418 (2004) - Duty Disability Benefits	0.01%, 0.01%, 0.00%	**Adopted**	9/1/2004
	HB 2419 (2004) - Duty Death Benefits	0.01%, 0.01%, 0.00%		
7/27/2005	SB 5615 (2005) - Duty Disability Benefits	0.23%, 0.14%, 0.09%	**Adopted**	9/1/2005
	HB 1936 (2005) - EMT LEOFF Membership	0.01%, 0.01%, 0.00%		
5/24/2006	HB 2932 (2006) Catastrophic Disability	0.02%, 0.01%, 0.01%	**Adopted**	9/1/2006
	SHB 2933 (2006) Occupational Disease Death Special Benefit	0.01%, 0.01%, 0.00%		
	SB 6723 (2006) Survivor Health Care Insurance Reimbursement	0.03%, 0.02%, 0.01%		
7/23/2007	HB 1833 (2007) Occupational Disease Presumption	0.04%, 0.02%, 0.02%	**Adopted**	9/1/2007
7/22/2009	HB 1953 (2009) – Fish & Wildlife Enforcement Officer Svc Credit Transfer	0.01%, 0.01%, 0.00%	**Adopted**	9/1/2009

[1] 2016 Actuarial Valuation Report for LEOFF Plan 2, pg. 12.

[2] Rates based on the 2016 Valuation as recommended by OSA: 7.91% Member, 5.25% Employer, 3.50% State (Total 15.82%)

7/28/2010	HB 2519 (2010) – Duty Death Benefits (Lakewood Omnibus legislation)	0.05%, 0.03%, 0.02%	**NOT Adopted** - Current rates were determined sufficient to cover funding requirement.	
	HB 1679 (2010) - Catastrophic Disability. Health Insurance	0.13%, 0.08%, 0.05%		
7/27/2011	HB 2070 (2011) Furlough	0.02%, 0.01%, 0.01%	**NOT Adopted**.-. Absorb cost through plan experience.	
9/23/2015	SHB 1194 (2015) Remarriage Prohibition	0.05%, 0.03%, 0.02%	**Not Adopted -** Absorb cost through plan experience.	
7/25/2018	SB 6214 (2018) PTSD	0.05%, 0.03%, 0.02%	**Not Adopted** – Biennial contribution rates adopted for 2019-2023 biennia sufficient to cover funding requirement.	

2019 LEGISLATION

The 2019 Legislature passed House Bill 1913 adds medical conditions to the presumption, extending the presumption to certain publicly employed firefighters and investigators and law enforcement, addressing the qualifying medical examination, and creating an advisory committee:

- Expands presumptive disease coverage for fire fighters to include mesothelioma, stomach cancer, non-melanoma skin cancer, breast cancer in women, and cervical cancer.
- Expands coverage to law enforcement officers for heart problems and infectious diseases.
- Grants public employee fire investigators the same presumption disease coverage that is granted to fire fighters.
- Instructs the director of Labor and Industries to create an advisory committee on occupational disease presumptions to review scientific evidence and to make recommendations to the legislature on additional diseases or disorders for inclusion.

OSA estimated in a fiscal note that this legislation would have a cost to the plan because it expands coverage of presumptive occupational diseases to law enforcement officers, fire fighters, fire investigators, and EMTs.

OSA stated in the fiscal note that it does not expect this bill to result in an increase in the total number of annual deaths or disabilities, but does expect an increase in the total number of duty related versus non-duty related benefits. Duty-related benefits are typically more costly to the pension system and require higher contributions to cover the costs. The next section details the costs of the legislation, as calculated by the OSA.

FISCAL NOTE HB 1913 (C 133, L 19)

OSA estimated that this legislation would create cost impacts as outlined in the tables below. The OSA calculates the rates using both the underlying cost method in statute, the Aggregate cost method; and the Entry Age Normal (EAN) cost method following the Board's current funding policy.

Aggregate Cost

The aggregate cost method is the underlying cost method specified in statute.

Impact on Contribution Rates *(Effective 9/1/2019)*	
Fiscal Year 2019 – 2021 State Budget	**LEOFF**
Member	0.05%
Employer	0.03%
State	0.02%

Budget Impacts			
(Dollars in Millions)	**2019-2021**	**2021-2023**	**25-Year**
General Fund-State	$0.8	$0.8	$15.9
Local Government	$1.2	$1.3	$23.8
Total Employer	$2.0	$2.1	$39.6

Entry Age Normal (EAN)

The entry age normal cost method is the current funding policy used by the Board for setting contribution rates.

Impact on Contribution Rates *(Effective 9/1/2019)*	
Fiscal Year 2019 – 2021 State Budget	**LEOFF**
Member	0.04%
Employer	0.02%
State	0.02%

The Actuary's Fiscal Note for HB 1913, can be reviewed in Appendix A. The Actuary's 2019 Supplemental Rates letter to the Board can be reviewed in Appendix B.

Fiscal Note Audit

It is the Board's practice to have all fiscal notes that have a cost to the plan audited by an outside actuary. The Board engaged the firm of Bartel & Associates to conduct this audit. Bartel & Associates has conducted similar fiscal note audits for the Board in the past.

Bartel & Associates reported with regard to the OSA Fiscal Note that "these supplemental rates represent reasonable estimates of the costs". Further, the auditor notes that assumptions used by OSA are reasonable given the available data.

A copy of the audit letter from Bartel & Associates can be found in Appendix C.

POLICY OPTIONS

<u>Option 1</u>: Continue Current Contribution Rates of 8.59% member, 5.15% employer, 3.44% state

Under this option, the Board would elect not to adopt a supplemental rate for the benefit provided by HB 1913 (2019) and continue collecting contributions at the current rates which are set through June 2023. The funded status, after the benefit improvement account transfer, was reduced from 109 percent to 106 percent. It is estimated there are sufficient assets to pay for all earned benefits for all plan members as measured at June 30, 2017. In addition, the rates currently being collected exceed what is required under the statutory funding method when including this benefit improvement. This new benefit provision will be included in the next rate-setting valuation as part of the base rates so the supplemental would just be for the period until the next rate-setting cycle.

<u>Option 2</u>: Adopt Entry Age Normal Cost Supplemental Rate increase of 0.04% member, 0.02% employer, 0.02% state effective September 1, 2019.

The EANC rate increase represents the increase to the Normal Cost under the Entry Age actuarial cost method for this benefit improvement. In other words, the cost of this benefit improvement if it was paid from the start of a member's career. This option is consistent with the funding policy currently employed by LEOFF Plan 2 and allows for timely notice to employers of the contribution rate change.

<u>Option 3</u>: Adopt the aggregate based supplemental rate increase of 0.05% member, 0.03% employer, 0.02% state effective September 1, 2019.

The Aggregate rate represents the cost of this benefit improvement for both past and future service of current members. This option is consistent with the statutory funding method prescribed for LEOFF Plan 2 and allows for timely notice to employers of the contribution rate change. This option is inconsistent with the funding policy currently employed by the LEOFF Plan 2.

Summary of Contribution Rates Under Each Option, Effective 9/1/2019

	1. Continue Current Adopted Rates	2. Adopt 100% EANC based Supplemental Rate	3. Adopt Aggregate based Supplemental Rate
Member	8.59%	8.63%	8.64%
Employer	5.15%	5.17%	5.18%
State	3.44%	3.46%	3.46%

SUPPORTING INFORMATION

Appendix A: OSA Fiscal Note for HB 1913 (2019)
Appendix B: OSA Letter – 2019 Supplemental Rates
Appendix C: Bartel & Associates Letter – Fiscal Note Audit

APPENDIX A: OSA FISCAL NOTE FOR HB 1913(2019)

Multiple Agency Fiscal Note Summary

Bill Number: 1913 HB	**Title:** Occup. disease presumption

Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Washington State Health Care Authority	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Total $	**0**	**0**	**0**	**0**	**0**	**0**

Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other						
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Washington State Health Care Authority	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Retirement Systems	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Board of Industrial Insurance Appeals	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board	.0	0	0	.0	0	0	.0	0	0
Actuarial Fiscal Note - State Actuary	.0	800,000	800,000	.0	800,000	800,000	.0	900,000	900,000
Total $	**0.0**	**800,000**	**800,000**	**0.0**	**800,000**	**800,000**	**0.0**	**900,000**	**900,000**

Estimated Capital Budget Expenditures

FNPID: 57056

FNS029 Multi Agency rollup

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Washington State Health Care Authority	.0	0	0	.0	0	0	.0	0	0
Department of Retirement Systems	.0	0	0	.0	0	0	.0	0	0
Board of Industrial Insurance Appeals	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board	.0	0	0	.0	0	0	.0	0	0
Actuarial Fiscal Note - State Actuary	.0	0	0	.0	0	0	.0	0	0
Total $	**0.0**	**0**	**0**	**0.0**	**0**	**0**	**0.0**	**0**	**0**

Estimated Capital Budget Breakout

NONE

Prepared by: Anna Minor, OFM	Phone: (360) 902-0541	Date Published: Final 3/ 6/2019

FNPID: 57056

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 1913 HB	Title: Occup. disease presumption	Agency: AFN-Actuarial Fiscal Note - State Actuary

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

		FY 2020	FY 2021	2019-21	2021-23	2023-25
Account						
General Fund-State	001-1	400,000	400,000	800,000	800,000	900,000
	Total $	400,000	400,000	800,000	800,000	900,000

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Joan Elgee	Phone: 360-786-7106	Date: 02/06/2019
Agency Preparation:	Aaron Gutierrez	Phone: 360-786-6152	Date: 02/22/2019
Agency Approval:	Luke Masselink	Phone: 360-786-6154	Date: 02/22/2019
OFM Review:	Jane Sakson	Phone: 360-902-0549	Date: 02/22/2019

Form FN (Rev 1/00) 146,802.00 Request # HB 1913-1
FNS063 Individual State Agency Fiscal Note 1 Bill # 1913 HB

Individual State Agency Fiscal Note

Bill Number: 1913 HB	Title: Occup. disease presumption	Agency: AFN-Actuarial Fiscal Note - State Actuary

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
Account					
General Fund-State 001-1	400,000	400,000	800,000	800,000	900,000
Total $	400,000	400,000	800,000	800,000	900,000

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

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☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Joan Elgee	Phone: 360-786-7106	Date: 02/06/2019
Agency Preparation:	Aaron Gutierrez	Phone: 360-786-6152	Date: 02/22/2019
Agency Approval:	Luke Masselink	Phone: 360-786-6154	Date: 02/22/2019
OFM Review:	Jane Sakson	Phone: 360-902-0549	Date: 02/22/2019

Form FN (Rev 1/00) 146,802.00 Request # HB 1913-1
FNS063 Individual State Agency Fiscal Note 1 Bill # 1913 HB

SUMMARY OF RESULTS

BRIEF SUMMARY OF BILL: This bill would expand the statutory list of presumptive occupational diseases for fire fighters covered under industrial insurance and duty benefits in the retirement plans. It also adds some law enforcement, publicly employed EMTs, and fire investigators to the list of workers covered by the occupational disease presumption, and creates an advisory committee on occupational disease presumptions.

COST SUMMARY

Impact on Contribution Rates (Effective 09/01/2019)	
FY 2019-2021 State Budget	LEOFF
Employee (Plan 2)	0.05%
Employer	0.03%
State	0.02%

Budget Impacts			
(Dollars in Millions)	2019-2021	2021-2023	25-Year
General Fund-State	$0.8	$0.8	$15.9
Local Government	$1.2	$1.3	$23.8
Total Employer	**$2.0**	**$2.1**	**$39.6**

Note: We use long-term assumptions to produce our short-term budget impacts. Therefore, our short-term budget impacts will likely vary from estimates produced from other short-term budget models.

HIGHLIGHTS OF ACTUARIAL ANALYSIS

- This bill provides additional benefits that increase the costs to LEOFF 2 and the contributions required to fund it. This bill also improves benefits for LEOFF 1 and some PERS members, however we do not expect costs in those plans to lead to a contribution rate impact due to the number of members impacted.
- We do not expect this bill will increase the total number of deaths or disabilities, however we expect it will increase the number of duty-related versus non-duty-related benefits.
  - We expect two additional duty-related deaths annually (1.6 active plus 0.4 inactive members) from the presumptive diseases covered in this bill. This assumption change accounts for about 80 percent of the costs under this bill.
  - We expect two additional duty disabilities annually, resulting in all LEOFF 2 disabilities assumed to be classified as duty-related.
- We relied on data provided by L&I for both the incidence and mortality rates associated for each disease covered in this bill. Where data was not available, we used professional judgement to set an assumption. Please see the **Assumptions We Made** for more information.
- Actual experience may differ from our best estimate assumption. For example, if the additional duty-related deaths are 1.3 or 3.4 instead of our best estimate assumption of 2.0, we expect the resulting total employer budget impacts would be $28 million or $62 million over a 25-year period. However, the actual costs of this bill could fall outside this range.

See the remainder of this fiscal note for additional details on the summary and highlights presented here.

WHAT IS THE PROPOSED CHANGE?

Summary Of Benefit Improvement

This bill impacts the following systems:

- Public Employees' Retirement System (PERS).
- Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF)

This bill would expand the statutory list of presumptive occupational diseases for fire fighters covered under industrial insurance and duty benefits in the retirement plans. It also adds some law enforcement, publicly employed Emergency Medical Technicians (EMTs), and fire investigators to the list of workers covered by the occupational disease presumption.

More specifically, it adds:

Fire investigators and EMTs to the presumption for:

- Respiratory disease.
- Cancer.

It also adds the following types of cancers to the presumption:

- Mesothelioma.
- Stomach cancer.
- Nonmelanoma skin cancer.
- Breast cancer in women.
- Cervical cancer.

The bill also adds law enforcement officers, fire investigators, and EMTs to the presumption for:

- Heart problems within 72 hours of certain exposures or strenuous exertion.
- HIV/AIDS.
- Hepatitis.
- Meningococcal Meningitis.
- Mycobacterium tuberculosis.

The bill also creates an advisory committee on occupational disease presumptions, but this does not impact the pricing of the proposal.

Effective Date: 90 days after session.

What Is The Current Situation?

Under current law, fire fighters who are members of LEOFF and experience certain medical conditions are presumed to have contracted the medical condition from their occupation. The presumption applies for a maximum of 60 months following termination of employment (technically, three months for every year of service, up to 60 months). The conditions covered in statute include respiratory disease, heart problems, certain cancers, and certain infectious diseases. In 2018, this list was updated to include Post-Traumatic Stress Disorder (PTSD).

The presumption of occupational disease can be rebutted by a preponderance of evidence. Additionally, the presumption does not apply to fire fighters who develop a heart or lung condition who regularly use tobacco products or have a history of tobacco use.

EMTs may be members of LEOFF if they are full-time, fully-compensated employees with a public employer. Fire investigators are generally members of PERS and are not members of LEOFF.

Who Is Impacted And How?

In LEOFF 2, we estimate this bill could affect any of the 17,694 active members through improved benefits. This bill could also affect 5,357 inactive members through improved benefits and we expect approximately 2,600 of these inactive members are within the presumptive window since leaving service.

We expect improved benefits will be paid for 1.6 active member deaths and 2 active member disabilities each year. Of the current inactive members, we expect 0.4 additional members will receive duty-related death benefits annually from expanded presumptions for diseases covered in this bill.

Survivors of members that experience a duty-related death will receive enhanced benefits that include an unreduced pension for benefits that begin before normal retirement age, subject to a minimum of 10 percent of final average salary, a lump sum of $251,353 as of July 1, 2018, and healthcare coverage for the surviving family. Members who become disabled due to duty-related causes also receive greater benefits that include an unreduced pension subject to the same minimum benefit. Further, if the disability is deemed catastrophic, as defined under RCW 41.26.470, the member and their family will also receive healthcare coverage.

This bill impacts all LEOFF 2 members and their employers through increased contribution rates.

This bill also improves benefits for LEOFF 1 and some PERS members, however we do not expect costs in those plans to lead to a contribution rate impact. Please see the **Assumption** section for additional detail.

WHY THIS BILL HAS A COST AND WHO PAYS FOR IT

Why This Bill Has A Cost

This bill expands coverage of presumptive occupational diseases to law enforcement officers, fire fighters, fire investigators, and EMTs.

Deaths or disabilities attributable to any of these diseases will result in duty-related benefits for the member or their surviving spouse. We do not expect more total deaths or disabilities as a result of this bill, but instead a shift in the benefits paid from non-duty to duty-related as a result of the presumption. Duty-related benefits are more costly to the pension system and require higher contributions to cover the costs.

The additional duty-related deaths have the largest impact under this bill because survivors receive a sizeable lump sum payment and healthcare coverage in addition to a monthly pension. We estimate 80 percent of this bill cost is related to additional duty-related deaths.

Who Will Pay For These Costs?

For LEOFF 2, any costs that arise from this bill will be divided according to the standard funding method for the plan: 50 percent member, 30 percent employer, and 20 percent state.

We do not anticipate the additional costs for PERS or LEOFF 1 will result in a contribution rate increase.

HOW WE VALUED THESE COSTS

Assumptions We Made

Duty-Related Death Assumptions

We do not expect any additional deaths but we assume a higher proportion of deaths will be duty-related because of the presumption in this bill. These assumption changes will move 1.6 active and 0.4 inactive deaths from non-duty to duty-related benefit provisions each year.

- Active Members: We increased our duty-related death rate assumption from 0.035 percent to 0.045 percent for all active members. This assumption represents the likelihood that a death occurs from a duty-related event. Put another way, we now assume 0.045 percent of all active employees will die from duty-related causes each year.
- Inactive Members: We increased our duty-related death assumption for inactive members, who are within the presumptive window since leaving service, and die as a

WHY THIS BILL HAS A COST AND WHO PAYS FOR IT

Why This Bill Has A Cost

This bill expands coverage of presumptive occupational diseases to law enforcement officers, fire fighters, fire investigators, and EMTs.

Deaths or disabilities attributable to any of these diseases will result in duty-related benefits for the member or their surviving spouse. We do not expect more total deaths or disabilities as a result of this bill, but instead a shift in the benefits paid from non-duty to duty-related as a result of the presumption. Duty-related benefits are more costly to the pension system and require higher contributions to cover the costs.

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For LEOFF 2, any costs that arise from this bill will be divided according to the standard funding method for the plan: 50 percent member, 30 percent employer, and 20 percent state.

We do not anticipate the additional costs for PERS or LEOFF 1 will result in a contribution rate increase.

HOW WE VALUED THESE COSTS

Assumptions We Made

<u>Duty-Related Death Assumptions</u>

We do not expect any additional deaths but we assume a higher proportion of deaths will be duty-related because of the presumption in this bill. These assumption changes will move 1.6 active and 0.4 inactive deaths from non-duty to duty-related benefit provisions each year.

- Active Members: We increased our duty-related death rate assumption from 0.035 percent to 0.045 percent for all active members. This assumption represents the likelihood that a death occurs from a duty-related event. Put another way, we now assume 0.045 percent of all active employees will die from duty-related causes each year.
- Inactive Members: We increased our duty-related death assumption for inactive members, who are within the presumptive window since leaving service, and die as a

expect the additional cost of duty-related death benefits paid beyond the presumptive window to be material to this pricing.

Duty-Related Disability Assumptions

Under current law, we assume all fire fighter disabilities and most law enforcement disabilities are duty-related. We increased the duty-related disability assumption for law enforcement officers, as this bill expands presumptions for heart problems and infectious diseases to these members. Using data from L&I, we estimated the increase in the number of duty-related disabilities for law enforcement officers by the difference in total incidences of new presumptive diseases minus expected mortality from these diseases. The expected number of new duty-related disabilities exceeded the expected number of non-duty-related disabilities for the plan. For this reason, and that we do not expect this bill will lead to more total disabilities, we now assume all future disabilities are duty-related. The increased costs from this assumption are about 17 percent of the costs we estimate for this bill. The table below compares the types of disabilities we assume under current law and how we expect them to change under this bill.

Expected Annual Disabilities		
Actives	**Current Law**	**Best Estimate**
Duty	37.6	39.7
Non-Duty	2.0	0.0
Total Disabilities	**39.7**	**39.7**

Note: Totals may not agree due to rounding.

Additionally, this bill could change the percent of duty-related disabilities that are occupational. We currently assume 88 percent of duty-related disabilities are occupational, and the other 12 percent are catastrophic. For this pricing, we assume no change in this relationship.

The analysis contained in our pricing does not consider passage of SSB 6214 in the 2018 Legislative Session, which added PTSD to the presumptive diseases list. We do not expect the passage of the bill to materially influence our analysis.

Miscellaneous Assumptions

According to L&I, the number of EMTs in LEOFF 2 is 252. This represents about 1.5 percent of the active LEOFF 2 population. We used this data to update our assumption about the portion of active LEOFF 2 members who are eligible for duty-related benefits as a result of presumptive occupational diseases under current law.

We assumed the impact to LEOFF 1 and PERS is not material and as such did not include the impact of this bill on those systems.

- L&I expects fewer than 50 fire investigators in PERS that could receive improved benefits. This represents 0.03 percent of the active PERS population. We expect the coverage extended to fire investigators under this bill will increase costs to PERS, but the costs will not impact contribution rates for the system.

- As of the *June 30, 2017, Actuarial Valuation Report* (AVR), LEOFF 1 has 40 active members and 82 inactive members within the presumptive window. Given the small number of members we anticipate becoming eligible for these enhanced benefits and the current level of funding in LEOFF 1, we expect no impact to contribution rates in LEOFF 1. Approximately 5,500 LEOFF 1 inactive members, outside the presumptive window, would be eligible for benefits under this bill; however, this additional cost is not expected to be material for this pricing.

Please see **Appendix A** for more details on how we arrived at these assumptions.

Otherwise, we developed these costs using the same assumptions as disclosed in the AVR, Projections Disclosures, and *Risk Assessment* analysis available on our website.

How We Applied These Assumptions

In our current valuation data, EMTs are included as fire fighters although they are not covered for presumptive occupational diseases. In order to value the impact of adding EMTs under this bill, we updated our base valuation to reflect a lower percentage of the active membership assumed to be fire fighters from 45 percent to 43.5 percent. This assumption was correspondingly increased back to 45 percent for the pricing valuation. The difference in assumed fire fighter percentage between the pricing valuation and base valuation will measure the liability increase associated with the expanded coverage to EMTs.

In our pricing valuation, we also applied the revised assumptions to the duty-related lump sum and annuity death benefits as well as disability benefits for active members and qualifying inactive members. We also applied this assumption to the medical premium reimbursement benefits. Since we apply the duty-related death rate to both fire fighters and law enforcement officers in our valuation model, we developed a blended assumption that projects the total number of duty deaths we expect when applied to the entire population. For the increased number of duty disabilities, we simply removed the non-duty disability assumption and valued all disabilities as duty-related.

To estimate the fiscal impact of this bill, we compared projected pension contributions under current law to the projected contributions we expect under this bill. To determine the projected contributions under current law, also known as the "base," we relied on the AVR with 43.5 percent fire fighter assumption. The base projected pension contributions reflect contributions from the current population as well as future new entrants. For the current population, contribution rates from the AVR are multiplied by future payroll. For the future new entrants, contribution rates under the Entry Age Normal Cost method are multiplied by future new entrant payroll. To determine the projected costs under this bill, we modified the base to reflect the provisions of the bill and our assumptions as described above.

Special Data Needed

In selecting the best estimate assumptions for this pricing, we reviewed data from L&I on expected incidences and deaths for each new presumptive disease. L&I also provided us a "presumptive multiplier" that we applied to the rates. The multiplier indicates how much more likely fire fighters and law enforcement officers are to contract a given disease than the general population. For more details on the development of this assumption and the data we used, please see **Appendix A**.

We compared our current duty-related death and disability assumptions with death and disability estimates using L&I data to determine an increase in the assumptions for this pricing. To create our estimates, we used data from the 2017 AVR and multiplied member headcounts by the incidence or mortality rates for each disease.

Otherwise, we developed these costs using the same assets and data as disclosed in the AVR.

ACTUARIAL RESULTS

How The Liabilities Changed

This bill will impact the actuarial funding of LEOFF 2 by increasing the present value of future benefits payable to the members. The impact of the increasing present value of future benefits payable for current members is shown below.

Impact on Pension Liability			
(Dollars in Millions)	**Current**	**Increase**	**Total**
Actuarial Present Value of Projected Benefits *(The Value of the Total Commitment to All Current Members)*			
LEOFF 2	13,689	18.7	13,708
Unfunded Entry Age Accrued Liability *(The Value of the Total Commitment to All Current Members Attributable to Past Service that is Not Covered by Current Assets)*			
LEOFF 2	(878)	1.0	(877)

Note: Totals may not agree due to rounding.

How The Assets Changed

This bill does not change asset values so there is no impact on the actuarial funding of the affected plans due to asset changes.

How The Present Value Of Future Salaries (PVFS) Changed

This bill does not change the PVFS so there is no impact on the actuarial funding of the affected plans due to PVFS changes.

How Contribution Rates Changed

For LEOFF 2, the rounded increase in the required actuarial contribution rate results in the supplemental contribution rate shown on page one that applies in the current biennium. However, we will use the un-rounded rate increase shown below to measure the budget changes in future biennia.

Impact on Contribution Rates (Effective 09/01/2019)	
System/Plan	**LEOFF**
Current Members	
Employee (Plan 2)	0.045%
Employer	0.027%
State	0.018%
New Entrants*	
Employee (Plan 2)	0.043%
Employer	0.026%
State	0.017%

**Rate change applied to future new entrant payroll and used to determine budget impacts only. Current members and new entrants pay the same contribution rate.*

How This Impacts Budgets And Employees

Budget Impacts		
(Dollars in Millions)	**LEOFF**	**Total**
2019-2021		
General Fund	$0.8	$0.8
Non-General Fund	0.0	0.0
Total State	**$0.8**	**$0.8**
Local Government	1.2	1.2
Total Employer	**$2.0**	**$2.0**
Total Employee	**$2.0**	**$2.0**
2021-2023		
General Fund	$0.8	$0.8
Non-General Fund	0.0	0.0
Total State	**$0.8**	**$0.8**
Local Government	1.3	1.3
Total Employer	**$2.1**	**$2.1**
Total Employee	**$2.1**	**$2.1**
2019-2044		
General Fund	$15.9	$15.9
Non-General Fund	0.0	0.0
Total State	**$15.9**	**$15.9**
Local Government	23.8	23.8
Total Employer	**$39.6**	**$39.6**
Total Employee	**$39.6**	**$39.6**

Note: Totals may not agree due to rounding. We use long-term assumptions to produce our short-term budget impacts. Therefore, our short-term budget impacts will likely vary from estimates produced from other short-term budget models.

The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.

Comments On Risk

Our office performs annual risk assessments to help us demonstrate and assess the effect of unexpected experience on pension plans. The risk assessment allows us to measure how affordability and funded status can change if investment experience, expected state revenue growth, and inflation do not match our long-term assumptions. Our annual risk assessment also considers past practices, for funding and benefit enhancements, and their impact on pension plan risk if those practices continue.

The table below displays our latest risk measurements as of June 30, 2017. The figures in this table were not reproduced for this bill. For more information, please see our Risk Assessment webpage and the **Glossary**.

Select Measures of Pension Risk as of June 30, 2017[1]		
	FY 2018-37	FY 2038-67
Affordability Measures		
Chance of Pensions Double their Current Share of GF-S[2]	1%	3%
Chance of Pensions Half their Current Share of GF-S[2]	47%	46%
Solvency Measures		
Chance of PERS 1 or TRS 1 in Pay-Go[3]	15%	18%
Chance of Any Open Plan in Pay-Go[3]	1%	8%
Chance of PERS 1, TRS 1 Total Funded Status Below 60%	29%	27%
Chance of Open Plans Total Funded Status Below 60%	24%	36%

[1]FY 2018 returns used for purposes of this analysis are 10.04%. Due to a restatement in October 2018, this differs from the 10.20% reported by the Washington State Investment Board. We expect this difference to have limited impacts to the risk measures.
[2]Pensions approximately 5.5% of current General Fund-State (GF-S) budget; does not include higher education.
[3]When today's value of annual pay-go cost exceeds $50 million.

In terms of risk, we expect this bill would slightly worsen the affordability and solvency risk measures associated with LEOFF 2 because it increases the obligations of the plan and contributions required to fund it. In the short-term, the funded status may also decrease as a result of the plan becoming more costly. Given the current funding level of LEOFF 2 and the size of the plan relative to the combined retirement plans, we do not expect this bill to materially change the results of the combined risk assessment shown above.

HOW THE RESULTS CHANGE WHEN THE ASSUMPTIONS CHANGE

We relied on data provided by L&I and our professional judgment to set our best estimate assumption; however, the best estimate results presented in this fiscal note can vary under a different set of assumptions. The assumptions related to additional duty-related deaths are approximately 80 percent of the cost of the bill so we varied the duty-related death assumptions for sensitivity. More specifically, we considered the range of costs if we assume a 10 percent (Low Sensitivity) and 40 percent (High Sensitivity) of incidences resulting in mortality from heart and infectious diseases.

To demonstrate the range of potential outcomes surrounding our best estimate, we considered the following:

- **Low Sensitivity** – We assume 1.3 additional duty-related deaths per year (1.0 active and 0.3 inactive member) above current law.
- **High Sensitivity** – We assume 3.4 additional duty-related deaths per year (2.8 active and 0.6 inactive members) above current law.

Expected Annual Deaths				
Actives	Current Law	Low Sensitivity	Best Estimate	High Sensitivity
Duty	6.1	7.1	7.7	8.9
Non-Duty	21.7	20.7	20.1	18.9
Total Deaths	27.8	27.8	27.8	27.8
Eligible Inactives	Current Law	Low Sensitivity	Best Estimate	High Sensitivity
Duty	4.5	4.8	4.9	5.1
Non-Duty	11.9	11.6	11.5	11.3
Total Deaths	16.4	16.4	16.4	16.4

The table below compares the 25-year budget impact of our best estimate to the sensitivity analysis. This analysis only includes changes to the assumption for the number of new duty-related deaths that may arise out of this bill.

Example Range of 25-Year Budget Impacts			
(Dollars in Millions)	Low Sensitivity	Best Estimate	High Sensitivity
General Fund-State	$11	$16	$25
Total Employer	$28	$40	$62

Under current law, we expect six active member duty related deaths per year for LEOFF 2. The Low Sensitivity shows the expected impact to the retirement system if LEOFF 2 experiences one additional active member duty death per year. One additional duty death per year, above current law, results in a contribution rate increase that rounds to 0.01 percent, the threshold for a supplemental rate impact.

WHAT THE READER SHOULD KNOW

The Office of the State Actuary ("we") prepared this fiscal note based on our understanding of the bill as of the date shown in the footer. We intend this fiscal note to be used by the Legislature during the 2019 Legislative Session only.

We advise readers of this fiscal note to seek professional guidance as to its content and interpretation, and not to rely upon this communication without such guidance. Please read the analysis shown in this fiscal note as a whole. Distribution of, or reliance on, only parts of this fiscal note could result in its misuse, and may mislead others.

ACTUARY'S CERTIFICATION

The undersigned hereby certifies that:

1. The actuarial cost methods are appropriate for the purposes of this pricing exercise.
2. The actuarial assumptions used are appropriate for the purposes of this pricing exercise.
3. The data on which this fiscal note is based are sufficient and reliable for the purposes of this pricing exercise.
4. Use of another set of methods, assumptions, and data may also be reasonable, and might produce different results.
5. The risk analysis summarized in this fiscal note involves the interpretation of many factors and the application of professional judgment.
6. We prepared this fiscal note for the Legislature during the 2019 Legislative Session.
7. We prepared this fiscal note and provided opinions in accordance with Washington State law and accepted actuarial standards of practice as of the date shown in the footer of this fiscal note.

The undersigned, with actuarial credentials, meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

While this fiscal note is meant to be complete, the undersigned is available to provide extra advice and explanations as needed.

Luke Masselink

Luke Masselink, ASA, EA, MAAA
Senior Actuary

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APPENDIX A – ASSUMPTIONS WE MADE

We relied on L&I assumptions to determine the expected number of annual duty disabilities and duty-related deaths under this bill. We used data from the 2017 AVR to determine headcounts for each age group to match the data below. We then applied those headcounts to the probability of incidence or mortality for each disease. The expected number of additional duty deaths, by disease, can be found in the **Number of New Duty-Related Deaths by Presumption** table. The expected number of additional duty disabilities, by disease, can be found in the **Number of New Duty-Related Disabilities by Presumption (LEO Only)** table.

Incidence Rates

We relied on the incidence rates and presumptive multipliers provided by L&I in the following two tables to determine the expected number of annual duty-related disabilities. The tables are split between Fire Fighters (FF) and Law Enforcement Officers (LEO). The incidence rates represent assumptions for the Washington average population for cancers and national population for all other diseases. In the case of heart problem incidence rate for LEO, we relied on the observed FF incidence rate from current law presumptive coverage. A presumptive multiplier is applied to each incidence rate to represent a higher degree of risk for FF and LEO than the average population. The multiplier essentially "adjusts" the data to account for the fact that the LEOFF 2 population experiences these diseases at a higher rate.

Incidence Rate for Cancer (FF only)

Age	Stomach*	Breast	Mesothelioma*	Cervical	Non-Melanoma Skin
30-34	0.0010%	0.0322%	0.0000%	0.0090%	0.0000%
35-39	0.0018%	0.0691%	0.0000%	0.0144%	1.5000%
40-44	0.0031%	0.1720%	0.0000%	0.0146%	1.5000%
45-49	0.0050%	0.2589%	0.0006%	0.0119%	1.5000%
50-54	0.0082%	0.3191%	0.0006%	0.0115%	1.5000%
55-59	0.0119%	0.3556%	0.0025%	0.0103%	1.5000%
60-64	0.0190%	0.4529%	0.0025%	0.0083%	1.5000%
65-69	0.0273%	0.6084%	0.0078%	0.0083%	4.5000%
70-74	0.0383%	0.6545%	0.0078%	0.0076%	7.5000%
Multiplier	1.58	1.26	2.29	5.24	1.52

For display purposes we blended based on assumed male/female splits.

Incidence Rate for Infectious Diseases and Heart Problems (LEO only)

	HIV/AIDS	Meningitis	Tuberculosis	Hepatitis	Heart
All Ages	0.0331%	0.0004%	0.0030%	0.0020%	0.0050%
Multiplier	1.50	1.50	1.50	1.50	1.50

APPENDIX A – ASSUMPTIONS WE MADE

We relied on L&I assumptions to determine the expected number of annual duty disabilities and duty-related deaths under this bill. We used data from the 2017 AVR to determine headcounts for each age group to match the data below. We then applied those headcounts to the probability of incidence or mortality for each disease. The expected number of additional duty deaths, by disease, can be found in the **Number of New Duty-Related Deaths by Presumption** table. The expected number of additional duty disabilities, by disease, can be found in the **Number of New Duty-Related Disabilities by Presumption (LEO Only)** table.

Incidence Rates

We relied on the incidence rates and presumptive multipliers provided by L&I in the following two tables to determine the expected number of annual duty-related disabilities. The tables are split between Fire Fighters (FF) and Law Enforcement Officers (LEO). The incidence rates represent assumptions for the Washington average population for cancers and national population for all other diseases. In the case of heart problem incidence rate for LEO, we relied on the observed FF incidence rate from current law presumptive coverage. A presumptive multiplier is applied to each incidence rate to represent a higher degree of risk for FF and LEO than the average population. The multiplier essentially "adjusts" the data to account for the fact that the LEOFF 2 population experiences these diseases at a higher rate.

Incidence Rate for Cancer (FF only)					
Age	Stomach*	Breast	Mesothelioma*	Cervical	Non-Melanoma Skin
30-34	0.0010%	0.0322%	0.0000%	0.0090%	0.0000%
35-39	0.0018%	0.0691%	0.0000%	0.0144%	1.5000%
40-44	0.0031%	0.1720%	0.0000%	0.0146%	1.5000%
45-49	0.0050%	0.2589%	0.0006%	0.0119%	1.5000%
50-54	0.0082%	0.3191%	0.0006%	0.0115%	1.5000%
55-59	0.0119%	0.3556%	0.0025%	0.0103%	1.5000%
60-64	0.0190%	0.4529%	0.0025%	0.0083%	1.5000%
65-69	0.0273%	0.6084%	0.0078%	0.0083%	4.5000%
70-74	0.0383%	0.6545%	0.0078%	0.0076%	7.5000%
Multiplier	**1.58**	**1.26**	**2.29**	**5.24**	**1.52**

For display purposes we blended based on assumed male/female splits.

Incidence Rate for Infectious Diseases and Heart Problems (LEO only)					
	HIV/AIDS	Meningitis	Tuberculosis	Hepatitis	Heart
All Ages	0.0331%	0.0004%	0.0030%	0.0020%	0.0050%
Multiplier	**1.50**	**1.50**	**1.50**	**1.50**	**1.50**

Under current law, we assume all disabilities for FF will be duty-related. For this bill, we estimate the additional duty-related disabilities will apply to LEO. The difference between expected number of incidences and mortality counts reflects the increase in duty-related disabilities for LEO. The results can be found in the table below.

Number of New Duty Disabilities by Presumption (LEO Only)			
	Infectious Diseases*	Heart Problems*	Total
Active Members	4.3	0.6	4.9

Note: Disabilities calculated as number of expected incidences minus expected deaths.
**FF already have this coverage under current law.*

The number of additional duty-related disabilities (4.9) exceeds the number of non-duty disabilities we expect under current law (2.0), so we assumed all future disabilities are duty-related.

Mortality Rates

We relied on the mortality rates found in the following table to determine the expected number of annual duty-related deaths. The mortality rates assume the same presumptive multipliers as incidence rates.

Mortality Rate for Cancer (FF only)					
Age	Stomach*	Breast	Mesothelioma*	Cervical	Non Melanoma Skin
30-34	0.0001%	0.0018%	0.0000%	0.0000%	0.0000%
35-39	0.0008%	0.0046%	0.0000%	0.0011%	0.0000%
40-44	0.0015%	0.0098%	0.0000%	0.0016%	0.0000%
45-49	0.0012%	0.0164%	0.0005%	0.0042%	0.0000%
50-54	0.0027%	0.0248%	0.0005%	0.0029%	0.0000%
55-59	0.0050%	0.0363%	0.0020%	0.0039%	0.0000%
60-64	0.0070%	0.0434%	0.0020%	0.0035%	0.0000%
65-69	0.0108%	0.0610%	0.0062%	0.0038%	0.0000%
70-74	0.0163%	0.0825%	0.0062%	0.0031%	0.0000%
Multiplier	1.58	1.26	2.29	5.24	1.52

**For display purposes we blended based on assumed male/female splits.*

We relied on data from Centers for Disease Control and Prevention to determine an assumption on mortality rate related to heart disease and infectious diseases. We reviewed incident rates and mortality rates for these diseases. Based on the data, we believe that 20 percent of incidences resulting in mortality within five years of leaving service is a reasonable assumption. However, given that this assumption is outside our expertise and magnitude of the assumption, we performed sensitivity around this assumption. Please see **How The Results Change When Assumptions Change** section for additional details.

The expected number of annual duty-related deaths is approximately 1.6 active and 0.4 inactive members. The table below summarizes the number of duty-related deaths we expect based on the mortality rates used for this pricing.

Number of New Duty-Related Deaths by Presumption				
	Cancer	Infectious Diseases*	Heart Problems*	Total
Active Members	0.4	1.1	0.1	**1.6**
Retirees	0.2	0.2	N/A	**0.4**

**Figures for expanded coverage for LEO only. FF already have this coverage under current law.*

GLOSSARY OF ACTUARIAL TERMS

Actuarial Accrued Liability: Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of actuarial assumptions (i.e., interest rate, rate of salary increases, mortality, etc.).

Aggregate Funding Method: The Aggregate Funding Method is a standard actuarial funding method. The annual cost of benefits under the Aggregate Method is equal to the normal cost. Under this method, all plan costs (for past and future service credit) are included under the normal cost. Therefore, the method does not produce an unfunded actuarial accrued liability outside the normal cost. It's most common for the normal cost to be determined for the entire group rather than on an individual basis for this method.

Entry Age Normal Cost Method (EANC): The EANC method is a standard actuarial funding method. The annual cost of benefits under EANC is comprised of two components:

- Normal cost.
- Amortization of the unfunded actuarial accrued liability.

The normal cost is most commonly determined on an individual basis, from a member's age at plan entry, and is designed to be a level percentage of pay throughout a member's career.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Projected Benefits: Pension benefit amounts that are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Unfunded EAN Liability: The excess, if any, of the present value of benefits calculated under the EAN cost method over the valuation assets. This is the portion of all benefits earned to date that are not covered by plan assets.

GLOSSARY OF RISK TERMS

Affordability Risk: Measures the affordability of the pension systems. Affordability risk measures the chance that pension contributions will cross certain thresholds with regards to the General Fund and contribution rates.

"Current Law": Scenarios in which assumptions about legislative behavior are excluded. These scenarios show projections regarding the current state of Washington statutes.

Funded Status: The ratio of a plan's current assets to the present value of earned pensions. There are several acceptable methods of measuring a plan's assets and liabilities. In financial reporting of public pension plans, funded status is reported using consistent measures by all governmental entities. According to the Government Accounting Standards Board (GASB), the funded ratio equals the actuarial value of assets divided by the actuarial accrued liability calculated under the allowable actuarial methods.

Optimistic: A measurement of the pension system under favorable conditions (above expected investment returns, for example). Optimistic refers to the 75th percentile, where there is a 25 percent chance of the measurement being better and 75 percent chance of the measurement being worse. Very optimistic refers to the 95th percentile.

"Past Practices": Scenarios in which assumptions regarding legislative behavior are introduced. These assumptions include actual contributions below what are actuarially required and improving benefits over time. These scenarios are meant to project past behavior into the future.

Pay-Go: The trust fund runs out of assets, and payments from the General Fund must be made to meet contractual obligations.

Pessimistic: A measurement of the pension system under unfavorable conditions (below expected investment returns, for example). Pessimistic refers to the 25th percentile, where there is a 75 percent chance of the measurement being better and 25 percent chance of the measurement being worse. Very pessimistic refers to the 5th percentile.

Premature Pay-Go: Pay-go payments, measured in today's value, which might be considered "significant" in terms of the potential impact on the General Fund.

Risk Tolerance: The amount of risk an individual or group is willing to accept with regards to the likelihood and severity of unfavorable outcomes.

Solvency Risk: Measures the risk metrics of the pension systems, including the chance that the pension systems will prematurely run out of assets, the amount of potential pay-go contributions, and the chance that the funded status will cross a certain threshold.

APPENDIX B: OSA LETTER – 2019 SUPPLEMENTAL RATES

Office of the State Actuary
"Supporting financial security for generations."

June 13, 2019

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

SUBJECT: 2019 SUPPLEMENTAL RATES

Dear Steve:

As required under RCW 41.45.070(2), we are forwarding the increase to supplemental rates for the following bill that passed during the 2019 Legislative Session for the LEOFF 2 Board's consideration:

LEOFF 2	Members	Employer Normal Cost	State Normal Cost
HB 1913 (C 133, L 19)	0.05%	0.03%	0.02%

If the Board adopts a supplemental rate increase in light of HB 1913 (C 133 ,L19), please notify the Department of Retirement Systems (DRS) directly. Beginning September 1, 2019, DRS will add any adopted supplemental contribution rates to the basic member, employer, and state contribution rates otherwise effective September 1, 2019.

We have not identified any additional legislation that requires a supplemental rate increase at this time. Please feel free to contact me directly should you have any questions.

Sincerely,

Luke Masselink

Luke Masselink, ASA, EA, MAAA
Senior Actuary

cc: Tracy Guerin, Director
Department of Retirement Systems
Lisa Won, ASA, FCA, MAAA, Deputy State Actuary
Office of the State Actuary
Matt Smith, FCA, EA, MAAA, State Actuary
Office of the State Actuary

N:\OSA\Contribution rate letters\2019\2019.LEOFF2.Supplemental.Rates.Letter.docx

PO Box 40914 | Olympia, Washington 98504-0914 | state.actuary@leg.wa.gov | leg.wa.gov/osa
Phone: 360.786.6140 | Fax: 360.586.8135 | TDD: 711

APPENDIX C: BARTEL & ASSOCIATES LETTER – FISCAL NOTE AUDIT

BARTEL ASSOCIATES, LLC

July 18, 2019

Dennis Lawson, Chair
Law Enforcement Officers' & Firefighters' Plan 2 Retirement Board
P.O. Box 40918
Olympia, Washington 98504-0918

Re: Actuarial Review of HB 1913 Fiscal Note

Chair Lawson and Members of the Board:

There follow the results of our actuarial review of the above fiscal note.

Background
Major provisions of HB 1913 include:

- Extension of cancer-related statutory occupational disease presumption provisions for firefighters to include mesothelioma, stomach cancer, non-melanoma skin cancer, breast cancer in women, and cervical cancer
- Extension of presumptions for specified cancers, respiratory diseases, heart problems, and infectious diseases to EMTs
- Presumptions for heart related and infectious diseases to Law Enforcement Officers.

Our understanding is that HB 1913 does not apply retroactively.

The increases in contribution rates calculated by OSA for contribution rates are shown below.

Employee	0.05%
Employer	0.03%
State	0.02%
Total	0.10%

Results of Review

Assumptions

OSA assumed no increase in the total incidence of deaths and disabilities (duty plus non-duty). Assumptions regarding increases in classification of deaths and disabilities as duty-related were based on information provided by L&I. OSA assumed no change in the proportion of duty disablements assumed to be catastrophic (12%).

411 Borel Avenue, Suite 101 • San Mateo, California 94402
main: 650/377-1600 • *fax:* 650/345-8057 • *web:* www.bartel-associates.com

LEOFF 2 Retirement Board
July 18, 2019
Page 2

Summary

We reviewed the supplemental contribution rate increases shown in the Office of the State Actuary February 22, 2019 Fiscal Note for HB 1913.

Prediction of the impact of occupational presumptive provisions for firefighters, EMTs, and law enforcement officers is difficult. However, we agree that these supplemental rates represent reasonable estimates of the costs based on the assumptions provided by L&I and that the additional assumptions used by OSA are reasonable keeping in mind that historical data is unavailable. Rates in the future may be significantly higher or lower as actual experience emerges and is recognized as gains and losses and incorporated in actuarial assumptions.

The undersigned is a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

Sincerely,

Marilyn M. Oliver, F.S.A., M.A.A.A.
Vice President
Bartel Associates, LLC

Cc. Steve Nelsen, Executive Director; Tim Valencia, Deputy Director; Matthew M. Smith, State Actuary

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main: 650/377-1600 • *fax:* 650/345-8057 • *web:* www.bartel-associates.com

{emphasis added}

LEOFF
Plan 2 Retirement Board

Supplemental Rate Adoption

July 24, 2019

Issue

- A supplemental rate may be necessary due to the passage of House Bill 1913 which:
  - adds medical conditions to the occupational disease presumption,
  - extends the presumption to certain publicly employed firefighters and investigators and law enforcement,
  - addresses the qualifying medical examination, and
  - creates an advisory committee.

About Supplemental Rates

- Temporary rate increases to prefund the cost of benefit improvements not included in basic rates
- Supplemental rates determined for each bill independently (fiscal note)
- Rates are usually effective September 1
  - Can vary depending on effective date of legislation
  - 30 day notice to employers
- Roll into basic rates next rate-setting cycle
  - Benefit improvements included in actuarial valuation

Fiscal Note Audit

- Board practice to audit fiscal notes for legislation passed with a cost
- Bartel & Associates/Marilyn Oliver retained by Board
  - Completed previous audits for Board
- Audit Results
  - Supplemental rates represent reasonable estimate of the costs based on assumptions and available data
  - Rates higher or lower as actual experience emerges

Option 1: Continue Current Rates

- Do not adopt a supplemental rate; continue current contribution rates
  - 8.59% member
  - 5.15% employer
  - 3.44% state
- Funding status 106%
- Sufficient assets to pay for earned benefits; current rates exceed statutory funding method rate
- New benefit improvement included in next rate-setting cycle (2020 Interim)

Option 2: Entry Age Normal Cost Supplemental Rate

- Adopt Entry Age Normal Cost based supplemental rate increase
  - 0.04% member
  - 0.02% employer
  - 0.02% state
- Effective September 1, 2019
- Allows timely notice to employers of rate change
- Consistent with current LEOFF 2 funding policy

Option 3: Aggregate Supplemental Rate

- Adopt Aggregate based supplemental rate increase:
  - 0.05% member
  - 0.03% employer
  - 0.02% state
- Effective September 1, 2019.
- Allows timely notice to employers of rate change
- Inconsistent with current LEOFF 2 funding policy

Option Comparison: Contribution Rates

	Option 1 *No Supplemental* *Continue Current Rates*	Option 2 *EANC Based Supplemental*	Option 3 *Aggregate Based* *Supplemental*
MEMBER	8.59%	8.63%	8.64%
EMPLOYER	5.15%	5.17%	5.18%
STATE	3.44%	3.46%	3.46%

Thank You

Tim Valencia

Deputy Director

(360) 586-2326

tim.valencia@leoff.wa.gov

Pension Funding Part I

Mitch DeCamp
Actuarial Analyst

Lisa Won, ASA, FCA, MAAA
Deputy State Actuary

Presentation to: LEOFF Plan 2 Retirement Board

Office of the State Actuary
"Supporting financial security for generations."

July 24, 2019

Today's Presentation

- What is pension funding?
- What is an actuarial cost method?
- The most common public plan cost methods
- LEOFF 2's actuarial cost method
- Considerations for the Board
- No Board action required today

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Office of the State Actuary

1

What Is Pension Funding?

- Accumulating assets to pay for the benefits provided under the plan
- Pension funding goals in statute (RCW 41.45.010)
  - Fully fund the plan as provided by law
  - Establish long-term employer rates that remain relatively predictable proportion of future state budgets
  - Intergenerational equity
- Two key components
  - Actuarial cost method (Part I)
  - Board funding policy (Part II)

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Office of the State Actuary

2

What Is An Actuarial Cost Method?

- A procedure that allocates the cost of a pension plan to different time periods
- Developed by actuaries to produce rates that will fully fund the plan
  - When the benefit payments are due
  - If all assumptions are realized
- Different actuarial cost methods can vary in how quickly they fund the plan
  - Higher contribution rates earlier or later in a member's career
  - Pay for unexpected costs over shorter or longer periods

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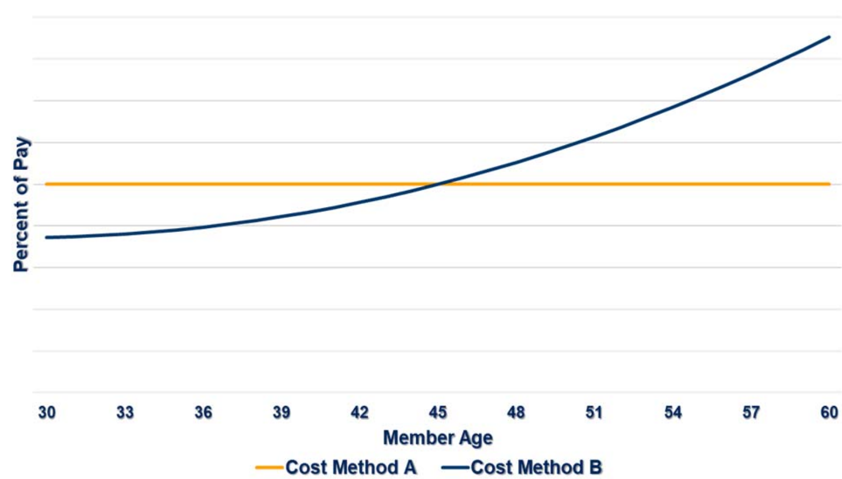
Office of the State Actuary

3

Contribution Rates Under Different Actuarial Cost Methods



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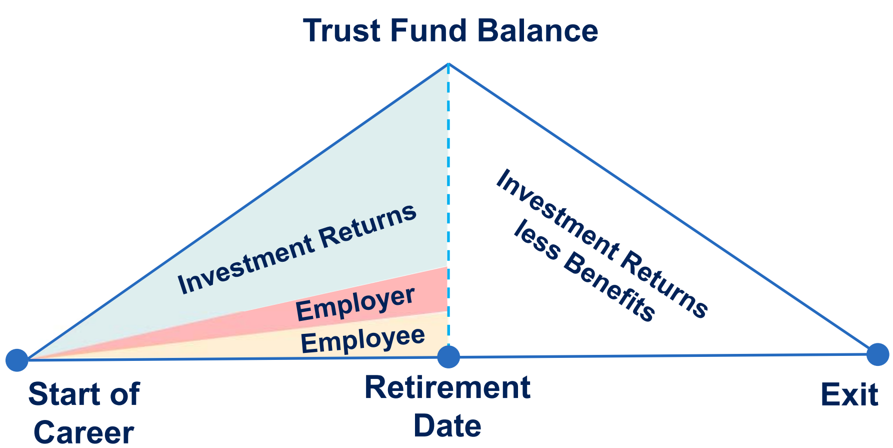
Office of the State Actuary

4

Goal Of An Actuarial Cost Method



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5

Every Cost Method Includes Past And Future Costs

- Past costs
  - The cost of any past experience that is different than expected
    - Actuarial gains and losses
  - Changes to plan provisions or assumptions
- Future costs
  - The cost of next year's benefits all active members are expected to earn

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6

Common Cost Methods Used In Public Pensions

- Entry Age Normal (EAN) Cost Method
  - Calculates two separate contribution rates
    - Past costs = UAAL
      - Requires an amortization policy
    - Future costs = Entry Age Normal Cost
- Aggregate Cost Method
  - Rolls both the past and future costs into one contribution rate = Aggregate Normal Cost

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Office of the State Actuary

7

LEOFF 2 Uses The Aggregate Actuarial Cost Method

- Calculate contributions required to fully fund the obligations of the plan
- LEOFF 2 pension statutes (RCW 41.26.720) would also allow for use of the EAN Cost Method

> "The actuary retained by the board shall utilize the aggregate actuarial cost method, or other recognized actuarial cost method based on a level percentage of payroll, as that term is employed by the American academy of actuaries."

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8

The LEOFF 2 Board Has Also Adopted Funding Policies

- Funding policies used in conjunction with the plan's actuarial cost method (Aggregate) to achieve specific goals
  - Asset smoothing method
  - Minimum contribution rate policy
- Funding policies can address
  - Adequacy, stability, and affordability of contribution rates
  - Risk management
- Policies can achieve similar outcomes even when applied to different actuarial cost methods
- Funding policy addressed in "Pension Funding – Part II"
  - October Board meeting

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9

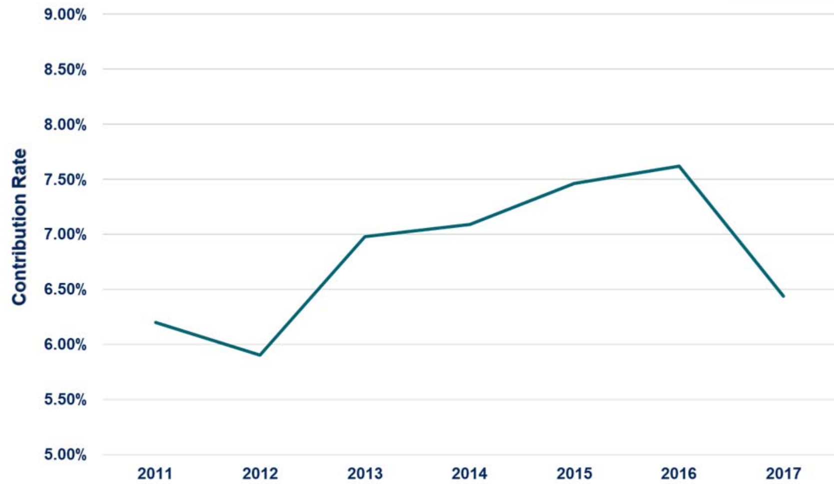
Why Might The Board Choose To Continue Using The Aggregate Cost Method?

- Maintain status quo
- Aggregate is used for all other Washington State retirement plans that are open to new hires (RCW 41.45.060)
- One contribution rate that rolls all plan costs together
- No UAAL (or surplus) amount separately identified and requiring an amortization policy
- Achieves intergenerational equity
- Has provided a solid foundation for LEOFF 2 historical funding

Why Might The Board Choose To Switch To The EAN Cost Method?

- One component of this cost method is currently used in the Board's adopted minimum rate funding policy
  - Over the past several biennia, the Board has adopted contribution rates equal to the Normal Cost under the EAN Cost Method
  - Normal Cost is a relatively stable contribution rate
- Used by majority of public pension plans nationally
- Method required for financial reporting, as adopted by GASB
- Can achieve intergenerational equity with amortization policy

Historical LEOFF 2 Aggregate Contribution Rates



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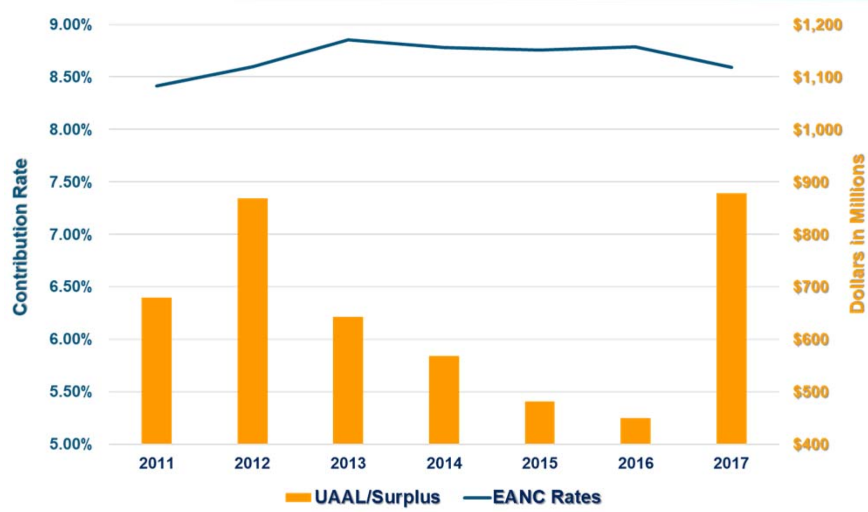
12

Historical LEOFF 2 EAN Data



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Office of the State Actuary

13

Summary – Pension Funding Part I

- Actuarial cost methods form the backbone of pension funding
  - Determines the contributions required to meet all pension obligations
- The current cost method (Aggregate) remains a reasonable approach to plan funding
- Changing to the EAN Cost Method would also be reasonable
- Either cost method, along with funding policies, can achieve the Board's goals

Next Steps

- Board has opportunity to adopt new actuarial cost method
  - September meeting
- OSA provides educational briefing on "Pension Funding – Part II"
  - Funding policy options
  - October meeting
- Board has opportunity to adopt new funding polices
  - November or December meeting
- OSA available to provide consulting or additional information throughout process

Questions?

Office of the State Actuary

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16

LEOFF Plan 2 Retirement Board

July 24, 2019

Month of Death Payment

INITIAL CONSIDERATION

By Jacob White

Senior Research & Policy Manager

360-586-2327

jacob.white@leoff.wa.gov

ISSUE STATEMENT

In the month a retiree or survivor passes away, the last month benefit payment is prorated based on the number of days the person was alive in the month. Frequently this results in an overpayment and an invoice being sent to the family or estate to collect any amount that should have been prorated.

OVERVIEW

This report provides background information on the month of death payment, including the current policy, legislative history, policy considerations, costs to the plan and data regarding who is impacted by the policy.

BACKGROUND AND POLICY ISSUES

Current Practice

Retirement benefits are paid on a monthly basis, but beneficiaries (retirees and survivors) only receive benefits up to their date of death. If DRS is not notified of the death before the cut-off time for processing the payment, the estate will receive a payment for the full month. In these cases, DRS sends an invoice to the estate for repayment of any benefits paid beyond the date of death. This practice also applies to the month of death payment of purchase service credit and purchase of additional annuity.

For example, if a retiree or survivor dies on day 10 of a 30-day month, they receive prorated benefits for only 1/3 of the month. If they have already received a check for the full month, DRS will seek repayment of the remaining 2/3.

This is a longstanding administrative practice. While statute does not expressly state when benefits should cease after death, DRS has general authority (see RCW 41.50.130) to bill retirees and survivors for overpayments of benefits.

Administrative Workload Data (all DRS administered plans)

Each month, on average, DRS retires 1,000 members and is notified of 500 retiree deaths. For 2018, there were 856 active invoices for month of death overpayments across, as of July 31. Approximately 90% of the overpayments DRS processes are connected to the month of death payment.

Social Security

Social Security benefits are not prorated for the month of death. Instead, a member does not receive a benefit if they die at any point during the month because the benefit accrues at the end of the month. Furthermore, Social Security payments are delayed one month, meaning that the payment a member receives in September is actually their August payment. This gives Social Security Administration (SSA) additional time to receive notice that a member is deceased and stop payment of the benefit. If a benefit is paid for the month of death, then SSA collects that payment from the estate.[1]

Policy Considerations

The proration process can cause burdens for grieving families and for estates. Survivors are often in the position of getting a collection notice during a time of grief. Furthermore, proration can sometimes interfere with the deduction of insurance premiums and payment of insurance claims made during the retiree's month of death.

There is an administrative cost for prorating a benefit, which includes the collection of overpayments. According to DRS, enacting this proposal would likely not result in a savings, but instead would result in a redeployment of staff resources that are currently dedicated to pursuing these repayments.

2019 Legislative Session

During the 2019 legislative session the LEOFF 2 Board and Select Committee on Pension Policy (SCPP) endorsed HB 1414/SB 5335 – Month of Death Payment. This bill provided a retiree's beneficiary or estate a full month's benefit for the month a retiree or survivor passes away. Both bills did not make it out of the house of origin.

What is the cost of this proposal?

This proposal results in a cost to the LEOFF 2 Plan because members, or their survivors, will retain the full month's pension payment in the month of death, rather than having that month's benefit prorated. The Office of the State Actuary (OSA) has completed a Fiscal Note for HB 1414/SB 5355. The costs from this bill will be divided according to the standard funding method for LEOFF 2: 50 percent member, 30 percent employer, and 20 percent state.

The OSA fiscal note identified the contribution rate impact of this benefit improvement for LEOFF 2 is:

Contribution Rate Impact	
Employee	0.03%
Employer	0.02%
State	0.01%

[1] https://www.ssa.gov/pubs/EN-05-10077.pdf

OSA also identified that the budget impact is:

Budget Impact	
2019-2021	**Dollars in Millions**
State - General Fund	$0.4
Local Government	$0.8
2021-2023	**Dollars in Millions**
State - General Fund	$0.5
Local Government	$0.7
2019-2044	**Dollars in Millions**
State - General Fund	$5.4
Local Government	$8.4

To arrive at this cost, OSA assumed the distribution of deaths would be uniform throughout any given month. As a result, this proposal will provide on average an additional half-month pension payment to all annuitants.

If this proposal is enacted OSA also recommended administrative factors be recalculated. Administrative factors are used to determine optional payment forms, such as survivor benefit options, purchase service credit, and purchase of additional annuity. OSA calculates factors that are actuarially equivalent, and the current factors will need to be adjusted to reflect the additional benefit provided by this proposal.

SUPPORTING INFORMATION

Appendix A: HB 1414/SB 5355 Fiscal Note

APPENDIX A

Multiple Agency Fiscal Note Summary

Bill Number: 1414 HB	**Title:** Retirement benefits/death

Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Retirement Systems	.1	0	75,223	.0	0	0	.0	0	0
Actuarial Fiscal Note - State Actuary	.0	9,200,000	12,300,000	.0	10,000,000	13,300,000	.0	10,500,000	13,900,000
Total $	**0.1**	**9,200,000**	**12,375,223**	**0.0**	**10,000,000**	**13,300,000**	**0.0**	**10,500,000**	**13,900,000**

Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Retirement Systems	.0	0	0	.0	0	0	.0	0	0
Actuarial Fiscal Note - State Actuary	.0	0	0	.0	0	0	.0	0	0
Total $	**0.0**	**0**	**0**	**0.0**	**0**	**0**	**0.0**	**0**	**0**

Estimated Capital Budget Breakout

NONE

Prepared by: Jane Sakson, OFM	**Phone:** 360-902-0549	**Date Published:** Final 1/25/2019

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 53558

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 1414 HB	Title: Retirement benefits/death	Agency: 124-Department of Retirement Systems

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.3	0.0	0.1	0.0	0.0
Account					
Department of Retirement Systems Expense Account-State 600-1	75,223	0	75,223	0	0
Total $	75,223	0	75,223	0	0

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 01/22/2019
Agency Preparation: Mike Ricchio	Phone: 360-664-7227	Date: 01/23/2019
Agency Approval: Tracy Guerin	Phone: 360-664-7312	Date: 01/23/2019
OFM Review: Jane Sakson	Phone: 360-902-0549	Date: 01/23/2019

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill amends RCW 41.50 to require the Department of Retirement Systems (DRS) to continue paying benefits until the end of the month in which a retiree or beneficiary dies, instead of paying a pro-rated monthly amount as it does today. The change takes effect January 1, 2020.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

No Impact

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Administrative Assumptions

- This bill is prospective and will only apply to payments made on or after the effective date.

The assumption above was used in developing the following workload impacts and cost estimates.

Benefits/Customer Service

Retirement Specialists (RSs) will support the modifications to DRS' automated systems by participating in business requirement development and user acceptance testing activities. RSs will participate on the project team to implement these changes, and will assist in review of member communications and will make necessary updates to internal reference manuals, training materials, and member education.

Retirement Specialist 3 – 112 hours (salaries/benefits) = $4,453

Automated Systems

The agency's Benefit System will be modified to apply changes for paying benefits. Screen text changes will be made to web applications, and text changes will be made to mainframe and web-generated correspondence. Business requirements will be developed and user acceptance testing will be conducted.

Contracted Programmer time of 360 hours @ 105 per hour = $37,800
Information Technology Specialist 4 – 220 hours (salaries/benefits) = $11,617
WaTech* cost of $500 per week for 15 weeks = $7,500

Total Estimated Automated Systems Costs = $56,917

*cost for mainframe computer processing time and resources at WaTech

Project Management

The agency's Project Management Office (PMO) will lead the team that implements this change. PMO will assign a dedicated project manager to provide project oversight and leadership throughout the initiation, planning, execution, implementation, closeout, and measure-value phases of the project.

Project Manager – 220 hours (salaries/benefits) = $13,853

ESTIMATED TOTAL COST TO IMPLEMENT THIS BILL: $75,223

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
600-1	Department of Retirement Systems Expense Account	State	75,223	0	75,223	0	0
		Total $	75,223	0	75,223	0	0

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.3		0.1		
A-Salaries and Wages	22,301		22,301		
B-Employee Benefits	7,622		7,622		
C-Professional Service Contracts	37,800		37,800		
E-Goods and Other Services	7,500		7,500		
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	75,223	0	75,223	0	0

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Information Technology Specialist 4	81,934	0.1		0.1		
Project Manager	99,461	0.1		0.1		
Retirement Specialist 3	59,439	0.1		0.0		
Total FTEs		0.3		0.2		0.0

Part IV: Capital Budget Impact

No Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

No Impact

Individual State Agency Fiscal Note

Bill Number: 1414 HB	**Title:** Retirement benefits/death	**Agency:** AFN-Actuarial Fiscal Note - State Actuary

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

		FY 2020	FY 2021	2019-21	2021-23	2023-25
Account						
All Other Funds-State	000-1	1,400,000	1,700,000	3,100,000	3,300,000	3,400,000
General Fund-State	001-1	4,400,000	4,800,000	9,200,000	10,000,000	10,500,000
	Total $	5,800,000	6,500,000	12,300,000	13,300,000	13,900,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:		Phone:	Date: 01/22/2019
Agency Preparation:	Aaron Gutierrez	Phone: 360-786-6152	Date: 01/24/2019
Agency Approval:	Lisa Won	Phone: 360-786-6150	Date: 01/24/2019
OFM Review:	Jane Sakson	Phone: 360-902-0549	Date: 01/25/2019

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
000-1	All Other Funds	State	1,400,000	1,700,000	3,100,000	3,300,000	3,400,000
001-1	General Fund	State	4,400,000	4,800,000	9,200,000	10,000,000	10,500,000
		Total $	5,800,000	6,500,000	12,300,000	13,300,000	13,900,000

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits	5,800,000	6,500,000	12,300,000	13,300,000	13,900,000
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	5,800,000	6,500,000	12,300,000	13,300,000	13,900,000

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

SUMMARY OF RESULTS

BRIEF SUMMARY OF BILL: Requires DRS to pay a full month of benefits for the month in which an annuitant dies.

COST SUMMARY

During FY 2020, the supplemental rates displayed below would be collected for the cost of the benefit improvement under this bill. This benefit improvement would also result in an increase to the TRS Plan 2 and WSPRS member maximum contribution rates.

Impact on Contribution Rates (Effective 09/01/2019)						
FY 2019-2021 State Budget	**PERS**	**TRS**	**SERS**	**PSERS**	**LEOFF**	**WSPRS**
Employee (Plan 2)	0.03%	0.02%	0.03%	0.01%	0.03%	0.07%
Employer						
Current Annual Cost	0.03%	0.02%	0.03%	0.01%	0.02%	0.07%
Plan 1 Past Cost	0.02%	0.03%	0.02%	0.02%	0.00%	0.00%
Total Employer	0.05%	0.05%	0.05%	0.03%	0.02%	0.07%
Total State					0.01%	

Budget Impacts			
(Dollars in Millions)	**2019-2021**	**2021-2023**	**25-Year**
General Fund-State	\$9.2	\$10.0	\$82.5
Local Government	\$8.4	\$9.0	\$74.4
Total Employer	\$20.7	\$22.4	\$183.7

HIGHLIGHTS OF ACTUARIAL ANALYSIS

- This bill results in a cost to the retirement systems because members and their survivors will retain the full month's pension payment in the month of death, rather than having that month's benefit prorated.
- We assumed the distribution of deaths would be uniform throughout any given month. As a result, this bill will provide on average an additional half-month pension payment to all current and future annuitants.
- We valued the cost of an additional half-month annuity benefit paid at the death of the member only. We examined the impacts of J&S options and found they did not affect the supplemental rates outlined above.
- This fiscal note excludes the impacts of this bill on Plan 3 TAP annuities, the Judicial Retirement System (99 retirees and beneficiaries), and the Judges' Retirement Fund (11 retirees and beneficiaries).
- We assume DRS and the LEOFF 2 Board will adopt new administrative factors that include the provisions of this bill for future retirees who purchase optional annuities.
- The best estimate results can vary under a different set of assumptions. If we assumed all members died on the last day of the month, this bill would have no cost. In contrast, if we assumed all members died on the first day of the month, the cost of this bill would double.

See the remainder of this fiscal note for additional details on the summary and highlights presented here.

WHAT IS THE PROPOSED CHANGE?

Summary Of Benefit Improvement

This bill impacts the following systems:

- Public Employees' Retirement System (PERS).
- Teachers' Retirement System (TRS).
- School Employees' Retirement System (SERS).
- Public Safety Employees' Retirement System (PSERS).
- Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF).
- Washington State Patrol Retirement System (WSPRS).

This bill requires the Department of Retirement Systems (DRS) to pay a full month of benefits for the month in which an annuitant dies.

Effective Date: January 1, 2020.

What Is The Current Situation?

Retirement benefits are paid on a monthly basis at the end of the month, but annuitants (retirees and survivors) only receive benefits up to their date of death. If DRS is not notified of the death before the cut-off time for processing the payment, the estate will receive a payment for the full month. In these cases, DRS sends an invoice to the estate for repayment of any benefits paid beyond the date of death.

For example, if an annuitant dies on day 25 of a 30-day month, they receive pro-rated benefits for only those 25 days. If they have already received a check for the full month, DRS will seek repayment of the remaining five days.

This is a longstanding administrative practice. While statute does not expressly state when benefits should cease after death, DRS has general authority (see e.g., RCW 41.50.130) to bill retirees and survivors for overpayments of benefits.

At retirement, members of the Plans 3 can purchase an annuity from the Total Allocation Portfolio (TAP). The same proration of benefits in the month of death applies to members who purchase a TAP annuity.

Who Is Impacted And How?

This bill will improve benefits for all members and survivors who receive an annuity, with the exception of those who die on the last day of the month. Because of this, we estimate this bill could affect 556,881 members of the impacted systems. These members include active, retired, disabled, and vested terminated members, as well as all joint-life survivors.

This bill will increase the benefits for a typical member by providing the annuitant with a full month's annuity benefit in the month of death. Continuing with the prior example, assume that a given retiree receives a monthly pension benefit of $1,500 and dies on the 25th day of June. Under current law, DRS would prorate this member's benefit in the month of June. If DRS had already processed the payment, the member's estate would need to reimburse DRS for the five days of June that the member was not alive. Therefore, this member's benefit in the month of death would be:

$$(25 / 30) * \$1{,}500 = \$1{,}250$$

and DRS would request reimbursement of $250. Under this bill, DRS would not prorate the member's benefit in the month of death and the full $1,500 benefit would be paid for the month of June.

This bill impacts all active members of PERS, TRS, SERS, PSERS, LEOFF, and WSPRS through increased contribution rates. With the exception of WSPRS members, this bill will not affect member contribution rates in Plan 1 since they are fixed in statute. Additionally, this bill will not affect member contribution rates in Plan 3 since Plan 3 members do not contribute to their employer-provided defined benefit.

This bill impacts all employers of members in these systems through increased normal cost contribution rates. Additionally, the Unfunded Actuarial Accrued Liability (UAAL) contribution rates for PERS, TRS, SERS, and PSERS employers will increase.

WHY THIS BILL HAS A COST AND WHO PAYS FOR IT

Why This Bill Has A Cost

This bill has a cost because any member or survivor who receives an annuity would be able to retain their full benefit amount in the month of death, rather than only a prorated portion.

Who Will Pay For These Costs?

For PERS, TRS, SERS, and PSERS, the costs that result from this bill will be divided between members and employers according to standard funding methods that vary by plan:

- Plan 1: 100 percent employer.
- Plan 2: 50 percent member and 50 percent employer.
- Plan 3: 100 percent employer.

PERS, SERS, and PSERS employers will realize the impacts from the PERS 1 UAAL payments, whereas TRS employers will realize the impacts from the TRS 1 UAAL payments. Since this bill constitutes a benefit improvement, the TRS 2 statutory maximum member contribution rate will increase.

For LEOFF 2, the costs that arise from this bill will be divided according to the standard funding method for LEOFF 2: 50 percent member, 30 percent employer, and 20 percent state.

For WSPRS, this bill constitutes a benefit improvement. As a result, any costs that arise from this bill will be divided according to the standard funding method of 50 percent member and 50 percent employer. The WSPRS statutory maximum member contribution rate will correspondingly increase as well.

HOW WE VALUED THESE COSTS

Assumptions We Made

Under this bill, we assumed that members who receive an annuity would be provided with an additional half-month annuity payment upon death. While some members will die earlier in the month and other members will die later in the month, we assumed the distribution of deaths would be uniform throughout a month and will average out to an additional half-month pension payment.

Otherwise, we developed these costs using the same assumptions as disclosed in the *June 30, 2017, Actuarial Valuation Report* (AVR), Projections Disclosures, and *Risk Assessment* analysis available on our website.

How We Applied These Assumptions

In our valuation software, we modeled an additional half-month annuity payment by providing members, upon death, with a one-time benefit payment in the amount of 1/24th of the member's annual pension payment (or projected annual benefit for current active members), grown with appropriate cost-of-living adjustments.

Our pricing approach provides an additional half-month pension payment upon the death of the member only. We analyzed the impact of a member electing a Joint-and-Survivor (J&S) option but found that this option did not affect the supplemental rates outlined on page 1 of this fiscal note.

The fiscal impact of this bill represents the change in projected contributions. To estimate the fiscal impact of this bill, we compared projected pension contributions under current law to the projected contributions we expect under this bill. To determine the projected contributions under current law, or the "base", we relied on the AVR. The base projected pension contributions reflect contributions from the covered group as well as future new entrants. For the covered group, or "current active members", contribution rates from the AVR are multiplied by future payroll. For the future new entrants, contribution rates under the Entry Age Normal Cost method are multiplied by future new entrant payroll.

To determine the projected costs under this bill, we modified the base described above to reflect the provisions of the bill and the assumptions noted above.

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

For more detail, please see the **Appendix**.

ACTUARIAL RESULTS

How The Liabilities Changed

This bill will impact the actuarial funding of the PERS, TRS, SERS, PSERS, LEOFF, and WSPRS systems by increasing the present value of future benefits payable to the members. The impact of the increasing present value of future benefits payable for current members is shown below.

Impact on Pension Liability			
(Dollars in Millions)	**Current**	**Increase**	**Total**
Actuarial Present Value of Projected Benefits			
(The Value of the Total Commitment to All Current Members)			
PERS 1	$12,412	$23.2	$12,435
PERS 2/3	45,048	53.2	45,101
PERS Total	$57,459	$76.4	$57,536
TRS 1	$8,938	$15.5	$8,954
TRS 2/3	17,514	17.2	17,531
TRS Total	$26,452	$32.7	$26,485
SERS 2/3	$6,486	$7.8	$6,494
PSERS 2	$1,213	$0.8	$1,214
LEOFF 1	$4,124	$8.6	$4,132
LEOFF 2	13,689	11.7	13,701
LEOFF Total	$17,813	$20.3	$17,833
WSPRS 1/2	$1,448	$1.5	$1,450
Unfunded Actuarial Accrued Liability			
*(The Portion of the Plan 1 Liability that is Amortized According to Funding Policy)**			
PERS 1	$5,099	$23.0	$5,122
TRS 1	$3,407	$15.4	$3,423
LEOFF 1	($1,280)	$8.6	($1,271)
Unfunded Entry Age Accrued Liability			
(The Value of the Total Commitment to All Current Members Attributable to Past Service that is Not Covered by Current Assets)			
PERS 1	$5,299	$23.1	$5,322
PERS 2/3	$3,975	46.6	4,021
PERS Total	$9,273	$69.7	$9,343
TRS 1	$3,547	$15.5	$3,563
TRS 2/3	1,210	13.8	1,224
TRS Total	$4,757	$29.3	$4,786
SERS 2/3	$629	$6.7	$635
PSERS 2	$25	$0.4	$26
LEOFF 1	($1,282)	$8.6	($1,274)
LEOFF 2	(878)	9.3	(869)
LEOFF Total	($2,160)	$17.9	($2,142)
WSPRS 1/2	$90	$1.3	$91

Note: Totals may not agree due to rounding.
**PERS 1 and TRS 1 are amortized over a ten-year period. LEOFF 1 must be amortized by June 30, 2024.*

How The Assets Changed

This bill does not change asset values, so there is no impact on the actuarial funding of the affected plans due to asset changes.

How The Present Value Of Future Salaries (PVFS) Changed

This bill does not change the PVFS, so there is no impact on the actuarial funding of the affected plans due to PVFS changes.

How Contribution Rates Changed

The rounded increase in the required actuarial contribution rate results in the supplemental contribution rate shown on page one that applies in the 2019-21 Biennium. However, we will use the un-rounded rate increases shown below to measure the budget changes in future biennia. LEOFF Plan 1 is currently in a surplus funded position and no contributions are required either under current law or under this bill.

Impact on Contribution Rates (Effective 09/01/2019)

System/Plan	PERS	TRS	SERS	PSERS	LEOFF	WSPRS
Current Members						
Employee (Plan 2)	0.035%	0.024%	0.034%	0.011%	0.028%	0.072%
Employer						
Normal Cost	0.035%	0.024%	0.034%	0.011%	0.017%	0.072%
Plan 1 UAAL	0.020%	0.031%	0.020%	0.020%	0.000%	0.000%
Total	0.055%	0.055%	0.055%	0.031%	0.017%	0.072%
State						
Current Annual Cost					0.011%	
Plan 1 Past Cost					0.000%	
Total					0.011%	
New Entrants*						
Employee (Plan 2)	0.005%	0.005%	0.005%	0.005%	0.006%	0.005%
Employer						
Normal Cost	0.005%	0.005%	0.005%	0.005%	0.004%	0.005%
Plan 1 UAAL	0.020%	0.031%	0.020%	0.020%	0.000%	0.000%
Total	0.025%	0.036%	0.025%	0.026%	0.004%	0.005%
State						
Current Annual Cost					0.002%	
Plan 1 Past Cost					0.000%	
Total					0.002%	

**Rate change applied to future new entrant payroll and used to determine budget impacts only. Current members and new entrants pay the same contribution rate.*

How This Impacts Budgets And Employees

Budget Impacts							
(Dollars in Millions)	PERS	TRS	SERS	PSERS	LEOFF	WSPRS	Total
2019-2021							
General Fund	$1.9	$5.4	$1.3	$0.1	$0.4	$0.0	$9.2
Non-General Fund	2.9	0.0	0.0	0.0	0.0	0.1	3.1
Total State	$4.9	$5.4	$1.3	$0.1	$0.4	$0.1	$12.2
Local Government	5.5	1.1	0.9	0.2	0.8	0.0	8.4
Total Employer	$10.4	$6.4	$2.2	$0.3	$1.2	$0.1	$20.7
Total Employee	$4.8	$0.7	$0.6	$0.1	$1.2	$0.1	$7.5
2021-2023							
General Fund	$2.1	$5.9	$1.4	$0.1	$0.5	$0.0	$10.0
Non-General Fund	3.2	0.0	0.0	0.0	0.0	0.1	3.3
Total State	$5.3	$5.9	$1.4	$0.2	$0.5	$0.2	$13.4
Local Government	6.0	1.2	0.9	0.2	0.7	0.0	9.0
Total Employer	$11.3	$7.2	$2.2	$0.3	$1.2	$0.2	$22.4
Total Employee	$5.0	$0.7	$0.5	$0.1	$1.2	$0.2	$7.7
2019-2044							
General Fund	$16.8	$48.4	$10.3	$1.4	$5.4	$0.1	$82.5
Non-General Fund	25.3	0.0	0.0	0.2	0.0	1.3	26.8
Total State	$42.1	$48.4	$10.3	$1.5	$5.4	$1.4	$109.3
Local Government	47.8	9.9	6.6	1.7	8.4	0.0	74.4
Total Employer	$89.9	$58.4	$17.0	$3.2	$13.8	$1.4	$183.7
Total Employee	$47.5	$11.8	$5.4	$1.8	$13.8	$1.4	$81.8

Note: Totals may not agree due to rounding. We use long-term assumptions to produce our short-term budget impacts. Therefore, our short-term budget impacts will likely vary from estimates produced from other short-term budget models.

If this bill passes, we would recommend new Administrative Factors be used for optional payment forms in order to maintain actuarial equivalent purchases for current active members. The above impacts assume that DRS and the LEOFF 2 Board would adopt such factors. If they do not adopt new factors, we expect the costs for this bill to be higher than shown in this fiscal note.

The analysis of this bill does not consider any other proposed changes to the systems. The combined effect of several changes to the systems could exceed the sum of each proposed change considered individually.

Comments On Risk

Our office performs annual risk assessments to help us demonstrate and assess the effect of unexpected experience on pension plans. The risk assessment allows us to measure how affordability and funded status can change if investment experience, expected state revenue growth, and inflation do not match our long-term assumptions. Our annual risk assessment also considers past practices, for funding and benefit enhancements, and their impact on pension plan risk if those practices continue.

The table below displays our latest risk measurements as of June 30, 2017. For more information, please see our Risk Assessment webpage and the **Glossary**.

Select Measures of Pension Risk as of June 30, 2017[1]		
	FY 2018-37	FY 2038-67
Affordability Measures		
Chance of Pensions Double their Current Share of GF-S[2]	1%	3%
Chance of Pensions Half their Current Share of GF-S[2]	47%	46%
Solvency Measures		
Chance of PERS 1 or TRS 1 in Pay-Go[3]	15%	18%
Chance of Any Open Plan in Pay-Go[3]	1%	8%
Chance of PERS 1, TRS 1 Total Funded Status Below 60%	29%	27%
Chance of Open Plans Total Funded Status Below 60%	24%	36%

[1]FY 2018 returns used for purposes of this analysis are 10.04%. Due to a restatement in October 2018, this differs from the 10.20% reported by the Washington State Investment Board. We expect this difference to have limited impacts to the risk measures.
[2]Pensions approximately 5.5% of current General Fund-State (GF-S) budget; does not include higher education.
[3]When today's value of annual pay-go cost exceeds $50 million.

In terms of risk, we expect a bill that provides benefit improvements will worsen the above affordability and solvency risk measures because benefit improvements will: (1) increase contribution rates, which requires additional contributions; (2) temporarily increase unfunded liabilities, which increases the chance of pay-go in the short term; and (3) increase future benefits paid from the plan, which increases the amount of pay-go if it occurs in the future. For this bill, we expect any changes to the risk metrics will be small.

HOW THE RESULTS CHANGE WHEN THE ASSUMPTIONS CHANGE

The best estimate results can vary under a different set of assumptions. To determine the sensitivity of the actuarial results to the best estimate assumptions selected for this pricing we varied the following assumptions:

- We considered the impact of varying our assumption of a uniform distribution of deaths throughout a month.
  - If deaths occur later in each month on average, then the cost of this bill will be less than our best estimate. For instance, if we assume that all deaths occur on the last day of the month, then this bill will have no cost because there would be no prorating reduction under current law.
  - On the other hand, if deaths occur earlier in the month on average, then the costs will be greater. For example, if we assume that all deaths occur on the first day of the month, then the cost of this bill will double because the member would retain a full month's benefit rather than our assumption of a half month's benefit.

- We also considered the impact of varying our mortality assumptions.
  - ◊ If members live longer than expected, the cost of this bill will be less than our best estimate. This is because the additional half-month benefit would be paid later than assumed, and the present value of this benefit amount would be more heavily discounted by interest.
  - ◊ On the other hand, if members do not live as long as expected, the cost of this bill will be greater since the additional half-month benefit would be paid earlier than assumed.

The actual cost of this bill may vary from our best estimate and may fall outside the range of cost identified in this section.

WHAT THE READER SHOULD KNOW

The Office of the State Actuary ("we") prepared this fiscal note based on our understanding of the bill as of the date shown in the footer. We intend this fiscal note to be used by the Legislature during the 2019 Legislative Session only.

We advise readers of this fiscal note to seek professional guidance as to its content and interpretation, and not to rely upon this communication without such guidance. Please read the analysis shown in this fiscal note as a whole. Distribution of, or reliance on, only parts of this fiscal note could result in its misuse, and may mislead others.

ACTUARY'S CERTIFICATION

The undersigned hereby certifies that:

1. The actuarial cost methods are appropriate for the purposes of this pricing exercise.
2. The actuarial assumptions used are appropriate for the purposes of this pricing exercise.
3. The data on which this fiscal note is based are sufficient and reliable for the purposes of this pricing exercise.
4. Use of another set of methods and assumptions may also be reasonable and might produce different results.
5. The risk analysis summarized in this fiscal note involves the interpretation of many factors and the application of professional judgment. We believe that the data, assumptions, and methods used in our risk assessment model are reasonable and appropriate for the purposes of this pricing exercise. The use of another set of data, assumptions, and methods, however, could also be reasonable and could produce different results.
6. We prepared this fiscal note for the Legislature during the 2019 Legislative Session.
7. We prepared this fiscal note and provided opinions in accordance with Washington State law and accepted actuarial standards of practice as of the date shown in the footer of this fiscal note.

The undersigned, with actuarial credentials, meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

While this fiscal note is meant to be complete, the undersigned is available to provide extra advice and explanations as needed.

Lisa Won, ASA, FCA, MAAA
Deputy State Actuary

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APPENDIX

This bill provides a non-standard payment form, which our valuation software is unable to model. That is, our software does not have the capability to model an end-of-month annuity where a payment is also made in the month of death. We therefore estimated the cost of this bill through the use of a life insurance payment with a lump-sum payout equal to a half-month of the annuity amount the member was receiving upon death.

This insurance payment would apply to several types of benefits a member could receive in each system. However, since retirement benefits account for over 90 percent of the total active and total inactive liabilities across all systems, we modeled these insurance payments for retirement-based annuity benefits only.

The life insurance payments that we modeled can only be applied to a single life, or rather the primary member. In other words, we could not model a payment to the last survivor, i.e., the person who does not die first, for any J&S annuities. As a result, we priced an additional half-month pension payment upon the death of the member only.

However, we did analyze the impact of a member electing a J&S option.

1. If a member chooses a J&S option and pre-deceases his or her beneficiary, the additional half-month benefit (on average) would be paid at the time of the beneficiary's death and may be a smaller amount if the option selected is less than a J&S 100 percent.
2. Likewise, if a member chooses a J&S option and the member's beneficiary pre-deceases him or her, the additional half-month benefit would be paid at the time of the member's death and may be larger since DRS unwinds the optional reduction factor (the pension amount pops up to the original life only amount).

Neither of these components had a material impact on contribution rates in any system.

Many of the plans also have a provision whereby if a retired member dies before the total pension payments received exceeds the value of the accumulated contributions, then the difference is paid to the member's beneficiary or estate. Our pricing approach continues to provide an additional half-month annuity benefit if the member dies inside this timeframe. We analyzed the impact of accounting for this and found the resulting reduction in cost to be immaterial.

GLOSSARY OF ACTUARIAL TERMS

Actuarial Accrued Liability: Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

Actuarial Present Value: The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of actuarial assumptions (i.e., interest rate, rate of salary increases, mortality, etc.).

Aggregate Funding Method: The Aggregate Funding Method is a standard actuarial funding method. The annual cost of benefits under the Aggregate Method is equal to the normal cost. Under this method, all plan costs (for past and future service credit) are included under the normal cost. Therefore, the method does not produce an unfunded actuarial accrued liability outside the normal cost. It's most common for the normal cost to be determined for the entire group rather than on an individual basis for this method.

Entry Age Normal Cost Method (EANC): The EANC method is a standard actuarial funding method. The annual cost of benefits under EANC is comprised of two components:

- Normal cost.
- Amortization of the unfunded actuarial accrued liability.

The normal cost is most commonly determined on an individual basis, from a member's age at plan entry, and is designed to be a level percentage of pay throughout a member's career.

Normal Cost: Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

Projected Benefits: Pension benefit amounts that are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

Unfunded Actuarial Accrued Liability (UAAL): The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

Unfunded EAN Liability: The excess, if any, of the present value of benefits calculated under the EAN cost method over the valuation assets. This is the portion of all benefits earned to date that are not covered by plan assets.

GLOSSARY OF RISK TERMS

Affordability Risk: Measures the affordability of the pension systems. Affordability risk measures the chance that pension contributions will cross certain thresholds with regards to the General Fund and contribution rates.

"Current Law": Scenarios in which assumptions about legislative behavior are excluded. These scenarios show projections regarding the current state of Washington statutes.

Funded Status: The ratio of a plan's current assets to the present value of earned pensions. There are several acceptable methods of measuring a plan's assets and liabilities. In financial reporting of public pension plans, funded status is reported using consistent measures by all governmental entities. According to the Government Accounting Standards Board (GASB), the funded ratio equals the actuarial value of assets divided by the actuarial accrued liability calculated under the allowable actuarial methods.

Optimistic: A measurement of the pension system under favorable conditions (above expected investment returns, for example). Optimistic refers to the 75th percentile, where there is a 25 percent chance of the measurement being better and 75 percent chance of the measurement being worse. Very optimistic refers to the 95th percentile.

"Past Practices": Scenarios in which assumptions regarding legislative behavior are introduced. These assumptions include actual contributions below what are actuarially required and improving benefits over time. These scenarios are meant to project past behavior into the future.

Pay-Go: The trust fund runs out of assets, and payments from the General Fund must be made to meet contractual obligations.

Pessimistic: A measurement of the pension system under unfavorable conditions (below expected investment returns, for example). Pessimistic refers to the 25th percentile, where there is a 75 percent chance of the measurement being better and 25 percent chance of the measurement being worse. Very pessimistic refers to the 5th percentile.

Premature Pay-Go: Pay-go payments, measured in today's value, which might be considered "significant" in terms of the potential impact on the General Fund.

Risk Tolerance: The amount of risk an individual or group is willing to accept with regards to the likelihood and severity of unfavorable outcomes.

Solvency Risk: Measures the risk metrics of the pension systems, including the chance that the pension systems will prematurely run out of assets, the amount of potential pay-go contributions, and the chance that the funded status will cross a certain threshold.

LEOFF
Plan 2 Retirement Board

Month of Death Payment

Initial Consideration
July 24, 2019

Issue

- In the month a retiree or survivor passes away, DRS prorates the last month benefit payment based on the number of days the person was alive in the month. Frequently this results in an invoice being sent to the family or estate to collect any amount that should have been prorated

DRS Proposal

- In 2018 the Department of Retirement Systems requested the LEOFF 2 Board and Select Committee on Pension Policy endorse legislative action to pay the full month of death payment

2019 Legislation

- HB 1414/SB 5335 – Month of Death Payment
- LEOFF 2 Board and Select Committee on Pension Policy endorsed
- Both bills did not make it out of the house of origin

Current Policy - Example

- A retiree dies on day 10 of a 30-day month, entitling them to receive pro-rated benefits for only 1/3 of the month
- A full month’s pension benefit is automatically deposited into the member’s bank account
- DRS will seek repayment of the remaining 2/3 of the monthly benefit

Policy Considerations

- Burden for grieving families
- Administrative costs
- Causes issues with insurance premiums

LEOFF Budget Impact

Budget Impact	
2019-2021	**Dollars in Millions**
State - General Fund	$0.4
Local Government	$0.8
2021-2023	**Dollars in Millions**
State - General Fund	$0.5
Local Government	$0.7
2019-2044	**Dollars in Millions**
State - General Fund	$5.4
Local Government	$8.4

LEOFF Rate Impact

Contribution Rate Impact	
Employee	0.03%
Employer	0.02%
State	0.01%

Thank You

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LEOFF Plan 2 Retirement Board

July 24, 2019

Survivor Option Reelection

INITIAL CONSIDERATION
By Jacob White
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ISSUE STATEMENT

It may be considered unfair to have a member make their irrevocable retirement election for a survivor option without all the information that is important to them.

OVERVIEW

This report will provide information on the irrevocable election of a member's survivor option. It will also explain how a member receives an estimate of their benefit prior to retirement, the accuracy of those estimates, policy reasons for why the decision to leave a survivor benefit is irrevocable, and information on how other state retirement plans treat survivor options.

BACKGROUND AND POLICY ISSUES

What is a survivor option?

LEOFF 2 members may elect to take a reduction in their monthly benefit in order to leave an ongoing benefit to a survivor. The survivor will receive the ongoing benefit for their lifetime. This feature of LEOFF 2 is referred to as a survivor benefit option. The member must make this election when they apply for retirement. There are four options for a survivor benefit:

1. **Single Life** - This option pays the highest monthly amount of the four choices, but it only lasts for the member's lifetime. No one will receive an ongoing benefit after the retiree dies. If the retiree dies before the benefit they have received equals their contributions plus interest (as of the date of their retirement), the difference will be paid in a lump sum to the retiree's designated beneficiary.
2. **Joint and 100% Survivor** – The retiree's monthly benefit under this option is less than the Single Life Option. But after the retiree's death, the retiree's survivor will receive the same benefit the retiree was receiving during his or her lifetime.
3. **Joint and 50% Survivor** – This option applies a smaller reduction to the retiree's monthly benefit than option 2. After the retiree's death, the retiree's survivor will receive half the benefit the retiree was receiving during his or her lifetime.

4. **Joint and 66.67% Survivor** – This option applies a smaller reduction to the retiree's benefit than option 2 and a larger reduction than option 3. After the retiree's death, the retiree's survivor will receive 66.67% of the benefit the retiree was receiving during his or her lifetime.

The survivor is typically a spouse, but can be someone else. If a member is married they are required to get spousal consent to choose an option other than option 3.

What are the survivor options for other retirement plans?
Plans 1, 2, and 3 in PERS, SERS, and TRS all have the same survivor benefit options as LEOFF 2. LEOFF 1 has an automatic joint and 100% survivor benefit. In LEOFF 1 the member does not take a reduction in their benefit to leave this survivor benefit.

How much of a reduction in benefit will a member take to leave a survivor benefit?
The amount of the reduction in benefit a member takes when selecting a survivor option benefit is based on administrative factors. These factors are recommended by the Office of the State Actuary and adopted by the LEOFF 2 Board. The factors are based on various actuarial assumptions and assembled into a table categorized by the difference in age between the retiree and their survivor. If the survivor is younger than the retiree the reduction in benefit will be greater. If the survivor is older than the retiree there is still a reduction in benefit; however, the reduction will be less. The intent of these factors is to make the amount of pension funds paid over a single life (survivor option 1) equal to the amount of pension funds paid over two lives (survivor option 2, 3, or 4).

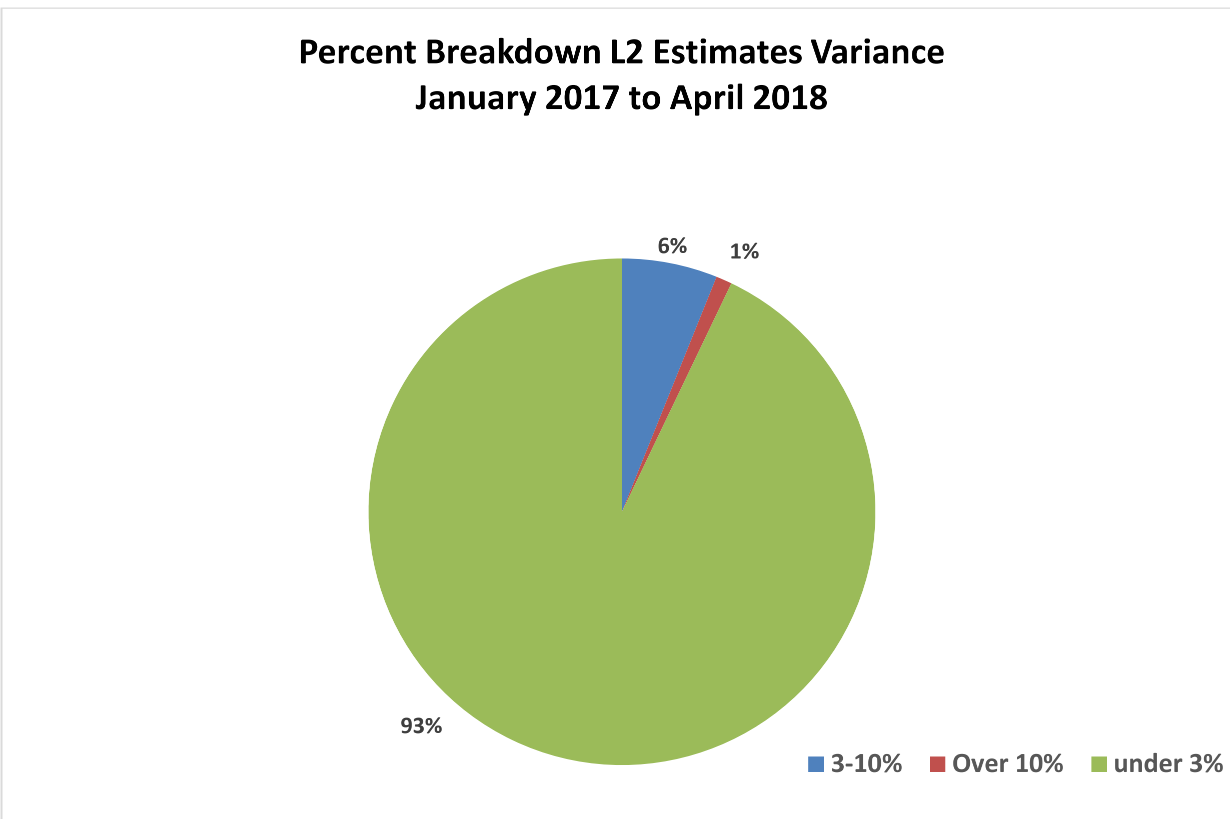
Can a member change their decision to leave, or not leave, a survivor benefit?
A retiree's survivor option choice is irrevocable unless the following occur:

1. They designated someone other than their spouse to receive their survivor benefit. The non-spouse survivor can be removed (option 1) only.
2. They marry or remarry after retirement. To qualify, they must request the change between their first and second years of marriage.
3. They chose a survivor option, and their survivor dies before they do. Their benefit is adjusted to option 1.
4. They return to membership. If they go back to work for any period of time as a contributing retirement plan member, they can retire again and select a new benefit option and/or survivor.
    a. PERS members must return to work for two years before they are able to re-retire and change their survivor option.

How does a member know what their benefit will be prior to retiring?
Members are encouraged by the Department of Retirement Systems (DRS) to request an estimate of their retirement benefit, within a year of when they plan to retire. If a member does not request an estimate, DRS still ensures they receive an estimate of their benefit before retiring. When members make their request, they may select multiple estimates based on different survivor options. In addition to what survivor option the member selects, the estimate is calculated based on multiple assumptions, including how long the member will continue to work and what their Final Average Salary will be.

How accurate are benefit estimates?
DRS tracks the accuracy of estimates as part of their ongoing performance metrics. From January 2017 to April 2018 there were 591 LEOFF 2 retirements. Of those retirements:

- 549 (93%) estimates were within 3% of the member's actual benefit;
- 36 (6%) estimates were between 3% and 10% of the member's actual benefit; and
- 6 (1%) were more than 10% different than the member's actual benefit.



There are many reasons an estimate could be different than what a member's actual benefit is. However, according to DRS, the most common reasons for an estimate to be more than 10%

different than the actual benefit are when the member chooses a different retirement date or chooses a different survivor option than they requested for the estimate.

Can a member's benefit change after retirement?

When DRS receives additional information about an employee's Final Average Salary or Service Credit they are required under RCW 41.50.130 to recalculate the retiree's retirement benefit. This is referred to as a "recalc". Current law does not allow a member to change their survivor option after a recalc. A recalc may result in either an increase or a decrease to a member's benefit. The recalc is both retrospective and prospective. Therefore, in addition to the change in retirement benefit moving forward, DRS must pay the retiree an additional payment or collect from the retiree the difference in the pension payments they have received and the recalculated benefit amount they should have received.

Last fiscal year DRS recalculated 256 LEOFF 2 retirees' pension payments. 46 (18%) of those recalcs resulted in a decrease to a member's benefit. Below is a table of the percentage of change to these retirees' retirement benefit resulting from the recalc:

% Change in Benefit	# of Recalcs
.001 - .99%	158
1 – 4.99%	60
5%-9.99%	20
10% or more	18

The majority of recalcs occur shortly after a member retires; however, in some instances may occur years after retirement. Below is the average turnaround time for LEOFF 2 recalcs from 1/2017 to 7/2018:

# of days after Retirement	% of Total Recalcs
Within 90 days	67%
90-180 days	13%
Over 180 days	20%

DRS prioritizes recalcs that are a result of an audit finding, as those are most likely to have the largest impacts on members.

Why is the decision to leave a survivor benefit irrevocable?
The decision to leave a survivor benefit is irrevocable because it helps mitigate the risk of anti-selection. Anti-selection is the tendency of a person to recognize his or her health status in selecting the option under a retirement system which is most favorable to him or herself. If anti-selection risks are not effectively mitigated, it can increase the costs of the retirement system.

Since the survivor option administrative factors are based on average life expectancies, rather than individual life expectancies, the potential impact of anti-selection on LEOFF 2 would be members could “game the system” to their advantage and the detriment of LEOFF 2. For example, if a member is aware they have a terminal disease, they could choose to leave a larger survivor benefit than they would have selected if not for their knowledge of their terminal disease.

Anti-selection may impact members through either increased contribution rates and/or less favorable administrative factors for survivor options. Since contributions into LEOFF 2 are paid by both employers and members, the impact of anti-selection risks are paid for by both. If a change in policy increased anti-selection risks to the point of impacting contribution rates, this would likely result in intergenerational inequity because the benefit being utilized by recent retirees would be funded by active members.

How does LEOFF 2 mitigate the anti-selection risks of survivor benefits?
Currently, the impact of anti-selection on LEOFF 2 is minimized by requiring members to make an irrevocable survivor option election at the time of retirement. The more opportunity a member has to make or change that election, the more likely anti-selection risks to LEOFF 2 will increase.

The risk of anti-selection is minimized in the post-retirement marriage survivor option provision by requiring the member to make the election after they have been married for a year, but prior to the second year of marriage. This helps mitigate the risk that a retiree finds out they have a terminal disease and decides to marry for the purpose of leaving a survivor benefit.

The requirement that the retiree make this decision prior to the second year of marriage further mitigates anti-selection risk by ensuring they do not prolong the decision until they become aware of additional information, such as a terminal disease.

Do other state or federal pension systems allow retirees to change their survivor election?

A review of other public retirement plans showed that the vast majority of plans have irrevocable survivor elections that must be made at the time of retirement, with limited opportunities (typically tied to divorce or remarriage) to change that election. However, there are some plans which include a limited window for retirees to change their survivor option election.

The Oregon Public Employee Retirement System allows a retiree to change their survivor option selection within 60 days after the date of receiving their first benefit payment.[1] The change is retroactive to their effective retirement date, and overpaid benefits must be repaid to PERS. Oregon Public Employee Retirement System has approximately 50 to 60 retirees (approximately 0.7% of new retirees) per year change their survivor option selection.

The Federal Employee Retirement System has a window to change survivor election within 30 days of a member receiving their first regular annuity payment.[2] After the 30 day period has passed, but less than 18 months from the beginning date of a member's annuity, a member can change their election only to choose a survivor annuity or to increase a reduced survivor annuity amount.

The Minnesota Public Employees Retirement Association Police and Fire Plan allows a survivor option selection to be rescinded if both the member and designated survivor mutually agree to allow the benefit to be recomputed as a single-life pension.[3]

The United States Uniformed Services Retirement System allows retirees to terminate their survivor benefit in a one year window between the second and third anniversary following the first receipt of retired pay.[4] None of the premiums the member paid for the survivor benefit are refunded and no annuity will be payable to a survivor upon the member's death. The covered spouse, or former spouse, must consent to the withdrawal. Termination is permanent and participation may not be resumed under any circumstance.

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[1] https://www.oregon.gov/PERS/MEM/Tier-One-Tier-Two/Documents/TierOne-TierTwo-Preretirement-Guide.pdf
[2] https://www.opm.gov/faq/retire/Can-I-change-my-survivor-benefit-election-after-retirement.ashx
[3] https://www.mnpera.org/wp-content/uploads/2018/06/PF-Updated-1.pdf
[4] https://militarypay.defense.gov/Benefits/Survivor-Benefit-Program/Stopping-SBP/

LEOFF
Plan 2 Retirement Board

Survivor Option Reelection

Initial Report
July 24, 2019

Issue

- It may be considered unfair to have a member make their irrevocable retirement election for a survivor option without all the information that is important to them

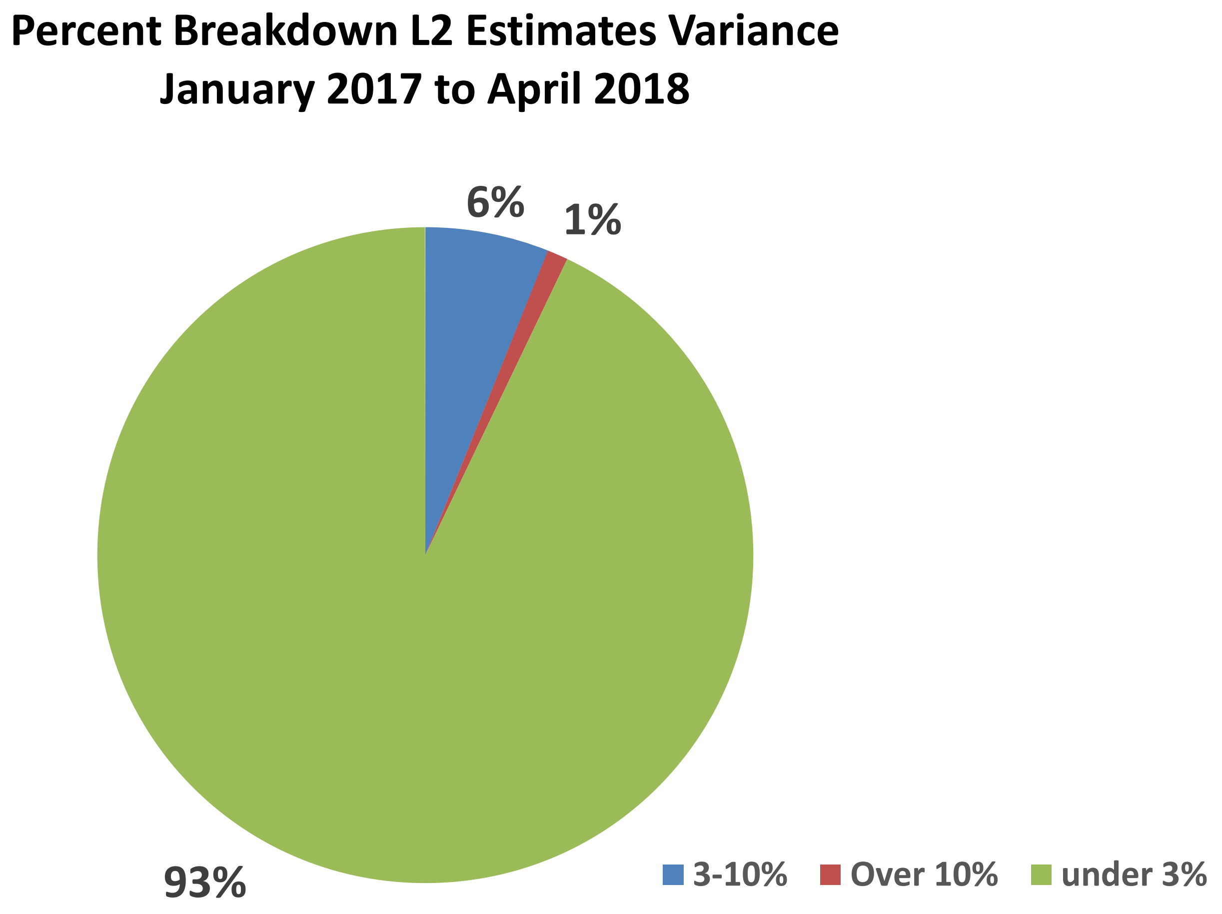
What is a survivor option?

- LEOFF 2 members may elect to take a reduction in their monthly benefit in order to leave an ongoing benefit to a survivor
- There are 4 survivor options:
  1. Single Life
  2. Joint and 100% Survivor
  3. Joint and 50% Survivor
  4. Joint and 66.67% Survivor

How does a member know what their benefit will be?

- DRS encourages members to request a benefit estimate within a year of retirement
- A member can receive multiple retirement estimates

How accurate are benefit estimates?



Can a member's benefit change after retirement?

- When DRS receives additional information about an employee's Final Average Salary or Service Credit they recalculate the retiree's retirement benefit
- Current law does not allow a member to change their survivor option after a recalc

Recalc Data

- Last fiscal year DRS recalculated 256 LEOFF 2 retirees' pension payments

% Change in Benefit	# of Recalcs
.001 - .99%	158
1 – 4.99%	60
5%-9.99%	20
10% or more	18

- 46 (18%) resulted in a decrease to a member's benefit

Recalc Data

- The average turnaround time for LEOFF 2 recalcs from 1/2017 to 7/2018:

# of days after Retirement	% of Total Recalcs
Within 90 days	67%
90-180 days	13%
Over 180 days	20%

Why can’t a member change their survivor option?

- Increased risk of anti-selection
- Risks of anti-selection are currently mitigated through:
  - Survivor option election at the time of retirement
  - A window for post-retirement marriage survivor option election

How could anti-selection impact LEOFF 2?

- Increased anti-selection risks may impact LEOFF 2 through:
  - Increased contribution rates
  - Less favorable administrative factors for survivor options
  - Intergenerational inequity

Other Pensions Systems

- Oregon Public Employee Retirement System
  - 60 day window
  - 50 to 60 retirees (0.7% of new retirees) per year change their survivor option selection
- Federal Employee Retirement System
  - 18 month window to increase survivor benefit option
- Minnesota Public Employees Retirement Association Police and Fire Plan
  - Rescind survivor benefit option
- United States Uniformed Services Retirement System
  - Rescind survivor benefit option

Thank You

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LEOFF Plan 2 Retirement Board Agency Summary FYTD as of June 2019

Account Title	Expenditure Authority Index	FY Allotment	FYTD Allotment	FYTD Expenditures	FYTD Variance	FY Variance
LEOFF System Plan 2 Expense Account	960	2,486,252	2,486,252	2,472,008	14,244	14,244
Sum:		**2,486,252**	**2,486,252**	**2,472,008**	**14,244**	**14,244**

Category			FM Allotment	FM Expenditure	FM Variance	FYTD Allotment	FYTD Expenditures	FYTD Variance
Salaries and Wages			**56,633**	**52,466**	**4,167**	**1,305,522**	**1,291,481**	**14,041**
A	AA	State Classified	37,801	33,635	4,166	881,016	858,556	22,460
	AC	State Exempt	18,832	18,831	1	424,506	425,582	(1,076)
	AS	Sick Leave Buy-Out	0	0	0	0	3,304	(3,304)
	AT	Terminal Leave	0	0	0	0	4,039	(4,039)
Employee Benefits			**21,406**	**16,511**	**4,895**	**428,183**	**423,457**	**4,726**
B	BA	Old Age and Survivors Insurance	3,511	3,182	329	79,684	77,917	1,767
	BB	Retirement and Pensions	7,192	6,668	524	165,804	163,745	2,059
	BC	Medical Aid & Industrial Insurance	255	203	52	6,444	5,997	447
	BD	Health, Life & Disability Insurance	6,412	5,496	916	153,636	150,938	2,698
	BE	Allowances	0	134	(134)	420	1,104	(684)
	BH	Hospital Insurance (Medicare)	821	744	77	18,930	18,357	573
	BK	Paid Family and Medical Leave	0	84	(84)	0	502	(502)
	BV	Shared Leave Provided Annual Leave	0	0	0	0	8,270	(8,270)
	BW	Shared Leave Received	0	0	0	0	(3,424)	3,424
	BZ	Other Employee Benefits	3,215	0	3,215	3,265	50	3,215
Professional Service Contracts			**0**	**0**	**0**	**33,000**	**13,277**	**19,723**
C	C	Professional Service Contracts	0	0	0	33,000	0	33,000
	CB	Legal/Expert Witness Services	0	0	0	0	173	(173)
	CC	Financial Services	0	0	0	0	13,103	(13,103)
	CZ	Other Professional Services	0	0	0	0	0	0
Goods and Services			**23,753**	**20,169**	**3,584**	**625,677**	**638,020**	**(12,343)**
E	E	Goods and Other Services	0	0	0	0	0	0
	EA	Supplies and Materials	585	713	(128)	7,320	12,286	(4,966)
	EB	Communications/Telecommunications	945	578	367	43,430	44,378	(948)
	EC	Utilities	515	545	(30)	11,820	11,601	219
	ED	Rentals and Leases - Land & Buildings	3,830	3,830	1	91,920	91,908	12
	EE	Repairs, Alterations & Maintenance	0	0	0	0	223	(223)
	EF	Printing and Reproduction	50	236	(186)	14,250	15,235	(985)
	EG	Employee Prof Dev & Training	975	1,156	(181)	51,332	77,654	(26,322)
	EH	Rental & Leases - Furn & Equipment	810	263	547	9,940	8,438	1,502
	EJ	Subscriptions	0	641	(641)	2,520	4,041	(1,521)
	EK	Facilities and Services	3,211	3,216	(5)	78,088	78,800	(712)
	EL	Data Processing Services (Interagency)	898	615	283	15,913	15,418	495
	EM	Attorney General Services	1,905	187	1,718	45,144	26,677	18,467
	EN	Personnel Services	676	469	207	12,084	12,915	(831)
	EP	Insurance	0	0	0	140	50	90
	ER	Other Contractual Services	9,185	9,138	47	220,364	220,444	(80)
	ET	Audit Services	0	0	0	4,000	4,370	(370)
	EW	Archives & Records Management Svcs	0	0	0	328	316	12
	EY	Software Licenses and Maintenance	1,018	(799)	1,817	23,400	19,649	3,751
	EZ	Other Goods and Services	(850)	(619)	(231)	(6,316)	(6,384)	68
Travel			**2,833**	**4,583**	**(1,750)**	**93,870**	**91,852**	**2,018**
G	G	Travel	0	0	0	0	0	0
	GA	In-State Subsistence & Lodging	583	656	(73)	16,619	11,340	5,279
	GB	In-State Air Transportation	0	265	(265)	1,584	2,934	(1,350)
	GC	Private Automobile Mileage	50	1,202	(1,152)	16,664	19,180	(2,516)
	GD	Other Travel Expenses	200	492	(292)	6,690	6,329	361
	GF	Out-of-State Subsistence & Lodging	1,550	1,968	(418)	38,562	37,621	941
	GG	Out-of-State Air Transportation	450	0	450	13,751	14,448	(697)
Capital Outlays			**0**	**13,198**	**(13,198)**	**0**	**13,721**	**(13,721)**
	JA	Noncapitalized Assets	0	13,198	(13,198)	0	13,721	(13,721)
Grants, Benefits & Client Services			**0**	**0**	**0**	**0**	**200**	**(200)**
N	NZ	Other Grants and Benefits	0	0	0	0	200	(200)
Total Dollars			**104,625**	**106,928**	**(2,303)**	**2,486,252**	**2,472,008**	**14,244**

July 24, 2019

Tribal Law Enforcement Study

INITIAL CONSIDERATION

By Jacob White

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ISSUE STATEMENT

The legislature tasked the LEOFF 2 Board with studying the tax, legal, fiscal, policy, and administrative issues related to allowing tribal law enforcement officers to become members of the LEOFF 2 plan. The report is due to the legislature by January 1, 2020.

OVERVIEW

Federal law allows for tribal employees meeting certain criteria to be eligible for membership in public pension plans; however, tribal police officers are not eligible for membership in LEOFF 2 under state law.

BACKGROUND AND POLICY ISSUES

Background

The Pension Protection Act of 2006 changed the definition of governmental plans to include Indian tribal plans "covering workers doing governmental work".[1] This made it possible for tribes to create their own governmental plans and state or local government plans to allow tribes to join their systems. However, there are federal restrictions and state laws that prevent some tribal employees from joining state government plans.

Federal Law

Federal restrictions with tribal employees joining a governmental plan include barring tribal employees engaged in commercial activities.[2] Tribal employees performing commercial activities would instead be covered by the Employee Retirement Income Security Act (ERISA), like a private sector employer. If a governmental plan covers even one commercial employee, the plan risks losing its governmental plan status.[3]

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[1] https://www.govinfo.gov/content/pkg/PLAW-109publ280/html/PLAW-109publ280.htm

[2] https://www.irs.gov/pub/irs-drop/n-06-89.pdf

[3] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf

The determination of whether a position may be covered by a governmental plan or must be covered by ERISA is further addressed by the IRS through a two part test.[4] The first part of the test is to determine whether the activities are commercial or governmental. Governmental activities include "activities relating to providing criminal protection services such as police and fire departments".[5] Examples of commercial activities include activities relating to the operation of a hotel, casino, service station, convenience store, or marina.[6] The IRS utilizes a "facts and circumstances test" to determine whether an activity is commercial or governmental.[7]

Under this facts and circumstances test, the factors considered in making a determination of whether an activity is a commercial activity, include whether the activity is:

- operated to earn a profit;
- typically performed by private businesses; and,
- where the customers are substantially from outside of the Indian tribal community, including whether the activity is located or conducted outside of Indian tribal land.[8]

The factors to determine if an activity is governmental include whether:

- The activity provides a public benefit to members of the Indian tribal government (not treating the generation of profits from commercial acts as providing a public benefit); and,
- The absence of one or more of the relevant factors listed for determining whether an activity is commercial.[9]

The second part of the IRS government plan test requires a determination be made whether an employee's duties are substantially in the performance of a governmental activity or a commercial activity.[10] In making this determination the IRS considers the location of the employees' services, along with the source of the employees' payroll, and the employee's assigned duties and responsibilities.[11]

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[4] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf
[5] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf
[6] 26 CFR Sec 7871(e)
[7] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf
[8] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf
[9] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf
[10] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf
[11] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf

A key question in this analysis is who pays the employee. According to the IRS:

> If an employee is on the payroll of an ITG [Indian Tribal Government] entity that is engaged in a commercial activity, the employee's assigned duties and responsibilities are treated as being for a commercial activity and, thus, the employee is a commercial ITG employee.
>
> For example, if a cashier is on the payroll of a convenience store (which is a commercial activity) owned by an ITG, the cashier is a commercial ITG employee. However, in the case of an employee who is not on a payroll of an ITG that engages in a commercial activity, the result would depend on the employee's assigned duties and responsibilities.[12]

Sovereign Immunity

Tribes are considered sovereign nations and therefore, under the legal doctrine of sovereign immunity, have immunity from suit in state or federal court. A tribe is subject to suit in state court only where the Tribe has waived its own sovereign immunity.

In Washington State, all tribes have signed limited waivers of sovereign immunity subjecting themselves to suit in state court for specific issues. An example of these compacts are gaming compacts, which include waivers for the limited purposes of the state being able to enforce the provisions of the compact.[13] The Indian Regulatory Act of 1988 (IGRA) requires states to negotiate gaming compacts with tribes to allow them to offer casino-style gaming on their reservations. All 29 tribes in Washington State have signed gaming compacts with the state. State-tribal gaming compacts are only required for Class III gaming, which includes activities such as lotteries, casino games, house-banked card games, horse racing, off-track betting, and machine gaming. Under Washington State law, the director of the Washington State Gambling Commission is delegated the responsibility of negotiating Class III gaming compacts. Gaming compacts receive a final approval when signed by the Governor and the Tribal Chair.

In addition to gaming compacts, six tribes have signed cigarette compacts with the state.[14] Tribes, as sovereign nations, are exempt from state tobacco excise taxation. Therefore, those who are enrolled members of the Indian Tribe are exempt from paying a tax on cigarettes sold on their reservation. Under Federal law, state excise taxes are owed by non-members purchasing tobacco on tribal land, although states are limited in how they enforce or collect

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[12] Prop. Reg. Sec. 1.414(d)-1(g)(6), https://www.irs.gov/pub/irs-tege/reg_133223_08.pdf

[13] https://www.wsgc.wa.gov/tribal-gaming/gaming-compacts

[14] https://goia.wa.gov/resources/cigarette-compacts

these taxes. The statutory duties applicable to administration and enforcement of the cigarette tax are divided between the Department of Revenue and the Washington State Liquor and Cannabis Board. After all negotiations are final, the cigarette compacts are signed by the Governor and the Tribal Chair.

In 2015, House Bill 2000 authorized the Governor of Washington State to enter into marijuana compacts with federally recognized Indian Tribes, codified under RCW 43.06.490. The Washington State Liquor and Cannabis Board (WSLCB) has completed marijuana compacts with 11 tribes and is actively negotiating several more. There are currently six tribes in the cannabis industry with their own marijuana stores, all of which operate under the I-502 system as regulated by the WSLCB. Final approval of a marijuana compact requires the signatures of the Governor, Tribal Chair, WSLCB Chair, WSLCB Agency Director, and two additional members of WSLCB.

Similar to these compacts, for a tribe to join LEOFF 2, they would need to sign a limited waiver of sovereign immunity in order for the state to enforce the rules and requirements of the LEOFF 2 system. The waiver would be in the form of a compact, and need to be signed by the Governor and tribal chair, or designee.

LEOFF 2 Eligibility

For tribal law enforcement officers to be eligible for LEOFF 2 both the officers and the employers would need to meet the eligibility requirements of LEOFF 2.

The state definition of "Tribal Police Officer" is:

> "[…] any person in the employ of one of the federally recognized sovereign tribal governments, whose traditional lands and territories lie within the borders of the state of Washington, to enforce the criminal laws of that government."[15]

A Law Enforcement Officer is eligible for LEOFF 2 if they are:

- Employed by a LEOFF 2 employer;
- Commissioned;
- Full-Time; and,
- Fully Compensated.

[15] RCW 10.92.010(2)

Therefore, for an officer to be eligible for LEOFF 2 they must be employed by a LEOFF 2 employer. The current definition of employer in LEOFF 2 is limited to:

1. The legislative authority of any city, town, county, district, or public corporation established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;
2. The elected officials of any municipal corporation;
3. The governing body of any other general authority law enforcement agency;
4. A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or,
5. The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.

For tribal law enforcement officers to be eligible for LEOFF 2 the definition of employer would need to be amended to include tribal police departments. Currently, if an employer is eligible for LEOFF 2 then they are automatically a LEOFF 2 employer. There is no employer opt-in requirement. This would create an issue related to tribal sovereignty, as the state could not force a tribe to be subject to the requirements of LEOFF 2 without the tribe waiving sovereign immunity. Therefore, for tribes to be eligible for LEOFF 2 the law would need to include an opt-in process for tribes. This would be a change in policy for LEOFF 2.

For a tribal law enforcement officer to be eligible for LEOFF 2 they must be commissioned. Under WAC 415-104-011, DRS defines “commissioned” as “an employee is employed as an officer of a general authority Washington law enforcement agency and is empowered by that employer to enforce the criminal laws of the state of Washington”.

RCW 10.93.020(3) defines “general authority Washington peace officer” as “any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.”

Every fully commissioned law enforcement officer in Washington State is required to be certified through the Washington State Criminal Justice Training Commission (CJTC). All Washington law enforcement officers must meet the requirements for certification by attending the basic academy at the CJTC, equivalency academy or obtaining an exemption from those requirements.

Tribal police officers are authorized to act as general authority Washington State Peace Officers when the appropriate tribal government meets specified requirements regarding certification with the CJTC, insurance liability, and administration.[16]

The Washington State Criminal Justice Training Commission offers voluntary certification for tribal police officers.[17] Officers making this certification must meet the statutory requirements for all certified state police officers, including submitting to psychological tests and criminal background checks. A tribe must enter into a written agreement for its officers to attend the CJTC for this certification program.[18] The written agreement requires the tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as they are applied to state general authority peace officers. The agreement does not include any waiver of sovereign immunity.

The tribal government must submit proof of the required certification and other information to the Department of Enterprise Systems (DES) for review and verification.[19] Only when this information has been provided to DES are the tribal police officers authorized to act as general authority Washington State Peace Officers.

The authority is granted only within the exterior boundaries of the reservation or outside the exterior boundaries of the reservation pursuant to statute: with consent of the local sheriff; in response to an emergency involving threat to human life or property; in response to a request for assistance pursuant to a mutual law enforcement assistance agreement; when transporting a prisoner; when the officer is executing an arrest or search warrants; or when an officer is in fresh pursuit.

Therefore, those tribal law enforcement officers who have been certified by the CJTC appear to meet the definition of “commissioned” under LEOFF 2. The officers would also need to work full-time and be fully-compensated to meet the definition of being a law enforcement officer in LEOFF 2.

[16] RCW 10.92.020
[17] RCW 43.101.157
[18] RCW 43.101.157
[19] RCW 10.92.020

Tribal Law Enforcement in Washington State

There are 29 federally recognized tribes in Washington State.[20] Twenty-seven of those tribes have tribal police departments.[21]

Currently, there are 23 tribes with agreements with the CJTC.[22] Only the Hoh, Lummi, Jamestown S'Klallam, and Yakama tribes do not have agreements. Of those 23 tribes, there are a total of approximately 293 tribal police officers that have been certified by the CJTC.

Criminal Jurisdiction on Indian Reservations

In Washington, criminal jurisdiction on Indian reservations is based partly on whether the tribe has Public Law 280 (PL 280) status, the status of the individual parcels of the land, the type of crime committed, and whether the individual in question is Indian or non-Indian. County or city law enforcement maintains jurisdiction over fee land within the reservation and, generally speaking, over non-Indians within the exterior boundaries of the reservation. Under federal law, tribal law enforcement generally has jurisdiction over Indians in Indian Country but not over non-Indians.

Public Law 280 (PL 280) is a federal law whereby states may assume jurisdiction over offenses by or against Indians on Indian Reservations. The law mandates transfer of federal law enforcement authority within certain tribal governments to state government. Participating states are specified in statute; Washington was added to the federal statute at a later date.

Pursuant to Washington's assumption of jurisdiction in statute, the state assumes criminal and civil jurisdiction over Indian Country except over Indians on tribal or allotted lands within an established reservation.[23] The state has complete jurisdiction in eight areas: compulsory school attendance; public assistance; domestic relations; mental illness; juvenile delinquency; adoption proceedings; dependent children; and the operation of motor vehicles on public streets, roads, alleys, and highways.[24]

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[20] https://goia.wa.gov/resources/frequently-asked-questions

[21] Chehalis, Colville, Cowlitz, Elwha, Hoh, Jamestown S'Klallam, Kalispel, Lummi, Muckleshoot, Nisqually, Nooksack, Port Gamble S'Klallam, Puyallup, Quileute, Quinault, Sauk-Suiattle, Shoalwater Bay, Skokomish, Snoqualmie, Spokane, Squaxin Island, Stillaguamish, Suquamish, Swinomish, Tulalip, Upper Skagit, Yakama

[22] Chehalis, Colville, Cowlitz, Kalispel, Elwha Klallam, Muckleshoot, Nisqually, Nooksack, Port Gamble S'Klallam, Puyallup, Quileute, Quinault, Sauk-Suiattle, Shoalwater Bay, Skokomish, Snoqualmie, Spokane, Squaxin Island, Stillaguamish, Suquamish, Swinomish, Tulalip, Upper Skagit

[23] RCW 37.12.010

[24] RCW 37.12.010

In Washington, the Muckleshoot, Squaxin, Nisqually, and Skokomish tribes have requested full state civil and criminal and adjudicatory authority in Indian Country. These tribes are subject to the 1957 law. [25]

ACCUSED	VICTIM	JURISDICTION
Indian	Indian/Victimless	Tribe; State
Indian	Non-Indian	Tribe; State
Non-Indian	Indian	State
Non-Indian	Non-Indian/Victimless	Exclusively State
Anyone	Anyone	Federal jurisdiction if a crime of nationwide applicability, or statute otherwise applies

After 1968, Congress amended PL 280 so that tribal consent is required for the state to extend jurisdiction. This applies to the Cowlitz, Jamestown-S'Klallam, Nooksack, Samish Nation, Sauk-Suiattle, Snoqualmie, Stillaguamish, and Upper Skagit tribes.[26]

ACCUSED	VICTIM	JURISDICTION
Indian	Indian/Victimless	Tribe; Sometimes concurrent with Feds if Major Crimes Act applies
Indian	Non-Indian	Tribe; Sometimes concurrent with Feds if Major Crimes Act or General Crimes Act applies
Non-Indian	Indian	Exclusively Feds
Non-Indian	Non-Indian/Victimless	Exclusively State
Anyone	Anyone	Federal jurisdiction if a crime of nationwide applicability, or statute otherwise applies

The remaining tribes are partial-PL 280 tribes: Chehalis, Colville, Hoh, Kalispel, Lower Elwha Klallam, Lummi Nation, Makah, Port Gamble S'Klallam, Puyallup, Quileute, Quinault Nation, Shoalwater Bay, Spokane, Suquamish, Swinomish, Tulalip, and Yakama Nation. Partial-PL 280 tribes have their own tribal governments including comprehensive court systems and codes and law enforcement agencies.[27] These tribes are subject to 1963 amendments.

ACCUSED	VICTIM	JURISDICTION
Indian	Indian/Victimless	Tribe; State unless within Indian reservation and on trust or

[25] http://blogs.gonzaga.edu/gulawreview/files/2012/06/Leonhard.final_.revised.pdf
[26] http://blogs.gonzaga.edu/gulawreview/files/2012/06/Leonhard.final_.revised.pdf
[27] http://blogs.gonzaga.edu/gulawreview/files/2012/06/Leonhard.final_.revised.pdf

		restricted land and not among 8 enumerated categories*
Indian	Non-Indian	Tribe; State unless within Indian reservation and on trust or restricted land and not among 8 enumerated categories
Non-Indian	Indian	State
Non-Indian	Non-Indian/Victimless	Exclusively State
Anyone	Anyone	Federal jurisdiction if a crime of nationwide applicability, or statute otherwise applies

Tribal Compact Schools

In 2013, a state-wide initiative (Initiative 1240) passed authorizing charter schools in Washington State. After a Supreme Court decision ruled that the funding mechanism for Charter Schools was unconstitutional the legislature passed SB 6194 (2016) and charter schools began operating in 2016. The charter school initiative and subsequent law mandated that like public schools, charter schools employers and their employees are members of Teacher Retirement System (TRS), School Employee Retirement System (SERS), and Public Employee Retirement System (PERS).

Also, in 2013 the Legislature enacted state-tribal compact authority, allowing the Office of Superintendent of Public Instruction (OSPI) to enter into compacts with tribes, creating tribal compact schools. A benefit for the state entering into a state-tribal compact is that the schools agree to certain conditions (i.e. standards for teachers, staff, and curriculum; reporting requirements on student enrollment) and a benefit for tribal compact schools is that they receive state funding. The tribal compact is typically renewed every two years. This means that a tribal compact school can convert back to a non-compact tribal school. The 2013 law did not amend the definition of employer under the state pension systems to include tribal compact schools.

In 2018, the Select Committee on Pension Policy (SCPP) convened a staff level workgroup to review legal and practical implications of expanding the state's retirement plans to include tribal schools. Key areas of consideration were related to Internal Revenue Code compliance and tribal sovereignty. The workgroup included staff from the Office of the State Actuary (OSA), Department of Retirement Systems (DRS), and the Office of the Student Superintendent of Public Instruction (OSPI) including representation from the Office of Native Education.

As a result of that workgroup, the SCPP endorsed and the legislature passed SB 6210 (2018) which made tribal compact schools eligible to opt in as an employer under TRS and SERS, and their employees' members of the respective pension systems. To become employers under TRS and SERS tribal compact schools were required to sign a limited waiver of sovereign immunity, for purposes of enforcing the laws and regulations of the pension system. Similarly to other TRS and SERS employers, tribal compact schools are required to adhere to reporting, contribution, and auditing requirements with DRS, as well as consent to the jurisdiction of Washington State courts for the purposes of enforcing these requirements. Because tribal compact schools can convert back to tribal schools, tribal compact school may choose to withdraw from TRS and SERS participation once their compact with OSPI has expired. SB 2610 (2018) also contained a null and void clause, that if the IRS issued guidance that resulted in tribal compact schools jeopardizing plan qualification, and these issues could not be remedied through administrative action or a change in state law, the schools would be removed from the pension system and the law would be null and void.

There are currently five tribal compact schools operating in Washington State.[28] The Quileute Compact Tribal School is the only tribal compact school to become a DRS employer under this law. The Quileute Compact Tribal School joined the state retirement system through the compact they signed with the Office of the Superintendent of Public Instruction (OSPI). The compact was amended to include an agreement regarding membership in TRS and SERS, including a limited waiver of sovereign immunity.

The Quileute Compact Tribal School is currently reporting the following members:

System	Active Members	Retiree Return to Work	Substitutes
SERS	20	2	6
TRS	18	2	0

Other States

Arizona

In Arizona an Indian tribe may participate in the state pension system. Two tribal police departments and one tribal fire department in Arizona are currently participating in the Arizona Public Safety Personnel Retirement System.[29] To do so the tribe must pay for "[…] a preliminary actuarial survey to determine the estimated cost of participation, the benefits to be derived

[28] http://www.k12.wa.us/IndianEd/STECs.aspx
[29] http://www.psprs.com/uploads/sites/1/Participating_Employers_of_PSPRS.pdf

and other such information as may be deemed appropriate."[30] Additionally, the tribe by resolution, must:

1. Agree that all disputes involving interpretation of state statutes involving the system, and any amendments to such statutes, will be resolved through the court system of this state;
2. Agree to be bound by statute statutes and laws that regulate and interpret the provisions of the system, including eligibility to membership in the system, service credits and the rights of any claimant to benefits and the amount of such benefits;
3. Agree to meet any requirements that the board may prescribe to ensure timely payment of member and employer contributions and any other amounts due from the employer to the system; and,
4. Include in the joinder agreement any other provision deemed necessary by the board for the administration or enforcement of the agreement. ARIZ. REV. STAT. § 38-851(E). In addition, employees of the Indian Oasis Unified School District, which consists of five schools that serve as the education center for the Tohono O'odham Nation, participate in the Arizona Teachers' Retirement System because the school is deemed a state public school. [31]

Other Issues

State Contributions

If tribal law enforcement officers are allowed into LEOFF 2 the law will need to address what percentage of contributions the employer and state pay. For most LEOFF 2 members the employer pays 30 percent of the contributions and the state pays 20 percent. However, for port districts and institutions of higher education, the employer pays the full 50 percent.[32]

Retiree Return to Work

Since tribal police departments are not DRS employers, they are not subject to retiree return to work laws. If tribal police departments became DRS employers, LEOFF 2 retirees who work for tribes would no longer be able to work for them without rejoining LEOFF 2 membership and stopping their LEOFF 2 retirement benefit.

There may also be return to work implications for non-LEOFF 2 members working for the tribal police departments, and potentially for the tribe. For example, the 2008 Early Retirement Factors (ERF) return to work restrictions do not allow for a 2008 ERF retiree to return to work

[30] AZ Rev Stat § 38-851 (2016)
[31] AZ Rev Stat § 38-851 (2016)
[32] RCW 41.26.450

for a DRS employer in any capacity without having their pension benefit stopped. It is unclear in current law whether the tribal police department becoming a LEOFF 2 employer would result in the tribe being considered a DRS employer and all of the tribe's employees being subject to 2008 ERF restrictions or just the tribal police department.

Retroactive Service Credit

An issue that sometimes arises when new employers join a state pension system is whether the new members should have the ability to purchase past service credit that they would have earned if their employer had been an eligible employer. Groups of employees whose membership was changed from PERS to LEOFF 2 in the past, such as port police and fire fighters, higher education police and fire fighters, and emergency medical technicians were provided with an option to transfer their past eligible service from PERS to LEOFF 2.

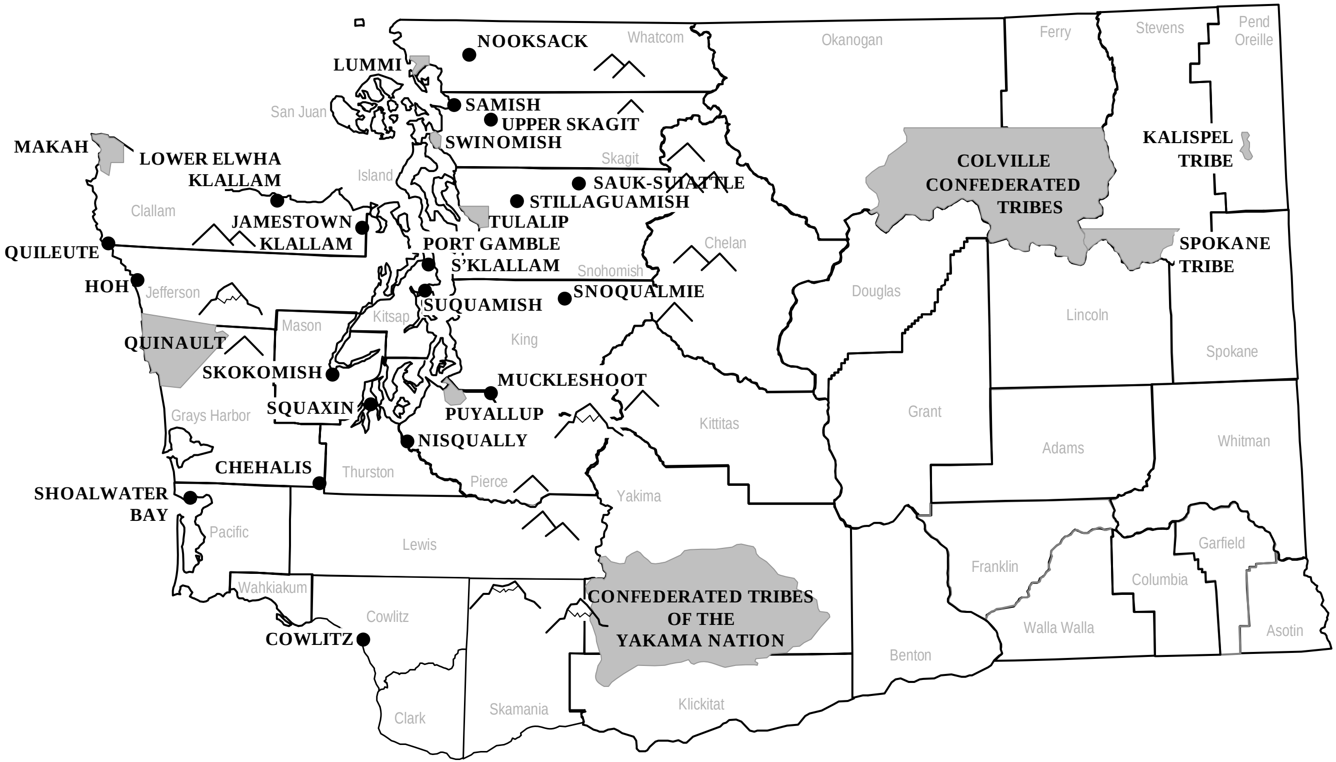
When this occurs the law must address who will pay the full actuarial cost of the benefit. Typically, the member is responsible for the full actuarial cost of the service credit, however there have been instances where the employer and/or pension plan has shouldered a portion of that cost. If the member has a retirement account that they and their employer have previously been paying into for the prior service the member may be able to roll that money over to purchase the service credit in LEOFF 2.

SUPPORTING INFORMATION

Appendix A: Washington State Federally Recognized Tribal Map

APPENDIX A

FEDERALLY RECOGNIZED TRIBES OF WASHINGTON STATE



LEOFF

Plan 2 Retirement Board

Tribal Law Enforcement Study

Initial Consideration

July 24, 2019

Issue

- The legislature tasked the LEOFF 2 Board with studying the tax, legal, fiscal, policy, and administrative issues related to allowing tribal law enforcement officers to become members of the LEOFF 2 plan
- The report is due to the legislature by January 1, 2020

Tribal Law Enforcement in Washington State

- 29 federally recognized tribes in Washington State
- 27 of those tribes have tribal police departments
- 23 tribes have agreements with the CJTC
- 293 tribal police officers certified by the CJTC

Criminal Jurisdiction of Tribes

- Criminal jurisdiction on Indian reservations is based partly on whether the tribe has Public Law 280 (PL 280) status, the status of the individual parcels of the land, the type of crime committed, and the status of the individuals involved
- PL 280: Authorized states to exercise jurisdiction over criminal offenses by or against Indians on tribal land

Washington’s PL 280 Jurisdiction Charts

Tribes Subject to the 1957 Law: Muckleshoot, Nisqually, Skokomish, and Squaxin Island

ACCUSED	VICTIM	JURISDICTION
Indian	Indian/Victimless	Tribe; State
Indian	Non-Indian	Tribe; State
Non-Indian	Indian	State
Non-Indian	Non-Indian/Victimless	Exclusively State
Anyone	Anyone	Federal jurisdiction if a crime of nationwide applicability, or statute otherwise applies

Washington's PL 280 Jurisdiction Charts

Tribes Subject to the 1963 Amendments: Chehalis, Colville, Hoh, Kalispel, Lower Elwha Klallam, Lummi Nation, Makah, Port Gamble S'Klallam, Puyallup, Quileute, Quinault Nation, Shoalwater Bay, Spokane, Suquamish, Swinomish, Tulalip, and Yakama Nation

ACCUSED	VICTIM	JURISDICTION
Indian	Indian/Victimless	Tribe; State unless within Indian reservation and on trust or restricted land and not among 8 enumerated categories*
Indian	Non-Indian	Tribe; State unless within Indian reservation and on trust or restricted land and not among 8 enumerated categories
Non-Indian	Indian	State
Non-Indian	Non-Indian/Victimless	Exclusively State
Anyone	Anyone	Federal jurisdiction if a crime of nationwide applicability, or statute otherwise applies

Washington’s PL 280 Jurisdiction Charts

Tribes Affected by the 1968 Amendments to PL 280: Cowlitz; Jamestown S’Klallam, Nooksack, Samish Nation, Sauk-Suiattle, Snoqualmie, Stillaguamish, and Upper Skagit

ACCUSED	VICTIM	JURISDICTION
Indian	Indian/Victimless	Tribe; Sometimes concurrent with Feds if Major Crimes Act applies
Indian	Non-Indian	Tribe; Sometimes concurrent with Feds if Major Crimes Act or General Crimes Act applies
Non-Indian	Indian	Exclusively Feds
Non-Indian	Non-Indian/Victimless	Exclusively State
Anyone	Anyone	Federal jurisdiction if a crime of nationwide applicability, or statute otherwise applies

Public Pension Plan Eligibility

- Federal law (Pension Protection Act) allows for tribal employees meeting certain criteria to be eligible for membership in public pension plans
- Tribal police officers are not eligible for membership in LEOFF 2 under state law

Governmental Plan or ERISA Test – Part 1

- Are activities commercial or governmental?
  - Specific examples provided by IRS
    - Governmental activities include police and fire departments
    - Commercial activities include operation of a hotel, casino, service station, convenience store, or marina
  - Facts and Circumstances Test

Facts and Circumstances Test

- Commercial activity
  - Operated to earn a profit
  - Typically performed by private businesses
  - Customers are substantially from outside of the Indian tribal community, including whether the activity is located or conducted outside of Indian tribal land
- Governmental activity
  - Provides a public benefit to members of the Indian tribal government
    - not treating the generation of profits from commercial acts as providing a public benefit
  - The absence of one or more of the relevant factors listed for determining whether an activity is commercial

Governmental Plan or ERISA Test – Part 2

- Requires a determination be made as to whether an employee's duties are substantially in the performance of a governmental activity or a commercial activity
  - IRS considers the location of the employees' services, the source of the employee's payroll, and the employee's assigned duties and responsibilities

Funds from Commercial Activities

- An outstanding issue needing further research is whether a tribal police department receiving funds from the tribal government that originated from commercial activities would prevent their employees from being eligible for membership in a public plan

LEOFF 2 Eligibility

- A Law Enforcement Officer is eligible for LEOFF 2 if they are:
  - Commissioned
  - Full-time
  - Fully Compensated
  - Employed by a LEOFF 2 employer

Commissioned

- DRS defines “commissioned” as “an employee is employed as an officer of a general authority Washington law enforcement agency and is empowered by that employer to enforce the criminal laws of the state of Washington”
- General Authority for Tribal Officers
  - Must meet specified requirements regarding certification with the Criminal Justice Training Commission (CJTC), insurance liability, and administration
  - CJTC tribal police officer certification program
  - Submit proof of certification to DES

Sovereign Immunity

- Tribes are considered sovereign nations and therefore, under the legal doctrine of sovereign immunity, have immunity from suit in state or federal court
- A tribe is subject to suit in state court only where the tribe has waived its own sovereign immunity
  - Gaming compacts
  - Cigarette compacts
  - Marijuana compacts
  - Tribal Compact Schools

Gaming Compacts

- States and tribes enter into gaming compacts for tribes to conduct Class III gaming on Indian lands
- All 29 tribes in Washington have signed a gaming compact with the state
- The director of the Washington State Gambling Commission is delegated the responsibility of negotiating gaming compacts
- Signed by the Governor of Washington State and the Chairman/Tribal Chair

Cigarette Compacts

- Tribes collect a cigarette tax through the negotiation of cigarette compacts
- Native American tribes are exempt from state tobacco excise taxation
  - Members of the tribe are exempt from paying a tax on cigarettes sold on their reservation
  - Non-members of the tribe purchasing tobacco on tribal land must pay a state excise tax
- The Department of Revenue and the Washington State Liquor and Cannabis Board share the administration and enforcement of the cigarette tax responsibilities
- Signed by the Governor of Washington State and the Chairman/Tribal Chair

Marijuana Compacts

- In 2015, HB 2000 authorized the Governor of Washington State to enter into marijuana compacts with federally recognized Indian tribes
- 11 tribes have negotiated and signed marijuana compacts with the Washington State Liquor and Cannabis Board (WSLCB)
- Six tribes have opened cannabis stores on their land (under the I-502 system)
- Marijuana compacts require six signatures:
  - Governor of WA
  - Chairman/Tribal Chair of tribe
  - WSLCB Chair, Agency Director, and two members

Tribal Compact Schools

- 5 Tribal Compact Schools
- Compact with OSPI
  - Signed by Superintendent of Public Instruction and Chairman/Tribal Chair of tribe

Tribal Compact Schools

- In 2018, SB 6210 made tribal compact schools eligible to opt in as a DRS employer, and their employees' members of TRS or SERS
- 1 Tribal Compact School has joined
- Amended Compact with OSPI
  - includes a limited waiver of sovereign immunity, for purposes of enforcing the laws and regulations of the pension system
  - Signed by Superintendent of Public Instruction and Chairman/Tribal Chair of tribe

Other States

- Arizona - Two tribal police departments and one tribal fire department are in the Arizona Public Safety Personnel Retirement System
  - Tribe must pay for an actuarial survey to determine the estimated cost of participation
  - Tribe must sign waiver of sovereign immunity

Other Issues

- State/Employer Contributions
- Retiree Return to Work Laws
- Retroactive Service Credit

Next Steps

- Conduct Tribal Law Enforcement Survey
- Request Legal Advice

Thank You

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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

Benefit Improvement Account Distribution Policy Considerations

1. What is the purpose of the LEOFF Plan 2 pension plan?

Employers typically offer pension plans to recruit and retain qualified employees.

So, one possible goal for the Benefit Improvement Account expenditure is to "Adopt a benefit that will improve the ability of LEOFF Plan 2 to recruit and retain qualified employees." An example of this type of benefit would be prospectively increasing the multiplier from 2%/year of service to 2.5%/year of service for years 15 to 25.

PROS: This type of benefit can help employers with recruiting challenges.

CONS: This type of benefit would not include retirees since recruitment and retention do not apply.

Members who are nearing the end of their career may benefit very little or not at all from a prospective change to the benefit calculation formula.

2. What is the purpose of the Benefit Improvement Account?

The Benefit Improvement Account legislation included a finding that the current benefit formula for LEOFF Plan 2 fails to recognize the shorter working careers for law enforcement officers and firefighters. The formula is designed for careers of 30-35 years making retirement at age 53 unrealistic.

So, a possible goal for the Benefit Improvement Account expenditure might be, "Increase the benefit formula to make retirement at age 53 more realistic." An example of this type of benefit improvement might be prospectively increasing the multiplier from 2%/year of service to 2.1%/year of service.

PROS: An increase in the multiplier is probably the type of change to LEOFF 2 that affects members most equally.

CONS: This type of benefit improvement is the most expensive so only a modest improvement would be possible with the current funds in the Benefit Improvement Account. The cost is significantly higher if past service for current members and/or retirees are included.

3. The source of funding for the Benefit Improvement Account is contributions made to the fund (member, employer, State) and earnings on those contributions.

So, a possible goal for the Benefit improvement Account distribution might be, "Distribute the assets in the Benefit Improvement Account in a way that fairly recognizes the contributions of all members." An example of this type of benefit might be $15,000 distribution into a 457 account for all active members and retirees.

PROS: This type of benefit would include retirees.

CONS: This type of benefit would probably not be an improvement to the LEOFF 2 benefit formula because the cost of a retroactive benefit formula increase is heavily weighted toward retired members and members close to retirement.

Law Enforcement Officers' & Fire Fighters' Plan 2 Retirement Board

2019-2021 Budget Adoption

Fiscal Year 2020 (July 2019 - June 2020)

Expense Category	Total	
Salary & Wages	$	780,139
Employee Benefits & Taxes	$	242,341
State Actuary Services	$	109,658
Rent	$	45,954
DES Services	$	46,463
Staff & Trustee Professional Development	$	97,754
Communication Costs	$	32,360
Contracts	$	63,000
All Other Operating Expenses	$	62,381
Total	**$**	**1,480,050**

Fiscal Year 2021 (July 2020 - June 2021)

Expense Category	Total	
Salary & Wages	$	808,748
Employee Benefits & Taxes	$	253,181
State Actuary Services	$	109,658
Rent	$	45,954
DES Services	$	46,669
Staff & Trustee Professional Development	$	102,322
Communication Costs	$	32,360
Contracts	$	38,000
All Other Operating Expenses	$	57,140
Total	**$**	**1,494,032**

2019 - 2021 Biennium (July 2019 - June 2021)

Expense Category	Total	
Salary & Wages	$	1,588,887
Employee Benefits & Taxes	$	495,522
State Actuary Services	$	219,316
Rent	$	91,908
DES Services	$	93,132
Staff & Trustee Professional Development	$	200,076
Communication Costs	$	64,720
Contracts	$	101,000
All Other Operating Expenses	$	119,521
Total	**$**	**2,974,082**

LEOFF
Plan 2 Retirement Board

2019 - 2021 Budget Adoption

July 24, 2019

2019 - 2021 Budget Overview

- Expenditures necessary to meet statutory/fiduciary responsibility
  - Board meetings
  - Member/stakeholder communications and outreach
  - Professional development
  - Contracts for services
  - Agency Operations
- Agency move costs
  - No allocation
  - Paid from existing resources; request reimbursement/funding
  - Future budget adjustment

2019 - 2021 Budget Preview

2019 - 2021 Biennium *(July 2019 - June 2021)*	
Expense Category	**Total**
Salary & Wages	$1,588,887
Employee Benefits & Taxes	495,522
State Actuary Services	219,316
Rent	91,908
DES Services	93,132
Staff & Trustee Professional Development	200,076
Communication Costs	64,720
Contracts	101,000
All Other Operating Expenses	119,521
Biennium Total	**$2,974,082**

Professional Development

- Assumptions for professional development
  - New Trustees
  - New Team
- Revisit after Education Policy discussion at October Offsite

Salary & Benefits

- Carryforward from previous biennium
- General salary increases
- Merit increases

Contracts

- Projection based on expected need
  - Actuarial Audit Services
  - Legal/Consulting Services
  - Tribal Study

Agency Move

- Projected one time costs: $151,800
  - Absorb through existing resources; seek reimbursement
- Unknown on-going operational costs
  - Co-location efficiencies may create additional/new costs
  - Potential decision packages

Thank You

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2019 AGENDA ITEMS CALENDAR

MEETING DATE	AGENDA ITEMS
Jan 23	Legislative & Administrative Updates
Feb 27	Legislative & Administrative Updates
March 27	Legislative & Administrative Updates
April 24	Legislative & Administrative Updates
May 15	Approval of Minutes 2019 Legislative Session Recap 2019 Interim Planning
June 26	Approval of Minutes Supplemental Rate Preview 2019-2021 Budget Preview Interim Work Plan Adoption Interruptive Military Service Credit - *Initial* Benefit Improvement Account Overview
July 24	Approval of Minutes New Risk Measures Funding Method Discussion Supplemental Rate Adoption 2019-2021 Budget Adoption Tribal Participation Study – *Initial* Month of Death – *Initial* Survivor Option Election – *Initial* Benefit Improvement Account Update
August 14	*Historically Cancelled*
Sept 25	Approval of Minutes Economic Experience Study Results Demographic Experience Study Preview Funding Method Adoption* DRS Public Pension Administration Benchmarking Board Officer Elections Month of Death – *Comprehensive* Survivor Option Election – *Comprehensive* Interruptive Military Service Credit – *Comprehensive* PEBB Coverage for Catastrophic Retirees – *Initial* Benefit Improvement Account Potential Goals & Policies
Oct 16	2020 Proposed Calendar Strategic Planning Meeting Funding Corridor Discussion Trustee Education Policy Attendance Policy Board Expectations Benefit Improvement Account Goals & Policies
Nov 20	Approval of Minutes 2020 Meeting Calendar Adoption DRS Annual Update LEOFF Actuarial Valuation (LAVR) Results Administrative Factor Adoption* Economic Assumption Adoption *(if needed)* Tribal Participation Study – *Comprehensive* Financial Audit Results – SAO Benefit Improvement Account – *Comprehensive**
Dec 18	Approval of Minutes WSIB Annual Update Funding Corridor Adoption* Month of Death – *Final* Interruptive Military Service Credit – *Final* Tribal Participation Study – *Final*

2019 AGENDA ITEMS CALENDAR

	Benefit Improvement Account – *Final**

*Tentative